



National Centre for Development Studies
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China Paper 91/7

Special economic zones in China

The administrative and regulatory framework

David Wall

Research School of Pacific Studies

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This paper was presented in Xiamen in September 1991, at a seminar held to conclude a collaborative project of the Institute of Economics of the Chinese Academy of the Social Sciences, the Xiamen Economic Information Centre and the National Centre for Development Studies of the Australian National University.

Research staff worked in association with staff from the School of African and Asian Studies, Sussex University and the Economics Division of the Research School of Pacific Studies at the Australian National University. Chinese research scholars at the National Centre for Development Studies contributed.

Xiamen Economic Information Centre was responsible for arranging data collection in China. The National Centre for Development Studies arranged data collection in Australia in association with the International Economic Data Bank.

With some financial assistance from the United Nations Development Program and the Australian International Development Assistance Bureau, a series of field trips and workshops were held in Australia, China, Hong Kong, Indonesia, Malaysia, Singapore and Thailand, as part of the project. Activities in China were hosted by the Xiamen Economics Information Centre.

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This series is intended to provide prompt preliminary distribution of new work on China's reforms and economic growth. All papers issued in this series have been formally refereed. The views expressed in this Working Paper are those of the author and should not be attributed to the Economics Division.

Key to symbols used in tables

- n.a Not applicable
- .. Not available
- Zero
- Insignificant

Printed in Australia by Socpac Printery

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David Wall

對於一個計劃經濟體系來說，某些政策的改變可以比全面引進市場機制更為激烈些。這也正是中國建立經濟特區的本意。建立一套確實可行的管理體系，以及確保該體系行之有效的一系列行政措施和法規建設並不是一件輕而易舉的事。本文旨在探討中國經濟特區，現行的管理體系是否合適。

從全球經驗看，經濟區的規模大小不一。規模大的如香港，以全島為經濟區，其次有一些隔離式的工業區，規模小的有單個的保稅倉庫或工廠，甚至僅僅是工廠的某個車間。不同的經濟區有不同的管理體系和法規，這些法規具體規定了哪些廠商可以在區內設廠經營，區內可以從事哪些經濟活動，以及這些廠商應該做些什麼才能符合其特殊的身份。大多數經濟區都鼓勵面向出口的生產。雖然經濟區規模大小不一，但人們通常都稱它們為出口加工區。

中國經濟特區的法規建設是模擬其它國家的出口加工區的，但中國經濟特區還包括另外一些目標，這些目標往往是與出口目標相衝突的。本文比較研究了中國經濟特區和其它國家的出口加工區，研究結果表明，中國經濟特區的法規建設並不是確實可行和行之有效的。

中國經濟特區的規章制度旨在創造一個市場環境，但這些規章制度仍然體現了國家的控制機制。資源的配置是以合同的形式而不是以生產力來決定的。廠商很大程度上，把精力放在發展關係和尋求各種便利上，而不是放在提高生產效率上。經濟特區有一系列的法規規定廠商獲取國內原材料，機器設備，勞動力和國內市場的特別渠道，這些法規是多餘的，它使特區企業的待遇与其它(國營)企業沒有區別，在計劃管理體制下，盈利的企業可能受到限制，而無損的，沒有效益的企業可能得以維持。官僚作風以及政府對特區優惠待遇的控制，使得許多外國投資者望而止步。經濟特區政策的真正受益者似乎是國營企業，它們知道如何應付國家的控制。

全面有效地改革企業，從政治上認可發展私營企業以及建立完整的市場體系對於成功的發展中國的經濟特區是至關重要的。否則的話，經濟特區所取得的一些可喜的發展將會是代價高昂的，甚至對中國經濟來說會是一個淨損失。

Abstract

Few policy changes can be more radical than the introduction of market forces into a centrally planned economic system. This, however, was the intention behind the establishment of special economic zones in China. It is difficult to devise practical management systems and administrative and regulatory frameworks needed to ensure that policies are operationally effective and that objectives are efficiently achieved. This paper addresses the question of whether or not the management system established for the special economic zones policy is appropriate.

Worldwide, types of 'economic zones' range from whole territories such as Hong Kong, through industrial estates which are physically separated from the rest of the economy, to individual warehouses or factories, or even parts of factories. Zones differ in their form of management structure and in the specific nature of the regulations that determine which companies can operate, what activities they can carry out and how they must conduct their operations to qualify for zone status. The common denominator of most zones is a focus on the encouragement of export-oriented activities. Although their physical forms vary, they are usually referred to collectively as export processing zones.

