

**THE ATTRACTION OF FOREIGN DIRECT INVESTMENT  
THROUGH SPECIAL ECONOMIC ZONE FRAMEWORKS:  
A CASE STUDY OF BOTSWANA**

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**In**

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## Center for Human Rights

## **Declaration**

I declare that this Mini-Dissertation which is hereby submitted for the award of Legum Magister (LL.M.) in Trade and Investment at International Development Law Unit, Center for Human Rights, Faculty of Law, University of Pretoria, is my original work and it has not been previously submitted for the award of a degree at this or any other tertiary institution .

Pretoria

2019

K K Y Boiki

## **Dedication**

I would humbly and gratefully like to dedicate this piece of work to my parents, who have without compromise ensured that I receive the best quality of education available to me. This has moulded me into the person I am today.

For your endless support, love and encouragement; father and mother dearest I thank you. Without you none of this would be possible.

Mr M.N.P Bannyaditse and Mrs J.T Bannyaditse this one is for you.

## Acknowledgements

*“All men can see these tactics whereby I conquer, but what none can see is the strategy out of which victory is evolved.” – Sun Tzu*

The honour and privilege of being able to compile this piece of work is not mine alone. I have been sustained, inspired and tolerated not only by my family but by my friends from all my adventures in life so far.

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It's never too good to live in the past too long, so here is to our future changing the face of the African Continent. To the TILA Class of 2019!

## **Abstract**

The Republic of Botswana has recently embarked on a locally untested SEZ initiative. The country has no history with SEZs to speak of, however, similar to most African countries, has a history of other policies aimed at FDI attraction. Due to the use of these zones internationally, the practices of some nations will be reviewed as a template for industry best practice which the country is at liberty to adopt while attempting to archive overall success. Similar to most countries internationally, Botswana has adopted the SEZ initiative with the objectives of attracting direct investments, creating employment, expanding exports, increasing foreign exchange earnings, and promoting skills and technology transfer. The instrumentality of SEZs as engines of economic growth and diversification is also a key point of the paper while acknowledging the need of favourable, competitive and attractive environments for SEZs to thrive.

This paper seeks to examine the concept of SEZs and their potential impact and success on the attraction of FDI in Botswana. An attempt will be made to identify strengths and weaknesses in the frameworks and policies, with the ultimate aim of establishing a direction for improvement for these policies and frameworks. The paper concludes with the formulation and provision of recommendations for policy makers with the aim of improving the likely hood of success of SEZs in FDI attraction in Botswana.

## Abbreviations

AGOA	African Growth and Opportunity Act
AFCFTA	African Continental Free Trade Agreement
BEAC	Botswana Economic Advisory Council
BEDP	Botswana Economic Development Programme
BIH	Botswana Innovation Hub
BDC	Botswana Development Corporation
CEO	Chief Executive Officer
EZ	Enterprise Zone
IPZ	Industrial Development Zone
ILO	International Labour Organisation
FDI	Foreign direct investment
FEZ	Free Enterprise Zone
FZ	Free Zone
FTZ	Free Trade Zone
FP	Free Port
EPZ	Export Processing Zone
LNDC	Lesotho National Development Corporation
SACU	Southern African Customs Union
SADC	Southern African Development Community
SEZA	Special Economic Zone Authority
SEZ	Special Economic Zone
SEZ Act	Special Economic Zone Act
SSKIA	Sir Seretse Khama International Airport
SZ	Specialised Zones
MECs	Multinational Enterprises

NDP	National Development Plan
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa

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# CHAPTER 1

## INTRODUCTION

### 1.1 Background

In 2019, the government of the Republic of Botswana published its National Strategy 2019-2024 in line with the National Development Plan 11<sup>1</sup> where in some aspects, like most policy documents published by the government through its various ministries and departments spoke to prospective economic diversification of the mineral and tourism-based nation. In 2019 when the Minister of Finance Mr Kenneth Matambo delivered the annual budget speech,<sup>2</sup> the minister made remarks about a fairly new Special Economic Zones (SEZ) policy stating that these so-called zones would be utilised by the state to promote economic growth and diversification stimulation.

The minister's speech read:

“In an effort to further enhance economic diversification, the Special Economic Zones policy was adopted in 2011. The main objective of this Policy is to diversify the economic and export base of the country. To date, eight (8) Special Economic Zones have been identified. These include: (i) developing the area around Sir Seretse Khama International Airport (SSKIA) into mixed-use economic zone that will house several organisations, such as the Civil Aviation Authority of Botswana and the Botswana Innovation Hub; (ii) developing Gaborone Fairgrounds into a financial services hub; (iii) Selebi-Phikwe has been identified for base metal beneficiation; (iv) Francistown is to be developed into a mining supplies, services and logistics hub; (v) Palapye is identified for coal beneficiation; (vi) Tuli Block for horticulture; (vii) Pandamatenga for agrobusiness; and (viii) Lobatse for beef and leather production. The Special Economic Zones will be developed in two Phases, with Phase 1 being Sir Seretse Khama International Airport, Fairgrounds in Gaborone, Lobatse and Pandamatenga. Going forward, there will be alignment of the economic zones

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<sup>1</sup> National Development Plan 11 April 2017 – March 2023, Volume I, Ministry of Finance and Development Planning, SEPTEMBER 2016

<sup>2</sup> 2019 BUDGET SPEECH, By Honourable O.K. Matambo, Minister of Finance and Economic Development Delivered to the National Assembly of the Republic of Botswana on 4th February 2019

taking into account: investment opportunities as mapped out in the National Spatial Plan; the country's natural endowments; and economic activities such as tourism, beef and small stock, just to mention a few.”

In due consideration of the fact that the African continent is infamous for a significantly low share in the international trade market both continentally and internationally<sup>3</sup> although it boasts a large share of the world's mineral and labour resources, many countries have endeavoured to take drastic measures to address the deficit through various legislative and policy initiatives.

The attraction of foreign direct investment (FDI) to the African continent has forced the emergence of initiatives that are more investor friendly and would see the investment infrastructure grow continentally and improve the trade environment. SEZs have been put in place to bridge the gap between investors and host nations in relation to their varied and sometimes opposing interests and in turn promote vast investment.

As Africa's oldest continuous democracy, the Republic of Botswana<sup>4</sup> aims to set an example for its counterparts in its works, a success story through functional SEZs would be one of these objectives although the nation is one of the last African countries to attempt to implement them. Botswana has thereby aggressively attempted to push forward industrial policy which would expand its export capacity and markets to reduce reliance on diamonds, beef and tourism as its main foreign currency earners.

To that end, in 2011, the middle-income developing nation in the heart of southern Africa published, after immense preparatory work, a policy document relating to the formation and implementation of SEZ's in Botswana,<sup>5</sup> this was in an attempt to revive and continue to promote the ideals of economic transformation and diversification.

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<sup>3</sup> International Trade: The Position of Africa in Global Merchandise Trade, Nahanga Verter Submitted: November 21st 2016 Reviewed: March 30th 2017 Published: September 13th 2017, <https://www.intechopen.com/books/emerging-issues-in-economics-and-development/international-trade-the-position-of-africa-in-global-merchandise-trade>

<sup>4</sup> Kim Yi Dionne, September 30, 2016, [https://www.washingtonpost.com/news/monkeycage/wp/2016/09/30/how-democratic-is-botswana-after-50-years-of-independence/?noredirect=on&utm\\_term=.795eb7ce840f](https://www.washingtonpost.com/news/monkeycage/wp/2016/09/30/how-democratic-is-botswana-after-50-years-of-independence/?noredirect=on&utm_term=.795eb7ce840f) (accessed 8 July 2019)

<sup>5</sup> REPUBLIC OF BOTSWANA, SPECIAL ECONOMIC ZONES POLICY FOR BOTSWANA, MINISTRY OF TRADE AND INDUSTRY, September 2010, GABORONE, BOTSWANA, Industrialization, Diversification and Export Development for Global Competitiveness

Ideally the policy would work hand in hand with pre-existing investment policy and legislation in a collaborative effort to promote FDI. The policy was thereby consequently followed by the enactment in 2015 of the statutory legislative instrument named the Special Economic Zones Act.<sup>6</sup> The act cemented the formation of SEZs in Botswana and the establishment of the Special Economic Zones Authority which would be vested with the power to regulate and manage delineated zones.

Although neighbouring South Africa has had some success in its use of SEZs as an investment attraction tool while kick starting its vast industrialisation<sup>7</sup> and Namibia having failed in its attempts to utilise theirs continuously, it must not be lost that Botswana operates under a truly unique and vastly different investment climate; which to a larger extent remains untested due to its small local population. These factors have in previous times been the cause of concern to investors who would have to be prepared to set up strictly export orientated investments if they were to set up base in Botswana.

The untested nature of SEZ's in Botswana may also be a great deal of concern for investors, more especially as the legislative provisions of the Act have not been tested, interpreted or applied by the judicial system thereby lacking the predictability and certainty investors rely on when assessing their risk.

The concept of SEZ requires ideally that governments commit to delineating areas of land where government regulation and oversight is relaxed easing business operation and setup difficulties for investors. Developing nations would thereby be the most enticed by the idea of setting up SEZ's to deal with the emerging problems of such nations on a political, economic and socio-economic level.

The question would arise as to whether the relaxation of regulation and increased incentive packages alongside ease of setup of operations which is the hallmark of

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<sup>6</sup> Special Economic Zones Act, Date of Assent 29/09/2015, Act 13 of 2015

<sup>7</sup>Coenrad Muller Scheepers, A CASE STUDY FOR SPECIAL ECONOMIC ZONES IN SOUTH AFRICA AS A MEANS OF ATTRACTING FOREIGN DIRECT INVESTMENT, LLM Dissertation, 2012

successful SEZ's would be enough to draw more investment to Botswana and successfully stimulate economic activity in the respective SEZ.

Due policy considerations must be made in a wholistic approach when addressing SEZ's as they carry great potential in achieving their mandate of increasing the industrial competitiveness of a country. It must be noted that this may be achieved whilst carrying risks in terms of abuses of the incentives which would in turn defeat the socio-economic intentions of an initially well-meaning government strategy.

Although currently Botswana cannot be said to be suffering from any issues directly related to diminished or deficient foreign exchange earnings, the over dependency of the economy on volatile sectors is worrisome. SEZ's in Botswana would thereby be put in place to undercut this dependency and promote the production of non-traditional exports from the country. The dynamics of FDI and its benefits would be put in place to cover traditionally undeveloped areas and rural areas of the country that a desperate to transform and grow with the rest of the country.<sup>8</sup>

SEZ's all over the world have failed and succeeded based on key factors of their operation and management; that is the initiating motives, policy making and decision making by controlling authorities. All these are made at the onset of the establishment of the SEZ's, the use of SEZs in Botswana and the SEZ act accompanying these decisions and it is to be put to the test as to whether policy drafters choose wisely or not in 2011 and 2015 when putting in place a policy document and legislation respectively as these two documents form the foundation which will determine the success or failure of SEZs in Botswana.

The developmental aspects SEZs in the world are potentially and realistically costly, although the vast human capital potential present in most developing nations does enjoy the benefits of upskilling of the workforce and reduction in troublesome unemployment which plagues these nations. The implications of operating SEZs may come with several unfortunate consequences; the loss of tax revenue due to incentive

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<sup>8</sup> Marandu, E.E. & Amanze, D. (2016). Developing Sustainable Special Economic Zones in Botswana: A Conceptual Discussion. Archives of Business Research, 4(6), 101-111



packages, employment and labour law standards depreciation, relaxed human right protections and environmental degradation are some of the results of running SEZs in nations and failing to monitor and manage their operation effectively.

Some regions in Botswana remain vastly underdeveloped and any economic success can be initiated through SEZs while strategically improving the chance at wide spread economic development. As SEZs come in varying types, sizes and varying costs and opportunities it would be possible to create zones which are tailor made to meet the needs of the Republic of Botswana in varying locations to optimise the change and development they aim to achieve in what is potentially a country that would be an investors dream.

## **1.2 Problem statement**

In 2011 the SEZ Policy was published followed by the Special Economic Zones Act of 2015. The main aim of these documents is to establish varying economic zones in strategic locations which would attract FDI. This is after all the main aim and mandate of a newly formed parastatal in Botswana the Special Economic Zones Authority (SEZA). The hurdles and challenges associated with the operation of SEZs require proper expertise and management.

As a nation, Botswana has sought other methods to facilitate trade and economic diversification by attracting FDI, although these initiatives cannot be discounted for their success and contribution to the efforts by the government to attract investors, the slow growth in the economy has forced re-strategizing and pursuing a more robust approach to the issues at hand by the government.

The SEZs in Botswana and its regulatory body are intended to bridge the gaps visible in Botswana's FDI policy, whilst collaborating with pre-existing policy to build on the work of other policies and ensure complete economic reform and diversification in one of Africa's fastest growing economies.

Therefore this study will seek to evaluate the capacity of the SEZ legal framework in Botswana to meet its intended goals of foreign investment while remaining competitive

in the global market and maintaining its positive economic growth trajectory. Fissures and factors which may prevent these goals as seen in the framework will also be examined and recommendations for remedies established.

### **1.3 Research objectives**

The core theme of this study with entails an overall analysis of the SEZ Act in Botswana and interrogate whether the Act of 2015 and the policy of 2011 will successfully attract the much sought after FDI alongside promoting other policy initiatives that would stimulate and diversify the economy while protecting Botswana's economy and address emerging socio economic needs. Whether the Act is capable of thoroughly regulating the zones in a manner which will not only attract investors but also sustain the sought after sustainable economic growth desired by the state must also be evaluated.

There has been minimal movement towards the much needed industry-based economy in Botswana. This is as a result of the restructuring and rethinking of long standing investment attraction structures in Botswana such as the work of the Botswana Development Corporation (BDC)<sup>9</sup> and the Botswana Innovation Hub (BIH)<sup>10</sup>, instead the government to attempt to set up SEZs, a concept which has not been particularly successful in the African context which is contrary to the success stories of Asia amongst others.

This begs the question as to whether the decision by the government to start a new complex FDI attraction tool over fixing the pre-existing ones was a wise policy and legislative step in reaching the end goal of extensive economic diversification and furtherance of foreign investment.

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<sup>9</sup> Botswana Development Corporation or 'BDC,' is the country's main agency for commercial and industrial development. Established in 1970 under the Companies Act, BDC is a company Limited by Shares and owned by the Government of Botswana.

<sup>10</sup> Botswana Innovation Hub (BIH) is incorporated as a company to develop and operate Botswana's first Science and Technology Park to create an environment that supports start-ups and existing local companies as well as attract international companies and institutions to develop and grow competitive technology driven and knowledge based businesses.

## **1.4 Thesis statement**

Being one of the most prolific investment attraction tools currently in existence, SEZs carry true weight and power in achieving their mandate. Botswana has never been known to stay too far behind in terms of progressive development nor can it afford to, whilst its neighbours push ahead in their industrialisation initiatives.

The continent has had several running SEZs that have had mixed results of success as foreign investors push to increase their reach in the continent through multiple bases of operation. Botswana is a ripe destination for almost any and all business venture and the question of SEZs may be able to finally ensure that investors take a chance in a country beaming with potential, SEZs are primed to showcase this potential.

A clear and predictable legislative and policy framework is the key to providing the security and clarity which foreign investors rely on when opting to expand and relocate their business. The overarching conclusion of the study will therefore display the instrumentality of SEZs as a driving force in reaching optimum economic growth and industrial transformation which may only be occur where the regulatory environment is favourable, attractive and competitive.

## **1.5 Research questions**

The main question to be raised in this: whether the policy and legal frameworks developed by the government of Botswana in the establishment of SEZs will be effective in allowing the zones to be tools of FDI attraction both qualitatively and quantitatively?

Particular attention will be drawn to the following questions?

- i. What is the nature of SEZs
- ii. What policies and frameworks govern the operation of SEZs in Botswana?
- iii. What is the best international practice in the operation of SEZs
- iv. Whether SEZs have the potential to succeed in their mandate to attract FDI?

## **1.6 Research methodology**

This will be an intensive desk and library literature-based research. It analyses both the relevant primary and secondary sources of information on the topic. Internet sources will also be used. This study will be descriptive, analytical, comparative and prescriptive. A descriptive approach will be applied to narrate existing factual situations.

