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**ADVISORY SUPPORT TO  
THE EXPORT PROCESSING ZONE PROGRAMME IN VIET NAM**

SI/VIE/93/801

**SOCIALIST REPUBLIC OF VIET NAM**

**Terminal report\***

Prepared for the Government of the Socialist Republic of Viet Nam  
by the United Nations Industrial Development Organization,  
acting as executing agency for the United Nations Development Programme

**Based on the work of**  
**Tom Kelleher, Arthur Kavanagh and Stellan Cyon,**  
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\* This document has not been edited.

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## **PREAMBLE**

The objective of this project is to provide the government of Vietnam with advice and assistance in relation to the development of its export processing zone (EPZ) programme. The tasks to be covered include:

- (i) An analysis of the overall status of the EPZ programme;
- (ii) An examination of existing studies, plans and proposals for site development, as well as licenses issued;
- (iii) An assessment and survey of a selected number of sites from the point-of-view of size, layout and infrastructure, including transport, electricity, telecommunications and housing;
- (iv) A review of the procedures, rules and regulations for site development and monitoring;
- (v) A survey of developer/investor interest;
- (vi) An examination of the organization, structure, legal, regulatory, and administrative framework;
- (vii) The development of proposals in relation to:
  - (a) site development and monitoring, waste disposal, effluent treatment and environmental protection; and
  - (b) amendments of the legal/regulatory framework and organisation structure;
- (viii) An analysis of the potential impact of the EPZ programme.

The project was under the overall direction of Tom Kelleher, economist and team leader. Arthur Kavanagh, investment promotion adviser, was responsible for the investment promotion aspects of the project. Stellan Cyon, architect and urban planner, was responsible for site assessment and a review of the procedures for site development and monitoring. Tom Kelleher completed the overall analysis of the EPZ programme and the examination of the organization, legal, regulatory and administrative framework.

The international consultants were assisted by a Vietnamese consulting and research organization - CONCEPTI, and Nguyen Van Cuong and Ngo Quoc Phuong in particular, who provided valuable advice and information on the Vietnamese economy and investment procedures and conditions.

The field work for the project was undertaken in Vietnam over a six-week period from mid-October to late November 1994. Site visits were made to Hanoi, Haiphong, Quang Ninh province, Dan Nang, Hochiminh City and Vung Tau.

The consultants (SPC) were assigned to the State Planning Committee for the period of the assignment. The SPC made arrangements for meetings with government departments and organisations as well as site visits. The State Committee for Co-ordination and Investment and the Ho Chi Minh Export Processing Zones Authority provided information and assistance.

The consultants acknowledge and appreciate the co-operation and assistance provided by many organisations in Vietnam including: UNIDO Country Director, Mr. Michael Brenning and other staff members; and the Industrial Department of the State Planning Committee under the direction of Mr. Phain Quang Hain.

The report is divided into 2 parts. The first part contains a summary of both reports, as well as a review of the Vietnamese economy, an analysis of the overall EPZ programme, and assessment of the legal and administrative framework and an evaluation of the investment promotion aspects of the programme. The second report deals with the physical aspects of the EPZ development.

## CHAPTER 1: REPORT SUMMARY

### 1.1 Review of the economic, legal and administrative framework

#### 1.1.1 The Vietnamese Economy

The economy of Vietnam has undergone a number of substantial changes over the last 6 or 7 years. The country has made a steady transition to a market economy. In the last 3 years economic growth has resumed, averaging over 7% annually. Despite the changes of recent years the economy remains weak. Per capita income is around \$200 and most people are engaged in subsistence type agricultural production. If Vietnam can continue with the present levels of economic growth to the year 2000, the impact on poverty reduction will be significant.

Industrial output has increased by almost half (45%) over the last 3 years in volume terms. The direction of Vietnamese trade has changed significantly since 1989.

The report of the 7th Congress of the Communist Party of Vietnam notes weaknesses both in the quality and efficiency of the education system.

A major government objective is the doubling of GNP in the ten years to 2000. This requires an average annual growth of over 7%. Among the priority programmes outlined in the socio-economic strategy prepared in October 1994 by the government are:

- \* reduced bureaucratic obstacles to private investment;
- \* the promotion of small and medium scale enterprises;
- \* the promotion of exports; and
- \* the promotion of foreign direct investment as it would be a major source of external finance.

Foreign investment inflows have increased significantly in recent years. Foreign investment commitments in 1988 were 366M\$. By 1993 the figure was 2777M\$. By September 1994 over a thousand foreign investment projects, with a total investment of 10M\$ were approved. The World Bank in its 1994 review of the Vietnamese economy has analysed the foreign investment situation. Implementation rates according to the Bank are low. Using a one year time span, only 44% of projects have been implemented.

The other point highlighted in the analysis is the low level of job creation and the high level of investment per job. By the end of 1993 only 46,000 jobs were created according to the Bank estimates. Investment per job is in the range of 14 to 24 thousand dollars, which is very high for a developing economy like Vietnam. A possible explanation for the high investment per job is that Vietnam is attracting capital intensive projects based on resource exploitation or the domestic economy.

There is little evidence to date that Vietnam has made a serious effort to attract the sort of small and medium scale export industry which is labour intensive and involves a very low investment per job. There are few good sites or buildings available at a reasonable cost. If Vietnam wants to increase the numbers employed per dollar of foreign capital invested, it (Vietnam) will have to

attract many more labour intensive (garment/electronics) export industries, which in turn means providing the conditions necessary to attract such investment, including industrial parks streamline bureaucracy, efficient Customs procedures and an aggressive investment promotion campaign.

### 1.1.2 Export Processing Zone Development in Vietnam

The role of an export processing zone in most countries is to initiate the process of export industry development in selected locations in a country where export industry requiring imported equipment and materials can develop and prosper.

The conditions necessary for successful EPZ development exist or can be created in Vietnam, particularly in the major cities of Hanoi, Haiphong, Da Nang and Ho Chi Minh City.

At this point in time EPZs are needed in the country as a means of promoting export industry development, because there is a lot of bureaucracy associated with importing, processing and exporting and a shortage of suitable sites or buildings in which light export oriented industry can operate successfully.

The UNDP/World Bank report of December 1993 on "Policies for Transition to an Open Economy" reviewed the EPZ option for Vietnam. The report concluded that the EPZ is more suited to Vietnam presently than other duty free systems such as duty drawback and duty free licence systems, because Vietnam lacks the technical and managerial capacity to operate other systems.

The Vietnamese government attaches a high priority to promoting labour intensive export industry and has emphasised the need to create conditions to attract such investment. Export processing zones, special economic zones and industrial parks should be used, according to a report of the 7th Communist Party Congress, to encourage increased inflows of capital.

In October 1991 Vietnam passed an export processing zones law and in the following 4 months the government approved the establishment of 4 EPZs on selected sites around the country. Two further sites were later approved.

So far (3 years later) only one EPZ site is in operation. In November 1994 there were three projects in operation at the Tan Thuan EPZ in Ho Chi Minh City employing under 1000 workers. There is general disappointment in Vietnam about the lack of progress to date with its EPZ programme. The Vietnamese Investment Review noted "the lethargic early performance" of Vietnamese EPZs and the need to draw from the experience learned from setting up EPZs. In other Asian countries (Taiwan, Korea, Malaysia, Sri Lanka) where successful EPZ programmes have been implemented, tens of thousands of jobs were created in the 3 years following the passage of the EPZ law.

Possible explanations for the lethargic performance in Vietnam could centre on:

- (i) location choice and related issues such as the availability of infrastructure;
- (ii) the organisation format used to develop and manage the zone programme;

- (iii) the unavailability or lack of technical expertise within the Vietnamese government agencies;
- (iv) the lack of promotion efforts; and
- (v) the price of sites within the existing EPZ.

In other successful Asian countries EPZ sites were all located close to existing infrastructure and services. In two of the proposed Vietnamese sites, Noi Boi and Haiphong, the infrastructure at the site is either non-existent or in very poor condition. However, the proposed sites at Da Nang and Linh Trung are well located in relation to infrastructure and services, as well as the existing zone at Tan Thuan.

An important difference between the Vietnamese EPZ programme and that of other Asian countries is the role of the State. In the East Asian countries in the 1970's the State established a powerful organisation to supervise, control, develop and manage the EPZ programme. It was not necessary to rely on any outside agency or investor to develop its zone programme. The Vietnamese government on the other hand, did not establish a powerful EPZ development agency. Responsibility for EPZ development is divided between the SCCI and the provincial or city EPZ Authority established by the government. In addition, the government because of a shortage of funds has depended on joint venture initiatives between Vietnamese and foreign investors to develop the zones. It has been suggested that disputes between joint venture partners and difficulties in raising finance may in some cases have slowed down EPZ development. It has not been possible during the course of the project for the consultants to check out in detail any of these suggestions.

It is possible that the Vietnamese authorities were handicapped in their initial efforts to develop and promote an EPZ programme by the lack of information, experience and technical knowledge of EPZ/industrial estate development.

Most East Asian countries had, and still have, efficient high profile investment promotion agencies with considerable resources. A good promotion agency like those in Malaysia, Singapore and Taiwan will ensure that the zone programme is properly marketed. Good marketing will ensure a steady flow of potential investors. Overseas promotion efforts to date by the Vietnamese government and its agencies appears to have been very limited.

The Vietnamese government is planning new forms of industrial parks, or industrial concentrated zones. Before further EPZs or industrial parks are proposed or planned, it is important that the reasons for the slow progress of the EPZ programme are clearly identified. Otherwise, the problems and difficulties which have slowed progress in relation to EPZs may delay progress with industrial zones. In particular, the Vietnamese government should:

- \* examine the organisation structure used to promote and regulate EPZ development; and
- \* examine ways and means for improving the technical expertise that the government has at its disposal in relation to industrial park and EPZ development.

The Thai government is one of the very few which combines responsibility for EPZ development and industrial park development in the one agency. The Industrial Estate Authority of Thailand (IEAT) is not only responsible for regulating and controlling development and providing a one



stop service to investors, but it can (and does) become involved directly in the development of industrial estates and export processing zones. The Vietnamese government should examine in detail the format and structure of the IEAT to consider whether or not a similar organisation would be useful or worthwhile in Vietnam.

If the 6 proposed EPZ sites, with a total of about 1000 hectares are developed successfully in the next 5 to 7 years, upwards of 300,000 jobs could be created directly with a further 600,000 + indirect jobs. Net exports from the export processing zones could exceed over 600M\$ annually.

The main conclusions arising from a review of the Vietnamese EPZ programme are that:

- \* Vietnam needs (and the Vietnamese government wants) to promote labour intensive export industry.
- \* EPZs will help to promote this type of investment.
- \* EPZs can be developed successfully in Vietnam.
- \* The performance to date of the EPZ programme has been very disappointing compared to EPZ development in other east Asian countries.
- \* The reasons for the poor performance in Vietnam centre on poor location choices (in one or two cases); an inadequate organisation structure; dependence on joint venture partners and foreign investors to develop EPZs; and a lack of promotion effort.
- \* Before implementing an industrial estates development programme, the Vietnamese government should be clear on the reasons for the "lethargic EPZ performance". In considering an appropriate organisation structure for EPZ/IE development, the Vietnamese government should look closely at the Thai formula - the Industrial Estate Authority of Thailand which is responsible for both industrial estate and export processing zone development.

### 1.1.3 EPZ Law and Organisation

An EPZ is a special or privileged area. An EPZ law is necessary to set out how:

- (i) the area of the EPZ is established and controlled; and
- (ii) how investors and others can gain entry into an EPZ.

The laws should in so far as possible be "user friendly". It should be written very much with the investor in mind. He is the person who achieves the zone's objectives (employment and export growth), not the EPZ administration or the Customs Administration.

The main elements of an EPZ law are:

- \* Power to declare an area to be an EPZ.

- \* Overall responsibility for EPZ development. The law should identify clearly the minister or organisation (usually the Minister for Trade & Industry or Economic Affairs) responsible for EPZ development.
- \* Duty free status. A clear statement is necessary in the law that all goods, raw materials and equipment may be imported free of all duties and taxes, provided they relate to the business of the investor or developer and are not prohibited by law.
- \* The role of Customs. Related to duty free status is the role and powers of the Customs Administration.
- \* Licencing. Each developer and investor in an EPZ should have a licence or permit.
- \* EPZ Authority. Some countries establish a separate State EPZ authority or agency to supervise the development and operation of EPZs.
- \* Regulations. Most EPZ laws give the responsible minister or the EPZ authority power to make regulations for the proper functioning of the EPZ law. Regulations relating to customs administration are made usually with the consent or approval of the Customs office.

Most of the Asian EPZ legislation designates clearly the minister or authority which has overall responsibility for EPZ development and gives that organisation very substantial powers to control EPZ development on a countrywide basis.

The Vietnamese EPZ law by contrast is not clearcut. In particular, it is not clear from the law that there is a strong central authority controlling EPZ development.