The regulatory framework of China's special economic zones is modelled on frameworks developed for export processing zones in other countries but it also includes other objectives that are often in conflict with the export aims. This paper compares special economic zones with export processing zones and shows that the regulatory framework in China is not functioning efficiently or effectively.

China's special economic zone regulations, which seek to emulate a market environment, are dominated by state control mechanisms. Resources are allocated by contacts rather than by productivity. Firms are encouraged to put effort and resources into developing contacts and seeking favours rather than improving efficiency. Regulations determining 'special' access to domestic raw materials, capital goods, labour and markets, are largely redundant, leaving zone firms on the same footing as any other (state) firms. Profitable firms can be constrained and loss-making inefficient firms can be sustained under the planning control mechanisms. The bureaucracy and control associated with access to zone incentives have discouraged many foreign investors. The main beneficiaries of the zones policy seem to be state enterprises which can manipulate state controls.

Sweeping and effective enterprise reforms, and political commitment to the private sector and to a market system is crucial to the successful development of economic zones in China. Otherwise the substantial and physically impressive development in the special economic zones will remain costly and result in a net loss to the Chinese economy.

Special economic zones in China: the administrative and regulatory framework*

The fundamental difference between export processing zones and Chinese special economic zones is that the former operate in a market economy environment, while the latter are set in a centrally planned environment. In export processing zones the governments simply remove or ease constraints which limit the operation of market forces elsewhere in the economy. In China the aim is to create a market environment in the zones, while maintaining intensive control mechanisms in the rest of the economy.

In a market economy model, resources including labour are allocated according to ability to pay. Ability to pay is related to marginal productivity supported by interventions to compensate for market failures and amended by taxes and transfers for equity purposes. In a centrally planned economy the government allocates resources to lines of production in accordance with a centrally determined plan which is derived from a centrally chosen set of political objectives. Policy makers in planned economies face the same technical limitations (such as economies of scale) and externalities (such as pollution) as do policy makers in market economies.

In a competitive market economy market signals received by economic agents are consistent with optimizing output and growth. It is in the agents' self interest to respond correctly to market signals. In a pure centrally planned economy there are no market signals. In a centrally planned economy in which some liberalization has been introduced some market signals may be allowed, but the ability of economic agents to respond to them is highly circumscribed by remaining controls. For example, wage rates are established structures giving rise to the 'one big pot' system in which all workers of a given grade are paid the same regardless of their productivity.

A planned economy is highly centralized, but in an economy as large as China's the central authorities are dependent on subsidiary levels of

*Comments by Helen Hughes on an earlier draft of this paper enabled the correction of some of the mistakes and the introduction of some improvements. Any remaining inadequacies are the responsibility of the author.

government and economic units to ensure that plans are carried out. This creates potential conflict between the interests of the local government and work units and the national interests of the central government. In a communist economy, a parallel power structure is maintained by the Communist Party, with all decision takers shadowed by Party cadres to ensure that the objectives of the central authorities are given priority over those of subsidiary entities. When inconsistencies arise in the plans, local economic agents with their Party pairs decide how shortages are to be resolved. In other words they replace the price mechanism (see Spence 1990:Ch. 24).

Export processing zones are a market economy policy device and the regulations normally associated with them are specific to the market economy environment within which such zones are normally set. The regulatory frameworks of the Chinese special economic zones were modelled on those of the export processing zones. Crane found that 'the management methods of foreign free economic zones were studied and transplanted in the drawing up of the regulations of Guangdong Province' (1990:33). Subsequent Chinese research has drawn attention to the need to distinguish between the experiences of different export processing zones when drawing lessons for Chinese special economic zones (Study Tour 1990). The sections which follow show how the political economy of contemporary China distorts the impact of the regulations used to implement the special economic zones policy.

The objectives of zones policy

Export processing zones

The objective of the zone should be clearly spelt out. It is this which gives the zone its logic and from which is derived the rationale for its administrators to select the rules and regulations needed to run the zone. Forcing officials to resort to judgement to clear up confusion allows subjectivity to creep into administration and encourages the growth of bureaucracy and corruption. Transaction costs are increased and inefficiencies result.