Primary sources of information that will be used shall include statutes and policy documents created, published and enacted by the government of Republic of Botswana.

Secondary sources of information will include the: (a) relevant Journal articles; (b) study reports on SEZs; (c) papers written by academics and researchers on issues relevant to the study; and (d) speeches and daily newspapers containing information relevant to the issues under discussion.

The approach to the information obtained from these sources is mostly analytical in nature. The aim is to begin a comprehensive foundation for further studies on the issue of SEZs as there has been little done in the context of Botswana as they are a fairly new concept the country.

## **1.7 Literature Review**

There is a wealth of scholarly works on SEZs across the globe. Most of these cover developing nations and businesses in mostly the African and Asian context. Existing literature makes it clear that SEZs have varied success rates across the globe in terms of attraction and retention of investors to the said SEZs.<sup>11</sup> Studies carried out on the work of SEZ work in neighbouring Namibia and South Africa addressing both socioeconomic impact of ill managed economic zones and the attraction of foreign economic investment respectively. Scheepers in his paper concluded that in the South African context the implications arising from the SEZs programme could be disastrous

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<sup>11</sup> SPECIAL ECONOMIC ZONES: LESSONS FROM THE GLOBAL EXPERIENCE, Douglas Zhihua Zeng

if mismanaged thereby called upon relevant authorities to ensure sufficient oversight to redress the possibilities.<sup>12</sup> This is a position that is strongly supported. However, in terms of SEZs in Botswana particularly in the area of policy regulation and legislative frameworks studies are currently scarce as very few studies have been carried out to examine the impact of these factors on SEZ development and success.

In some papers it was highlighted that the issues associated with the abuses of proper regulation of FDIs in Africa particularly zones where regulation and management is compromised due to pre-existing incentives and lax regulation in comparison with the rest of the country.<sup>13</sup> Oluwaseyi confirms notion in her paper arguing that weak institutional and regulatory environments are largely responsible for underperforming SEZs in Nigeria causing a domino effect of other key structures such as infrastructural shortages and linkages to the wider economy.<sup>14</sup> The swiftness by the government in rectifying these shortcomings can be the determining factor in whether the SEZs succeed or fail. This position is thoroughly examined in this study to make clear the risks associated with SEZs and their formation in Botswana.

Further literature argues the need for drafting and provisions of packages both suitable to attract investment whilst duty bound to explicitly ensure skill upliftment of the communities they operate in and the development of business and trading infrastructure.<sup>15</sup> An interrogation of the statute in place being the Special Economic Zones Act and other relevant legislations will form a key part of the study, with an examination of the potential successes and pitfalls of particular provisions. Case by case assessments as to whether there exists in place robust legislative mechanisms to guarantee the success of SEZs in Botswana will be interrogated to further the analysis of the study.

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<sup>12</sup> Coenrad Muller Scheepers, a case study for special economic zones in South Africa as a means of attracting foreign direct investment, LLM Dissertation, University of Pretoria, 2012

<sup>13</sup> Towards an effective legal scrutiny of Foreign Direct Invests in Africa: Revisiting activities of Ramatex in Namibia, Enga Kameni, 2011

<sup>14</sup> Adetutu Tolulope Oluwaseyi, Towards an appropriate regulatory environment for special economic zones in Nigeria, LLM Dissertation, University of Pretoria, 2016

<sup>15</sup> FIAS "Special Economic Zones Performance, Lessons Learned and Implications for Zone Development" (April 2008) 34.

Literature has shown strong cases being made for stronger stake holder inclusion in policy creation as they stand to gain and lose the most based on what the zones may have to offer. Further studies concluded in part that SEZs work may play a large role in achieving developmental goals which is key in developing states.

Most studies suggest that the key risk factors to SEZ successes such as location, consistent trading partners to guarantee markets, investor friendly legislative and policy frameworks. These factors if mismanaged stand to stifle FDI attraction which is a core mandate of SEZs. The implementation of the most successful policies worldwide is essential and greatly dependant on their host nation and regions. These must be promoted therefore ensuring best practices be applied in SEZs development internationally.

A series of controversial stories associated with SEZs in both Africa, Asia and the Americas remain the great inhibitors of total support around SEZs due to their political risks. Some writers seem to suggest that without overwhelming support, make it harder to keep them working efficiently, develop and grow or begin to operate at all. The legal and policy frameworks are also not immune of shortcomings which inevitably hinder the achievements of SEZ objectives and render them ineffective in the process.<sup>16</sup> Available literature seems to suggest that unlike most investment attraction mechanisms, SEZs are more dependent on support and approval of the community they operate in as they require the reduction of rules and regulations initially meant to protect said communities.<sup>17</sup> Such incentives are highly dependent on the prospective benefits of SEZs operations which both the community and the host government must find preferable over protective measures in place to avoid exploitation.

SEZs consequently remain potentially the most likely of most investment attraction tools to prosper in Africa due to their immediate and visible tangible benefits to their stakeholders. With great potential also comes great responsibility to prepare and implement the most comprehensive policies for SEZs work in Botswana for the

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<sup>16</sup> Amalia Ndapandula Shikongo, Towards transformation of the export processing zone regime in Namibia: a case for review of the enabling law, LLM Dissertation, University of Pretoria, 2016

<sup>17</sup> Special Economic Zones in South Africa: Reflections from International Debates, Etienne L. Nel & Christian M. Rogerson, 9 January 2013

national good and archive all aims set forth by governing bodies. The inability for SEZs to exist in a vacuum is a common factor acknowledged by all writers stating clearly that for SEZs to truly thrive surrounding factors must be optimised.

### **1.8 Delineation and limitation of the study**

The study will be completed during the year 2019. And it focused mainly on information relating to Botswana, SEZs in Africa and FDI mechanisms.

It is important to acknowledge that this study has not been without obstacles, although some information was available although lacking in sufficiency as there has been very little research done in the area directed at a study of the Botswana context.

In particular, any scholarly articles relating to SEZs in Botswana are virtually non-existent, this is the first paper of its nature and hopefully will motivate more extensive research in the field.

### **1.9 Overview of chapters**

The study will be structured as follows:

Chapter 1 is an introductory chapter covering, background to the study, problem statement, thesis statement and research questions, objective of the study, literature review, methodology and limitations of the study.

Chapter 2 will cover the theoretical foundations and concepts governing FDI and SEZs independently of each other. The chapter will examine FDI as a concept and whether Botswana has been successful in its attraction.

Chapter 3 will fundamentally focus on the concept of SEZs covering their nature and structure whilst giving particular attention to their objectives and forms. An attempt is made to determine the importance of the SEZs to developing countries as tools of FDI. Several case studies from varying countries with SEZs will also be briefly discussed in the chapter.

Chapter 4 specifically focuses on SEZ set to be set up in Botswana as per the policy of 2011 and the legislative framework in place. As these are all non-operational at the time of this study the economic history of the areas in which they have been delineated will be examined looking at what they have to offer to investors in terms of workforce and infrastructure. The legal framework in place will also be examined for its compatibility with the overall project of SEZs. This is partly so as to justify the study and to outline its relevance to the Botswana economy.

Chapter 5 takes into account miscellaneous issues with regard to SEZs and considers their potential advantages and disadvantages. This is particularly important as such zones have a history of rather striking socio economic, political and economic benefits and hindrances which could have disastrous implications if ill managed.

Chapter 6 concludes the dissertation whilst giving recommendations for potential reforms to pre-existing policy and legislation.



## CHAPTER 2

### THEORETICAL FRAMEWORKS

#### 2.1 Introduction

In an attempt to evaluate the true nature, driver and possible socio-economic outcomes of FDI and SEZs various scholars have founded varying theories over time in an attempt to explain the conduct of stakeholders in FDI and SEZs. These theories have been at the forefront of assessing FDI attraction and regulation internationally and the development of SEZs as they concentrate on the key elements of its application and utilisation. Theories of SEZs and FDI must be examined to ensure their applicability and the viability in any economy particularly more so in the times of competitive globalisation.<sup>18</sup>

#### 2.2 FDI Applicable theories

Defined narrowly, foreign investment is the act of acquiring assets outside one's home country. These assets may be financial, such as bonds, bank deposits and equity shares or they may be so called direct investment and involve the ownership of means of production such as factories and land.<sup>19</sup>

##### i. Capital Market Theory

This approach has been propounded by certain scholars,<sup>20</sup> and certain scholars have set out the theory that argues that without market imperfections and imbalances FDI would not be present in the market.<sup>21</sup> It is common knowledge that such imperfections on the market are a result goods and factor markets, economies of scale, government

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<sup>18</sup> Weiss, J. (1995). *Economic Policy in Developing Countries: The Reform Agenda*. Prentice Hall Wheatsheaf Harvester.

<sup>19</sup> Foreign Direct Investment and Poverty in the ASEAN Region, Hossein Jalilian and John Weiss, *ASEAN Economic Bulletin*, Vol. 19, No. 3 (December 2002), pp. 231-253, ISEAS - Yusof Ishak Institute, <https://www.jstor.org/stable/25773736>, Accessed: 15-08-2019 08:30 UTC

<sup>20</sup> Market imperfection theory (Stephen Hymer, 1976 & Charles P. Kindleberger, 1969 & Richard E. Caves, 1971)

<sup>21</sup> Tao Qu and Milford B. Green, *Chinese Foreign Direct Investment: A Subnational Perspective on Location*, (Aldershot, 1997), pp. 6 -7.

regulation more especially in terms of tariffs and other trade barriers which reduce or prevent the possibilities of efficient allocation and exploitation of resources and distribution of end products. The theory thereby presupposes that in a perfect market, the only necessary element to serve a foreign market is international trade. This thereby necessitates the effective promotion and protection of the perfectly free international market.

The significance of FDI and its uniqueness from other forms of investment must be noted, particularly as it involves a comprehensive transfer of a package which may consist of but not limited to technology, managerial skills and access to international markets through finished products to less developed host states. Most investors also seek to retain control of their investment and thereby internalise the market; arguably, this is the best approach as foreign investors must overcome several hurdles such as information cost, institutional, social and political frameworks which may burden their investments when setting up foreign investments.

Scholars such as Horst, Caves and Lall<sup>22</sup> studied the type of Multinational Enterprises (MNEs) inclined to engage in production, their characteristics and industry interests.<sup>23</sup> These scholars found clarity in terms of different investment advantages accrued to the investor in terms of the destination of their investment. They further found that ownership specific advantages usually rest on intangible assets created by major firms with adequate research and development capabilities. These firms thereby play an instrumental role in international production. In understanding the characteristics of FDI, this theory is thereby important as it shows the motivation behind some of the largest contributors of international trade to expand far beyond their domestic markets and enter new previously unexplored or exploited market places.

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<sup>22</sup> Caves, R.E. 1971, "International corporations: The industrial economics of foreign investment", *Economica*, pp. 1-27. Lall, S. 1998, "The investment development path", *Foreign direct investment and governments: Catalysts for economic restructuring*, pp. 322.

<sup>23</sup> John H. Dunning, *Studies in International Investment*, (London, 1970), p. 37.

## **ii. Location Based Approach to FDI theories**

Firm behaviour is a great influencer of FDI location targets. Insofar as motives of the location, that is whether it is resource seeking, market seeking, efficiency seeking or strategic asset seeking, the predominant decision is taken based on economic geography which is a microeconomic policy decision as it assumes country level similarities and characteristics.<sup>24</sup>

This theory explains in essence how FDI in nations with certain forms of national wealth has been seen to be successful. Labour availability, natural resource deposit endowments, local market size and infrastructure and policy development are used to assess the extent of the national wealth of a particular nation. An offshoot of this theory suggests that similarities of nations in terms of these national wealth factors greatly contributes to their possible mutual investment potential, as economic and cultural needs are then easily met due to the familiarity of circumstance by the investor. This very basic theory of FDI lacks in contextual strength varying ways as it leaves out several factors and makes several unfounded assumptions such as similarities between states having an influence on their trade activity. It is clear that the flows of FDI are far more complex than what the theory is capable of making provision for.

## **iii. Institutional FDI Fitness Theory**

This theory was delivered by scholars Wilhelm's and Witter,<sup>25</sup> the theory based its approach to FDI particularly on the host state. The host states ability to attract, absorb and retain FDI through fulfilment of both internal and external expectations of its investors which promotes FDI attraction in a competitive global economy. The inequalities in terms of flows of FDI between countries are also comprehensively covered by this theory.

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<sup>24</sup> Popovici, O.C. & Călin, A.C. 2014, "FDI theories. A location-based approach", Romanian Economic Journal, vol. 17, no. 53, pp. 3-24.

<sup>25</sup> Wilhelms, S.K. & Witter, M.S.D. 1998, Foreign direct investment and its determinants in emerging economies, United States Agency for International Development, Bureau for Africa, Office of Sustainable Development.

Wilhelm's institutional FDI fitness theory rests on four fundamental pillars; government, market, educational and socio-cultural fitness. In this approach; socio-cultural factors rest at the base of the pyramid as they are arguably the oldest and most complex of the factors, they are followed by education as high human capital skill levels are an attractive feature for FDI attraction. Markets, which denote the financial face of institutional FDI fitness in the form of varying economic machinery assist in securing the confidence of financiers and prompting the flow of financing during all FDI related transactions. Government fitness which is the final factor relates to political strength of the government particularly in protecting the interests of firms which promote FDI. The adoption of protective regulation to manage its markets, economic openness, minimal intervention and greater transparency are among some of the factors that greatly impact the governments fitness in the FDI fitness theory test.

In an African context this theory has been tested through an examination of FDI determinants in Kenya between 1967 and 1999, the results of this test found that economic openness, GDP growth rate, level of domestic investment, internal rate of return and availability of credit, which are all proponents of government economic policies enhance the states competitive edge in the global economy while enticing investors.<sup>26</sup> Another study found that inflows of FDI were controlled and affected by more than the risk factors of a single host state such as population and economy state, it further went on to refute the association of mineral wealth with FDI attraction concluding microeconomic and political stability to introduce efficient regulatory framework while limiting corruption were key in FDI attraction.<sup>27</sup> The theory is a very wholistic view of FDI as it addresses key factors which are somewhat ignored by the other theories.

#### **iv. Microeconomic FDI theories**

Through the microeconomic examination of FDI motivation, the investors perspective is at the forefront of any examination making it similar to taking an industry level

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<sup>26</sup> Popovici, O.C. & Călin, A.C. 2014, "FDI theories. A location-based approach", Romanian Economic Journal, vol. 17, no. 53, pp. 3-24.

<sup>27</sup> Musonera, E., Nyamulinda, I.B. & Karuranga, G.E. 2010, "FDI Fitness in Sub-Saharan Africa-The Case of Eastern African Community (EAC)", Journal of International Business Research and Practice, vol. 4, pp. 1.

approach to the examination.<sup>28</sup> The microeconomic approach thereby examines all the implications on an investor and other related stakeholders with little consideration to the size of the FDI flows or their value to investment position.

The aforementioned implications arise from their trade, employment, production and flows and stocks of intellectual capital are key factors in determining the strength and implications of FDI attraction. Microeconomic FDI theories attempt to showcase the true reasons behind the placement of the subsidiaries of MCEs, most of these theories are based on the existence of imperfect markets as they are shown to be the driving force behind the competitive international market.

#### **v. The Eclectic Paradigm**

This is by far the most well know theory of FDI already in existence. This may be due to its integration of various theories.<sup>29</sup> These include those of international trade, imperfect markets and internalisation theories while complementing other theories such as location theory, generally noting that a fulfilment of all condition was necessary in proper effective engagement of FDI.

The theory pre-supposes the need for a firm or MCEs to possess net ownership advantages over competitors in particular markets. These ownership advantages are firm specific and exclusive to them in the form of both tangible and intangible assets which in totality leads to reduction in production costs for the firm. It must also remain profitable for the firm to pursue an internalisation mandate rather than an externalisation one, this is known as the internalisation condition.<sup>30</sup> Once the preceding conditions are met, their exploitation must be profitable through production in collaboration with other input factors ranging from natural resources to human capital.

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<sup>28</sup> Lipsey, R.E. 2004, "Home-and host-country effects of foreign direct investment" in Challenges to globalization: Analyzing the economics University of Chicago Press, pp. 333-382.