Phrases such as central authority or authorized body are used but not properly defined in the law. There is a degree of repetition in the regulations and the circular and some apparent contradictions. In highlighting these, the objective is to improve the overall drafting and presentation of the EPZ law in Vietnam. Most foreign investors reading the EPZ law will probably read the English version. Many of these investors may not have English as a first language or mother tongue. Therefore, a simple accurate translation is important. Apart from the intrinsic merits of an accurate EPZ law, a well presented and accurate translation of the law is good also from a promotional viewpoint. It projects a positive professional image of a country interested in attracting foreign export oriented investors.

The main recommendations in relation to EPZ legislation are that:-

- (i) Article 2 of the regulations should be replaced with a statement to the effect that the Chairman of the Council of Ministers may declare any area in Vietnam to be an EPZ.
- (ii) A strong central authority should be established to control the development and operation of EPZs. Industrial parks and other similar developments might also be included under the Authority. This Authority could either be the SCCI or a new authority. It should have its own Board of Directors.

- (iii) Membership of the Board should be clearly defined and include representatives from the major government ministries and representative organisations. The responsibility for appointing the various members and the conditions and terms of office under which the members would serve should be set out in the law.
- (iv) The Central Authority should take control of all major EPZ functions including the issuing of licences and buildings permits, to ensure consistency on a national basis. Branch offices of the Authority could be established in each zone or region to attend to routine matters.
- (v) The section on licencing should include provision for the amendment and transfer of licences and the revocation of licences where serious breaches of conditions attached to the licence occur.
- (vi) Similar articles in the regulations and circular should be rationalized to avoid confusion and misinterpretation.

#### 1.1.4 Investment Promotion and EPZ Development

The organisation responsible for promoting and regulating foreign investment in Vietnam is the State Committee for Co-operation and Investment (SCCI). The SCCI deals with all foreign investors coming into Vietnam except those locating in EPZs. Responsibility for EPZ investors has been delegated from SCCI to the local EPZ Authority.

Information on the scope and methods of SCCI operations has been difficult to obtain, but it would appear that overseas promotion is not carried out by SCCI except on a very minor scale.

Export oriented manufacturing investors (including EPZ investors) are strongly influenced by promotion efforts and incentives.

At present there is no organisation in Vietnam carrying out a planned, comprehensive promotion programme. To attract mobile investment to Vietnam it seems that overseas promotion is confined to random, occasional delegations, consisting of State officials going abroad on some other business such as a seminar or trade fair.

The amount of resources allocated for overseas promotion within SCCI could not be established, apart from the fact that some SCCI people funded by UNDP spent time in investment promotion offices in Italy, Tokyo and Paris.

Experience has shown that a parastatal or quasi government agency properly funded is the most effective formula for promoting investment. Such organisations are not constrained by traditional government structures, procedures and salary scales. Private sector promotion organisations tend not to be successful. They often have funding difficulties as the benefits of investment promotion do not accrue directly to any particular agency or group. This point, of course, does not apply to a particular EPZ such as Tan Thuan EPZ (TTZ). Whatever organisation is given responsibility and the resources to implement Vietnam's investment promotion programme, its goal should be clear i.e. that they are in the business of attracting foreign investment to Vietnam and that their

attitude and orientation should be focused on attracting investors, rather than in regulating investors. The image of Vietnam will have to be built up carefully in order to make sure that a positive image ensues.

There are a number of stages in the process of persuading an investor to locate in a particular country. The first step is the creation of "product awareness". This is followed by an interest by the investor. The third step is in the evaluation and trial of the product i.e. site visits and a decision to locate in a particular area. During the first two stages (awareness and interest) good publicity, advertising and word of mouth information is important. During the latter stages when an investor is examining a location in detail, good personal contact and prompt provision of requested information is often decisive.

In an effort to determine the level of investor interest in the EPZ programme in Vietnam, interviews were held with key organisations and people in the Vietnamese State and private sectors. There was general satisfaction with government policy towards private enterprise and a positive feeling of stability in the government and the economic situation. There were serious complaints however with the whole process of investor approval.

There was widespread praise for the Vietnamese workforce. Investors commented favourably on the workers ability to learn in a very short time and the high productivity experienced in all sectors. There was however a shortage of personnel with management skills.

The non-availability and cost of serviced sites is regarded as a major constraint in attracting export oriented investment.

There was general satisfaction among all existing companies with the incentives available in the EPZs. Most investors felt that the same incentives should apply to export oriented investors, whether located within or outside an EPZ.

## 1.2 Summary of report on industrial estate planning and development

### 1.2.1 Introduction

This report deals with the physical planning and implementation of industrial estates in general and export processing zones in particular. The first part of the report covers some general issues dealing with the planning and implementation of industrial areas. This provides a general framework for the subsequent discussion on the planning and implementation of EPZs in Vietnam. The issues covered in this general discussion are:

- (i) Strategic industrial development planning.
- (ii) Master planning for industrial estates development.
- (iii) Implementation planning for industrial estates development.
- (iv) Industrial estate development guidelines; and
- (v) Site specific development plans and guidelines.

As part of the programme to review the EPZ planning for regions or cities, 5 approved EPZ sites were visited. Two other regions where EPZs are being proposed were also visited. The Can Tho region with 1 approved EPZ site was not on the itinerary.

Most of the information which provides the basis for comment and evaluation of EPZ sites was provided verbally at meetings with government officials. It was not feasible to re-check this information. It is possible therefore that misunderstandings may have occurred. Factual errors relating to names and figures may therefore exist in parts of the report.

The six regions visited in connection with the evaluation were:- Hanoi with one approved EPZ site at Noi Bai. Haiphong with one approved EPZ site. Quangnan Danang province with 1 approved EPZ site at An Don, Ho Chi Minh City with 2 approved EPZ sites at Tan Thuan and Linh Trung. Quang Ninh with 1 proposed EPZ site and Vung Tau with 1 proposed EPZ site.

### 1.2.2 Review of planning related to EPZs in Vietnam

#### 1. Noi Bai EPZ

Hanoi is situated in the so called "north triangle" zone in the lower red river basin. Within this area Hanoi and Haiphong are the largest population centres, with populations of 2.3 million and 0.4 million respectively. The two cities are connected by highway No. 5 which is some 105 kilometres in length. This road is in poor condition at present but is being upgraded.

The master plan for Hanoi city is based on the assumption of a population increase from 1 million in 1992 to approximately 1.5 million in 15 years time.

The Noi Bai international airport is about 40 kilometres north of the city. It currently handles 1 million passengers annually and expects this number to increase to 4 or 5 million passengers within 15 years. North of the Noi Bai airport in the Soc Son area, a large industrial estate (300 hectares) is being planned. This includes a 100 hectare EPZ. At present site investigations and base maps on the scale of 1 to 500 are being prepared for the Noi Bai EPZ site. The area is under agricultural cultivation at present. The infrastructure works for the first phase of the EPZ development (50 hectares) is planned to start in April 1995 and be completed by October 1996. The EPZ site should be fully developed according to present plans, by the end of the century. The 300 hectare industrial park and EPZ is part of a larger area. A development plan includes a proposal for a golf course, already under construction, housing, offices and commercial facilities.

The rationale for such a large scale integrated development to the north of Hanoi is not in itself readily apparent.

Large investments in offsite infrastructure including roads, power, water, sewerage, storm water and telecommunications will have to be made in order to make the EPZ and industrial estates operational. If the cost of this off-site infrastructure has to be carried by the industrial estate and EPZ, it will be difficult if not impossible to make sites available to potential investors at a reasonable price.

## 2. Haiphong EPZ

The Haiphong province has a population of 1.6 million with about 0.4 million living in the city. Population is expanding at about 2% annually. In order to provide jobs for the existing and expanding workforce, a number of major industrial development projects are planned for the city over the coming years. In addition, there are plans to expand and upgrade the port facilities.

The Haiphong EPZ is located some 16 kilometres south east of the city centre along road number 14 to Do Son. The road is in very poor condition at present and is unsuitable to carry industrial or commercial traffic.

The EPZ in Haiphong is part of a larger urban development proposed by The Very Good International Company (VGI) a Hong Kong based corporation. The total development will cover 1000 acres and will be in three phases. Of this total 300 hectares is set aside for the EPZ. On the remaining lands there are proposals to develop a golf course, executive housing areas, as well as commercial and office facilities and hotels.

At present a fence is being erected along the south western border of the EPZ and some land filling is in progress with sand dredged from the sea. It is possible that the foundations of all buildings in the EPZ will have to be piled. The viability of the EPZ project will depend among other things on the adequacy of the road system. The timing of the upgrading of the main road from the city centre to the EPZ therefore is critical.

There are many similarities between the Haiphong and Hanoi EPZ proposals. Both proposals link together EPZs with other developments (golf courses, executive housing and commercial developments) with which the EPZs will have limited or very tenuous links.

The EPZ in Haiphong will recruit most of its workers from the city of Haiphong. It would seem to have been better to locate the proposed EPZ closer to the city and the port where the infrastructure is better. The other developments could go ahead separately in the current area if there is a demand for them. Overall the EPZ site is not particularly well suited for its purposes.

## 3. Da Nang EPZ

The province of Quang Nam Da Nang has a population of about 2 million people, with almost 0.5 million people living in Da Nang city. The major activities in the city are industry and tourism. To cater for the growth in population and the demand for industrial employment over the coming years, a number of major industrial development initiatives are planned for Da Nang.

There are some problems with power and water in the Da Nang region. Water supplies now are only able to cater for 60% of the demand.

The Da Nang EPZ is located in an old U.S. airbase area some 6 kilometres east of the city centre across the Song Han river. The Tien Sa port is 7 kilometres north of the proposed zone. The size of the zone is 120 hectares. At present there are some warehouses and workshops in the area. However, the existing infrastructure and buildings on site are generally in a poor condition and will have to be replaced. Power and water systems are disconnected at present.

There was a ground breaking ceremony at the site in March 1994. Two investors - one a Japanese company producing ornamental products and a U.S. furniture company, are preparing to start production in existing buildings around February 1995.

The EPZ is located within easy commuting distance of most of the residential areas in Da Nang city. There is a ferry service across the river from the city centre to the zone. The site is generally well located and it makes good sense to make use of existing infrastructure where possible. The biggest problem in the coming years will be the lack of power and water supplies. There may also be some problems with storm water and sewerage disposal. These problems are, however, shared with most of the city.

#### 4. Ho Chi Minh City

The southern focal economic area has a population today of about 8 million people. This is expected to increase to about 14 million within the next 15 years. The official population for Hochiminh city is 4.5 million inhabitants. This is projected to grow to about 7 million in 15 years. Industry accounts for about 48% of the gross national product of Hochiminh city. The main sectors include textiles and garments, plastics, brewing, cosmetics and food processing.

In and around the city, 16 industrial zones in excess of 50 hectares each are planned in order to relieve the congestion in some of the inner city industrial estates and to attract new domestic and foreign investment. There are about 28 industrial estates with a total land area of 8000 hectares in the city at present. There is also some industry mixed in the residential and commercial areas of the city. Two EPZ developments were approved for Hochiminh city. One at Linh Trung - known as the SEPZONE is 60 hectares in size. The other zone Tan Thuan EPZ (TTZ) is 300 hectares. The TTZ was the first EPZ to be formed in Vietnam after the proclamation of the new law and the only one which is operating at present. The TTZ is close to the centre city and the port area. At present some 50 hectares of the total has been leased.

Originally it was intended that the TTZ should be developed in 7 years but the implementation period is now set for 4 years. Water supply for the zone will eventually come from the Thu Doc treatment plant in the north of the city. In the meantime water supplies are brought to the site by tankers.

The proposed SEPZONE is located some 16 kilometres from the city centre and 21 kilometres from the airport. The proposed 16 hectare site can be expanded as necessary.

The TTZ is a good site from the point of view of proximity to the port, workforce and city centre. However, when the area is fully developed with under 1000 workers, it is likely that there will be very considerable traffic congestion in the area. A smaller development might be more appropriate.

#### 5. Quang Ninh

The province of Quang Ninh has close to 900,000 inhabitants. About 100,000 live in the capital Hong Gai. Close to the city a port - Can Lin has been built with as yet only one berth. It is not operational. The water depth is 8.5 metres and can be dredged to 9 metres allowing ships of up

to 35,000 tons to come in. Plans have been drawn up to expand the port to 9 berths eventually. Road and rail connections are not yet established but according to information can be relatively easily built. It has been suggested that an EPZ could be developed close to the Quang Ninh port. Any plans to develop an EPZ would be premature at this stage. An EPZ can only be developed successfully when the port is operating properly with a good range of international container services.

#### 6. Vung Tau

The province of Vung Tau has a population of about 600,000. The urban population is almost 300,000. In 15 years time the population is expected to increase to about 0.5 million people. Vung Tau city is about 110 kilometres from Ho Chi Minh city. A number of large industrial estates are at various stages of development throughout the province. It has been suggested that an EPZ could be developed at Phuoc Thang on a 100 hectare site. The proposal has not been approved to date. The site is connected to a port with berths for 2 ships of 5000 tons each. The site is a considerable distance from existing residential areas. It has been suggested that new housing could be built for employees in a high density industrial estate cum EPZ. The proposal is not convincing.