The primary objective of most zones is the generation of new exports. In some cases the primary objective is the creation of employment

opportunities. In both cases the export processing zones are an economic instrument used to establish export activities which would otherwise be ruled out by the domestic policy framework. To achieve the objective of the export processing zones, managers are allowed to provide incentives to firms they consider likely to help achieve these objectives. Such incentives may take the form of tax holidays or reductions, underpricing inputs such as land and utilities, privileged and subsidized access to capital and foreign exchange, and freedom from import restrictions imposed on companies outside the zone.

Special economic zones in China

In China the special economic zones policy does not have simple, clearly defined, objectives. Special economic zones are meant to:

- develop economic links with Hong Kong (Shenzhen), Macao (Zhuhai), Taiwan (Xiamen) and overseas Chinese communities (Shantou), with a view to the re-unification of the country;
- serve as laboratories for experimenting with market forces;
- serve as a window through which advanced technology can enter;
- serve as a link between the economic hinterland and overseas;
- attract foreign capital; and
- generate employment (but not low wage employment).

In addition to seeking to achieve these nationally set zone objectives, zone managers also serve as local government authorities. Apart from trying to ensure consistency between zone objectives and their normal municipal objectives, managers in green field sites, such as Shenzhen, are also responsible for the infrastructural development of new towns. Local authorities in mature municipalities also need to protect the interests of existing industries through rehabilitation programs. Predictably, this multiplicity of objectives leads to conflict and confusion.

It is a well established rule of market economics that a single policy instrument should be expected achieve one policy objective. If a program has more targets than instruments then 'at least one target cannot be fully attained; whereas if it contains more instruments than targets, there will be more than one way of achieving the combination of targets' (Mundell 1968:201).

Multiple and vague objectives work against the success of the special economic zones policy. In China, the management arrangements for the zones are far from optimal,

those SEZ laws which do exist are vague and leave many important issues, such as tax, and land and labour costs open to negotiation. In addition, the negotiation process may be very time-consuming due to a lack of precedents. The inadequate legal system may therefore lead to confusion and frustration (Lo 1986:192).

The several objectives failed to give clear guidance to management. Special economic zones were required to serve as a laboratory of China's economic structural reform and to promote the course of re-unification of the country. In the absence of rigorous cost/benefit analysis of projects, such vagueness allows economically inappropriate and inefficient investments to be justified.

Management structure

Export processing zones

The establishment of an export processing zone implies the establishment of a local economic management system which is separate from the national economic management system. Some elements of the overall political and economic environment, especially the system of commercial and other laws, will operate in a zone. But a distinct and powerful zone management structure, independent from national and subsidiary levels of government, is required to ensure that the zone's special economic space operates separately, efficiently and effectively.

On a national level, the very nature of export processing zones creates conflict. The zones imply a separate objective and separate rules and regulations which are outside the jurisdiction of line ministries and departments in the areas of commerce, industry, labour, customs, banking, and taxation. Without a clear-cut and powerful management structure, zone authorities are likely to become embroiled in conflicts with different levels of government and with line ministries which try to use the economic freedom of the zones to further their own interests.

A zones policy needs the authority of a nationality based management structure with sufficient political power to protect its interests. If delegation

takes place, even to a private sector agency, it should be supported by national authority which cannot be usurped by lower levels of government. Ideally, the agency responsible for running zone policy should be located in the office of the chief executive rather than within a specialized ministry. Such special treatment is justified and required by the special nature of export processing zones, and by the need to avoid inevitable inter-ministerial conflict over authority and jurisdiction.

Special economic zones in China

The management structure of the special economic zones in China is more complex than that of most export processing zones. At the top of the pyramid is the State Council Leading Group for Special Economic Zones and Foreign Investment. Below the Leading Group are the provincial governments, then the municipalities and finally the governing bodies of the 'zones within zones'.

The Leading Group for Special Economic Zones is only one among many State Council Groups and does not have the political precedence that export processing zones authorities have in other countries. It has no direct managerial role, its main functions being to gather information, monitor developments in the zones, and coordinate the interests of the zones at the level of central government. The significance of the role played by the Leading Group has been weakened by the expansion in the number of non-locations which have been allowed to operate zone type incentive structures.

The main centre of political power over the operation of the zones is the provincial government: Guangdong for Shenzhen, Shantou for Zhuhai, Fujian for Xiamen, and the new province of Hainan for Hainan Island. The day to day management of the zones is in the hands of municipal government authorities, with further delegation to lower level management for 'zones within zones' such as Shekou in Shenzhen, Huli in Xiamen, and the various science and technology parks.