<sup>29</sup> Dunning, J.H. 2001, "The eclectic (OLI) paradigm of international production: past, present and future", International journal of the economics of business, vol. 8, no. 2, pp. 173-190.

<sup>30</sup> Boddewyn, J.J. 1985, "Theories of foreign direct investment and divestment: A classificatory note", Management International Review, pp. 57-65

Scholars continue to argue that local firms that enjoy true ownership advantages possess a greater incentive to exploit them outside their country of origin thereby promoting FDI. Due to the interrelatedness of these conditions therefore it is necessary that they occur simultaneously as without them all FDI cannot occur.

The incorporation of so many factors in its determination has set the eclectic theory up for vast criticism. In response further theories have been developed to address said concerns but like most policies of economic activity criticisms are not exhaustive.<sup>31</sup>

#### **vi. FDI Attraction in Botswana**

Low investment in developing countries has been associated with poor economic development and growth, it is therefore unsurprising that developing countries such as Botswana seek to optimising their FDI attraction. In an effort to bridge the investment gap and reap the positive results of FDI attraction and economic diversification, host nations are willing to incentivise investment to certain degrees. As one of Africa's fastest growing economies, the relationship between FDI and economic growth must be studied eagerly.

Studies have shown the interrelationship between FDI and economic growth.<sup>32</sup> FDI in Botswana plays an important role in closing the domestic investment gap and enjoys all the trickle down benefits that come with healthy investment in the country which result in the general improvement in the quality of life of the citizens.<sup>33</sup> As a mining dominated economy, FDI has always been largely concentrated to the extractive industries sector of the economy;<sup>34</sup> exchange control relaxation, industrial

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<sup>31</sup> Investment Development Cycle or Path (IDP) theory, in which he proposed a link between a country's level of economic development and its investment positions. The IDP had four stages which followed a pattern similar to the product life cycle theory (introduction, growth, maturity and decline)

<sup>32</sup> Esso, L.J. 2010. Long run relationship and causality between foreign direct investment and growth: Evidence from ten African countries. *International Journal of Economics and Finance* 2. 168-177.

<sup>33</sup> Esso, L.J. 2010. Long run relationship and causality between foreign direct investment and growth: Evidence from ten African countries. *International Journal of Economics and Finance* 2. 168-177.

<sup>34</sup> OECD, 2014. Investment Policy Reviews: Botswana. [Online]. Available from <http://www.oecd.org> [Accessed 1 July 2019].

development, regulatory reform, trade and regional integration are among the reforms implemented to increase FDI attraction in Botswana.<sup>35</sup>

SEZs in Botswana are some of the FDI attraction mechanisms implemented by the government as they provide ideal environments for investors to conduct their operations.<sup>36</sup> Botswana however is subject to several challenges such as an acute shortage of skilled labour, which are highly problematic as most advanced industries require various skills for operation.<sup>37</sup> Due to some rather weak regulations and law affecting the business community the country has ranked 86th out of 190 in 2019, a fall from 66th position in 2014 in the World Bank Doing Business ranking,<sup>38</sup> This monumental fall must be addressed urgently as the ranking and other similar ones are a factor investors may examine in determining investment destinations. Infrastructure development must also be given the deserving attention as without it investment has no platform to flourish.<sup>39</sup> The country must make an emphasis on adjusting and improving its image and international opinion on its attractiveness to investors as a final investment destination.

### **2.3 SEZs Applicable theories**

There are 3 major theories that set out the rationale, success factors and development of SEZs. These theories have been formed over the evolution of SEZs, they are the orthodox, (neo classical), the neo Marxist, and the heterodox theories.

#### **i. Neo-Classical Approach**

The neo-classical approach adopts a trade focused approach with the view that SEZs as enclaves that offer better opportunity for free and open trade to promote the transfer of foreign capital and international trade by overcoming anti-export bias inherent in the

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<sup>35</sup>Journal of Accounting and Management 2017, vol.: 07; no.: 01; page 15 – 32, FOREIGN DIRECT INVESTMENT IN BOTSWANA: TRENDS, REFORMS AND CHALLENGES, Mercy T Magombeyi, Prof. Nicholas M. Odhiambo

<sup>36</sup> MTI, 2010. Special Economic Zones Policy for Botswana. [Online]. Available from <<http://www.mti.gov.bw>>. [Accessed 30 June 2019].

<sup>37</sup> Ministry of Finance and Development Planning, 2013. Mid Term Review of NDP 10. [Online]. Available from <<http://www.finance.gov.bw>>. [Accessed 20 July 2019].

<sup>38</sup> World Bank, 2015a. Doing Business. [Online]. Available from [www.doingbusiness.org](http://www.doingbusiness.org) . [Accessed 18 July 2019].

<sup>39</sup> AFDB, OECD and UNDP, 2014. Africa Economic Outlook: Botswana. [Online]. Available from <http://www.africaeconomicoutlook.org> [Accessed 28 June 2019]

regime.<sup>40</sup> This is centered on the belief that ensuring free trade with SEZs is essential for their success. Furthermore the attractiveness of SEZs is directly linked to their cost competitiveness. However the success of the zones also predicated on other factors such as an adequate supply of labour, relaxed labour standards, cheap industry sites, strategic placement and investor friendly customs regimes.

This school of thought usually associates its theories with the international trade modelling approach to assess development of SEZs outcomes. Although SEZs may generate trade related benefits particularly employment and foreign exchange these come at extreme cost to the economy of the host state.<sup>41</sup> Some scholars go as far as analysing the 'cost- benefit' approach to assess the net benefit generate by SEZs as through the use of public resources SEZs may have a multiplier effect on the economy.<sup>42</sup> However the effect of SEZs may not be as substantial in comparison to the cost implications of development and management of the zones.<sup>43</sup>

Strong critics to SEZs have come out strongly against their development, describing them as rent attaining instruments set up by a bureaucratic system to give favours to the business community.<sup>44</sup> They view these zones as glorified tax shelters which may induce economic diversification of domestic areas therefore adding costs with no real addition to investment or economic activity.

After the Chinese SEZs turning into an international success story, it was proposed that they may be developed to act as testing labs for the facilitation of the economic liberalisation and transition process.<sup>45</sup> There is also some evidence of the possibility

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<sup>40</sup> Towards An Integrated Framework for Special Economic Zones (SEZs): A Dynamic Institutional Approach  
Aradhna Aggarwal

<sup>41</sup> Hamada, K. 1974. "An Economic Analysis of the Duty Free Zone." *Journal of International Economics* 4 (3): 225-41

<sup>42</sup> Baissac, C. (2003) "Maximizing the Developmental Impact of EPZs: A Comparative Perspective in the AFRICAN Context of Needed Accelerated Growth." A Presentation at the Johannesburg EPZ Symposium, October 15-16, 2003.

<sup>43</sup> Jayanthakumaran, K. (2003). "Benefit-Cost Appraisal of Export Processing Zones: A Survey of the Literature." *Development Policy Review* 21 (1): 51-65

<sup>44</sup> Buchanan, J., and G. Tullock. (1962) *The Calculus of Consent, Logical Foundations of Constitutional Democracy*. Ann Arbor: University of Michigan Press.

<sup>45</sup> World Bank. (1992). "Export Processing Zones." Industry and Development Division, Washington: World Bank.



of SEZs not only failing at their goals but also encouraging protective trade and investment which is frowned upon internationally.<sup>46</sup>

It can be concluded therefore that this approach to SEZs is pessimistic as it views the issues associated with their development at a national level as unresolvable. Therefore they assume that the SEZ programme can only hurt the already troubled system. This position is arguably too pessimistic as studies have shown a change in various conditions may affect the development of SEZs positively.

## **ii. Neo-Marxist Approach**

This approach avers that the preliminary role of SEZ development is the provision of cheap labour with low levels of regulatory protection rather than the other fiscal incentives that come with the zones.<sup>47</sup> SEZs are therefore created with a unique focus on the labour force resulting in their exploitation and decline in opportunity as some investors may engage in the global epidemic of the race to the bottom.

As SEZ operating companies are usually more prepared to trade with foreign economies than their local competitors their linkages may therefore be beneficial although it may encourage an unhealthy dependency.<sup>48</sup>

## **iii. Heterodox Approach**

This is the most recent of the theories addressing SEZs as they continued to flourish in the 1980s. The heterodox approach advances reasons for focusing on a variety of state-market interactions, in which governments of developing nations play a pivotal role in. these include but are not limited to investment, human capital formation, acquisition of technology, institution setting, and the promotion of policy and institutional reforms which benefit the overall investment attractiveness of a country.<sup>49</sup>

This approach remains the most relevant as it focuses on the role of SEZs in inducing FDI related benefits on economic development and diversification particularly in

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<sup>46</sup> Schrank, A. (2001), "Export Processing Zones: Free Market Islands or Bridges to Structural Transformation?", *Development Policy Review*, 19(2): 223-242.

<sup>47</sup> Fröbel, F., J. Heinrichs, and O. Kreye (1978) *The New International Division of Labor*. Cambridge: Cambridge University Press.

<sup>48</sup> Frank, A. G. (1967). *Capitalism and Underdevelopment in Latin America*. New York: Monthly Review Press.

<sup>49</sup> Chang, H.J.(2002) *Kicking Away the Ladder: Development Strategy in Historical Perspective*, Anthem Press

exports. The approach continues to credit SEZs for spill over effects of their operation.<sup>50</sup> These spill overs are also credited for filling vital gaps in the knowledge base of the economy particularly its technical, marketing and managerial fields. This approach clearly counters the pessimism and dependency promoted by the other approaches.

The heterodox approach is based on export orientation of FDI which arises when MNEs disintegrate their production processes and set up locations internationally to lower costs of production.<sup>51</sup> It is through this framework that SEZs are instrumental not only to promote FDI attraction but for the outward orientation of domestic investment.

## **2.4 Conclusion**

Having briefly examined some of the major FDI theories it is evident that the superiority of a single theory would be difficult to establish in an attempt to explain FDI. Though this is the case, it is necessary to conduct varying research from a theoretical background as it would be the expectation of stakeholders that the classification and analysis of FDI theory provide sufficient foundation in selection of appropriate frameworks for scholarly and practical application when examining FDI.

The movement of international capital is instrumental in conducting any form of commercial transaction and therefore the motivations behind it being subject to assessment. There is an unanimous view that firms stand to gain advantages through FDI related endeavours and the role of the host economy and government frameworks and policies play a pivotal role in this success. The responsibility of these varying stakeholders must therefore never be negated as it holds the key to a flourishing international trade system.

With due regard to the state of FDI in Botswana it is clear there is still great room for improvement in the country to optimise attraction of investment and ensure the country remains globally competitive in its attraction. The gradual increase of FDI is insufficient

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<sup>50</sup> Johansson, H., and L. Nilsson. (1997). "Export Processing Zones as Catalysts." *World Development* 25 (12): 2115-28.

<sup>51</sup> Aggarwal, A. (2011) "Promoting Agglomeration Economies and Industrial Clustering through SEZs: Evidence from India." *Journal of International Commerce, Economics and Policy* 2 (02): 201-227.

presently and thereby must be stimulated through policy development, infrastructure growth and improved access to facilities and information accessibility across all industries.

Through the three dominant approaches to SEZs which offer varying rationales which outline the importance of the macroeconomic contexts in which SEZs are developed. It is also clear that no framework can single handily accommodate all these approaches and generalise the reasons behind setting up SEZs, widen the basis for their set up and the success factors and development outcomes. There however exists a common understanding of the basic design and characteristics of SEZs, these are grounded on SEZs being economic enclaves for policy regimes as they have been utilised as such over the years.

## CHAPTER 3

### THE CONCEPT AND NATURE OF SEZs

#### 3.1 Introduction

Zone development as tool of economic transformation and restructuring has always been a largely policy and infrastructure development driven project as this drives the key determining factors of its success and thereby providing rationale for its utilisation.<sup>52</sup> Several emerging economies largely in East Asia, Latin America, Caribbean Basin and even Africa have utilised successfully SEZs as a tool of economic diversification and development.<sup>53</sup> This chapter will therefore evaluate the notion of SEZ and its development globally and the varying forms it takes dependant on the varying needs of the state its seeks to serve.

#### 3.2 SEZs

SEZs,<sup>54</sup> are broadly defined as policy instruments used by governments in an attempt to promote international trade and accelerate the attraction of FDI to the host nation. SEZ as a term broadly covers a wide range of free zones which may be used by different countries with varying developmental mandates for varying results.<sup>55</sup> The popularity of SEZs has been fuelled by the desire by most countries to reduce their export – import imbalances, therefore pursuing more export based development policies.<sup>56</sup> As zones are branded and exploited differently dependant on the desired end result by the host state, they have been seen to assume varying forms dependant on size, types of production and target market.<sup>57</sup> The incentives that come hand in hand with operation in the zone as one of their most attractive features have an impact

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<sup>52</sup> The World Bank Group (WBG, FIAS) Special economic zones performance, lessons learned and implications for zone development (2008) 1.

<sup>53</sup> PL Watson 'Export processing zones: Has Africa missed the boat? Not yet!' (2001) 1.

<sup>54</sup> Most texts use a variation of the following names: free zones, foreign trade zones, export processing zones, free trade zones, special economic zones and industrial development zones. To avoid confusion, this research paper uses the generic term "special economic zones" or "SEZs" to encompass the range of modern free-zone types worldwide.

<sup>55</sup> Y Fahrettin 'Improving export incentives and the free zone system in Syria' (2010) 10.

<sup>56</sup> M Engman, O Onodera and E Pinali "Export Processing Zones: Past and Future Role in Trade and Development"; OECD trade Policy Working Papers, No. 53, OECD Publishing, Part 2 (2007) 51.

<sup>57</sup> L Moberg & V Tarko 'Why no Chinese miracle in Africa? Special economic zones and liberalization avalanches' (2014) 3.

on the terminologies used to describe these SEZs, these may be but not limited to Export Processing Zones (EPZs), Free Ports (FPs), Free Zones (FZs) and Free Trade Zones (FTZs).

Internationally the codified standard for the definition of free zones has been adopted through The International Convention on the Simplification and Harmonization of Customs Procedures (1999), which defines free zones briefly as “part of the territory of a contracting party where goods introduced are generally regarded as being outside the customs territory and not subject to the usual customs control”

The International Labour Organisation (ILO) however has only defined EPZs, describing them as:<sup>58</sup> “a clearly delineated industrial estate which constitutes a free trade enclave in the customs and trade regime of a country, and where foreign manufacturing firms producing mainly for export benefit from a certain number of fiscal and financial incentives.”

It is clear that various similar definitions relating to SEZs can be found dependant on the situation, however a broadly used definition states a SEZ as a part of a territory where goods introduced are generally regarded, insofar as duties and taxes are concerned to be outside the hosts customs area.<sup>59</sup> SEZs are aimed at the attraction of FDI into host nations in their various forms as per the needs of country and its specific goals, thereby they are consistently characterised by the following features:

- Industrial parks that have been designated by a government to provide tax and other incentives to export firms .
- Labour intensive manufacturing centres that involve the import of raw material or components and the export of factory products.
- Areas that allow for normal trade barriers , such as tariffs and quotas, to be eliminated and bureaucratic requirements to be lowered to attract new business and foreign investments.
- Geographically delimited areas usually physically secured or fenced in.<sup>60</sup>

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<sup>58</sup> E Blanco De Armas & MS Jallab ‘A review of the role and impact of export processing zones in world trade: The case of Mexico’ (2007) 2.

<sup>59</sup> Annexure D of the Revised Kyoto Convention of the World Customs Organization, ch 2.

<sup>60</sup> A Erasmus “Trade zones: Recommendations for South Africa” SAIIA Occasional Paper No 90 (August 2011) 5.

As SEZ are not a new phenomenon states are now in a position to examine which are more likely to work best for their needs particularly dependant on the nature of incentives offered to investors in the zones. SEZs are not meant to overshadow a country's trade and investment policy however mat assist in other objectives such as job creation, export generation and FDI attraction through incentive based packages. The special rules and regulations which are exclusively applicable in SEZ are tailor made to encompass investment conditions, international business transaction regimes, immigration policies, customs regulations, taxation and international trade trends.<sup>61</sup>

### **3.3 Types of SEZs**

As previously stated SEZ is a general term to describe varying forms of industry zones. These zones cover a wide range of industries covering varying work conditions, infrastructure stages, government oversight, geography and incentive packages. It is thereby essential that the right type of SEZ be established for the right circumstance in order to meet their functions.