#### 7. Concluding Remarks

Generally speaking there is a shortage of utility supplies to the EPZs, which may delay their establishment and operation. Temporary power supplies can be arranged. Water supplies in the short term are uncertain in many cases. Telecommunications may be less of a problem because of mobile phones and satellite communications.

A number of EPZs will depend on large investments in new roads - a concern for both the movement of goods and workers. The location of EPZs in relation to residential areas for workers may be an issue in some cases.

It is necessary to establish EPZs quickly and make them fully operational if all the benefits of such investments are to be realized.

#### 1.2.3 Implementation of construction

Plans for EPZ site development are prepared by the developers, submitted to EPZ authorities for approval, who in turn refer them to the Ministry of Construction and the Chief Architect's office. Following a technical assessment, the EPZ Authority approves (or rejects) the plan.

Investors seeking building permits follow a similar procedure. For investors, a one stop system operates but the regulations make the preparation of documents difficult.



#### 1.2.4 **Recommendations**

The main recommendations in relation to industrial estate/EPZ planning are:

- (i) The government should review the EPZ sites on the basis of established criteria for selecting EPZ sites.
- (ii) In regions without EPZs and where the government wants to establish an EPZ, site selection should be based on location criteria.
- (iii) General guidelines for the planning and development of all EPZs and industrial estates should be prepared.

## **CHAPTER 2: THE VIETNAMESE ECONOMY**

### **2.1 Introduction**

The economy of Vietnam has undergone a number of substantial changes over the last 6 or 7 years. Throughout the late 1970's and the first part of the 1980's the economy faced a crisis, leading to very high levels of inflation and falling output, especially in the 1986/88 period. Since 1988 the inflation level has been brought under control (67% in 1990/91 down to 5% in 1993 and the country has made a steady transition to a market economy. In the last 3 years economic growth has resumed, averaging over 7% annually.

Despite the changes of recent years the economy remains weak. Per capita income is around \$200 and most people are engaged in subsistence type agricultural production. Agriculture accounts for a declining but still significant part of GNP (39.5% in 1990/91 and 29.3% in 1993). More importantly it provides employment for a major portion (73%) of the workforce. The small number of people (2 million or 6.5% of the workforce) who engage in non-productive or service type activity, is a feature of a very under-developed economy. (See Table 1.1).

Over half the population is living below the poverty line, according to recent surveys. Much (90%) of the poverty is concentrated in rural areas. More positive aspects of the poverty survey are the relatively high literacy rate (88%), low levels of infant mortality (about one third of that of other low income countries) and high life expectancy (67 years). The distribution of income is relatively equitable.

If Vietnam can continue with the present levels of economic growth to the year 2000, the impact on poverty reduction will be significant. The national incidents of poverty would fall to between 23% and 29%, depending on the regional distribution of growth. China, Indonesia and Thailand had similar levels of poverty to Vietnam about 30 years ago. Following three decades of rapid growth the poverty levels in these countries have fallen to 10% or 15% of the population.

A key factor in stimulating economic growth and reducing poverty is the development of infrastructure, including roads, waterways and irrigation. People living on or near good transport routes have both better access to markets (to sell produce) and non-agricultural employment. Consequently they can earn more money.

If Vietnam is to develop economically, large numbers of people presently engaged in subsistence agriculture will have to find employment in industry or service activities.

TABLE 2.1: GENERAL STATISTICS

	Structure of GNP		Labour force in 000's	
	1991	1993	1992	% of total
Total	100	100	31819	100
Production	64.3	58.8	29783	93.6
Industry	19.8	21.5	3450	10.9
Construction	4.0	6.9	825	2.6
Agriculture/Forestry	39.5	29.3	23208	72.9
Other	1.0	1.1	2300	7.2
Non-productive	35.7	41.2	2036	6.4
Education/Training	N.A.	N.A.	825	2.6
Finance/Banking	1.4	1.7	114	0.4
Other	N.A.	N.A.	1097	3.4

Source : *Statistical Yearbook 1993*

## 2.2 Industry and Trade

Industrial output has increased by almost half (45%) over the three years 1990 to 1993 in volume terms. The major increases occurred in fuel production, chemicals and rubber production, leather goods and garments. Food production is the most important sector, accounting for about 34% of total output followed by fuel (16%) and building materials and wood production (11%). The modern employment intensive sectors such as electrical appliances and electronics (2%), garments (2%), and leather products (1%), are still a very small part of the total.

State controlled activity accounts for over 70% of total output. The State firms dominate all sectors of industry accounting for over 50% of output in each. Within the non-State sector the private household category is the most important sector, accounting for 24% of total output in 1992. The private industry sector and the co-operatives are insignificant, accounting for less than 3% of total output each. The most important private sector enterprises are food production, building and wood products, metals, engineering and textiles (see Table 2.2 over).

TABLE 2.2: INDUSTRIAL OUTPUT IN VIETNAM

	1990	1993	% increase	% of total	State	Non- State
Total	14012	20300	45	100	14483	5817
Electricity	1046	1289	23	6	1289	-
Fuel	1551	3320	114	16	3315	5
Metals	1141	1523	34	8	878	645
Electrics	272	371	36	2	384	67
Chemicals	921	1592	73	8	1220	372
Building/Wood	1573	2168	38	11	1113	1055
Paper/Printing	409	518	27	3	406	412
Food	5040	6982	39	34	4367	2615
Textiles	1259	1367	9	7	960	407
Garments	203	334	65	2	231	103
Leather	94	156	66	1	95	61
Other	503	680	35	3	305	375

*Source : Statistical Yearbook 1993*

The direction of Vietnamese trade has changed significantly since 1989. That year (1989) East Europe was a major (40%) but declining destination for Vietnamese exports. It (Eastern Europe) supplied 67% of Vietnamese imports. Three years later (1992) Asia accounted for 74% of Vietnamese exports with Japan 32% and Singapore 16% leading the way. West Europe also represents a small but growing market for Vietnamese exports - 5% in 1989 and 10% in 1992. France is the major West European importer. Garments and leather goods are the main exports to Western Europe. In 1989 Eastern Europe supplied 67% of Vietnamese imports. The corresponding figure for 1992 was 5%. Asia has also become Vietnam's major supplier, accounting for 65% of the total in 1992 compared with 11% in 1989. Singapore accounts for 32% of the total imports. As with exports, Western Europe is supplying a small but growing share of Vietnamese imports (see Table 1.3).

The change in the composition of Vietnamese imports and exports since 1989 has been less radical than the change in origin and destination. As outlined in Table 1.4, industrial exports increased from 43% to 51% of the total over the period 1985 to 1992. Agricultural exports have declined from 39% to 32%. Forestry and aquatic products are virtually unchanged. The main industrial exports are crude oil, coal, chromium and tin. Garments and leather products are a small percentage of the total, but the increase in recent years has been significant. Garment exports in 1992 reached 190M\$ up from 117M\$ in 1991. The 1993 statistics are not published yet but garments exports for last year could exceed 300M\$

TABLE 2.3: TRADE BY COUNTRY IN M \$

	Exports		Imports	
	1989	1992	1989	1992
Total	1946	2581	2566	2541
Asia	517	1903	289	1663
Japan	261	834	104	239
Singapore	71	401	41	821
Hong Kong	876	375	1788	420
East Europe	772	122	1706	115
West Europe	104	253	82	305

*Source : Statistical Yearbook 1993*

This level of garment exports (300M\$) would mean employment for about 40,000 people. The major agricultural exports are rice, coffee, rubber, duck feather and cinnamon.

Consumer goods represent a small but growing share of imports (17% in 1992). Raw materials are the major import sector (62% in 1992). Motors and capital equipment are a declining share of the total.

TABLE 2.4: TRADE BY COMMODITY

	Exports	
	1989	1992
Total	1946	2581
Industry	920	1304
Agriculture	707	828
Forestry	111	141
Aquatic Products	206	308
Other	2	-
	Imports	
Total	2566	2541
Equipment	861	547
Raw Materials	1377	1573
Consumer goods	328	421

*Source : Statistical Yearbook 1993*

### 2.3 Workforce and Education

The report of the 7th congress of the Communist Party of Vietnam notes a weakness both in the quality and efficiency of the education system. Investment in science and technology is very low at about 1% of the State budget. The growth of population is over 2% per annum. While literary rates are relatively high (88%), the workforce is largely unqualified. Nearly 60% of the workforce do not have a primary education certificate. About 18% of the workforce can be classed as technically qualified. High school and college graduates represent a very small percentage of the total (around 3%).

Despite the shortage of formal qualifications, many foreign investors interviewed during the course of this study spoke highly of the Vietnamese workforce. What appealed particularly to investors was the youthfulness of the workforce, its efficiency and ability to learn quickly.

### 2.4 Government Objectives

A major government objective is the doubling of GNP in the decade 1991 to 2000. This requires an average annual growth rate of over 7%. Growth rates in recent years are slightly ahead of target. Industry will play a lead role in achieving the growth targets. It should expand at about 14% annually. The report of the Communist Party congress identified "the need for rapid employment growth as unemployment and under-employment in urban and rural areas, especially among the young people is a burning issue". In order to tackle this problem, economic restructuring to modernize and industrialize is of "prime importance". The country should press ahead with a strong export strategy with emphasis on small and medium industry and priority to non-capital intensive technologies which create significant numbers of jobs.

Among the priority programmes outlined in the socio-economic development strategy prepared in October 1994 by the government are:-

- (i) Reduced bureaucratic obstacles to private investment.
- (ii) The promotion of small and medium enterprises.
- (iii) The promotion of exports.
- (iv) The promotion of foreign direct investment as it will be the major source of external finance.

Among the investment proposals highlighted is the development of industrial parks in areas with favourable conditions for competing in international markets, to attract new technologies and create employment. The emphasis would be on light industry producing for domestic and export markets (e.g. textiles, paper, weaving, electronics and electrical appliances).

## 2.5 Foreign Investment

The government enacted a foreign investment law in December 1987. Since then foreign investment has grown substantially. Commitments in foreign investment projects in 1988 were 366 M\$. By 1993 the figure was 2777 M\$. By September 1994 1085 foreign investment projects with an investment of about 10 billion \$ were approved. By the end of 1993 2 billion dollars worth of projects were implemented including 1 billion dollars in 1993. Oil and gas projects accounted for about one third of the total implemented investment capital. Much of the rest was in heavy industry projects, tourism and property development.

The World Bank in its 1994 review of the Vietnamese economy analysed the foreign investment situation. Implementation rates, according to the Bank are low. Using a 1 year time span only 44% of projects have been implemented. The other point highlighted in the analysis is the low level of job creation and the high level of investment per job. By the end of 1993 46,000 jobs were created according to World Bank estimates with an investment per job of \$14,000 to \$24,000, which is very high for a developing economy like Vietnam.

A possible explanation for the high investment per job is that Vietnam is attracting capital intensive projects based on resource exploitation (oil and gas) or the domestic economy (cement, steel, tourism development). To date very few labour intensive export industries (garments, leather, electronics) have been attracted. Most of the garment exports to date it appears, are produced in Vietnamese factories on contract for overseas buyers who provide the raw materials, designs, and some production supervision.

Many resource based and capital intensive domestic market investors will come to Vietnam without incentives or promotion efforts. They will not be distracted by customs or bureaucratic problems or difficulties. Labour intensive export industries, particularly small and medium scale industries are strongly influenced by promotion efforts, the availability of good sites and buildings for lease and the lack of bureaucratic and customs problems and difficulties.

There is little evidence that Vietnam has made a serious effort to date to attract this sort of small and medium scale export industry. There are few good sites or buildings available at a reasonable cost, and customs and bureaucratic problems are still significant. (This issue is covered in more detail in Chapter 5 dealing with investment promotion).

If Vietnam wants to increase the numbers employed per \$ of foreign capital invested, it will have to attract many more labour intensive (garments/electronics) export industries, which in turn means providing good quality industrial parks, streamlined bureaucracy, efficient customs procedures and implementing an aggressive and professional investment promotion campaign.

## **CHAPTER 3: EXPORT PROCESSING ZONE DEVELOPMENT IN VIETNAM**

### **3.1 Introduction**

A recent United Nations publication - *The Challenge of Free Economic Zones in Central and Eastern Europe*, published by the United Nations Conference on Trade & Development, outlined 23 different terms used to describe export processing zones (EPZs) and related, but not identical concepts. The EPZ has a number of characteristics.

It is a limited geographical area. The size of most EPZs fall within the 40 to 100 hectare range.

The area of the zone is fenced in and controlled. The size of the fencing and the degree of control around the perimeter varies from zone to zone. Usually the fence is 2 to 2.5 metres high. The security provided by the fencing is an important factor for some EPZs, particularly in those cities where violence and robbery are serious problems.

Light manufacturing activity (electronic assembly and garment production) are the predominant activities in most zones. Together these activities account for upwards of 80% of total output in most EPZs. Other activities which are sometimes permitted and encouraged include warehousing and distribution activity and international service activity, such as data processing, computer programming, financial services and other forms of international service activity. The main consideration for many government organisations promoting EPZ development is employment creation and foreign exchange earnings. Very often, warehousing, distribution and international services actually provide (i) better employment opportunities than labour intensive manufacturing; and (ii) higher net foreign exchange earnings per employee. Warehousing and distribution activity can sometimes evolve into manufacturing activity.