Most investments in the zones are relatively small, typically involving amounts of less than US\$100,000. They do not have to be referred to the central government as the zone authorities have the authority to approve projects up to the value of US\$30 million. In contrast to the situation in export processing zones, there is a surprising amount of discretion available to the provincial and municipal governments when the terms and conditions of establishment for individual investors are negotiated. This is a

source of conflict, as concessions granted by one level of government may conflict with the interests of another level, particularly with respect to tax revenues and availability of foreign exchange. One Chinese economist, after comparing special economic zones and export processing zones, concluded that an 'SEZ itself is an independent regional entity which has its own economic interests. Such interests inevitably induce conflicts with economic benefits of the central government as well as conflicts between SEZ government and non-SEZ [local] governments. The conflicts have restricted the development of SEZs as well as [their] function as a "show-case"' (Study Tour 1990).

In the absence of budgets earmarked for the zones there are also conflicts over expenditures, especially on infrastructure, for which the municipal authorities are responsible within the zones. The municipal authority has, for example, financed 97 per cent of the investment in infrastructure in Shenzhen.

The economic management difficulties of the special economic zones reflect to a large extent the general tension in contemporary China between the different levels of government. This tension increases the transaction costs for all zone-related activities. Widespread negotiations between officials representing different levels of government have to be carried out continuously. When satisfactory compromises cannot be reached in such time-consuming negotiations, more resources are used in beating paths to the back door.

Regulations

There is the need for a clearly defined set of regulations for management to apply to achieve the objectives of the zones. It is important that the regulations should be, as far as possible:

- exhaustive, covering all foreseeable situations;
- transparent, so that there is no scope for disagreement over their meaning;
- automatic in application, so that there is no scope for political or bureaucratic interference;
- stable, so that businesses can plan with confidence; and
- well integrated with the national environment within which the zone policy is set.

Regulations are needed with respect to many aspects of zone operations, however this study concentrates on four important categories:

- the scope of the zone policy;
- access to inputs;
- access to markets; and
- taxation.

Scope of the zone policy

Export processing zones

Regulations covering the scope of zone policy need to define the 'who', 'what', 'where' and 'how' of zone operations. In theory it would seem simple to identify the types of entities to which a zone authority can extend zone policy privileges and the nature and location of the activities which they would be allowed to carry out. In practice it proves difficult.

The first problem is that the constraints are politically defined and political climates change. The second problem is that the economic environment is constantly changing so that authorities are faced with decisions which were not anticipated when the zone policy was established. However, the government needs to define as well as it can, in advance, the scope of the zone policy and the authority for amending the scope of the policy as the need arises. It is essential, however, that the policy be changed as little as possible and that changes that take place represent improvements to the policy. Adding restrictions to the scope of the policy retrospectively, except to curb unforeseen blatant abuses, should be avoided because such changes may erode investor confidence.

First, zone regulations need to establish 'who', in the sense of which categories of firm or other entities, will be allowed to benefit from the privileges available under zone policy. For example, it needs to be decided whether or not zone policy will apply to domestic firms, or only to 100 per cent foreign owned firms. Practice varies, with some zones only allowing foreign firms to benefit from the zone policy while others extend the benefits to domestic firms if they otherwise meet the same criteria which are imposed on foreign firms. Political constraints may also be imposed.

Second, the regulations need to specify what type of activities firms will be allowed to engage in. For example, are firms to be restricted to processing for export, can they sell a portion of their output in the domestic market and will they be allowed to engage in other activities as well, such

as real estate development and service activities? The test determining appropriate activities should be whether or not the activity is consistent with the objective of the zone policy and whether or not it would be established without the benefit of zone privileges. Most countries will not tolerate activities which are incompatible with national security or religious taboos, for example the production of armaments in most countries and the processing of beef in Hindu countries, although such restrictions are not confined to the zones.

An additional issue concerning the nature of the activities allowed in economic zones, especially with respect to export processing zones, is that the activities should be sufficient to confer originating status - that is, be sufficient to determine that the product is 'made in' the country in which the zone is located. This is necessary in order to meet the rules of origin of potential markets. Originating status regulations are intended to prevent the not infrequent practice of shipping finished products, especially garments, to zones for labelling and packaging so that value added by those activities will confer originating status on the products. Another practice which zone rules and regulations need to address is that of shipping components to zones to be made up in simple 'screwdriver' assembly operations.