#### **i. Free Trade Zones (FTZs)**

Free Trade Zones (FTZs) are the most popular of the SEZs. They are commonly characterised by features such as their geographic demarcation and fencing and provision of a tax free environment in which the host state provides for warehousing, storage and distribution facilities for trade, shipping and import/export operations in a vastly reduced regulatory and customs environment subsidized to make them more attractive to investors. In some instances rules and regulations governing the workforce and the environment may also be reduced to further incentivise investors. FTZs are usually put in place to focus on labour intensive industry such as apparel, textiles and electrical goods. The Colon Free Zone in Panama is a leading example of a FTZ internationally.<sup>62</sup>

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<sup>61</sup> Woofrey 'Special economic zones and regional integration in Africa' (2013) 109.

<sup>62</sup> H Zhang & F Illeu 'The role of Special economic zones in African Countries and The Chinese FDI's' (2014) 6.

## **ii. Export Processing Zones (EPZs)**

The foundation of EPZs stems from the evolution of FTZs between 1950-1960, this evolution was meant to attempt to stimulate industrialisation in the international trade sphere in developing nations.<sup>63</sup> Traditionally EPZs were set up as industrialised estates where manufacturing was the key focus linked to investment limited to FDI. Operational facilities and special incentives were offered for companies willing to partake and invest in the aforementioned industries with administrative procedures being less stringent. Although the main aim of EPZs was exports, various other activities have emerged in these zones.

## **iii. Free Ports (FPs)**

Free Ports are commonly zones that involve and allow for various forms of goods, trade related services and service-related trade activity such as retail sales, travel and tourism services.<sup>64</sup> Due to the vast selection of products available for trade on these free ports, they are generally more susceptible to integration with the host states economy. The transfer of goods between freeports and non-free trade areas may be subject to the normal import duties and tariffs.<sup>65</sup> The Aqaba SEZ in Jordan is a leading example of a FP globally.<sup>66</sup>

## **iv. Free Enterprise Zones (FEZs) or Single Factory EPZ**

Privileges and incentives provided under FEZs are provided particular independent firms with no regard to their geographical placement.<sup>67</sup> That is to say unlike other SEZs geographical demarcation is not a factor so long as the placement of the firm is within the jurisdiction of the host state it will be afforded the benefits and privileges due to it.<sup>68</sup> Host states which seek to drive towards specialisation in specific industries may favour this form of SEZ to promote production in the industry through FEZ.

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<sup>63</sup> C Baissac 'Brief history and overview of policy debates' in T Farole Special economic zones in Africa (2011) 11

<sup>64</sup> FIAS (2008) 10.

<sup>65</sup> Murray (2010) 1–3.

<sup>66</sup> The Aqaba Special Economic Zone (ASEZ) was established by the ASEZ Law, No. 32 of 2000. It covers Jordan sole seaport of Aqaba and its environs. The zone is currently located on 375 sq/ kms of territory in the south of Jordan. ASEZ currently has an estimated population of about 90,000.

<sup>67</sup> A Aggarwal 'Economic impacts of SEZs: Theoretical approaches and analysis of newly notified SEZs in India' (2010) 7.

<sup>68</sup> Establishing special economic zones in the Democratic Republic of Congo : in search of a sound legal framework, Magalie Masamba, LLM Dissertation, 2014

#### **v. Specialised Zones (SZs)**

The promotion of highly technologically advanced industries and industries associated are usually conducted in specialised zones. These zones place a focus on production on innovation and technology through industries such as petrochemical zones, pharmaceutical industry, science and technology parks, advanced technical logistics and warehousing sites and air traffic based economies.<sup>69</sup> The Dubai Internet City and Singapore Science Park are stellar examples of SZs.<sup>70</sup>

#### **vi. Enterprise Zones (EZs)**

In an attempt to remedy the economic survival of urban areas, Enterprise zones are set up. These are unique as they provide greater incentives than most SEZs while making provision for beneficial local development with the aim of revitalisation or gentrification of local economies.<sup>71</sup> Subsidies and other incentives are more abundant in these zones as the return to the government stems from the general improvement on the quality of life of the locals.<sup>72</sup>

### **3.4 Objectives of SEZs**

Host nations usually establish economic zones in an attempt to achieve numerous objectives in line with their national economic, development and growth strategies. These objectives range from investor attraction for specific infant industries, growth of the host states export profile, and the reduction of bureaucratic hurdles which may hinder overall investment avenues in the state. The benefits offered by the zones is thereby justifiable from examining these varying objectives, business are more inclined to invest in these zones should the differential treatment in the zones consequently be beneficial to their business objectives.<sup>73</sup> It is also apparent that the incentives offered by a particular zone will be greatly influenced by the nature of the zone. This incentive policy is also dependent on its intended objectives of the host government. Zone development objects can thereby be divided into short term static benefits, and dynamic benefits which arise from varying indirect external factors which link to the

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<sup>69</sup> P Pakdeenurit et al 'Special economic zone: facts, roles and opportunities of investment' (2014) 2

<sup>70</sup> WBG, FIAS (n 49 above) 12.

<sup>71</sup> Murray (2010) 1–3.

<sup>72</sup> FIAS (2008) 11.

<sup>73</sup> Aggarwal (as above).



local economy.<sup>74</sup> Most nations with developmental or economic transformation mandates have established economic zones for similar reasons, such as:

- i. **Inflow of FDIs:** Developing and Transforming nations utilise zone programmes essentially to attract an influx of FDI and other dynamic benefits such as hard and soft innovative technological transfer, skill enhancement, export margin growth, creation of new business enterprise and growth of local entrepreneurialism. Short and long term capital attraction to the host state is beneficial as it also fuels all other benefits that flow from the zones.<sup>75</sup>
- ii. **Job Creation:** This is arguably one of the greatest objectives of zones programmes and flows naturally from increased industry and production if a zone is properly managed.<sup>76</sup> Host states with an abundance of labour will strive to achieve this goal through zone programmes as was seen in the Tunisian EPZ programme.<sup>77</sup>
- iii. **Industry revitalisation:** Specialised industrial zones which house biotechnology, pharmaceuticals, chemical production and processing, and medical equipment are designed to support the business development of specific industries<sup>78</sup> as they may be in need of additional support to remain sustainable more especially in highly competitive fields.
- iv. **Wide Economic Reform:** The wide economic policy reform undertaken by developing nations which may have varying aims such as gaining access to new markets or transformation from commodity based economies to export led ones are also great motivators for setting up of zones.<sup>79</sup>
- v. **Policy Viability studies:** Testing the viability of certain economic and legal policies before nation-wide adaptation is preferable in zones as they provide for a controlled environment.<sup>80</sup> These zones act as economic policy laboratories

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<sup>74</sup> Blanco De Armas & Jallab (n 55 above) 4.

<sup>75</sup> Blanco De Armas & Jallab (n 55 above) 4.

<sup>76</sup> Madani, D. 1999. "A Review of the Role and Impact of Export Processing Zones." World Bank Policy Research Working Paper no. 2238.

<sup>77</sup> Baissac (n 39 above) 25.

<sup>78</sup> M Ruis 'Anatomy of SEZs' (2012) 43.

<sup>79</sup> T Farole & G Akinci Special economic zones progress, emerging challenges, and future directions (2011) 5. For example, it allowed the Dominican Republic to create more than 100,000 manufacturing jobs and shift systematically away from reliance on agriculture.

<sup>80</sup> T Ota 'Industrial policy in transitional economy: The role of China's SEZ in economic development' (2003)131.

for host states looking to undertake great reform in the near future. Asian based SEZs are great examples such laboratories.

vi. **Urban development tools:** SEZs are largely utilised as social and political tools to drive up investment and development in remote less developed areas, SEZs are therefore instrumental in promoting urbanisation.<sup>81</sup> China has been seen to be a leader in utilising SEZs for this goal.

vii. **Improvement of bilateral political and economic corporation:** Some nations have used SEZs to encourage bilateral engagement with other states in an attempt to foster better relations through Improved corporation. Co-reliance by states further secures security and peace within regions as has been seen with the engagements in the Korean peninsula.<sup>82</sup>

### 3.5 African SEZ development

The manifestation of SEZs in Africa was fuelled by economic emancipation of the Asian Tigers and the failure by the World Bank import substitution policies in the 1950's.<sup>83</sup> As early as the 1970s and 1980s many African countries engaged SEZs as tools of industrialisation and economic reform and development; Liberia, Senegal and Mauritius were among the first to adopt SEZ policies.<sup>84</sup> It was only in the 1990s that the majority of African states elected to adopt SEZs<sup>85</sup>, sub-Saharan Africa was encouraged to adopt the policy due to the substantial contribution SEZ had on the Mauritius economy, leading to the zone initiative being made a fixture of trade and industrialisation regionally.<sup>86</sup>

Although there is a general agreement that the success of African SEZs is limited, although some nations<sup>87</sup> have had comparative success outcomes in terms of investments, exports and employment generation.<sup>88</sup> Research has established that the weakness in institutional and regulatory structures is a common denominator in

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<sup>81</sup> Engman et al (n 53 above) 40.

<sup>82</sup> <https://www.bbc.com/news/business-22011178> (accessed 6 August 2019)

<sup>83</sup> UNDP If Africa builds nests, will the birds come? Comparative study on special economic zones in Africa and China (2015) 11.

<sup>84</sup> Liberia was the first to initiate zone programme in 1970, Mauritius 1971 and Senegal 1974

<sup>85</sup> UNIDO Breaking in and moving up: New industrial challenges for the bottom and middle-income Countries (2009) XIII.

<sup>86</sup> Baissac (n 39 above) 36.

<sup>87</sup> Mauritius, Kenya, Madagascar, and Ghana

<sup>88</sup> Z Zeng 'China and Africa's experiences with special economic zones: What can we learn?' (2014) 17.

the failure of SEZs in the African context.<sup>89</sup> The shortage of infrastructure, minimal sector specialisation<sup>90</sup>, shortages of wider economy linkages, policy instability, political uncertainty and weak governance<sup>91</sup> which are rampant in Africa are also great inhibitors of SEZs flourishing. It has also been noted that most zones thrive in the existence of preferential trade agreements with major trading partners and as Africa still strives to reach its peak in terms of international trade, the newly ratified African Continental Free Trade Area (AFCFTA) may be a stepping stone in ensuring the success of emerging SEZs in the continent. Some African nations have already had varying experiences with SEZs and it is clear that those new to adopt SEZ policy will have varying experiences dependant on their varying policy frameworks and objectives.

#### **i. Lesotho<sup>92</sup>**

Lesotho runs its economic policy through a combination of instruments that facilitates imports and exports through provision of incentives and infrastructure to investors.<sup>93</sup> The Lesotho National Development Corporation (LNDC) which was set up 1967<sup>94</sup>, with the objective to support and facilitate development of processing and manufacturing industries, mining and commerce with the aim of increasing income levels and combating unemployment. The Corporation which operates under the control of the Ministry of Trade and Investment, targets stimulation of local and foreign investment in labour intensive industry to create a high number of jobs.<sup>95</sup> A zero tax rate on exports sold outside the Southern African Customs Union (SACU), 10 percent tax on those sold within SACU, unlimited sale domestically, serviced industrial areas and business support services are amongst some of the preferential treatment incentives provided for in the nation's economic zones.<sup>96</sup>

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<sup>89</sup> Zeng (n 85 above) 17

<sup>90</sup> F Bost 'Are economic free zones good for development?' (2011) 10.

<sup>91</sup> D Brautigam 'African Shenzhen: China's Special Economic Zones in Africa' (2011) 42 *Journal of Modern African Studies* 49.

<sup>92</sup> Lesotho, a high-altitude, landlocked kingdom encircled by South Africa, is crisscrossed by a network of rivers and mountain ranges including the 3,482m-high peak of Thabana Ntlenyana.

<sup>93</sup> Farole (n 76 above) 16 footnote 2.

<sup>94</sup> The LNDC was established by the LNDC Act No. 20 of 1967. The Act was later amended in 1990 and again in 2000.

<sup>95</sup> LK Vastveit 'Export Processing Zones in Sub-Saharan Africa – Kenya and Lesotho' unpublished Thesis, University of Bergen, 2013 35.

<sup>96</sup> United Nations Economic Commission (UNECA) Country Profile: Lesotho (2015) 12.

Taiwanese investors have largely found these incentives favourable to them particularly in their textile and garment based investments as they represent the majority of the LNDC-assisted investors in the country. Relying on pre-existing trade agreements output from these industries have taken a majority share of the nation's exports.<sup>97</sup> Employment has stabilised in these zones taking up a large portion of all employment in the manufacturing sector, totalling about 86.5 percent.<sup>98</sup>

## ii. Kenya<sup>99</sup>

Kenya's EPZ was established in 1990 alongside the enacted of the Export Processing Zone Act.<sup>100</sup> Consequent to poor economic growth trajectory and the GDP per capita decrease the programme was launched to attract export centred investments, diversify the economy, technological transfers and create employment.<sup>101</sup> In so far as some of its intended objectives the zone programme has been relatively successful.<sup>102</sup> EPZs outputs account for 3.2% of Kenya's GDP employing over 37000 workers.<sup>103</sup> Kenya has had such success in its EPZ programme it has overtook Lesotho as the largest textile exporter through the African Growth and Opportunity Act (AGOA).<sup>104</sup>

The Kenyan government has however been dissatisfied with the performance of the EPZ programme<sup>105</sup> prompting the upgrading to a SEZ programme and passing of the Special Economic Zones Act (SEZ Act) (2015) as part of its 2030 national developmental strategy.<sup>106</sup>

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<sup>97</sup> The value of Lesotho textile exports reached its highest in 2004 making up almost 80% of Lesotho's total exports between 2000 and 2005

<sup>98</sup> UNECA (n 93 above) 12.

<sup>99</sup> Kenya is a country in East Africa with coastline on the Indian Ocean. It encompasses savannah, lakelands, the dramatic Great Rift Valley and mountain highlands. It's also home to wildlife like lions, elephants and rhinos.

<sup>100</sup> CAP 517 Laws of Kenya

<sup>101</sup> LK Vastveit 'Export Processing Zones in Sub-Saharan Africa – Kenya and Lesotho' unpublished Thesis, University of Bergen, 2013 35.

<sup>102</sup> The number of firms within the textile and apparel industries increased from 10 to 40 in 2003 alone, and investments within the zones increased from KSh0.5 billion in 2000 to about KSh17 billion by 2004 and the amount of zone exports increased by 287% between 2001 and 2004. It is estimated that between 70 percent and 90 percent of zone exports were textile and apparel products to the US supported by the AGOA.

<sup>103</sup> The EPZs earned Kenya about \$543 million in 2013 and contributed 10 percent of the country's export

<sup>104</sup> The African Growth and Opportunity Act (AGOA) is a United States Trade Act, enacted on 18 May 2000 as Public Law 106 of the 200th Congress. AGOA has since been renewed to 2025. The legislation significantly enhances market access to the US for qualifying Sub-Saharan African (SSA) countries.

<sup>105</sup> Investments within the zones remained rather low and stagnant in the years prior to the establishment of the AGOA in 2000.

<sup>106</sup> <http://www.industrialization.go.ke/index.php/about-us> (accessed 15 June 2019).

### iii. South Africa<sup>107</sup>

As one of Africa's largest economy, South Africa was pushed to establish its Industrial Development Zone (IDZ) Programme<sup>108</sup> as globalisation forced the nation to reposition itself in the world economy following the recent governmental changes. The aim of the state was the attraction of FDI and promotion of the export of value -added commodities. Eventually the SEZ programme was launched which would encompass a wider range of zones.<sup>109</sup> The SEZ programme was aimed to improve the competitiveness internationally of South Africa's businesses while allowing the state time to re-evaluate legislative and policy frameworks which have been burdensome on the nations competitiveness.

### iv. Namibia<sup>110</sup>

The government of Namibia set out to contribute to diversifying its economy through an EPZ programme.<sup>111</sup> The programme was expected to create over 20000 employment opportunities in its early years of inception.<sup>112</sup> Namibia's Vision 2030<sup>113</sup> and Industrial Policy<sup>114</sup> have spearheaded the efforts of the state to promote export based industrialisation. The EPZ programme thereby fit perfectly into the nation's overall economic development strategy.