All zone investors and developers can import raw materials and equipment free of all duties and taxes, provided it relates to a licenced business activity and is not prohibited by law. Most if not all the output is exported. In recent years there is increased emphasis on the domestic market sales. This applies especially to zones in Africa attracting investors to service a regional market. In such circumstances, investors must have access to the domestic market as part of a wider regional market.

Of course the investors pay duty on the full value of the finished product when it is sold domestically.

A well run EPZ is free of bureaucratic restraints. Investors should have little difficulty getting approval for projects, as well as related issues such as building, labour and immigration permits. Customs procedures and documentations should not present any serious difficulties. Investors should be able to complete import and export procedures inside 24 hours in normal circumstances.

An EPZ is among other things an industrial park designed to accommodate light export industry. The design layout, infrastructure and location of the park must be geared to meeting the requirements of potential investors. Different investors have slightly different requirements.



### 3.2 EPZ Users

The investors who benefit most from the facilities and conditions available in a well planned and well managed EPZ, namely a light industry park with good infrastructure near international transport facilities and a bureaucratic free environment, are small and medium sized industries processing regular (weekly) supplies of imported materials for exports. Activities include garments, toys, sports goods, jewellery, watches, electrical appliances and electronic assembly. Small and medium sized companies in this context are international companies with sales of 5 to 100 M\$ and thousands of employees. They are major companies in their own right. They are small only in relation to major multinationals.

The requirements of different investors in relation to industrial park layout and design vary. Garment investors usually seek very low cost facilities and a high density layout. Electronic producers sometimes prefer low density layouts with well landscaped parks.

A characteristic of most EPZ users is that they employ mainly low skilled women in the 18 to 35 age group. The investors are sometimes willing to purchase materials and services produced in the domestic economy, if the domestic producers can meet the necessary quality and delivery standards. Unfortunately, most local suppliers are unable to meet these standards. The chances of local sourcing of raw materials and services is improved if purchasing decisions are made in the EPZ plant, rather than in some overseas purchasing office, or in company headquarters.

In many ways high technology activity in an export processing zone is a contradiction. An export processing zone is established at an early stage in the industrial development process of a country to stimulate foreign investment, employment and export growth. At that point in the economic development process, conditions do not exist for attracting high technology industry to a country as it does not have a skilled workforce or support services. As the skills and support services develop, the need for export processing zones diminish usually, as efficient countrywide duty free systems (duty drawback, duty suspension and duty free licence) are established. Most EPZ investors come from places with whom the country has colonial, trade, or ethnic ties e.g. many investors in Tunisia and Morocco are of French origin. Japanese investors dominate in Korean EPZs. Mauritius is both a form of French and U.K. colony and is bilingual. It also has an indigenous Chinese community. Foreign investors in the Mauritian free zone programme came from Hong Kong (because of the ethnic connection), and the U.K. and France (because of the colonial connection). Most investors in the Shannon EPZ in Ireland were American, due in part to traditional Irish/American connections and an English speaking workforce.

Domestic investors are important in many EPZs. Their numbers tend to increase after a few years. As many as one third of EPZ investors in many zones are of domestic origin. As might be expected, domestic investors are more prominent in the garment than in the electronic sector.

### 3.3 The Role of an EPZ

EPZs are often classified as second best solutions. The ideal solution is an efficient, countrywide duty free system for investors who want to import, process and export their product. The EPZ

is viewed as the second best solution as it is a duty free system limited to selected geographic areas. It might be more accurate to view the EPZ as a first step or interim solution for a country.

It is impossible for an under-developed country (with rare exceptions) to provide the necessary infrastructure and administrative framework on a countrywide basis for export industry to develop and prosper. A solution adopted by many countries is to establish one or more export processing zones where infrastructure can be concentrated and a streamlined bureaucracy and customs system can be put in place for investors who want to establish and operate export businesses.

The role of an EPZ in most countries therefore is to initiate the process of export industry development in selected locations in a country where export industry requiring imported equipment and materials can develop and prosper. Because of its limited geographic scope, administrative and institutional experiments can be undertaken there, and if successful can be replicated on a countrywide basis.

Because the EPZ is an interim solution and a step towards a countrywide trade regime for export industry, conditions inside and outside the EPZ should be similar. Streamlined customs and bureaucratic procedures should be extended as far as possible to the rest of the country. Tax and other incentives for industry in an EPZ should be similar/ identical to what is available to export industry on a countrywide basis. The same facilities and incentives should also be extended to industry, regardless of nationality. In time it should be possible to eliminate the special position of an EPZ as infrastructure bureaucratic conditions, tax and other incentives countrywide reach the EPZs standards.

### 3.4 Requirements for Successful EPZ Development

An EPZ needs:

- (i) To be close to international transport facilities. Close in this context can mean hundreds of kilometres from a port or airport, provided the land connections between the port/airport and the zone are good and the cost of transportation between the zone and the port/airport is reasonable. International transport facilities means usually ports with regular container services to key destinations and airports with good cargo services and handling facilities. A port or airport without such facilities is useless. An EPZ will not provide sufficient volume of cargo to support transport services. Good transport services must exist prior to the establishment of the EPZ.
- (ii) To be in or near a place which has good roads and where adequate and reliable supplies of water and electricity are available. This applies especially if the EPZ is to be developed quickly and is not part of a larger project. An EPZ of 100 hectares cannot, if it is to be commercially viable, carry major off site infrastructure costs. If the cost of bringing water, electricity or roads to the site add up to millions of dollars, the project is unlikely to be commercially viable.
- (iii) To be placed in an urban and regional development context, the scale of the development should not place too much strain on transport, commercial or other infrastructure services.

- (iv) A good investment climate and an economic policy favouring export growth.
- (v) Reasonable support services such as banking, freight forwarding, document services, international phone and fax communications.
- (vi) A competitive cost structure (including the cost of labour, land, buildings and utilities).
- (vii) An urban environment in which foreign investors can live comfortably.
- (viii) A competitive incentive package. The main incentive offered by most EPZs is a tax holiday. Incentives should be comparable with what is available in competing locations, as export investors are influenced by incentive levels when all other things are equal. Incentives however, cannot compensate for deficiencies in infrastructure or the investment climate, i.e. an extra two-year tax holiday cannot compensate for poor roads or unreliable electricity supplies.
- (ix) To be developed and promoted by an organisation with the resources, commitment and motivation to create a successful EPZ development.

### 3.5 The Potential for EPZ Development in Vietnam

The conditions necessary for successful EPZ development exist or can be created in Vietnam, particularly in the major cities of Hanoi, Haiphong, Danang and Hochiminh city. Vietnam has an improving investment climate and an economic policy favouring private investment and export growth. The support services for labour intensive export industry are reasonable and improving. Labour cost are competitive and Vietnamese workers are highly regarded by investors for their adaptability, efficiency and ability to learn quickly. International transport services are generally good. The living conditions for expatriate personnel are good and improving, although accommodation can be very expensive. There appears to be suitable EPZ sites available close to existing roads and infrastructure services which could be developed quickly without major expenditure. (This point needs to be checked out in detail. It was not possible during the course of the present study to evaluate any potentially suitable sites).

### 3.6 The Role of EPZs in Vietnam

EPZs are needed in a country as a means of promoting export industry development where there is a lot of bureaucracy associated with importing, processing and exporting and a shortage of suitable sites or buildings in which light export oriented manufacturing industry can operate successfully. The need is greatest in a country which (i) attaches a high priority to export industry growth; (ii) has major bureaucratic problems with establishing (mostly foreign) businesses and importing and exporting; and (iii) infrastructure deficiencies.

The Vietnamese government attaches a high priority to promoting labour intensive export industry

and has emphasised the need to create the conditions to attract foreign capital. EPZs, special economic zones and industrial estates should be used according to a report of the 7th Communist Party Congress to encourage increased inflows of capital.

The UNDP/World Bank in a December 1993 document on "Policies for Transition to an Open Economy" reviewed the EPZ option. It noted that the EPZ is one of four mechanisms which allow exporters "equal footing" or duty free access to equipment and materials. The other mechanisms are the duty exemption system, the inbond manufacturing system and the duty drawback system. The report concludes that the EPZ is more suited to Vietnam presently than the other systems, especially the duty drawback system, because Vietnam lacks the technical and managerial capacity to manage the other systems. During the course of this study a number of exporters were interviewed. The problems with the duty drawback and duty exemption systems were often mentioned.

If the EPZ formula is not to become a permanent solution but an interim or first step towards countrywide free trade, the efficiency of other duty free systems will have to be improved. Institutions such as the United Nations and the World Bank who advocate countrywide free trade solutions will have to invest resources in improving the technical and managerial capacity of these systems.

The report notes that most EPZs have produced limited benefits which are well below the "high expectations" of the promoters. This is usually because the expectations are unrealistically high. Very often EPZ promoters when outlining the benefits of a proposed development, emphasise high tech industry technology transfer and linkages to the local economy. The sort of export oriented foreign investors attracted to an EPZ or other forms of export duty free facilities depends on the skills and enterprise of the economy in which the zone is based. If (i) the workforce is largely unskilled; and (ii) local supplies are unable to meet delivery and quality requirements of exporters, it follows logically that investors attracted to such locations will (i) use low levels of technology; (ii) employ mainly unskilled or semi-skilled workers; and (iii) develop few linkages with the local economy.

### 3.7 EPZ Progress to date in Vietnam

On the basis of the foregoing, EPZs can be developed successfully in Vietnam. More importantly the Vietnamese government wants to develop a successful EPZ programme. To this end a new EPZ law was introduced in 1991 and an EPZ programme was initiated. In the countries of Asia which have developed successful EPZ programmes (Taiwan, Korea, Malaysia, Sri Lanka), upwards of 10,000 jobs were created within 2 or 3 years of the programme being initiated.

In Vietnam a decree on EPZs was passed by the Council of Ministers in October 1991. In the following 5 months the government organised the establishment of 4 EPZs at Tan Thuan, Linh Trung, Haiphong and Da Nang. In October 1992 permission was granted for the development of a zone at Noi Bai, Hanoi and the proposal for an EPZ at Can Tho was approved in 1993.

So far only one EPZ at Tan Thuan in Ho Chi Minh City is operating. In November 1994 there were 3 projects in operation employing under 1000 workers. A further 10 projects were under

construction, 16 projects have received licences but have not yet started construction and a further 19 projects have completed lease agreements with the developer. Details of these projects are set out in Table 4.1. At the site in Haiphong some preliminary site works were underway in November 1994.

There is general disappointment in Vietnam about the process (or lack of progress) to date with EPZs. Recent articles in the Vietnamese Investment Review note "the lethargic early performance of Vietnam's EPZs" - 29th August to 5th September 1994 and the need to "draw from the experience learned from setting up EPZs" - 10th to 16th October 1994.

### 3.8 EPZ Development in Vietnam and East Asia Compared

Employment after 3 years of EPZ development in Sri Lanka, Taiwan, Korea and Malaysia was in the 15,000 to 20,000 range. In the Philippines about 8000 people were employed after 3 years and less than 1000 in Vietnam. Vietnamese growth is unusually slow. Possible explanations can centre around:

- \* location choice and the related issue of available infrastructure;
- \* the organisation format used to develop and manage the zone programme in Vietnam;
- \* technical expertise and information on industrial park development;
- \* promotion efforts; and
- \* price of land and sites.

In the case of Vietnam only one EPZ has been developed to date. There are no obvious indications that any of the other zones will become operational over the next 6 or 12 months.

#### 3.8.1 Size

With one exception, all the proposed Vietnamese zones are over 100 hectares. Most of the other Asian zones are less than 100 hectares. Few of the other Asian zones are part of larger industrial complexes. Size however is hardly a convincing reason for explaining the delay. Large scale developments may create serious planning problems and heavy demands on infrastructure when fully developed.

#### 3.8.2 Location

Detailed comments on the physical plan proposals in relation to each EPZ are contained in Report No. 2. The key issue in this section is the speed with which an EPZ can be developed at the proposed site and the cost of developing the site and the cost at which building plots can be made available to investors. Most of the early free zone sites in other parts of Asia were well located in relation to infrastructure and services.

The first two developments in Malasia - Sungei Way in Kuala Lumpur and Bayan Lepas in Penang were located close to existing roads and services. They could be developed without major expenditure quickly. A Malaysian law was passed in 1971. Two years later both zones were fully operational. Both had a number of major investors operating in the zones by mid 1973.

The first zone in Sri Lanka at Katunayke is across the road from the airport with good infrastructure and road connections close by. The zone was operational within 12 months of the law being passed. A similar situation prevailed in Korea and Taiwan. The exception was Bataan in the Philippines. Bataan was established in an isolated area 100 kilometres from Manila. It was slow and expensive to develop. It cost close to 100 million dollars to develop. Most of the money was invested in infrastructure. Development costs in the other zones were in the order of 10M\$ per 100 hectares.

Two of the Vietnamese zones are badly located in relation to infrastructure - Noi Bai and Haiphong. Noi Bai in particular is located a considerable distance (5 kilometres or more) from any other infrastructure. The land of the proposed zone is being cultivated for agricultural purposes at present. Any development plan there must be considered medium term (2 to 3 years at least). The proposed Haiphong site is 16 kilometres south east of the city along a very bad road. The proposed sites at Da Nang and Linh Trong seem well located in relation to infrastructure and services.