Constraints may also be imposed on zone activities with respect to environmental pollution, although in some cases one of the attractions of operating in zones is that the relevant government is more tolerant of pollution than the government in the home country of the investor. In the early stages of industrial development, some countries place more weight on the benefits of new investment than they do on the costs of environmental degradation. The more restrictive regulations on technology are, the greater is the likely loss of investment from firms which are not willing or able to meet them.

Third, it has to be established where the zone policy will operate, that is, whether or not it will be applied on a physical zone basis or applied to individual firms wherever they are located. There is no theoretical argument in favour of restricting the privileges of zone policy to firms established within a given geographical area, such as a bonded industrial estate. Such physical restriction only makes sense if there is limited availability of infrastructure or utilities (such as water and electricity) which can be made available on a priority basis to firms in a zone.

The expensive paraphernalia of bonded zones are only justified if the bonded activities cannot be successfully policed in any other way. If the government is confident that firms and customs officials can be trusted to operate a bonded factory scheme, or even a scheme where each factory has a bonded storage area within it, then there is no need to build a zone surrounded by security fences and policed by the customs department. If there are infrastructure and utility shortages it may still make sense to collect the factories in the same area. Otherwise the zone policy should be applied on a factory by factory basis regardless of location, as in Mauritius and as proposed for Mozambique.

If firms and/or the customs department cannot be trusted, however, collecting firms into bonded zones does not necessarily imply that smuggling of untaxed products out of the zone will not occur. In the case of the Colon free zone in Panama it is estimated that between a quarter and third of all output is smuggled out (*Financial Times*, February 1991).

And fourth, firms have to be given clear guidance as to how they can carry out their activities, specifically, whether or not there are any constraints on the technologies which can be used. The regulations of some zones apply strict technology constraints on firms, insisting that the technology used be new to the country or represent the introduction of advanced technology. The Santa Cruz zone in India applied this restriction.

Special economic zones in China

There is no centrally issued document setting out the regulations relating to the operation of the special economic zones in China. The regulations in use are mainly derived from the laws on private overseas investment combined with 'case law' following decisions of various levels of government and interpretations of those decisions in specific circumstances. The resulting 'looseness' of policy administration is most obvious with respect to the scope, or the 'who, what, where and how', of zone policy.

Who and what? The multiple objectives of the zones mean that the authorities can legitimately confer concessionary zone status on almost any activity being carried out by almost any form of entity, from individuals involved in joint ventures to wholly foreign owned multinationals. The firms investing in the zones involve partners from all over China and from many countries. The range of activities they engage in, and for which they

receive incentives, is very wide, from farming and aquaculture, through tourist facilities and speculative real estate development, to export-oriented labour-intensive assembly plants and high-tech manufacturing aimed at the domestic market.

Most investments involve a Chinese subsidiary of a state, provincial or municipal body (including the armed forces) in many cases in some form of joint venture with an overseas Chinese investor who may have close ties with the Chinese partner. The Chinese partner usually has the majority shareholding.

Until recently at least, there appears to have been no systematic evaluation and ranking of investments. Almost any proposal from any investor could be justified with reference to one or other of the objectives set for the zones. The central planning mentality, moreover, appears to have been carried over into zone operation: the greater the number of investment projects, and the greater the sums of money involved, the greater the perceived success of the policy, regardless of the cost effectiveness or social efficiency of the investments.

The absence of regulations defining what type of firms, what type of activities and what type of investments are eligible is in marked contrast to the usual situation in most export processing zones, where eligibility is tightly defined. The openness of the zones, combined with the availability of incentives to domestic firms, has inevitably biased the investment pattern away from foreign investment financed export-oriented activities, towards domestically financed import substitution activities, trading, services, and small scale low investment, low value added processing and assembly plants.

Where? In policy terms, the main purpose of having regulations concerning where export processing zones firms may invest is to facilitate and control the regulations allowing duty free and licence free imports. In China, free access to imports is not restricted to the zones. The original four zones have not been exclusive, either in terms of investment incentives or the ability to accept investment from foreigners. The right to accept foreign investment and to offer concessions to attract it, has been conferred on an increasing number of locations, starting with the fourteen coastal cities, the three river deltas, and the fifth zone, covering the whole of Hainan island. The special arrangements for the Pudong area of Shanghai include

provisions for conferring investment privileges which are more favourable than any available to the zone authorities.