The EPZ programme has been critiqued mostly due to the miniscule growth recorded following its inception. The failure of the programme to address the unemployment situation in Namibia has also allowed critics to further denounce the programme<sup>115</sup> leading to a general opinion of the underperformance of the programme.

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<sup>107</sup> South Africa is a country on the southernmost tip of the African continent, marked by several distinct ecosystems. Inland safari destination Kruger National Park is populated by big game.

<sup>108</sup> introduced the Industrial Development Zone Programme in 2000 through the Manufacturing Development Act No 187 of 1993

<sup>109</sup> Policy on the Development of Special Economic Zones in South Africa (2012)

<sup>110</sup> Namibia, a country in southwest Africa, is distinguished by the Namib Desert along its Atlantic Ocean coast. The country is home to diverse wildlife, including a significant cheetah population.

<sup>111</sup> Established through the Export Processing Zone Act 9 of 1995.

<sup>112</sup> LaRRI 'Export processing zones in Namibia: Taking a closer look' (2000) 40.

<sup>113</sup> A document that clearly spells out the country's development programmes and strategies to achieve its national objectives' see <http://www.gov.na/vision-2030> (accessed 12 July 2019).

<sup>114</sup> Ministry of Trade and Industry 'Namibia's Industrial Policy (2012).

<sup>115</sup> Jauch 'Export processing zones and the quest for sustainable development: A Southern African perspective' (2002) 14 Environmental & Urbanisation 111.

### **3.6 Conclusion**

SEZs are a phenomenon which has spread internationally with various forms, sizes and objectives. Varying nations implement these zones for various reasons but it is clear that these nations usually have similar reasons such as FDI attraction, fuelling development, employment and revenue creation. Major economies have shown that zones can work to meet these objectives however African zones seem to be reliant on pre-existing trade conditions and agreements to provide a market for goods from these zones thereby making them less stable than those from major economies.

The overall economic strategy of a state may also be assisted by the zone developments. SEZs cannot exist in a vacuum of economic policy and must be designed to effectively therefore co-exist with other policies and developmental tools. Particular governments employ varying tools to archive their economic development and diversification mandates. As policy tools, SEZs are effective only under the most focused of frameworks which address the specific needs or objectives of the host state. The creation of employment continues to be one of the most predominant features of SEZs coupled with technology and skill transfer.

SEZs trends have recently shown that countries must understand the terrain in which they operate in order to get the framework for its implementation right from the onset, there must also be a realistic approach taken particularly in terms of the resources available to provide subsidies and privileges to SEZ based industries and firms. A failure to do this will only lead to yet another underachieving or failed African SEZ story.

## CHAPTER 4

### SEZS IN BOTSWANA

#### 4.1 Introduction

As a mineral rich nation Botswana has seemingly not taken great initiative in the past to diversify the economy, however, in recent times it can be seen that the government has recognised the urgency of reducing the economic prosperity dependence on mineral wealth. In the most recent budget strategy paper<sup>116</sup>. It was expressly stated in this document that:

The main objective under this national priority area is to diversify the economy in terms of the sources of growth, government revenues and composition of exports. In this regard, various initiatives will be implemented during the 2018/19 financial year towards the achievement of this objective. These will include the implementation of on-going initiatives in the areas of mineral beneficiation, cluster development, special economic zones, and economic diversification drive. Specific programmes under the initiatives planned for the 2018/19 financial year will be presented by the relevant Ministries and Departments during the preparation of the annual budget. <sup>117</sup>

It is clear that the nation seeks to diversify its economy through the implementation of various programmes to accelerate the process. The question therefore arises whether SEZs in Botswana are a viable option and whether the appropriate facilities and frameworks have been put in place to allow them to succeed.

SEZ development came a result of recommendation from the national Business and Economic Advisory Council (BEAC)<sup>118</sup> in 2005, this recommendation was followed by extensive research and studies on the feasibility of SEZs in Botswana<sup>119</sup>. The SEZ

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<sup>116</sup> 2018/2019 Budget Strategy Paper, Republic of Botswana, Ministry of Finance and Economic Development

<sup>117</sup> Para 28 of Strategy paper 2018/2019: Developing Diversified Sources of Economic Growth

<sup>118</sup> In 2005 the Business and Economic Advisory Council (BEAC) was created to identify constraints hindering economic diversification. This led to the elaboration of a Strategy for Economic Diversification and Sustainable Growth, the 2008 Botswana Excellence Strategy, which aims to “build sustainable diversification for a foreseeable post-diamond industry”.

<sup>119</sup> The studies amongst others included: Outline of Policy Framework for SEZs in Botswana 2008, Botswana model law for SEZs in Botswana, Memorandum on Points of principle and typical content of Special Economic Zone regulation 2008, Free zones; lessons learned implications for zone development(Foreign Advisory Service) 2008. Botswana SEZ regulatory assessment 2008

policy was adopted in Botswana by the government in 2011,<sup>120</sup> the Ministry of Trade and Industry designed a policy which was aimed at attraction of competitive domestic and foreign investment. These investors would be attracted to Botswana through offering developed infrastructure, world class technological and economic incentives among others. Market freedom is also an incentive provided through this policy although already evident through other pre-existing national laws. The SEZ initiative in Botswana would be controlled directly by an authority which would manage them named the Special Economic Zones Authority (SEZA).<sup>121</sup>

## 4.2 Hubs in Botswana

Unlike traditional SEZs the government of Botswana chose to not only outline the SEZ locations but also to align SEZs with particular focus industries which it describes as 'Hubs' which the government is still developing.<sup>122</sup> Specialised zones called hubs have been developed to date; they are:

- i. **The Agricultural Hub:** Established in May 2008 aimed at encouraging commercialisation, investment and employment in the Agricultural sector. A major aim of the hub is to act as a catalyst for agricultural transformation and steer the sector to be competitive and profitable while maintaining international quality and health standards.
- ii. **The Botswana Innovation Hub (BIH) :** this hub has the broad objective to integrate the nation into the global economy. As there are no clear parameters to this objective BIH has driven to turn the country into a knowledge based economy as this will allow for faster and more effective economic diversification, increased productivity and competitiveness globally. Knowledge based and technology driven industries are thereby the key targets of this hub which offers great incentives and particularly advanced infrastructure for operations.

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<sup>120</sup> REPUBLIC OF BOTSWANA, SPECIAL ECONOMIC ZONES POLICY FOR BOTSWANA, MINISTRY OF TRADE AND INDUSTRY, September 2010, GABORONE, BOTSWANA, Industrialization, Diversification and Export Development for Global Competitiveness

<sup>121</sup> The Government of Botswana has established the Special Economic Zone Authority (SEZA). to support and manage the development of the 8 SEZs in Botswana, and assist in economic diversification through developing trade and investment in Botswana while providing key services to foreign direct investors to the country.

<sup>122</sup> SEZ Botswana Policy 2011



- iii. **Diamond Hub:** As a leading diamond exporter globally<sup>123</sup>, the hub is responsible particularly for ensuring attraction of investors willing to guarantee that downstream diamond activities are conducted with the country to insure optimum mineral beneficiation.
- iv. **Education Hub:** This Hub was established the nation into a regional center for academic excellence. The hub focuses on attraction of international institutions establishing themselves with Botswana while assisting with local institutions to develop and become internationally competitive through the removal of all sector barriers and provision of an education friendly business environment.
- v. **Health Hub:** In 2008 this hub was established to undertake strategic initiatives to drive up service delivery and innovation in the health sector. This would be done through the optimisation of both existing and planned infrastructure to turn the facilities into regional healthcare delivery centers of excellence. This would in turn allow for new revenue streams such as medical tourism to allow for returns on the investment.
- vi. **Financial Services Hub:** This Hub is aimed at creating an environment which is capable of facilitating growth of other sectors in terms of banking, investment services and insurance services. These services are also instrumental in FDI attraction as their strength reassures potential investors on the security of their investments.
- vii. **Transport Hub:** The enhancement of Botswana's transport connectivity both locally and internationally is the main objective of this hub. This is particularly critical due to the country's economic diversification endeavours. The hub thereby aims to create opportunity for efficient, sustainable and cost effective cost effective transport systems for the relevant sectors in the economy.

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<sup>123</sup> Botswana's Orapa mine is the largest diamond mine in the world in terms of value and quantity of carats produced annually

### 4.3 SEZ locations in Botswana



Figure 1 SEZs location in Botswana<sup>124</sup>

#### 4.3.1 Sir Seretse Khama International Airport (SSKIA) - Mixed Use

The location of the Sir Seretse Khama International Airport (SSKIA)<sup>125</sup> SEZ is very strategic for business due to the close proximity with the international airport and to the diamond hub. This proximity makes its optimum for high value industries associated with mineral beneficiation. The air transport infrastructure also allows for a high value to volume ratio. SSKIA SEZ is the centre of excellence in the region due to its business incubation facilities, retail, and e-commerce ecosystem, as well as being the centre for certification services.<sup>126</sup>

<sup>124</sup> Map extracted from Marandu, E.E. & Amanze, D. (2016). Developing Sustainable Special Economic Zones in Botswana: A Conceptual Discussion. Archives of Business Research, 4(6), 101-111.

<sup>125</sup> (SSKA) is the major international airport serving Gaborone, the capital city of Botswana. It is located 15km north of the city center, and is accessible through a passage off the Francistown road on the western bypass.

<sup>126</sup> <http://seza.co.bw/special-economic-zones/> (accessed 18/07/2019)

As the aviation industry continues to be liberalised, SSKIA has become an aerotropolis with supporting services and logistics being at the forefront of the beneficiaries of growth. As a landlocked nation, the airport is the nation's alternative gateway to the rest of the world and thereby has great potential for exploitation.

#### **4.3.2 Tuli Block – Agropolis**

Tuli Block<sup>127</sup> is known as the Agropolitan bread basket of the nation. The SEZ hosts a growing floriculture and tourism culture with a large growth potential. Other related industries are also beneficiaries of the SEZ activity as demand for associated services rises with other industries.

#### **4.3.3 Lobatse - Meat And Leather**

The Lobatse<sup>128</sup> SEZ is aimed at concentration on biogas generation, beef and leather production. These sectors are already thriving in the region particularly garments and apparel due to the high volumes of raw materials from neighbouring industry such as the BMC.<sup>129</sup> Furthermore, downstream industries are likely to benefit from the SEZ growth.

#### **4.3.4 Fairgrounds - International Finance & Technology**

As the established financial sector hub of Botswana, hosting a wide variety of organisations and service providers of the industry, it is set to only continue to flourish as a SEZ as more investors are drawn into the area. Service and knowledge based industries are only bound to thrive due to the synergy already created by the infrastructural and organisational development in the area.

The advancement of financial technology (FinTech) as well as SME growth in this SEZ will only allow for growth pushing the SEZ into a contender of a continental giant in financial services provision.

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<sup>127</sup> The Tuli Block is a narrow fringe of land at Botswana's eastern border wedged between Zimbabwe in the north and east and South Africa in the south.

<sup>128</sup> Lobatse is a town in South-Eastern Botswana, 70 kilometres south of the capital Gaborone, situated in a valley running north towards Gaborone.

<sup>129</sup> The Botswana Meat Commission (BMC) was established by the newly independent Botswana government in 1965 to be solely responsible for the slaughter and marketing of all beef exports from Botswana

#### **4.3.5 Pandamatenga – Agropolis**

Pandamatenga<sup>130</sup> has always been a commercial agricultural hub in Botswana. It aims as an SEZ to also become an agro-processing SEZ in Botswana. As it produces high quality, export ready agricultural produce, expansion into logistics particularly cold storage and transport would be ideal. There is already high demand from products in the area due to pre-existing international memorandums of understandings.

#### **4.3.6 Greater Palapye – Energy**

Palapye<sup>131</sup> as an SEZ is the power and energy hub of Botswana. This is due to the location of Morupule power stations<sup>132</sup> and the nations large coal reserves making the power stations location very cost effective for operation.

The nearby mining opportunities have enabled opportunity for coal based chemical industry development. Other forms of power generation would be ideal and likely to excel in the area due to the ease of access to the national power grid due to the proximity in the area.

#### **4.3.7 Francistown - Mixed Use**

As the second largest city in the country<sup>133</sup> it already boasts a rather comprehensive transport connectivity channels, infrastructure and strategic location on the northern part of the country.

Logistic related services thrive in the area and there still exists great room for expansion. The Francistown logistics hub has shown signs of evolving into an e-commerce hub due to its ability to exploit the already integrated logistics infrastructure. The proximity of universities to the city also enables it to exploit the availability of a skilled and trained workforce in the area further strengthening the sectors.<sup>134</sup>

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<sup>130</sup> Pandamatenga is a village in North-West District, Botswana. It is located close to the country's border with Zimbabwe

<sup>131</sup> Palapye is becoming a large town in Botswana, situated about halfway between Francistown and Gaborone (240 km away from Gaborone and 170 km away from Francistown).

<sup>132</sup> The Morupule Colliery is a coal mine located in Palapye, Botswana, and owned and operated by Debswana, a partnership between the government of Botswana and De Beers. Founded in 1973.

<sup>133</sup> Francistown is the second largest city in Botswana, with a population of about 100,079 and 150,800 inhabitants for its agglomeration at the 2011 census and often described as the "Capital of the North."

<sup>134</sup> <http://seza.co.bw/special-economic-zones/>

#### **4.3.8 Selebi Phikwe - Mixed Use**

Selebi Phikwe evolved from a mining town<sup>135</sup> to encompass various alternative sectors. These are inclusive of logistics and coal based chemicals. As there are pre-existing smelting facilities they are available for use by other entities for metal beneficiation relying on their base metals in the region.<sup>136</sup> The town also boast pre mine closure facilities which are yet to be fully utilised for tourism related activity ranging from casinos, golf courses, sports complexes, hotels and campsites.

#### **4.4 Botswana's Economic Structure**

Botswana boasts an open economy, due to its small local market due to the population size<sup>137</sup> external trade is of the utmost important to its economy. The economy is dependent on its primary export of diamonds, copper/nickel products and meat products. As of 2008, 66.7 percent of total exports were attributable to diamond sales, 18.5 percent to copper/nickel and meat products were responsible for 2.1 percent.<sup>138</sup> These figures showed that at the time the diversification of the economy was far below par and there was an overdependence on exports of primary products.

In 2015 the openness of the economy, which is the magnitude in which trade in relation to GDP was a high 72 percent<sup>139</sup>. This is highly indicative that not only is the nation reliant on exports it is also not self-reliant which exposes it's to several economic risks. The introduction of SEZs aims to alter these numbers positively and hopefully place the nation's economic status on safer ground in terms economic openness.

The diversification drive is also dampened by the countries clear inability to compete regionally in terms of foreign investment attraction which is pivotal in its diversification drive. Overall the inward FDI attraction figures are distressingly miniscule in

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<sup>135</sup> The BCL mine in Selebi Phikwe closed down in 2016 as it was loss making

<sup>136</sup> <http://seza.co.bw/special-economic-zones/> (accessed 10/08/2019)

<sup>137</sup> 2016 estimate was approximately 2,250,260

<sup>138</sup> Statistics from Government Statistical Bulletin (2008) which were used as part of the 2011 SEZ policy

<sup>139</sup> Trading Economics. (2016, October 12). Trading Economics. Retrieved November 4, 2016, from Trading Economics: <http://www.tradingeconomics.com/botswana/gdp;>  
<http://www.tradingeconomics.com/botswana/exports>

comparison to trading partners<sup>140</sup> and therefore there is need for great reform to ensure Botswana becomes a preferred destination for viable and profitable FDI.