### 3.8.3 Organsiation

An important difference between the Vietnamese free zone programme and that of other East Asian countries is the role of the State. In the East Asian countries in the 1970's the State established a powerful organisation to supervise, control, develop, manage and promote the EPZs. It was not necessary to rely on any outside agency or investor to develop the zone programme.

The Vietnamese government did not establish a powerful EPZ development agency like that in other countries. The role of EPZ agency is divided between the SCCI and the provincial or city EPZ Authority established by the government. At present only the Ho Chi Minh City EPZ Authority is operational. The SCCI/EPZ Authority is basically a regulatory agency without power to initiate development.

In Vietnam the government, because of a shortage of funds has had to depend on joint venture initiatives between Vietnamese and foreign investors to develop the zones. It has been suggested that disputes between joint venture partners and difficulties in raising finance, may in some cases have slowed down EPZ development. It was not possible during the course of the project for the consultants to check out these suggestions.

### 3.8.4 Information and Expertise

It is possible that the Vietnamese authorities were handicapped by a lack of information, expertise and knowledge of export processing zones/industrial estate development. Officials of the State Planning Committee (SPC) requested more information on the subject (EPZ/IE development). Knowledge and experience is always useful. It would enable the government authorities to reach better agreements (from a government viewpoint) with potential developers. With knowledge and

experience, government officials are better positioned to evaluate developers proposals and costings.

### 3.8.5 Investment Promotion

Most East Asian countries had (and still have) efficient, high profile investment promotion agencies with considerable resources. There is a substantial difference in approach and attitude between an agency which regulates investment and one which promotes investment. Export oriented investors react strongly to promotion efforts. A good promotion agency like the Malaysian Industrial Development Authority, the Singapore Economic Development Board, the Taiwanese Foreign Investment Board, will ensure that the zone programme is properly marketed overseas. Good marketing will ensure a steady flow of potential investors. Overseas promotion efforts to date by the Vietnamese government and its agencies appear to have been very limited. This issue is covered in more detail in Chapter 5.

### 3.8.6 Industrial Park Proposals

The Vietnamese government is planning new forms of industrial parks, or industrial concentrated zones. Before further EPZ or industrial parks are proposed or planned, the reasons for the slow progress of the EPZ programme to date should be clearly identified. Otherwise the problems and difficulties which have slowed progress in relation to EPZ development, may well delay progress of industrial zones, technology parks and industrial concentrated areas. In particular, the Vietnamese government should:

- (i) examine the organisation structure used to promote and regulate EPZ development;
- (ii) ways and means of improving the technical expertise the government has at its disposal in relation to industrial park development.

The Thai government is one of the very few which combines responsibility for EPZ development and industrial park development in the one agency - the Industrial Estate Authority of Thailand (IEAT). This authority is not only responsible for regulating and controlling development and providing a one stop service to investors, but it can (and does) become involved directly in the development of industrial parks and EPZs. The Vietnamese government should examine in detail the format and structure of the IEAT and consider whether or not a similar organisation would be useful or worthwhile in Vietnam.

## 3.9 Potential Impact of Successful EPZ Development

Most EPZ development in Vietnam over the next 5 to 10 years will be in labour intensive projects employing large numbers of semi-skilled women. The dominant industries will be textiles and clothing, leather and sports goods, electronics and light engineering. Of the 48 companies (see Table 5) licenced or who have signed agreements to date to establish projects in the TTZ, 19 are textiles/leather/sports goods projects, 11 are engineering/electronics projects, 10 are other manufacturing projects and 8 are service type companies. Potential employment among the 29 licenced companies is over 8000. In the traditional EPZ labour intensive industry, employment

density per hectare can range from 300 workers upwards. Net output per worker annually is usually in the order of 2000\$.

Linkages between EPZ firms and local industry depend on the ability of local producers to supply packaging and other raw materials of an acceptable standard. It is unlikely that any major technology will be transferred from EPZ companies. There should however, be considerable transfer of management and organisational expertise and skills.

If the six proposed EPZ sites with a total of about 100 hectares are developed and occupied in the next 5 to 7 years, upwards of 300,000 jobs would be created directly, together with a further 600,000 indirect jobs, assuming a multiplier of 2.0. Net exports from the EPZs would amount to about 600M\$ annually.

### 3.10 Conclusions

- (i) The companies who benefit most from EPZ type facilities are small and medium scale international producers (between 5 and 100M\$ turnover (importing raw materials on a weekly basis for processing and export and requiring a low cost labour force). Industries which fit into this category include garment producers, sports goods producers, some light engineering projects, electronic assembly projects, leather goods producers, watch manufacturers and toys.
- (ii) The role of the EPZ is to initiate the process of export industry development in selected locations as a prelude to creating countrywide conditions for export industry development. Parallel with the development of EPZs the government should also develop and refine other mechanisms for promoting export industry including bonded manufacturing, duty free licence systems and duty drawback schemes.
- (iii) EPZs should be developed where possible in locations with good international transport facilities close to existing roads, water, electricity and other infrastructure services to minimise offsite development costs and accelerate the development.
- (iv) An EPZ programme can be developed successfully in Vietnam.
- (v) At this point in time the EPZ formula is more suited to Vietnamese conditions than any other duty free mechanism because (other systems are "more difficult to manage and inappropriate for the country's limited management and technical capacity" - UNDP/World Bank report - December 1993).
- (vi) There is general disappointment with "the lethargic early performance of Vietnam's EPZs". Progress in the past 3 years has been very much slower than that in other Asian countries where successful EPZ programmes have been implemented.
- (vii) There are a number of differences between the Vietnamese programme and that of other Asian countries, which may help to explain "the lethargic performance" to date. In one



or two cases infrastructure at the proposed EPZ sites in Vietnam is not good. Vietnam is depending on foreign joint venture partners to develop its EPZs. In other successful Asian countries the government agency developed the EPZ directly. Other Asian countries had, and still have, strong effective promotion agencies. Vietnamese promotion efforts to date in relation to foreign investment have been very limited. For potential EPZ investors promotion efforts do make a difference. The price of land at the TTZ site in Vietnam is expensive in comparison with sites in other EPZs in Asia.

In other Asian countries, the government established strong EPZ agencies or administrations with power, responsibility and resources to undertake the task. The Vietnamese have used a different organisation formula. Responsibility for EPZ development is divided between the SCCI and the local EPZ Authority - both of whom have limited resources and powers.

- (viii) The Vietnamese government is proposing the development of a series of industrial parks. It is important that the reasons for the lethargic performance of the EPZs are identified and clearly understood. The industrial park proposals should then take full account of the lessons arising from the EPZ experience.
- (ix) The Thai government combines responsibility for industrial estate and EPZ development into one organisation - the Industrial Estates Authority of Thailand. The Vietnamese government should examine very closely the Thai experience and consider its relevance to the Vietnamese situation.

## **CHAPTER 4: EPZ LAW AND ORGANISATION**

### **4.1 The Need for Special Arrangements**

An EPZ is a special or privileged area. It is special in that it is regarded as outside the Customs territory of the country concerned. Customs legislation does not apply within an EPZ except in so far as it relates to goods which are prohibited (e.g. arms and drugs) or from a country subject to a trade embargo. Otherwise traders or investors in an EPZ can import freely any quantity of goods from whatever source, provided the goods in question are for use by the investor in a licenced business activity. In a well run and managed EPZ there are few formalities associated with importing and exporting.

Apart from the lack of import and export restrictions, investors may benefit from tax holidays, subsidized infrastructure and a reduced bureaucracy. In return for these privileges the investor is expected to create employment and export all or most of his output. Because the EPZ is extra territorial from a Customs viewpoint, it needs to be clearly defined. Because it is a special or privileged area, not everybody is permitted to go into an EPZ. Entry is restricted to investors who export all or most of their output and create employment.

An EPZ law is necessary to set out how (i) the area of the EPZ is established and controlled; and (ii) how many investors and others can gain entry into an EPZ. Many other issues may also be covered in the law, including EPZ management and organisation, taxation and labour relations.

### **4.2 The Legal Framework**

There are a number of different groups with an interest or involvement in EPZ development. These include government organisations responsible for industrial development, the Customs administration, free zone developers and free zone investors. The interests of the various groups may not always coincide. The industrial development agency will want to maximize employment and exports, and will probably have an expansionist outlook. The customs and immigration administrations will be concerned with smuggling. The developer (especially if he is a private developer) will be concerned with maximizing his own profits. The investor in a zone will also want to maximize his profits. The investor and industrial development agency will probably want to keep site and factory rents at a relatively low level to encourage expansion and growth. The developer may well want to charge the maximum possible price in order to maximize his own profits.

A good EPZ law sets out clearly the duties and responsibilities of each group and how they should relate to each other. The law should, in so far as possible, be "user friendly". It should be written very much with the investor in mind. He is the person who achieves the zone's objectives (employment and export growth), not the EPZ administration or the customs authorities. The law should be simple and straightforward. It should set out clearly who is responsible for establishing and controlling EPZs.

The main elements of an EPZ law are:

- (i) Power to declare an area to be an EPZ. This is most important. This power may be given to the Minister responsible for EPZ development (usually the Minister for Trade & Industry, but sometimes the Minister for Finance or Economic Affairs), or the President, or the Prime Minister or the cabinet or the government as a group. The procedure for establishing an EPZ should also be set out.
- (ii) Overall responsibility for EPZ development. The law may provide that a particular minister (Trade & Industry, Economic Affairs or Finance) is responsible for EPZ development, or an EPZ Authority may be established under the law, or under a minister. The Authority may be allocated overall responsibility for EPZ development. The key responsibilities and duties of the Authority and/or the minister should be clearly stated.
- (iii) Duty free status. A clear statement is necessary that all goods, raw materials, and equipment may be imported free of all duties and taxes, provided they relate to the business of an investor or developer and are not prohibited by law. This section should also cover the export of goods free of all duties and taxes and the terms and conditions under which trade with the domestic economy is permitted. The usual practice is that trade between the domestic economy and an EPZ is regarded as export/import trade.
- (iv) The role of customs. Related to the duty free status is the role and powers of the customs administration. In some cases (e.g. the Philippines and Sri Lanka) the customs administration has joint responsibility with the EPZ Authority for supervising duty free goods within EPZs. In most countries however, the customs has sole responsibility for the control of duty free goods. Very often the customs administration is given considerable powers to search documents and premises. However, these powers need to be exercised discreetly if the EPZ is to function efficiently.
- (v) Licencing. Each developer and investor in an EPZ receives a licence or permit. The section dealing with licences should have set out clearly the application procedure, the organisation or person responsible for evaluating applications and the organisation responsible for issuing licences. This section should also cover the amendment of licences, the transfer of licences and the revocation of licences, if there is a serious offence against the customs or EPZ laws.
- (vi) EPZ Authority. Some countries establish separate State EPZ authorities or agencies to supervise the development and operation of EPZs. The section would deal with the establishment of such an organisation, as well as its powers, functions, and the financing of the organisation and the appointment of directors and senior management.
- (vii) Organisation and Management. This section would link in with the previous section. A country may permit a private developer to develop and manage an EPZ under the supervision of the overall EPZ Authority or minister.
- (viii) Regulations. Most EPZ laws give the responsible minister or the EPZ authority power

to make regulations for the proper implementation of the EPZ law. The regulations may include deregations from or amendments to existing laws. Regulations related to customs administration are usually made by the minister responsible for customs administration, or at least with his agreement and co-operation.

- (ix) Other issues. These include tax holidays for investors, the right to operate foreign currency accounts, guarantees against nationalisation and the repatriation of profits and capital and labour issues.

#### 4.3 EPZ Legislation in Asia

Most of the Asian EPZ legislation designates clearly the minister or authority which has overall responsibility for EPZ development and gives the organisation very substantial powers to control EPZ development on a countrywide basis.

In the Malaysian law, for example, the Minister for Finance has the power clearly stated in Article 3.1 to declare any area of Malaysia to be an EPZ and "every such notification shall define the limits of the said zone". Article 3.2 gives the same minister power to appoint any federal or state organisation as an EPZ authority to administer, maintain and operate an EPZ. Article 13 gives the minister power to control such agencies. The minister may (i) require such agencies to provide facilities and (ii) give to that organisation directives which he considers necessary; and (iii) require the agency to provide him with full reports on the zone annually and at other times. Under Article 47 the minister is empowered to make regulations "as may be necessary or expedient".

In the Korean legislation the Minister for Commerce & Industry has the power to designate a free zone from a list of prospective areas, selected by the Minister for Construction following consultation with the Minister for Home Affairs. The development of an EPZ is the responsibility of the Minister for Construction (Article 4.1). The responsibility for administration of a free zone lies with a free zone administration office established in each free zone under the jurisdiction of the Minister of Commerce & Industry (Article 5.1). Under Article 5.2 the administration office can evaluate and recommend investor applications, approve applications from support enterprises, supervise activities in the zone and generally manage the operation of the zone. The Minister for Commerce & Industry is responsible for issuing permits to licensed enterprises. The Director General of the administration office also has the authority and responsibility to supervise the various administrative agencies operating in the zone, including the customs administration and the labour office.