In order to guarantee sustainable development as a major policy initiative while diversifying the economy, Botswana is at liberty to exploit three broad policy alternatives to considerably adjust the export base position of Botswana<sup>141</sup>:

- i. **Import substitution Industrialisation:** Through this policy the government would assist diversification through encouragement of industries locally that would reduce the imports of products as they would be produced locally. This is a relatively less risky approach as there is an assured local market for the goods, although the market size may be contentious. The countries comparative advantage must also remain consistent when electing industries for import substitution.<sup>142</sup>
- ii. **Export-led Manufacturing Industrialisation:** This diversification technique focuses on the increase of the country's export base rather than the local market making it ideal for nations with small markets such as Botswana. Proponents of the strategy argue that this is a more long term policy due to its outward mature as it protects against misallocation of resources while providing for the dynamic benefits of trade.<sup>143</sup> However a country must remain opposed to stagnation once having adopted the policy to ensure growth in its market share or value, in doing this it may be advisable that it takes on inward looking protectionists policies as a safety measure.<sup>144</sup>
- iii. **Export in Services:** As the services sector already enjoys rapid growth in Botswana and contributes an estimated 15.9% to its GDP. The promotion of this sector can only emphasise a broad diversification strategy which

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<sup>140</sup> Annual Report Bank of Botswana of 2008

<sup>141</sup> Marandu, E. E. (2006). Perceived Obstacles to Exporting by Manufacturing Firms In Botswana. *BIAC Journal*, 3(2), 24-47.

<sup>142</sup> Marandu, E.E. & Amanze, D. (2016). Developing Sustainable Special Economic Zones in Botswana: A Conceptual Discussion. *Archives of Business Research*, 4(6), 101-111.

<sup>143</sup> Goff, P. (2003). Development strategies. *Development Economics Web Guide*, 30(1).

<sup>144</sup> Essays.... (2006). is there a role for protection in developing countries? If so, should it be by tariffs or subsidies? Retrieved June 26, 2019, from <http://www.mapeters.fsnet.co.uk/Essays/ec503c.htm>

would be meant to accelerate and utilise the potential of the service sector across industries.

The varying policies are not mutually exclusive and can be pursued simultaneously as a nation is at liberty to decide which policy suits its interests at a particular point in time.

#### **4.5 The Policy Environment for SEZs in Botswana**

SEZs in the continent are straddled with conflicts with compatibility of SEZ policies and incentives and various international trade rules and conventions.<sup>145</sup> Zone programme competition within the continent is further enhanced where incentives and infrastructure are not the only determinants but good social and environmental practices are put into consideration.<sup>146</sup>

The question thereby must be whether the government has put in place policies which enable SEZs to indeed be relatively competitive in order to attract sufficient FDI.

SEZs success and failures can be determined by either the domestic or international trade and development policies adopted by a particular nation. These policies denote the parameters in which the SEZ policy and legislation may operate and the impact it may have on investment.

##### **4.5.1 Botswana Domestic Policies and SEZs**

Botswana has endeavoured to adopt several domestic policies to create an environment which is conducive for a business environment. These policies create an environment that significantly impacts SEZ policy and framework and the investors willing to invest in the country. Some of the most influential policies include:

- i. ***National Development Plan (NDP11)<sup>147</sup> and Vision 2036<sup>148</sup>***- these policies broadly defines the nation's intentions to provide a conducive business

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<sup>145</sup> UNCTAD Enhancing the contribution of export processing zones to the sustainable development goals: An analysis of 100 EPZS and a framework for sustainable economic zones (2015) 6

<sup>146</sup> UNCTAD (as above) 20.

<sup>147</sup> National Development Plan 11, April 2017 – March 2023, Volume I, Ministry of Finance and Development Planning SEPTEMBER 2016 at pp 59

<sup>148</sup> VISION 2036 – ACHIEVING PROSPERITY FOR ALL, PREPARED BY THE VISION 2036 PRESIDENTIAL TASK TEAM, JULY 2016, Published by LENTSWE LA LESEDI (PTY) LTD

environment that may be enjoyed by the private sector, while securing public-private sector partnerships that assist in achieving the nations targets so far as diversification, employment creation and prosperity are concerned in the given timelines. SEZs are thereby geared towards assisting in these mandates.

- ii. **Industrial Development Policy<sup>149</sup> and Competition Policy<sup>150</sup>**- these aim at effecting efficient and fairly competitive export based industrial and service sectors. The establishment of certain SEZs such as free zones which effectively reduces the cost of doing business will stimulate industry and thereby comply with these policies. SMMEs stimulation is also somewhat encouraged through these policies and SEZ development through growth of downstream industries, it is thereby only sensible that the government seek to exploit the complementary nature of the relationship of these policies and SEZ development.
- iii. **Policy on Small, Medium and Micro Enterprises (SMMEs)** – the revised policy aims at developing overall competitiveness of SMMEs and their business communities as this will enable their integration and linkage to major industries which are to engage in SEZ activity. Should this succeed the value chains of production would be enhanced and therefore the maximisation of the opportunity is desirable. <sup>151</sup>
- iv. **Science and Technology Policy for Botswana<sup>152</sup>** - Botswana continues to strive to be a knowledge based economy with high literacy levels. This policy is aimed at developing global competitiveness in research and knowledge development. The success of the policy allows for avenues of the growth of technology intensive industry and the active participation of the private sector in technological research and development. The policy and SEZ policy are in agreement as they share the common objective of investor attraction in non-traditional industries.

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<sup>149</sup> REPUBLIC OF BOTSWANA, GOVERNMENT PAPER NO. 3 OF 2014, INDUSTRIAL DEVELOPMENT POLICY FOR BOTSWANA, Ministry of Trade and Industry, Approved by the National Assembly on the 30th July 2014

<sup>150</sup> REPUBLIC OF BOTSWANA, NATIONAL COMPETITION POLICY FOR BOTSWANA, MINISTRY OF TRADE AND INDUSTRY, JULY 2005, GABORONE, BOTSWANA

<sup>151</sup> The New Policy on Small, Medium and Micro Enterprises, by Keith Jefferis (e-mail: [keithj@bidpa.bw](mailto:keithj@bidpa.bw)). Published by BIDPA,

<sup>152</sup> BOTSWANA NATIONAL RESEARCH, SCIENCE AND TECHNOLOGY PLAN FINAL REPORT, DECEMBER 2005 PREPARED FOR: Ministry of Communications, Science and Technology, Botswana



- v. **Botswana Land Policy**<sup>153</sup> - this comprehensive policy covers all aspects of land ownership and management in the country. This is inclusive of allocation, land use, planning, servicing, development and land information. The land policy is instrumental for SEZ success as they need land reserved in strategic locations for the development of economic zones.
- vi. **Botswana National Export Strategy**<sup>154</sup> **and Exporter Development Programme**<sup>155</sup>- these policies are aimed at assisting Botswana firms to develop adequately in order to meet international standards for export competency. They assist in the provision of not only financing but information relevant to the market and product attempting to reach the global market. As some SEZs act as economic laboratories they remain the best place to test and develop best practice methods to develop competitive production methods while entering new markets.
- vii. **Investment Strategy for Botswana**- this policy is aimed at creation of a conducive investment environment for all investors, with minimal to no discrimination or preferential treatment between either domestic and foreign investors to enable the success of businesses in Botswana. SEZs provide special circumstances for this policy as they offer unique incentives and privileges not offered through the economy thereby some preferential treatment is evident.<sup>156</sup>
- viii. **National Human Resource Development Strategy**<sup>157</sup> - the vision of this policy is to cultivate the nations human capital to be the most valuable resource of the country. The strategy is inclusive of education reform at all levels with a view to produce a labour force that is relevant to the modern industry skill needs and demands. It also aims to provide for internationally competitive labour which is highly skilled and technologically competent. This labour force is then ready to feed into the needs of all the SEZs operational when needed.

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<sup>153</sup> Parliament of Botswana on Thursday July 16 2015, adopted the National Land Policy which was first presented by the Minister of Lands and Housing, Mr Prince Maele

<sup>154</sup> REPUBLIC OF BOTSWANA, NATIONAL EXPORT STRATEGY 2009, Produced by the Botswana National Team with technical and financial assistance of the Commonwealth Secretariat and the International Trade Centre

<sup>155</sup> FINAL EVALUATION OF THE BOTSWANA EXPORTER DEVELOPMENT PROGRAMME (BEDP): 2013-2017 FINAL REPORT, 22 NOVEMBER 2018 By: Isaac Ndung'u, Decisive Aggregates (Pty) Ltd

<sup>156</sup> Investment Policy Review Botswana 2003, United Nations Conference on Trade and Development

<sup>157</sup> Republic of Botswana National Human Resources Development Strategy 2009-2022, Ministry of Education and Skills Development

Alongside these policies exists others which also positively contribute to SEZ success potential. However there is a wide range of laws and regulations which too may require attention as they restrict or control business practice should certain exceptions not be granted by the SEZ legislation. The development of SEZ legislation thereby needs to always be comprehensive and inclusive of all associated legislation.

#### **4.5.2 Botswana's SEZs External Policy Environment**

Trade Agreements entered into by Botswana have been entered into with trading partners on a bilateral, multilateral and regional level. These agreements outline various policy targets and affect the policy space which Botswana as a sovereign must put into consideration when establishing its SEZs policy. These agreements also have the potential of providing market access for SEZ outputs and may regulate the investments inputs into the economic zones. The most important of these agreements being the international and the regional level agreements such as the World Trade Organisation (WTO)<sup>158</sup> agreements and the recently established African Continental Free Trade Area (AFCFTA).<sup>159</sup>

##### **i. WTO and Botswana SEZs**

Although SEZs have a long history in international trade, they are not specifically disciplined in the World Trade Organisation (WTO).<sup>160</sup> Many developing nations have as of 2016 had to restructure their SEZ programmes to conform with the SCM Agreement.<sup>161</sup>

As a signatory of the WTO Botswana is duty bound to conform with a wide range established international trade principles which may affect the operation and management of SEZs and their outputs. National treatment and Most favoured Nation principles which demand equal treatment of all member trading partners and their

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<sup>158</sup> The World Trade Organization is an intergovernmental organization that is concerned with the regulation of international trade between nations. Botswana became a member in 1995 there are currently 164 member states.

<sup>159</sup> The African Continental Free Trade Agreement is a trade agreement which is in force between 27 African Union member states. It was signed in Kigali, Rwanda, on 21 March 2018. As of July 2019, 54 states have signed the agreement. Botswana signed the agreement in February 2019

<sup>160</sup> S Creskoff & P Walkenhorst 'Implications of WTO disciplines for special economic zones in developing countries' (2009) 8.

<sup>161</sup> UNCTAD (n 142 above) 7. See also Art XVI of GATT. This is also contain in the SCM Agreement (foot note 1) [http://wto.org/english/tratop\\_e/scm\\_e.htm](http://wto.org/english/tratop_e/scm_e.htm)

investors may from upon some of the incentives offered by SEZs as they may confer unfair advantages to investors. It is has been argued that the elimination of fiscal incentives and export level requirements leave economic zones WTO compliant.<sup>162</sup> The government must thereby rely on special and deferential treatment provisions and other exceptions on WTO texts in justifying SEZ incentives and activity.

In order to achieve true WTO compliance when setting up economic zones and their policies,<sup>163</sup> a member state must ensure that all measures likely to contravene WTO rules are identified and reviewed. WTO notification must also be prioritised in order to develop a schedule as to the elimination of inconsistent measures.

## ii. Regional Trade Agreements and Botswana's SEZs

RTAs and SEZs have a potential to promote regional synergies and value chain growth and distribution within the region.<sup>164</sup> RTAs also allow for more efficient management of spill over effects of infrastructural development as a regional industrial tool. RTAs do not come without burdens on SEZs as they may create conflicts and problems particularly with pre-existing trade partners.<sup>165</sup>

As a party to several regional and interregional agreements such as SADC free trade area,<sup>166</sup> SADC EC Economic partnership agreement.<sup>167</sup> Southern African Customs

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<sup>162</sup> JJ Waters 'Achieving world trade organization compliance for export processing zone while maintaining economic competitiveness for developing countries' (2013) 63.481 Duke Law Journal 502

<sup>163</sup> S Creskoff & P Walkenhorst 'Implications of WTO disciplines for special economic zones in developing countries' (2009) 36.

<sup>164</sup> S Woolfrey 'Special economic zones and regional integration in Africa' (2013) 125.

<sup>165</sup> N Koyama 'SEZs in the context of regional integration: Creating synergies for trade and investment' in T Farole & G Akinci Special economic zones progress, emerging challenges, and future directions (2011) 127.

<sup>166</sup> The SADC Protocol on Trade (2005), as amended, envisages the establishment of a Free Trade Area in the SADC Region by 2008 and its objectives are to further liberalise intra-regional trade in goods and services; ensure efficient production; contribute towards the improvement of the climate for domestic, cross-border and foreign investment; and enhance economic development, diversification and industrialisation of the region. <https://www.sadc.int/about-sadc/integration-milestones/free-trade-area/> (accessed 10/07/2019)

<sup>167</sup> The EU signed an Economic Partnership Agreement (EPA) on 10 June 2016 with the SADC EPA Group comprising Botswana, Lesotho, Mozambique, Namibia, South Africa and Eswatini (formerly Swaziland). Angola has an option to join the agreement in future. <https://ec.europa.eu/trade/policy/countries-and-regions/regions/sadc/> (accessed 14/07/2019)

Union (SACU),<sup>168</sup> the SACU-EFTA agreement<sup>169</sup> and the SACU-MERCOSUR Agreement.<sup>170</sup> These agreements are generally all aimed at the liberalisation and promotion of trade particularly intra-regional trade which is particularly low. The integration of member states into the global economy while developing and diversifying their economies through industrialisation of developing nations. The government of Botswana must therefore remain within the parameters of all these agreements in terms of obligations while creating a conducive business environment for the operation of SEZs.

#### 4.6 Human Rights and SEZs

SEZs are commonly known internationally for generation of controversy around human rights issues, labour standards and environmental standards.<sup>171</sup> As SEZs are used by host states to reduce unemployment and under industrialisation some of the incentives offered by zone policies may allow room for exploitation and abuse of the basic minimum standards of issues such as the environment and human rights. MNEs are always looking at cost reduction measures and this may lead to the race to the bottom to minimise labour costs while remaining competitive in the global market.<sup>172</sup>

Poor working conditions are not uncommon in traditional SEZs due to this race to the bottom particularly as certain freedoms such as that of association are restricted in SEZs operational in certain countries.<sup>173</sup> The protection of basic standards in terms of rights remains a challenge in most SEZs due to poor enforcement mechanisms in the systems.

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<sup>168</sup> As the world's oldest custom union, the Southern African Customs Union (SACU) dates back to the 1889. The Southern African Customs Union is a customs union among five countries of Southern Africa: Botswana, Lesotho, Namibia, South Africa and Eswatini. Its headquarters are in the Namibian capital, Windhoek. It was established in 1910 <http://www.sacu.int/show.php?id=394> (accessed 16/07/2019)

<sup>169</sup> Geneva – The Free Trade Agreement between the Member States of the European Free Trade Association (EFTA) - Iceland, Liechtenstein, Norway and Switzerland – and the Southern African Customs Union (SACU – comprising Botswana, Lesotho, Namibia, South Africa and Swaziland) entered into force on 1 May 2008

<sup>170</sup> The Southern Common Market (Mercosur) consists of Brazil, Argentina, Uruguay and Paraguay. ... The SACU-Mercosur agreement was signed in December 2004 and was the first agreement that SACU concluded in accordance with the provisions of the 2002 SACU Agreement. <https://www.tralac.org/resources/by-region/sacu.html> (accessed 20/07/2019)

<sup>171</sup> W Milberg & M Amengual 'Economic development and working conditions in export processing zones: A survey of trends' (2008) 3.

<sup>172</sup> P Gibson et al 'Assessment of the impact of export processing zones and an identification of appropriate measures to support their development' (2008) 37.

<sup>173</sup> Examples of such Countries are China and Nigeria. Milberg (n 48 above) 33.

#### 4.7 Legislative and Regulatory Frame work of SEZs

This aspect of SEZ development is one of the most instrumental. Although great legislation and regulation do not agree SEZ development, it is difficult to sustain a long term economic zone programme in the absence of good laws and regulation.<sup>174</sup> These laws and regulations are the first steps at realisation of SEZ objectives and therefore should be at the very least comprehensive, transparent and accessible.<sup>175</sup> The adaptability and flexibility of legislative and regulatory frameworks is also important as the need to evolve with changing policy needs.

In line with the regulatory and legislative requirements of a successful SEZ system, the Botswana regulations are clear particularly as per the Special Economic Zones Act (SEZ Act).<sup>176</sup> The roles, rights and obligations of different stakeholders particularly developers, operators, government and regulator are provided for and outlined in part to prevent duplicate duties and to ensure that all stakeholders are aware of their rights and obligations while guaranteeing accountability.<sup>177</sup>

The establishment of the Special Economic Zones Authority (SEZA) in Botswana empowers it as a zone regulator to enforce and manage SEZ law with the power to sanction thereby holding stakeholders accountable. It also allows for a clear indication as to the power of the regulator when dealing with incentives, development of standards, location and many other factors which need to be addressed for SEZ development. This authority may be ideal for the streamlining of administrative procedures which reduce bureaucratic measures which reduce the efficiencies of business.

One of the most provisions of the act is provided for under section 38 of the SEZ act, this deals with dispute resolution which is always a hurdle in commercial transactions. The clear provision of dispute procedure allows for a certain level of certainty which is

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<sup>174</sup> R Kirk Special economic zones and economic transformation - Maximizing the impact of the special economic zones program in Mozambique (2015)

<sup>175</sup> Kirk (n 172 above) 7.

<sup>176</sup> Special Economic Zones Act, No 13 of 2015

<sup>177</sup> [http://www.minicom.gov.rw/fileadmin/minicom\\_publications/policies/SEZ\\_Policy\\_Cleaned\\_.pdf](http://www.minicom.gov.rw/fileadmin/minicom_publications/policies/SEZ_Policy_Cleaned_.pdf) (accessed 4 August 2019).

very appealing to investors and may allow for investors to be prepared to take the risk of investing in Botswana due to the security and certainty offered.

#### **4.8 Botswana's SEZ Act**

The Special Economic Zones Act (SEZ Act) was put in place ' for the provision for the establishment, development and management of SEZs; for creating a conducive environment for local and foreign investment; to facilitate expansion of employment opportunities, attainment of economic growth targets and provide for related and incidental matters'.<sup>178</sup> The act like other similar ones in the region has the objective to promote the production and processing of goods targeting foreign markets, mass employment creation, export capital growth, technology and skill transfer.<sup>179</sup>

Section 2 of the SEZ act defines a SEZ as an area of land established under section 29 of the act. It is through these two sections that a clear description of a zone is derived without leaving room for ambiguity. This section similar to other interpretation sections in other legislation refers to other provisions in the act as aids of interpretation allowing for more detailed attempts at interpreting key areas of the act. This however does not fully provide cover for the shortcomings of the limited interpretation of key factors or allow for flexibility in interpretation as the law continues to evolve in this particular area.

The establishment of SEZA alongside its conferment of separate legal personality afford the authority a sense of accountability as stakeholders are fully aware that they have direct channels of remedy should the need arise.<sup>180</sup> This is particularly important as SEZA is conferred with powers that could fundamentally affect SEZ operations. The accountability of a decision making body is pivotal in investor attraction as it also speaks to the mechanisms available for dispute resolution.

The objectives of SEZA are also statutorily pre-determined and mandated by the act.<sup>181</sup> It is arguable however that these objectives may remain restrictive if not regularly revised as SEZs evolve with the times. SEZs are know to evolve faster than

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<sup>178</sup> Long title to SEZ Act

<sup>179</sup> Section 4 of SEZ Act

<sup>180</sup> Section 3 SEZ Act

<sup>181</sup> Section 4 of SEZ Act

their founding policies and legal frameworks and should therefore be regulated by frequently updated legal regulations and frameworks. Activities which fall outside the strict confines of SEZs although affecting SEZ operation may not be provided for by the objectives of this act. Objectives alongside functions provided for under section 5 of the act are not truly exhaustive and the act should provide for this factor, the failure to do so hinders its effectiveness in the long run.

The Minister of Trade and Industry, in collaboration with other relevant ministries such as the Minister of finance shall have appointing power in terms of the act and overall oversight over the work of SEZs. The act also specifically makes provision for the establishment of the body which will be in charge of the day to day administration of all economic zones being SEZA.<sup>182</sup>

The appointment of Board of directors appointed to provide oversight for SEZA as per section 7 of the act shows an unfortunate reality of limited independence of the board. This is evident as government ministries hold a majority of the appointing power and a shocking ignorance of the interests of private stakeholders directly involved in SEZ operations. This position by the legislation may also allow room for conflicting interests to play a part in the decision making structures of the authority. Mismanagement and abuse of office may also be more profound where unfettered responsibility and powers are granted to the minister to interfere or regulate the activities of the board as seen in section 9 of the act. However the rotation of board members through the non-permanency of their appointment may be seen as a positive as new members may provide refreshed vigour and fresh perspectives and ideas to the table.<sup>183</sup> The statutory character capacity tests laid down under section 11, minimise the risks of the board as it is guaranteed that not only are said members relatively qualified they are also of sound mind and status befitting the positions they hold. The section further attempts to exclude membership to potentially conflicted candidates which is highly desired to avoid potentially corrupt practices.

As membership to the board is not a lifetime appointment the act makes provision for the vacation of its office. The act also ensures that members associated with the board remain active and thereby are not allowed to 'sleep on the job' which is essential to

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<sup>182</sup> Part II, particularly Section 3 and 4 of the SEZ Act

<sup>183</sup> Section 10 of SEZ Act

ensure that the authority is not rendered obsolete.<sup>184</sup> The continuity of the board is also safeguarded as clear steps are set out to fill any vacancies that may arise from board membership.<sup>185</sup> The determination of remuneration for members similar to their appointment being determined by the minister further stresses the lack of independence of the board as this exposes in to both financial and political influence. Any form of external influence must be eliminated to guarantee freedom of operation for the board.<sup>186</sup> Although the independence of the operations of the board is not statutorily mandated it does exist in principle. The criminalisation of any act of concealing conflict is also commendable although the sanction of a mere two thousand pula may need to be reviewed as culprits are likely to make much more from their actions.

Confidentiality which is a key in the business community is also safeguarded by the act to provide confidence to the various stakeholders involved in SEZ operation.<sup>187</sup> This protection may be lauded for protection of trade secrets but must be closely monitored to avoid exploitation of the practice to avoid accountability. Committees of the Board which allow for the use of experts as provided for in section 20 allow for a specialised division of labour while guaranteeing efficiency.

The day to day operations of SEZA are spearheaded by a Chief Executive Officer (CEO) whose appointment is governed by a very illustrious section within the act making provisions for an ideal candidate, ensuring the authority is well led at all times.

Financial provisions of the act can be arguably be deemed as vague and subject to manipulation particularly when dealing with sources of funds.<sup>188</sup> This may be considered a risk factor by most investors. Although accountability is promoted through audits this may be seen as dissatisfactory to investors who may also wish to have statutory enforcement mechanisms put in place.

The core function of this Act is seen in Part VI of the Act which establishes SEZs this is a very comprehensive portion of the Act which may need to be simplified for the

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<sup>184</sup> Section 12 of SEZ act

<sup>185</sup> Section 13 of SEZ Act

<sup>186</sup> Section 15 b of SEZ Act seems to allow for a limited level of conflict allowing members to hold 5% share capital of companies operational in economic zones.

<sup>187</sup> Section 18 of SEZ Act

<sup>188</sup> Part V of SEZ Act



benefit of stakeholders who may not be conversant with the legal language of the act. The act also makes provisions for admission to operate within the zone to licencing by the authority in charge and the procedure to be followed in obtaining said licence.<sup>189</sup> The minimum requirements to operate in the zones are comprehensively outlined under the act, allowing investors to be fully aware of what is required of them when operating in the zones.<sup>190</sup> The requirements seem to suggest that the authority is at liberty to reject proposals for SEZ operations which may pose a danger to the environment, produce illegal materials and goods, fail to provide adequate employment and fail increase national exports.

Similar to traditional SEZs incentives are offered to investors however the act does not specify them or their extent allowing for the authority through its board and the minister to be responsible for them, the vagueness in this process may not be ideal to the potential investor.

Section 35 of the SEZ Act allows for the authority to confer administration duties or management duties of a SEZ to a zone management company. The act however is deficient in establishing the pre-requisites of such a company to be conferred such duties which may result in inadequately qualified and experienced companies being granted such sensitive duties.

In an ideal situation of an investor-host state dispute, independent third parties are meant to impartially settle the issues.<sup>191</sup> In accordance with the SEZ Act of Botswana, disputes between investors and the authority are to be negotiated failing which they may then be referred to the High Court for litigation. Botswana's judiciary has been viewed as independent from political interference and therefore this may be reassuring to investors globally with the courts being given jurisdiction over disputes within the zones.<sup>192</sup> It is clear from the act that not enough is said in the act in relation to the settlements of disputes as per section 39. There may with time also arise the need for specialised tribunals dealing particularly with SEZ affairs. The use solely of the current methods may not bring about investor confidence as there are many incidents

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<sup>189</sup> Section 31 of SEZ Act

<sup>190</sup> Section 32 of SEZ Act

<sup>191</sup> M Sornarajah The international law on foreign investment (2010) 208.

<sup>192</sup> <https://www.state.gov/reports/2018-investment-climate-statements/botswana/> (accessed 2 August 2019)

internationally where the courts have found against the state in investor related disputes further giving credence to the promise of impartiality.

#### **4.9 Conclusion**

The above chapter establishes that there are various components that affect the possible outcomes of SEZ programmes with a particular focus on the potential of Botswana SEZs. Therefore SEZ programmes must be all encompassing while having regard to the interests of all stakeholders and policies. This must be done however without creation of overzealous structures which may offer toxic incentives which harm the economy and the programme in the long run.

As a tool implemented by some governments to address growing economic development constraints, SEZ programmes require great attention particularly at a policy and legal framework level. As seen in the framework and policies underpinning SEZ operation in Botswana, it is clear that the programme has the potential to live up to expectation due to clear support for economic diversification by almost all related policies and legislation. The attraction of investors to curb unemployment while aiding development of skills and technology is instrumental in the nations developmental goals.

Impediments to the success of SEZs in Botswana such as conflicting laws, over generous incentives which may detriment the society and inconsistencies with multilateral trade agreements must be adequately addressed to guarantee the continued support of the programme. Through this implementation it must never be forgotten that the SEZ programmes do not offer final solutions but inly aim to aid the acceleration of developmental programmes if implemented effectively.

The Botswana SEZ Act although containing some positive provisions which may assist in the development of zones in the country, has several uncertainties. These are regarding some procedures, incentives and criteria employed by the government in its processes and decision making. This not only opens the government for a litigious administration of SEZs but also discourages investors as the absence of stability thwarts the attractiveness of SEZs.

It must not be forgotten that SEZs are an extremely complex venture which require various factors working collectively for them to be successfully operational. Context specification is vital in planning successful operation particularly as the peculiarities of the economy are ever evolving, the policies remain the most flexible way to address economic and socio-economic needs efficiently.

## CHAPTER 5

### THE COMPOSITION OF SEZS

#### 5.1 Introduction

It is apparent from a study of SEZs that they have great potential in yielding desired results. Their contribution to global development and global exports is significant leading to a clear indication of their success globally and not only in third world developing nations.<sup>193</sup> SEZs in some countries have been lauded for their transformative effect on national economies however unfortunately in some countries have been embarrassing failures. Policy and framework deficiencies are largely responsible for the failures of SEZs making the design and strategy drafting stage of SEZs the most significant in their life span. The will power of a nation's government to commit to SEZs to see through their success and reap the benefits from their success. Factors which affect SEZs must therefore be addressed alongside the SEZs themselves.

#### 5.2 The public and private nature of SEZs

Initially, SEZs were solely government funded and operate projects aimed at promotion of FDI that would benefit a particular country and gain the government political mileage while gaining the government benefits with accrue from the zone successes. The Caribbean and Central Americas were the first regions in the 1980s to test out privately developed SEZs which were in direct competition with the government owned SEZs.<sup>194</sup> The excessive regulation and gross inefficiencies rendered government run SEZs open not only to failure but to competition from privately owned ones. A growing percentage of SEZs globally are owned by private developers seeking to reap the benefits of international trade and investment.

Private zones however should never be left to run unchecked as the risk of abuse is evident. Extreme demands for infrastructure, incentives, facilities and services may

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<sup>193</sup> C Baissac "The Purgatory of SEZ Project Initiation, Planning and Programming" (2011) 13.

<sup>194</sup> M Murray "A Survey of Special Economic Zones" (February 2010)

render some SEZs too expensive to maintain or not worth the trouble thereby the government must ensure to regulate these strictly. Should these services be too badly abused there also exists the potential of the communities they are meant to serve turning against them prompting them to be disallowed or banned.<sup>195</sup> These challenges could be addressed however by placing zones in areas with pre-existing infrastructure to reduce government costs in their running.

The willingness to invest by private parties in SEZs has allowed for the formation of more efficient and high end zones. This is more likely to draw in investors as these zones are usually configured to better suit the needs of the investors. This reality also effectively means as their demand is higher the cost of operation in these zones is slightly higher due to the level of activity in the zones. The importance of location on zones programmes cannot be understated as this determines expenditure at the foundational stages of zone development.

Public-private partnerships have shown clear benefits, especially when implementing zone policies. The joint venture model offers the best practice advantages from both sides of the partnership, private partners being more efficient management practices while public stakeholders being more prepared to fund investment attracting practices.<sup>196</sup> Government partnerships are also very effective in reducing the bureaucratic red tape which comes with setting up any enterprise such as land acquisition and zoning.<sup>197</sup> The security and certainty offered by partnerships with the government may also increase the certainty which will surely draw in investors.

### **5.3 Acquisition of land**

In most African nations the issue of land is a rather contentious one, therefore any programme or policy which may result in the displacement of some citizens must be carefully addressed. Displacement is therefore a major issue for SEZs as large areas

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<sup>195</sup> Ibid. 6.

<sup>196</sup> Coenrad Muller Scheepers, A CASE STUDY FOR SPECIAL ECONOMIC ZONES IN SOUTH AFRICA AS A MEANS OF ATTRACTING FOREIGN DIRECT INVESTMENT, LLM Dissertation, University of Pretoria, 2012

<sup>197</sup> The Pomeranian Special Economic Zone is a unique SEZ development in Poland that has been created using an assemblage of public land and existing infrastructure along with new private construction by global investors.

of land are required, this may affect the livelihood of those individuals who had previously occupied the land. The acquisition of land is therefore likely to present with several issues:

- i. Land acquisition through exploitative means may disenfranchise the initial owners of the land leading them to sell at prices which cause losses to them.
- ii. Farmers, particularly subsistence farmers are likely to lose their source of livelihood as they have no means to continue farming in other areas of the country.
- iii. Meeting the minimum skill and technological needs to operate in SEZs almost certainly bars original occupiers of the land from exploiting its new developments and incentives.<sup>198</sup>

Under international law there are no fixed standards on compensation for expropriation making it a very controversial issue without an international agreement binding states to a fixed standard.<sup>199</sup> A trend has emerged however for the adoption of the Hull Formula which calls for prompt, adequate and effective compensation as it offers higher standards of protection.<sup>200</sup>

#### **5.4 Environmental considerations**

It times where global warming and environmental degradation are topical issues, it is common cause that keeping to international standards is also a fairly expensive and timeous endeavour. Alongside other incentives offered loosened regulation on environmental affairs may be attractive to some investors and also host nations who need not spend on oversight. Profitability has in most cases taken precedence over environmental protection which most environmentalists critique as a dangerous precedent to set.

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<sup>198</sup> Coenrad Muller Scheepers, A CASE STUDY FOR SPECIAL ECONOMIC ZONES IN SOUTH AFRICA AS A MEANS OF ATTRACTING FOREIGN DIRECT INVESTMENT, LLM Dissertation, University of Pretoria, 2012

<sup>199</sup> M Sornarajah The international law on foreign investment (2010) 208.

<sup>200</sup> SH Nikiema 'Compensation for expropriation' (2013) 10.