In Taiwan a similar situation prevails. There is a powerful EPZ administration established under the Minister for Economic Affairs. The administrative headquarters is in the Nantze zone, with branch offices in Kaoshiung and Taichiung. The EPZ administration and its support agencies are authorized to act for various government agencies in handling all phases of operations in the zone, including the processing and approval of investment applications, construction permits and import/export licences where necessary. In Sri Lanka the government in 1978 established the Greater Colombo Economic Commission (GCEC) and now the Board of Investment (BOI) to manage the EPZ programme. The commission was empowered to develop EPZ sites, receive an

approve investor applications, issue building permits, supervise construction and generally manage free zone operations. The commission was based in the Katanayke zone with branch offices in other zones.

In the Philippines responsibility for EPZ development rests with the Philippine EPZ Authority. The authority is responsible for building, managing and operating four free zones in the Philippines at Bataan, Cavite, Mactan and Baguio. It has a strong central administration with headquarters in Manila and branch offices in each zone. It receives investor applications which are processed at the headquarters. Operating licences or permits are issued by the Minister for Trade & Industry. Routine administrative matters are the responsibility of the branch office in each zone.

On the question of activities permitted in an EPZ and the right to import and export materials, the legislation is clear. Article 4 of the Malaysian law provides that goods of any description can be brought into an EPZ without payment of customs duties, excise duties, sales taxes, or service taxes. Article 5 provides that goods from a free zone may be exported, or with the approval of the zone authority be sent on to the domestic market. Article 7 of the Malaysian law provides that trade between a free zone and the domestic economy shall be treated as normal import/export trade. Thus goods from Malaysia sold in a free zone are treated as exports and are eligible for duty rebate and other export incentives. Free zone goods sold in Malaysia are subject to the normal import duties and taxes. Similar provisions exist in other free EPZ laws. Domestic sales are usually restricted or prohibited.

Article 14 of the Korean law provides that free zone goods "shall not be allowed into the tariff area", except where domestic industry will not be impaired and the national economy will benefit. In such circumstances the Minister for Commerce & Industry may grant permission for free zone goods to be sold on the Korean market, subject to the customs laws. The Korean law was written in 1970. A similar attitude to domestic sales was expressed in other free zone laws of that time i.e. strict limitation on sales from the free zone onto the domestic market. In legislation drafted in more recent years (during the 1980's), there is usually a more liberal attitude expressed towards domestic sales.

The responsible minister (finance in Malaysia, economic affairs in Taiwan and commerce and industry in Korea) is empowered under the free zone law to make regulations for the proper functioning of the law.

Any investor, domestic or foreign, is usually permitted to establish a business in the free zone. The one exception was Korea. Article 8 of the enforcement decree excluded wholly owned Korean enterprises. Korean nationals could not own more than 50% of the capital of any enterprise. This restriction was removed in 1980. Now Korean enterprises account for over 30% of free zone businesses.

The Pakistani EPZ law also restricted investment by domestic and overseas Pakistanis in the Karachi free zone in its first years of operation (the early 1980s). These restrictions were partly responsible for the slow progress of the Karachi zone during that period. The restrictions were gradually relaxed in the years from 1985 onwards.

A feature of the Malaysian and Korean laws is the number of articles dealing with offences and punishment. A total of 24 (out of 51 articles) in the Malaysian law deals with offences, penalties and related matters. 7 of 30 articles in the Korean law deal with "punitive" issues. Most other laws place less emphasis on punitive measures. Nevertheless, the customs administration and the zone administration in most cases have substantial powers to ensure that investors comply with the laws and regulations within the zone. The customs administration usually has power to enter premises, inspect stock accounts and records and stop and search transport vehicles.

#### 4.4 Vietnam EPZ Legislation

##### 4.4.1 Introduction

The laws and regulations governing free zone or EPZ operations in Vietnam are set out in

- (i) Articles 2.13 and 2.14 of the law on foreign investment in Vietnam, which defines EPZs and EPZ enterprises.
- (ii) Articles 19a of the foreign investment law which deals with (a) organisations and individuals who may invest in an EPZ and (b) trade between EPZs and the domestic economy (the Vietnamese market).
- (iii) Article 54 of the regulations for the implementation of the investment law, which provides that a government special statute shall instruct on the provisions of EPZs.
- (iv) A decree of the Council of Ministers dated 18 October 1991 on EPZs.
- (v) Regulations on EPZs dated also 18 October 1991 and issued in conjunction with the decree.
- (vi) A circular dated 20 August 1992 on the implementation of the regulations.
- (vii) Stipulations on the evaluation of and issue of licences to invest in projects within EPZs in Vietnam issued on 6 November 1992 by the State Committee for Co-operation and Investment (SCCI).
- (viii) The charter of the Tan Thuan EPZ in Ho Chi Minh city.

During the course of the study 3 different versions of the EPZ decree and regulations were reviewed. The first was a book published by the State Planning Committee (SPC) entitled EPZs and Industrial Estates .. Investment Opportunities in Vietnam dated December 1993. The second version was a booklet published by the Ho Chi Minh EPZ Authority. The third version was provided by the SCCI and was translated by Philip Fox, Solicitor, of Melbourne, Australia. There were only minor differences between the different versions. The differences related to terminology. The SCCI version used the term "special EPZs" and the "Management Committee of Special EPZs" is the management body of an EPZ - Article 6. The Ho Chi Minh EPZ Authority version used the phrase "export processing zone". The word special is dropped and the management body of an EPZ is "the EPZ Authority". The SPC version uses the phrase "economic processing zone" and the management body of an EPZ is "the Management Committee of the Economic Processing Zone".

The Vietnamese law is not clearcut. In particular it is not clear from the law that there is a strong central authority controlling EPZ development. Phrases such as 'central authority' or 'authorised body' are used but not properly defined in the law. Unlike the foreign investment law or other

EPZ laws, there is no article or clause setting out the meaning of various phrases used in the law. There is also a degree of repetition in the regulations and circular, and some apparent contradictions. In highlighting some of these apparent contradictions and repetitions the objective is to improve the overall drafting and presentation of the EPZ law. Most foreign investors reading the EPZ law will probably read the English version as the consultants did. Many of these investors may not have English as a mother tongue or first language. Therefore, a simple accurate translation is important.

Japanese investors in particular go into great detail on all aspects of the investment process, including the legislation. Potential small and medium sized Japanese EPZ investors would question in detail the EPZ legislation. According to a number of Japanese commentators, the EPZ programme in Vietnam could attract significant numbers of small and medium sized Japanese companies in the right circumstances.

Apart from the intrinsic merits of an accurate EPZ law, a well presented and accurate translation of the law is good also from a promotional viewpoint. It projects a positive, professional image of a country interested in attracting foreign export oriented investors. Attracting such investors is a highly competitive business.

#### 4.4.2 The Establishment of EPZs

An EPZ is defined in Article 2.13 of the foreign investment law as "an industrial zone specializing in export oriented production ... with specific geographic boundaries and set up by the government of Vietnam".

Article 2 of the regulations provide that "EPZs shall be established by the government of Vietnam". Unlike similar articles in other EPZ laws, Article 2 of the Vietnamese regulations does not identify the person within the government who can declare an area to be an EPZ. In Part 1, Section 4.1 of the circular "the local peoples committee with the agreement of SCCI and the ministries concerned (the concerned ministries are not listed) can petition the chairman of the Council of Ministers for approval to establish an EPZ". While it is not stated in the law, it is presumed that the chairman of the Council of Ministers can approve the establishment of EPZs. The chairman has in fact approved 6 EPZ sites in the last 3 years.

#### 4.4.3 The EPZ Authority

Article 1 of the regulations states that "EPZs are industrial zones under a central authority". The phrase "central authority" is not defined. Article 6 states that the management body of the EPZ is the management committee of the EPZ Authority.

According to Article 58 the members of the Authority "shall be appointed by the chairman of the Council of Ministers in accordance with proposals made by the chairman of SCCI and the chairman of the Peoples Committee where the EPZ is located". Although not clearly stated, the implication is that there would be an authority or management committee in each province or city which has an EPZ.

Article 62.2 of the regulations gives the Peoples Committee of the relevant city or province power

to nominate members to the EPZ authority or management committee. This article (62.2) could be interpreted as conflicting with article 58, although it might be argued that proposing and nominating have slightly different meanings. Unlike other EPZ legislation, the members of the authority or the terms of appointment are not set out in the law. Part 4, Section 2 of the circular allows that the size of the management committee will depend on the size and character of the EPZ.

Article 61 of the regulations gives SCCI responsibility for (i) examining and approving operation projects and the charter of EPZs (note the term 'operation project' is not defined but presumably means projects to develop EPZs); (ii) guiding and supervising the activities of the Management Committee; and (iii) resolving matters which arise in relation to policy and laws which are not within the powers of the local EPZ Management Committee or the Peoples Committee. Part 4, Section 1.2 of the circular implies that Article 61 covers the relationship between SCCI and the Management Committee. Under this clause the Management Committee should submit regular (quarterly or annual) reports to SCCI.

It would appear from the foregoing that SCCI is the central authority referred to in Article 1. However, this is not stated anywhere. The need for a strong central authority does not arise at present as there is only one EPZ in operation. Co-operation between the Ho Chi Minh EPZ Authority (HEPZA) and SCCI should be good, as the vice-chairman of SCCI is the chairman of HEPZA. If or when zones in Da Nang, Hanoi, Haiphong and elsewhere start operating, it may be necessary to have a strong authority at the centre able to control EPZ development nationwide. Ideally, the central authority should establish and enforce common rules and standards in relation to investment applications and operational matters. The present law simply allows the SCCI to "guide and supervise" the management committees of EPZs.

Vietnam could look to Malaysia for guidance on the establishment of a strong, central authority. In Malaysia the Minister for Finance is the national EPZ authority and he appoints individual EPZ authorities and "may require those authorities to provide and maintain in the free zone such facilities as he may consider necessary". He can also give the authority such direction as he may consider necessary. The authority is also obliged to supply the minister with a full statement on the zones activities and such other information as he may require.

#### 4.4.4 EPZ Investors

Article 19a of the foreign investment law states that foreign economic organisations can invest in EPZs in (i) a contractual business co-operation format; (ii) as a joint venture; or (iii) as a 100% foreign enterprise. Vietnamese investors can (i) co-operate with foreign investors in a contractual business co-operation format, or in a joint venture partnership; or (ii) establish a jointly owned (100%) Vietnamese enterprise.

Article 5 of the regulations is similar. Foreign investors, overseas Vietnamese and Vietnamese economic organisations from all sectors may invest in an EPZ. Article 9 of the regulations is less inclusive. Forms of investment may include 100% foreign owned projects, joint ventures between foreign and Vietnamese investors and business co-operation contracts between foreign and Vietnamese investors. 100% Vietnamese projects are not mentioned in Article 9. Article 10 provides that EPZ enterprises shall operate "in accordance with the provisions of the law on



foreign investment". Article 31 provides that all provisions of the regulations on labour and enterprises with foreign owned capitals shall apply to EPZ enterprises. Do the provisions of articles 10 and articles 31 of the regulations apply to 100% Vietnamese owned enterprises which might establish in an EPZ? This question should be clarified.

As a matter of principle, all enterprises be they 100% foreign, 100% Vietnamese or joint venture enterprises between foreign and Vietnamese parties, should be treated equally within an EPZ.

#### 4.4.5 Housing and EPZs

It may well be a translation error but Articles 15 and 53 of the regulations refer to houses in EPZs. Under Article 15 enterprises can build houses and under Article 53 houses in EPZs shall be subject to a tax on houses. It is possible that the word house should be replaced by the word building or factory. Under Article 28 people are not permitted to live in EPZs.

#### 4.4.6 Duty Payments

Article 34 of the regulations provides that "equipment, means of transport, materials and goods ... which are imported from foreign countries into an EPZ and (exported) from an EPZ to a foreign country shall be subject to customs inspection and control in accordance with the provisions of the law on customs and to the payment of customs duties". Article 52 provides that enterprises operating within EPZs shall be "exempt from payment of import duty ... and export duty". It is possible that Article 34 has been mistranslated and that it should refer to the payment of customs fees, rather than customs duties. Part 3 Section 7.1 of the circular refers to the payment of customs fees.

#### 4.4.7 Miscellaneous Items

There are a number of articles in the regulations and circular which are very similar. These articles should be, where possible, rationalized. For example, Articles 5 and 9 of the regulations in Part 1 Section 6.1 of the circular deal with the category of people and organisations who may invest in EPZs.

Articles 10 and 14 of the regulations provide that enterprises within EPZs shall operate in accordance with the provisions of the law on foreign investment and the regulations on EPZs.

Article 11 of the regulations in Part 2 Section 23 of the circular and Article of the stipulations deal with project evaluation. Both the regulations and the circular state that the authorities shall inform the investor within 3 months of the receipt of the application of a decision on his application. Article 10 of the stipulations on evaluation of EPZ projects states that "within 1 month of the date of the receipt of an application, the authorities shall carry out an evaluation of the projects and notify the investor of its decision". An investor could interpret this phrase as meaning that he would receive a decision within one month.

Articles 15.1 and 18 of the regulations both deal with an investor's entitlement to lease land and buildings. Article 8.1 and Article 30 are also very similar. Both emphasize the need to give priority to Vietnamese employees. Articles 36 and 52 both deal with trade between the EPZs and

Vietnam. Article 57 of the regulations and Part 4 Section 1 of the circular deal with the functions of the EPZ Authority. While the two articles are similar in many respects, they are not identical. Article 57.4 of the regulations allows the authority to make regulations within the scope permitted by the authorized State body in respect of fees charged. The authorized State body is not defined in the regulations. However, Part 3 Section 5.5 of the circular deals with management and operations fees. It states that fees fixed by the EPZ Authority shall take effect upon the approval of the Minister of Finance. Presumably the Minister for Finance is the authorized body referred to in Article 57.4 of the regulations.

#### 4.4.8 Omissions

There are a number of issues which are included in some other EPZ legislation which are not covered implicitly in the Vietnamese law. These include:-

- (i) Power to revoke a business licence for serious breaches of customs regulations, EPZ regulations or conditions attached to the business licence.
- (ii) Powers of the customs administration to (a) demand documents, inspect stock accounts, premises and transport vehicles; (b) to set out a format in which stock accounts should be kept; and (c) to insist that stock records and accounts be kept available for inspection for a period of 3 years. (Articles 39.3 and 39.4 do give the customs administrations power to inspect and search warehouses. However the powers referred to in Article 39 could be stated more explicitly along the lines suggested above).
- (iii) Power of the customs administration (stated explicitly) to demand payment where goods imported duty free to a zone are missing without a satisfactory explanation.
- (iv) Retail sales in an EPZ. Retail sales within an EPZ should be limited to food, drink and other essential items under which all relevant taxes and duties are paid.
- (v) Guarantees on nationalization and the repatriation of capital and profits. These issues are covered under the foreign investment law (Chapter 3). They could, however, be included in the EPZ law also for promotional reasons.

#### 4.5 Recommendations

- (i) Declaration of EPZs. Replace Article 2 with a statement to the effect that the chairman of the Council of Ministers may declare any area in Vietnam to be an EPZ on a petition of the Peoples Committee in which the proposed zone is located and which is approved or supported by the SCCI and the Ministry of Finance. Each declaration should define the limits of the proposed EPZ.
- (ii) Establishment of a central authority to control the development and operation of EPZs. The government should establish a strong central authority (either the SCCI or a new EPZ authority) to supervise and control EPZ development on a countrywide basis. It has not been possible during the course of the project to discuss with relevant institutions in detail

the merits or otherwise of SCCI or a new EPZ authority. The recommendations therefore must be to some extent tentative. It is important however, that a strong central authority be established to control and supervise EPZ development before other EPZs start operating. If SCCI is to be designated as the central authority, a Board of Management should be established to supervise the EPZ activity of SCCI. How such a Board would operate in a Vietnamese context needs to be discussed further. A related issue which needs to be considered is how the industrial estates programme being proposed by the government at present would interact with the EPZ Board.

- (iii) **Membership of the EPZ Board.** This could include representatives from the Ministry of Finance, the Department of Customs, the Ministry of Construction, the Ministry for Trade, the Ministry for Labour affairs, the Vietnamese Chamber of Commerce and the Peoples Committees in which the zones are in operation. The membership of the EPZ Board should be clearly set out as well as the responsibility for appointing the various members, and the conditions and terms of office under which the members would serve.
- (iv) **Central Authority functions.** The Central Authority should take control of all the major EPZ functions, including the issuing of licences and building permits to ensure consistency on a national basis. Branch offices of the Authority should be established in each zone to attend to routine matters, including issuing of any necessary zone entry permits, import/export permits and certificates of origin. The function of the EPZ Authority/SCCI would be to:
  - (a) Supervise and control the development of EPZs on a nationwide basis.
  - (b) Issue licences and building permits to investors
  - (c) Ensure that investors and developers comply with the terms and conditions of their permits and issue licences to developers to construct and manage EPZs.
  - (d) Promote the EPZ programme among potential developers and investors, both in Vietnam and overseas.
- (v) **Licensing -** the section on licensing developers and investors should include provision for the amendment and transfer of licences and the revocation of licences for serious breaches of conditions attached to the licence.
- (vi) **Redrafting of EPZ laws and related regulations.** The EPZ law and related regulations should be redrafted to eliminate apparent repetition and inconsistencies and contradictions. For the sake of clarity, key phrases used in the law such as 'central authority' should be defined in the law as in Article 2 of the law on foreign investment.
- (vii) **The Customs provisions in the legislation should be expanded.** The consumption of goods in an EPZ should be prohibited unless all relevant duties and taxes have been paid. Retail sales in an EPZ should be limited to essential items like food and drink. The Customs Administration should be empowered to prescribe the form in which stock accounts are kept. The Customs should have access to all such accounts. The main customs controls should be based on import/ export records, production schedules and stock accounts. Where duty free goods are missing or unaccounted for without adequate explanation, the customs administration should be explicitly empowered to demand the payment of all duties and taxes on such goods.

## **CHAPTER 5: INVESTMENT PROMOTION AND EPZ DEVELOPMENT**

### **5.1 The Organization Framework**

The organisation responsible for promoting and regulating foreign investment in Vietnam is the State Committee for Co-operation and Investment (SCCI).

The SCCI deals with all foreign investors coming into Vietnam except those locating in EPZs. Responsibility for EPZ investors has been delegated to the local EPZ Authority. In the case of Tan Thuan EPZ, which is the only one in operation so far, responsibility for investment approval lies with the Ho Chi Minh EPZ Authority (HEPZA).

Information on the scope and methods of SCCI operations was difficult to obtain. It would seem however that overseas promotion is not carried out by SCCI except on a very minor scale. Promotion of the EPZ at Tan Thuan is carried out by the Taiwanese joint venture partner. Overseas visits by SCCI appear to be largely to establish the bona fides of those overseas investors seeking a licence. As no other State or private organisation seems to have the responsibility or the resources to carry out overseas promotion, the amount of export oriented foreign investment in Vietnam in the EPZ is well below what it might be expected to be. In order to correct this, a change in attitude and orientation would need to occur within the existing structures, or new structures created to give the responsibility and resources to the appropriate organisation to carry out this essential task.

It would seem that granting licences to investors in Vietnam is viewed in a negative rather than a positive way by SCCI. The amount of information required, the checks carried out including feasibility studies, visits to the home bases of overseas investors to check their financial suitability and related issues seems to be excessive, given that no financial assistance is provided by Vietnam to these companies. All the risk in setting up the enterprise lies with the company and the SCCI would seem to be very much less qualified than the investors to adjudicate on the viability of the venture.

A more positive attitude towards foreign investors would be advisable, otherwise investors will turn their sites to countries where they feel they would be made more welcome. (The procedures for foreign investors seeking to establish businesses in Vietnam is set out in Appendix 1).

### **5.2 The Relevance of Investment Promotion**

There are four kinds of investors who can be attracted to invest in any country. The first is the investor who is interested in establishing a production base within the country to supply the domestic market. The second category of investor is the investor interested in developing the natural resources of the country e.g. oil, minerals, timber. The third category is interested in buying State owned investments which are being privatized. The fourth category is the export oriented investor seeking a competitive production base to supply export markets.

The choice of location for the first three categories is limited. They are attracted by what is in situ

in the country i.e. the size of the domestic market, the availability of oil, gas or minerals etc., and the availability of State enterprises at a price which offers them the potential to make profits. These categories of investors are not unduly influenced by promotion efforts.

The fourth category - export oriented manufacturing investors (including EPZ investors) are strongly influenced by promotion efforts and incentives. Investors who are considering locations to service export markets can choose from a wide range of countries.

Promotion of the country including incentives on offer and any advantages they have over competitor countries, must be made known to the potential investor. Developed, as well as developing countries, have very comprehensive and well planned promotion campaigns aimed at target sectors in target countries. Decision-makers and companies seeking offshore production locations can be influenced strongly by personal contact from investment promoters and by the information given to them by these promoters.

### 5.3 Organizing for Investment Promotion

At present there is no organisation in Vietnam carrying out a planned, comprehensive promotion programme to attract mobile investment to Vietnam. It would seem that overseas promotion is confined to random occasional delegations consisting of a number of State officials going abroad on some business and who attend a convenient seminar or trade fair. This group could include members of the Chambers of Commerce and a representative of SCCI. This level of promotion, devoid of any proper promotional material or aids will prove completely inadequate in attracting a reasonable share of mobile export oriented investment.

The amount of resources allocated for overseas promotion in the SCCI could not be established, apart from the fact that the organisation had a person in Italy for two years, a person in Toyko for three months and somebody in Paris for nine months under the auspices of the UNDP. It was not possible to establish what promotional programmes were carried out by these people and the success or otherwise of these programmes.

There are three basic choices or organisaiton formats for carrying out investment promotion. Responsibility for investment promotion in Vietnam can be given to a government department, a private sector organisation or a quasi government or parastatal agency. Experience has shown that the parastatal or quasi government agencies, properly funded are the most effective in promoting investment. Such organisations are not constrained by traditional government structures, procedures and salary scales. They are therefore able to recruit the sort of private enterprise marketing personnel to succeed with this task. Private sector organisatons cannot be successful. They often have funding difficulties as the benefits of investment promotion do not accrue directly to a particular agency or group. This latter point of course does not apply to a particular EPZ such as the TTZ.

Whatever organisation is given responsibility and the resources to implement Vietnam's investment promotion programme, its goal should be clear i.e. that they are in the business of attracting foreign investment to Vietnam and their attitude and orientation should be focused on attracting investors rather than regulating investors. The image of Vietnam will have to be built carefully in order to make sure that a positive image ensues.

#### 5.4 Promotion Programme

The main promotion programmes suggested as most appropriate for developing the image of Vietnam are: advertisements, outward investment promotion missions, investment seminars and intensification of information services at home and abroad.

One of the most effective information sources during the initial stages of image building is advertising. This can be done in national newspapers, sectoral publications, business magazines, television, radio and billboards at airports etc. As advertising can be very costly, it would be advisable to choose the most appropriate outlets within the budgets available and to ensure that the message to be given is eye-catching and effective. The message should seek to convey that Vietnam offers opportunities to investors which should not be missed and that it is also a very nice environment in which to further those opportunities. In this context, it is advisable to get professional advice in compiling advertisements.

The main programmes for advertisements in the initial stages would be: advertisements in the national papers of the target countries at three monthly intervals; feature articles on Vietnam in the national newspapers of the target countries; advertisements in sectoral publications; and features on Vietnam in trade magazines. Because of the high costs, this programme should initially be concentrated in the Far East. The advertisements should be short and specific, highlighting the most attractive features of Vietnam as a base for industry and mentioning the main incentives available to export oriented manufacturers.

In response to advertisements, mail shots, contacts at trade fair seminars and promotional lunches and dinners, direct contact promotion should be carried out. These meetings can be arranged by the Vietnamese embassies or overseas representatives and should be carried out by appropriate personnel from the organisation responsible for promoting Vietnam. Promotion missions made up of large parties achieves very little, except at the image building or initial stages.

There are a number of stages in the process of persuading an investor to locate in a particular country or site. First of all there is the creation of "product awareness" followed by interest in the product. The third stage is an evaluation and trial of the product i.e. site visits follow by a decision to locate. During the awareness and interest stages, good publicity, advertising and "word of mouth" information is important. During the latter stages good personal contact with prompt provision of requested information is often decisive. While the investor must give all the information he needs to enable him to make decisions, care must be taken not to overdo the contact.

Because of the cost of permanent overseas representatives (300,000\$ per person annually, including secretarial and office accommodation), use should be made where possible of Vietnamese embassies consulates and any other suitable Vietnamese associations or contact overseas, such as agents. The priority markets of Taiwan, Hong Kong, Korea and Japan should be targeted for intensive promotion for a trial period of 2 years. At that stage it should be clear which of these markets offer the best prospects. Resources can be directed in the proper manner.

Prior to any promotional campaign, it would be advisable to have suitable promotional material

available such as: standard Press kit; video showing the country and the main reasons for investing there; and slide/file for use in visual presentations to potential investors.

When suitable promotional material is available, target companies in target countries should be contacted by mail shots or direct telephone calls leading to seminars. Trade associations such as the Hong Kong Garment Federation or the Taiwan Garment Association can be very helpful in arranging seminars and meetings, if they are convinced that opportunities exist in a particular country for their members. As some key prospects will have to be followed up for many years, it is important that a detailed data base of potential targets be set up, keeping the lists up to date. Without an adequate recording system there will be duplication, omissions and general inefficiency which will do nothing to help the very difficult promotion task.

### 5.5 Reaction of Investors

In an effort to determine the level of investor interest in the EPZ programme in Vietnam, interviews were held with key organisations and people in the Vietnamese State and private sectors. They were selected in order to represent a broad cross section of sectors, large, medium and small enterprises and those selling on the home market and export markets. Views were sought regarding factors affecting investment decisions and export abilities of each enterprise such as government policy, policy administration, institutions and procedures, labour availability and cost, finance availability, infrastructure and services and incentives available.