The government of Botswana has outlined the need for comprehensive environmental protection and comprehensive rehabilitation should any projects undertaken become non-viable. As a signatory several environmental protection agreements, several new legislation has shown the country's commitment to the international plight of environmental protection.<sup>201</sup>

## **5.5 Social considerations**

The cannibalisation of surroundings can be a consequence of SEZ development leading to the diversion of valuable resources into the SEZ, this diversion may deprive those operating outside the zones without adequate survival means.<sup>202</sup> SEZ development aimed at targeted industry may assist one sector of the economy leading to its prosperity while negatively affecting others.<sup>203</sup>

Social service provision by the government is also duly affected by SEZ development, in most zones these services seem to lag behind. Underdeveloped rural zones are more likely to fall victim to this predicament as they fail to fulfil their sustainable developmental goals and attract high quality investment.<sup>204</sup>

## **5.6 Labour considerations**

Consistency with ILO standards must be a prerequisite for SEZ development, this is particularly the case as experience internationally has shown that zone competitiveness is no longer directly linked to derogation from employment standards. The quality and productivity of employees is more important as it has been shown to yield better quality results.<sup>205</sup>

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<sup>201</sup> REPUBLIC OF BOTSWANA, SPECIAL ECONOMIC ZONES POLICY FOR BOTSWANA, MINISTRY OF TRADE AND INDUSTRY, September 2010, GABORONE, BOTSWANA, Industrialization, Diversification and Export Development for Global Competitiveness

<sup>202</sup> Ibid.

<sup>203</sup> FIAS (2008) 2.

<sup>204</sup> DZ Zeng 'Global experiences with special economic zones with a focus on China and Africa' (2015) 4.

<sup>205</sup> 1FIAS 'Special economic zones: Performance, lessons learned and implications for zone development' (2008) 1

The harmonisation of ILO standards and national legislations dealing with labour and employment issues must thereby be prioritised when drafting policy. SEZs in their creation of employment have been credited for assisting in poverty alleviation. Economic zones are a viable source of employment creation especially when looking at the trickle down benefits of zone prosperity.<sup>206</sup>

## **5.7 Infrastructure investment**

FDI attraction has always coincided with the access to quality infrastructure.<sup>207</sup> The location of the infrastructure must also be adequately managed as it has crucial cost implications. It goes without saying that zones near ports, roads and airports with adequate access to water and electrical sources are more likely to require minimal funding.<sup>208</sup> This is particularly important as SEZ development is financially straining.

There must be a guaranteed return on the investment put in by SEZ developers particularly due to persistent race to the bottom by investors.<sup>209</sup> With this in mind it is therefore best practice to assign the responsibility of infrastructure management to an independent unit which would support its efficient running.

## **5.8 Incentive packages**

Fiscal incentives and tax policies play a large part in investor attraction. Packages which offer fiscal incentives in SEZs almost universally include amongst other benefits, tax breaks, reduced tax rates, import and export duty waivers and other indirect tax abatements.<sup>210</sup> Once investors are lured the nation's industrial base is substantially improved.<sup>211</sup> Conclusive evidence is yet to be obtained linking fiscal incentives solely with FDI attraction in specific countries.<sup>212</sup>

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<sup>206</sup> Brand (2002) 2

<sup>207</sup> T Farole 'Special economic zones: what have we learned' (2011) 2

<sup>208</sup> FIAS (n 49 above) 57.

<sup>209</sup> Ibid.

<sup>210</sup> FIAS (2008) 34.

<sup>211</sup> C Haywood and M Ouya "Economic Processing Zone Incentives and the WTO Agreement on Subsidies and Countervailing Measures" (2001).

<sup>212</sup> B Pangioti, 'Effects of Tax incentives on Investment decisions of Transnational Enterprises in an integrated world: A literature review' 3 <http://www.eefs.eu/conf/athens/papers/607.pdf> (accessed 21 March 2019).



Fiscal incentives must co-exist with several other important factors such as infrastructure, socio-political stability, good governance, economic stability and streamlined procedure in order to attract FDI and produce spill over benefits.<sup>213</sup> Natural resource availability and skill availability, which are amongst some of the more tangible factors when determining investment viability are more likely to attract investment that subordinate incentive packages.<sup>214</sup>

## **5.9 Technology transfer and information exchange**

SEZs are known for leading to technology transfer and information exchanges into the domestic market.<sup>215</sup> Mechanisms for the flow of information within supply chains and value chains strengthen the link between zone investors and local enterprises. SEZs improve industry focus on technology enhancement through provision of research and development resource allowing the production of more advanced end products.<sup>216</sup> Partnerships with local firms by SEZs investors are potentially instrumental when attempting to increase a nations trade footprint globally.<sup>217</sup>

The massive potential benefit of technology transfer from foreign firms can only benefit companies in developing countries as this may uplift standards in said host nations.

## **5.10 Government revenue**

A frequently cited benefit of SEZs which emanates from increased trade are the increases in foreign exchange from FDI and exports.<sup>218</sup> Foreign exchange earnings linked directly with economics zones ease the burden on states particularly low income ones allowing them to source other inputs beneficial to the rest of the economy.

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<sup>213</sup> Morisset & N Pimia 'How tax policy and incentives affect FDI: A review' (2000) 22  
<http://213.154.74.164/invenio//record/12651/files/morisset.pdf> (accessed 21 March 2019).

<sup>214</sup> UNCTAD 'Tax incentive and foreign direct investment: A global survey' (2000) 11.

<sup>215</sup> M Engman, O Onodera & E Pinali 'Export processing zone: Past and future role in trade and development' (2007) 10.

<sup>216</sup> Ibid

<sup>217</sup> Coenrad Muller Scheepers, A CASE STUDY FOR SPECIAL ECONOMIC ZONES IN SOUTH AFRICA AS A MEANS OF ATTRACTING FOREIGN DIRECT INVESTMENT, LLM Dissertation, University of Pretoria, 2012

<sup>218</sup> Engman et al. (2007) 25.

Botswana's SEZ policy has shown the potential benefit of SEZs to the income of the government, stretching from income taxes to foreign exchange earnings particularly important to the country as a developing nation.

### **5.11 Conclusion**

The implications that coincide with SEZ development and operation are not exhaustive. These implications must never be ignored this could lead to dangerously disastrous consequences. The SEZ programme must be developed by stakeholders willing to preserve the capacity to stick to their original goals leading to a more effective zone programme.

There truly exists no perfect system in any environment and SEZs are no exception to this credence. Consistent policy reforms, coordination and collaboration between all stakeholders are essential in keeping these zones relevant and effective. The failure of some zones has been attributed to the failure to keep track of the evolution and changing needs of the zones alongside the changing needs of the international market. The global revitalisation of SEZ infrastructure and introduction of better standards and goals will allow for benchmarking and skill transfer which stands to benefit every investor in the zone. Economic growth due to SEZs is not automated and therefore the right policies are necessitated while remaining relatively dynamic to accommodate changes in the business environment keeping the zones relevant.

## CHAPTER 6

### CONCLUSION AND RECOMMENDATIONS

#### 6.1 Introduction

The uniqueness of each country particularly in terms its trade policy and structures is apparent. The country's independent ability to capitalise on its own laws, customs, resources, trading partners and trade practices make it difficult to recommend a single blanket policy for the effective and financially viable SEZ programme. Several SEZs have been successful globally while some have been unfortunate failures. Benchmarking from the positives of SEZs which have succeeded may assist in the development of more comprehensive policies more suitable and likely to succeed in a more competitive global economy. In their role as economic development and diversification tools, the impact of SEZs cannot be understated, they can therefore assist economic transformation by spearheading reform if correctly implemented. The government of Botswana must therefore be very careful in its use of the zone programme should they wish for it to succeed.

The study has established that SEZ development and operation is based on a desire to attract FDI through a radical improvement of the investment climate by the host state. It is further established that SEZs attract FDI through the provision of specific incentives, which are unique to SEZs. The efficient use of the SEZs programme therefore as both a legal and economic tool with developmental advantages may see Botswana benefit greatly from the resultant effects of the zones.

#### 6.2 Recap of the research question

This study was aimed at reviewing the Botswana SEZ policy and legal framework as a policy instrument for FDI. This was necessitated by the government's decision to develop SEZs alongside other investment attraction mechanisms which have seemingly failed due to the country's current law investor attraction in comparison to regional trade partners.

The study attempted to address key issues likely to affect the outcome of the SEZ policy framework and establish whether collectively these would succeed. The competitive nature of both the legal framework and the policies were also evaluated to further analyse their potential to assist in the estimation of the eventual outcome of the zone programme once it is made fully operational.

### **6.3 Summary of finding**

Chapter 1 set the pace of this study introducing the subject matter while highlighting the research problem and questions being the SEZs ability to attract FDI in a middle income African country of Botswana.

Chapter 2 examined the theories of FDI, discussing their various opinions on the matter without placing any of these in any order of superiority. The chapter showed the extensive need for research on the subject for the benefit of stakeholders who seeks to apply any information relating to investor attraction. The chapter also outlines FDI attraction in Botswana and the trends, policies and regulations affecting it the country. There are findings regarding the inadequate FDI attraction and the probable causes of this fact by the country as a whole. The chapter concluded by showing the relationship between all the theories and the application of their interdependency.

Chapter 3 outlined the concept of SEZs, this take into account several consideration including the types and ranges. The concept of SEZs exist in various forms such as FTZ,EPZ, EZ and SZ among others which exist to serve various objectives.

The key objectives of SEZs are thoroughly addressed in the chapter which is primarily to open up opportunities for FDI and benefit from the trickle down benefits of the zones. The chapter showed the characteristics of the major economic zone types, their various investment attraction mechanisms and incentives. The chapter also addresses some major SEZ programmes in the African Jurisdictions and shows the key focal points in terms of their successes and failures. There is a clear indication that some of these states use their more advanced desires to utilize zones as policy reform instruments while benefiting from increased economic ties with other countries. The chapter concludes in finding that SEZs are indeed effective tools for their intended goals particularly investor attraction and economic diversification. There is evidence

that policy and framework strength and alignment are important in addressing particular goals.

Chapter 4 of the study focused on the main issue at hand, addressing the country of focus being Botswana. The chapter dealt with the various components of the programme in Botswana and all those factors that affect SEZs policy successes and failures. It is apparent from the observation of Botswana's SEZ programme that several pivotal factors affect effective zones, all-encompassing and inclusive frameworks are most likely to succeed. The chapter covers the economics behind zones and how various factors may influence the structuring of the zones. It is clear from this chapter that SEZ frameworks must be all encompassing particularly when looking at other supporting policies in order to protect and benefit all stakeholders. This chapter elaborately showcases the SEZ legislation in place in Botswana, its pitfalls and strong points which are important on improving the investment climate of the country.

Chapter 5 dealt with miscellaneous issues surrounding SEZs internationally. These issues have been found to be very volatile in terms of their end results should they be mismanaged. The strength of an SEZ programme can therefore be found only in its ability to remain true to its objectives when it faces challenges. It is shown in this chapter that the flexibility of SEZ policy may be instrumental in its success to ensure they remain relevant. The chapter concludes in finding that SEZs cannot exist in isolation and must be assisted by adequate policies. The chapter finds that factors affecting SEZs are not exhaustive and the implications are not to be ignored. As no perfect fault free system can exist it is in the best interest of stakeholders to assist in zone development by optimising the efficiency of every factor.

The final chapter concludes the paper giving an overview and providing recommendations for reform and improvement.

## **6.4 Conclusions**

This study addressed the subject matter of FDI and their interdependence. There is also an examination of factors surrounding SEZ policy and framework. The objectives of the state and other stakeholders when running SEZs have various implications in terms of planning their success. A case is made for the potential success of Botswana

SEZs as seemingly all the factors for success are available to the government and thereby in administering the zones the authority in charge could be the determining factor as to whether the zones become a success story like others globally. Minimum standards observed in the state such as environmental and labour factors must also be safeguarded not only to protect the society the zones operate in but also as their reduction no longer directly attracts investment. It is clear that new factors which relate more to the trade environment of a host state are more likely to attract investors in a more advanced trade and investment period.

As SEZs clearly work with due regard to even the failed case studies and are instrumental in reaching developmental goals. Extensive knowledge sharing by the stakeholders and their interests is also pivotal in the success of the zones. Incentives which clearly also assist in investor attraction require the same attention to detail as investor specific incentives are more likely to be successful. It also important to ensure that in running zone development a comprehensive cost benefit analysis is conducted to ensure expectations do not surpass ability. Operation through exercising best industry practice is more likely to assist in successful SEZs programmes run by the appointed authority.

In light of the foregoing, it is established that countries must be fully aware of all the fundamentals of the operations of SEZs in order to thrive and achieve desired objectives. It is also expedient to be creative in incentive design as management of available resources is also critical to zone development success. SEZs are indeed complex ventures that require comprehensive legal and regulatory framework, policy considerations, institutional and management framework alongside fiscal incentives which are context specific to work collaboratively in the success of the zones.

The Botswana Zone programme is in need of immediate attention and comprehensive review to insure that it becomes globally competitive as other factors particularly those affecting the country's position as an investment destination are satisfactory. These changes may need to be addressed immediately before the zones enter their full operational capacity.

## 6.5 Recommendations

It is essential that Botswana in implementing its SEZ absorb all amendments and recommendations which will assist its competitive progression in the global market. Botswana must as quickly and far as possible, streamline and collaboratively harmonise regulatory and policy frameworks to ensure that bureaucratic processes associated with zone development are simplified and rendered more efficient. The centralisation of similar processes such as issuance of permits and licences should remain be prioritised to further improve turnaround time for set up times.

Private sector participation in zone operation and development must be encouraged to reduce the financial burden of the zones on the government. As zone success will also benefit the local private sector particularly in industries linked to zones activity, the private sector should be well informed in zone operation for the optimisation of these trickle down benefits. Private management of zones has been noted as per the national legislation however the enabling law needs to be amended to ensure that the law clearly denotes the rights, obligations and privileges of such entities.

In an effort to remain compliant with prior multilateral agreements and conventions, the incentives particularly fiscal incentives offered need to be adequately reviewed to ensure compliance. The harmonisation of benefits such as tax exception across similar industries regardless of zonal placement can assist in this regard. This however must be done with careful consideration that the zone incentives are not rendered nullified as this may bring about disputes at an investor state level. Regular review of all incentive packages must be carried out while also incorporating sunset clauses for some of these incentives as them running in perpetuity may be harmful to the economy and leave room for exploitation.

Although the makeup of the SEZA board is seemingly well representative of the stakeholders, it is preferable that representation of the private actors in the zones be granted. The powers of the authority must also be checked as excessive involvement in zonal management or development will trigger conflicts of interest. There must be a true separation of roles between an operator and a regulator to guarantee an even playing field for all parties involved.

It is apparent therefore that there is an immediate need for some form of review of relevant policies and regulations relating to the SEZ programme in Botswana. Legislation and policy flexibility is an essential for zone development to enable them to adapt to changing economic conditions and investor and host state needs. It is clear from a comprehensive examination of the SEZ Act that a comprehensive overhaul will be necessary in the near future not only to adopt international best practice but also to further the interests of SEZs in the country.

The design of an apparent master plan affecting all stakeholders of the zone programme is important for the progression of the programme to give a sense of direction to the parties involved.

A strong and effective collaboration between institutions of government at different levels which has yet to be established through policy or law needs to be established as a matter of urgency. The government must look towards creation of a platform which will streamline the processes while allowing for effective communication and other aspects of the zones such as location and land acquisition, infrastructure development and financing.

As competitiveness in an advanced global economy is not in numbers but output, the quality over quantity approach towards investor approval must be taken into consideration when licencing. As SEZs are not only placed to attract foreign capital there must be more emphasis to ensure the attraction of desired businesses and desired human capital. The clarity need not only focus on the investor but also market provision particularly utilisation of bilateral and multilateral investment treaties for provision of a market for goods produced. The local market and economy benefits must also be guaranteed through agreements with investors.

It is clear that Botswana has the potential which it must undoubtedly hone to effectively use SEZs. However there is room for improvement in terms of legislation and policy framework that governs them. The challenges that SEZs are faced with in Botswana are not insurmountable and the alignment with international best practice may be key



in overcoming all challenges faced. This is essential as the country faces growing pressure to develop and diversify its economy.

Even with the best SEZ policies and legislative frameworks internationally it must be concluded that these need to be complemented by other factors ranging from the administration of these policies to the general business and investment climate of the country. At the development and inception stage of its SEZ programme Botswana must capitalise on the opportunity to benchmark from successful internationally acclaimed zones in order to get right from the very beginning the most strategic approach to the zones to ensure its smooth implementation.

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