There was general satisfaction with the government policy towards private enterprise and a positive feeling of stability in the government and the economic situation. However, hope was expressed that a better understanding of the requirements of private industry would grow as the country became more exposed to the market economy.

Regarding institutions and procedures, the perception among investors is that the existing system is laden with bureaucracy. The institutions dealing with investors outside the EPZ are regarded as having a negative attitude, especially towards small and medium scale investors. The procedures to be carried out in order to obtain a licence and thereafter to obtain the different permits are both costly and time consuming. (see Appendix 1). According to a World Bank report quoting the Saigon Times (March 1994) survey of foreign investors it took 100% foreign owned companies about 2 years and joint venture projects about 1 year to get the necessary licences. This bureaucracy and cost will no doubt make Vietnam an unattractive location for a large number of small and medium investors. The EPZs location should be the solution for these problems of bureaucracy and cost of setting up. However, the high cost of EPZ sites mitigates against this.

There was widespread praise for the Vietnamese workforce. Ability to learn in a very short time and high productivity was experienced in all sectors. Vietnam was looked on as a very competitive location for low cost industry such as garments. Average starting wages in these industries in Vietnam varied between 50\$ per month in Ho Chi Minh down to 35\$ in less favourable locations. This compares with 30\$ to 40\$ per month in Sri Lanka, India, Bangladesh, Pakistan and China for a 48 hour 6 day week.

There was however, a perceived shortage of personnel with management skills in Vietnam. This

is to be expected as Vietnam has only recently changed to a market economy. Small to medium sized companies expressed some discontent at the non-availability of finance for short term use and at the level of interest rates charged for working capital. There was dissatisfaction with the level of infrastructure and services such as water and electricity. The non-availability and cost of serviced sites is regarded as the biggest constraint to attracting foreign export oriented investment in Vietnam.

There was general satisfaction among existing industries with the incentives available in the EPZs. All felt that the same incentives should apply to export oriented industries, whether located within an EPZ or outside. (This point is covered also in Section 3.3 where it is recommended that tax and other incentives for industry in an EPZ should be similar (and if possible identical) to what is available to export industry countrywide. The EPZ should be viewed as an interim solution and a step towards a countrywide free trade regime).

The following are some of the incentives available within an EPZ

- \* Manufacturers - 4 year tax holiday after they begin to show a profit, with a 10 year tax on corporate profits thereafter.
- \* No land taxes or State taxes are required of any enterprise for the duration of the lease.
- \* No duty on imported machinery, equipment and material goods for processing, assembly or re-exported items.
- \* Profits re-invested in Vietnam for a period of 3 years and upwards are entitled to a refund by the tax Authority of the amount of tax already paid (i.e. a tax credit).
- \* Profits may be repatriated after a payment of a 5% tax on the remitted amount.
- \* The Vietnamese authorities shall treat EPZ investors engaged in the garment and textile industries equally in quota allocations.
- \* U.S. currency may be used within an EPZ.
- \* Goods may be directly sold to the local market (subject to import needs and the payment of the relevant duties and taxes). For comparison purposes a list of tax incentives in other EPZs is set out in Appendix 2.

## 5.6 EPZ Investment in Vietnam

To date 3 factories are in production under the EPZ programme. Ten factories are under construction and a further 16 have received licences. 19 others have signed lease agreements. This amounts to 48 companies in total with an interest in locating in the Tan Thuan EPZ in Ho Chi Minh city. It is possible that apart from the three companies in production and 10 under construction that there could be delays or cancellations among the remaining 35 companies.

Taiwanese investors account for 30 out of the 48 companies. This is not surprising as the foreign partner in the EPZ is Taiwanese and the promotion of the EPZ is carried out mainly in Taiwan by the Taiwanese partner. There is some evidence that many small and medium sized foreign export oriented investors (especially Koreans) are locating in the provinces adjacent to Ho Chi Minh city, where sites are less expensive. Table 5.1 gives details of investment in the TTZ.



TABLE 5.1: TAN THUAN EPZ INVESTORS

Projects	Nationality	Number	Employees	Main Products
In production	Taiwan	2	574	Yarn.
	Korea	1	312	Leather goods.
	Sub-total:	3	886	
Under construction	Taiwan	7	1807	Garments
	Japan	3	870	Engineering. Machines Food.
	Sub-total:	10	2677	
Which Received licences	Taiwan	9	2447	Garments Electrical.
	Japan	4	451	Garments Metals.
	Korea	2	1108	Leather Wood.
	Indonesia	1	582	Garments
Sub-total:	16	4588		
Which completed Lease Agreements	Taiwan	13	N.A.	Garments Services.
	Japan	3	N.A.	Garments Machinery
	Korea	2	N.A.	Garments toys
	Vietnam	1	N.A.	Construction
Sub-total:	19	N.A.		

Source: HEPZA

## 5.7 Conclusions

1. Because it can provide a highly productive labour force, a stable investment and a geographically advantageous location, Vietnam should be able to attract a very good share of mobile investment in labour intensive, low technology industries such as garments, electronics, leather and sports goods.
2. The existing system for investment approval is bureaucratic, time consuming and costly and is not attractive for small and medium term investors locating in Vietnam.
3. SCCI is a regulatory body issuing licences to investors. They or others carry out very little overseas promotion for inward investment in Vietnam.
4. There is a need to initiate a strong overseas promotion campaign to attract more labour intensive export investors, especially small and medium investors.
5. There is a need also to provide well developed, reasonably priced plots and buildings for lease as well as streamlined approval procedures to facilitate the entry of these investors into Vietnam.
6. There is a shortage of personnel with the necessary management skills required by export oriented in Vietnam.

## CHAPTER 6: TECHNICAL ASSISTANCE

Further technical assistance from UNIDO in relation to export industry development should be concentrated in 4 areas.

### (i) Reform of the Legal and Organisational Structure-

It is necessary to reform the EPZ legislation along the lines suggested in this report. Further consideration should be given to the way in which the EPZ programme is organised. The question of whether or not related initiatives like industrial parks and concentrated industrial zones should be organised under the same administration, should be considered. Close examination of the Industrial Estates Authority of Thailand should be undertaken to determine whether or not a similar organisation would be relevant or useful in Vietnam.

### (2) Customs Administration

In order to improve the operation of other duty free systems and move towards an efficient countrywide duty free scheme for export producers, UNIDO/UNCTAD could provide assistance to upgrade the technical and management capacity of the Vietnamese Customs Administration in relation to bonded manufacturing, duty free licence schemes and duty drawback schemes.

### (3) Industrial Park Development

There appears to be a limited understanding among Vietnamese policy makers and planners on the role of industrial parks and similar initiatives in economic development and the process of site selection, development and management. The United Nations should explore this issue further with the relevant Vietnamese authorities and if necessary develop an appropriate assistance project.

### (4) Investment Promotion

The attraction of export oriented investment on a significant scale into Vietnam requires a major promotion effort. At present there is no evidence of any such effort. It is not clear whether or not the need for such promotion is widely understood by policy makers. This issue (like the industrial parks) should be explored further with the relevant Vietnamese authorities and if necessary appropriate assistance programmes should be designed.

## APPENDIX 1

## PROCEDURES FOR FOREIGN INVESTORS

1. The procedures for foreign investors depend on the type of company being set up i.e. whether it is going to be a joint venture or fully owned foreign company. The procedures are complicated and lengthy in both cases. Many companies have chosen the joint venture route in order to avail of "contacts" through the local partners. The number of fully owned foreign company applications is increasing however because of problems experienced with many joint venture projects. These problems centre on the fact that all major decisions must be unanimous despite the ratio of ownership, thus giving the minority local partner a veto on all decisions.

Because of the high level of bureaucracy involved, it is advisable for anyone wishing to set up a fully owned foreign company to employ local consultants to help with the application procedures.

2. Pre-investment procedures - seek local partner (applicable to joint ventures) - seek land agreement (if not located on an existing developed industrial estate) - formulate the project documents which include:-

- \* An application for licencing the project.
- \* Contract (Memorandum of Association) applicable to joint ventures.
- \* Charter (Articles of Association).
- \* Feasibility study.
- \* Necessary annexes such as legal status, certificate of incorporation, charter of holding company, financial status, balance sheets from previous few years, bankers confirmation, land agreement, list of imported equipment, goods etc. - submit the project documents to the local authorities for approval.

The investor shall submit two sets of project documents to the provincial/city Department of Foreign Economic Relations (or the department in charge of foreign investment). The local authorities will approve (or reject) the scope of activities of the project, approve the location of the project, identify the land rental, and have ideas on local capacity for supplying infrastructure necessary for the project (in accordance with the master plan of the province or city).

- \* Submit the project documents to the State Committee for Co-operation and Investment (SCCI) for grant investment licence.

The investors shall submit 8 sets of project documents to SCCI (including 1 original set for SCCI itself). These project documents shall be sent to relevant ministries/ central authorities by SCCI. Relevant ministries will include the Ministry of Finance, Science & Technology, Environment & Trade, as well as the State Planning Committee. SCCI shall be the final body to express the approval or disapproval of the project after incorporating the views of the relevant ministries.

In accordance with the official regulations, if SCCI and/or relevant ministries do not notify a rejection of the project or request a further explanation on related matters, the investment licence for the project shall be granted within 90 days of the date of submission of the project documents.

3. Post licensing project implementation

A. *Joint Venture Enterprises*

1A Vietnamese investors shall have qualified personnel who are capable of filling leadership positions in the Enterprise and Management Board. The proposed personnel must be approved by the body directly in charge of the Vietnamese investor (e.g. the Ministry, General Department/or Provincial/City Special Zones People's Committee).

2A Having agreed on the key personnel, the Vietnamese investor shall request the foreign partner to convene as soon as possible a meeting of the Management Board. the purpose of the meeting is to:

- (i) agree on members of the Management Board and appoint key personnel;
- (ii) agree on the capital contribution of each partner;
- (iii) approve its production and trade programme and related issues such as labour contracts, service contracts, economic contracts and labour recruitment.

The minutes of the first meeting should be sent to the SCCI as well as to the organisation in charge of the Vietnamese investment.

3A On being appointed the Directors and the Deputy Directors shall complete a number of administrative formalities including:

- (i) acquiring an official deed for the land;
- (ii) acquiring a construction permit;
- (iii) getting construction plans approved;
- (iv) arranging to have the enterprises seal sculptured and registered;
- (v) opening bank accounts;
- (vi) registering an accounting system and books with the Ministry of Finance;
- (vii) seeking an auditing service and registering with the provincial or city tax department;
- (viii) completing the necessary procedures and contracts relating to telephone, telex and telefax;
- (ix) registering labour recruitment plans with the relevant organisations in charge of labour management;
- (x) to compile a raw material and import list in line with the feasibility study approved by SCCI;
- (xi) to formulate a plan and present it to the city zone people's committee for site clearance and resident removal compensation plans (if any);

- (xii) to sign insurance contracts;
- (xiii) to sign labour and economic contracts;
- (xiv) to sign contracts on fire protection and fire fighting with the police;
- (xv) to register with the security forces and local authorities;
- (xvi) within 30 days issuing of the investment licence, the enterprise shall publish in the local newspaper the names and addresses and representatives of the partners to the joint enterprise, the scope of the business of the joint enterprise, the capital invested and the representative of the joint enterprise in legal matters in Vietnam.

**B. *Fully owned foreign enterprise in legal matters in Vietnam***

Fully owned foreign enterprises must follow the same procedure as the joint venture enterprises, except for some details relating to the Board of Management.

4. The government of Vietnam, the SCCI and local authorities are now reviewing existing procedures which investors must follow. A number of proposals are being developed to overcome the difficulties and shortcomings of the existing arrangements and to create a more attractive business environment for investors. There is the general recognition that the present procedures are both bureaucratic and lengthy and are a negative influence from a foreign investment point of view. It will take a number of years to streamline the existing processes. In the meantime the EPZ formula can provide an ideal interim solution for export oriented enterprises, especially if land and buildings are available at a reasonable cost.

## APPENDIX 2

## SOME EPZ TAX INCENTIVES

**CHINA**

Enterprise income tax in SEZs is 15% with no additional local tax. Reductions and tax exemptions are possible for large projects : normal tax rate is 30%.

**TAIWAN**

5 year tax holiday followed by 20% maximum.

**PAKISTAN**

Tax holiday in Karachi EPZ until 2000 AD followed by 25% tax.

**BANGLADESH**

10 year tax holiday in EPZs.

**INDIA**

Preferential rate of 15% for 20 years.

**SRI LANKA**

Preferential rate of 15% for 20 years.

**THAILAND**

3-5 years tax exemptions with a five year loss carried forward.

**KENYA**

10 year tax holiday followed by 25% maximum.

**TOGO**

10 year tax holiday followed by 15% maximum.

**COSTA RICA**

10 year tax holiday.

**FIJI**

13 year tax holiday

**MAURITIUS**

Corporate tax of 15% - no tax on dividends for first 10 years.

**TURKEY**

Permanent tax holiday.