Some minor tax concessions, more generous foreign exchange retention rates for foreigners and joint ventures, and more secure rights over land use, are almost the only extra incentives the zones can offer to potential investors. They also appear to have greater flexibility in managing policy than non-zone locations. For example, the Fujian provincial government was able to offer a Taiwanese investor the right to establish a bank in Fuzhou and Xiamen zone in order to attract large scale investment in a petrochemical plant in the Xiamen zone (*Far Eastern Economic Review*, 21 March 1991:6).

The logic behind physical restrictions on export processing zones is not pressing in the operation of special economic zones in China. Tight geographic limitations for security reasons matter less when virtually all firms involve a branch of the government and are co-managed by Party cadres. The geographic concentration of investment is less a matter of regulation and more a function of general liberalization combined with location advantages of the zones plus the willingness and ability of provincial and municipal governments to invest in infrastructure and other forms of industrial support. Only the first zone, Shenzhen, is fenced. The logic for this is partly derived from a desire to limit the dominating economic influence of Hong Kong, whose currency circulates freely in Shenzhen, and partly from the desire to control migration.

How? There are no regulations governing how firms in zones must operate, in the sense of what technologies they must use. One of the objectives behind the zone policy is, however, the stimulation of inflows of high-tech based investments. The only formal regulation related to this objective is that which raises labour costs for firms operating in the zones, a very Western, neo-classical policy instrument to find in a command economy. The regulation has successfully pushed much labour-intensive investment away from the zones and into the hinterland, but it has not attracted much high-tech based private overseas investment. The factors which attract and repel such flows are not easily affected by the regulations associated with zone policy.

Regulations governing the 'who, what, where and how' of investment in China's special economic zones are few and far between. The Chinese Study Tour Team sent to evaluate the performance of Southeast Asian

export processing zones found a homogeneity among the firms in terms of types of firm and their activities. This is not found in the special economic zones in China. Investment in the special economic zones is very heterogeneous both in terms of types of firm and their activities. In addition, as most of the operative regulations are not specific to the zones, similar types of investment take place elsewhere in China, in other locations in the coastal provinces and beyond, in other open areas. The ideal forms of investment sought by the zones authorities have not been attracted to any large extent, because the regulations they can use to operate the zone policy cannot address the issues which determine all private overseas investment flows.

Regulations concerning access to inputs

Regulations relating to access to inputs need to distinguish between domestic and foreign sources and to cover raw materials and intermediate goods on the one hand and factors of production on the other.

Domestic sources – export processing zones

Regulations are required to indicate whether or not export processing zone firms will be allowed access to domestically sourced inputs, including utilities such as water and electricity, on the same basis as domestic firms or on a privileged basis. Similarly, regulations should indicate whether or not firms will be allowed to source freely or whether they must have a minimum or maximum local content of raw materials, intermediate goods, labour (including management), or capital (fixed and circulating).

Export-oriented zone firms are usually given privileged access to domestic inputs. Domestic raw materials and intermediate goods supplied to export processing zone firms are treated as exports, being granted whatever export incentives are generally available. In some cases, access to local labour markets is also privileged. Domestic labour laws may be relaxed, for example, with respect to unionization, hiring and firing practices, redundancy conditions, and minimum wages and maximum hours.

In the case of fixed and working capital, export processing zone regulations usually impose restrictive conditions on the access of foreign firms to domestic capital markets, although domestic firms and joint ventures operating under zone policies may be treated more liberally. The usual practice is for foreign firms to be required to bring their fixed capital

from abroad. Foreign partners in joint ventures are required to pay their equity investment in the form of foreign sourced capital.

In addition, because zones are extra-territorial areas (areas in which domestic policies do not necessarily apply) a decision has to be taken as to whether or not export restrictions applying in the domestic economy will also apply to supplies for firms operating under zone policies. This can be important in countries like Indonesia which ban exports of unprocessed raw materials, such as timber in the form of logs.

Domestic sources – special economic zones in China

China does not provide special access to supplies of inputs of raw materials and intermediate goods from the domestic economy. Firms in the zones have to deal with the bureaucracy which controls access to supplies on the same footing as domestic firms. This means that the ease and reliability of a firm's access to domestic supplies of industrial inputs are determined by its *guanxi*. This is one of the main reasons why almost all private overseas investments in China involve a form of joint venture - the foreign partner needs the connections of the Chinese partner in order to ensure access to inputs.

The situation is similar with respect to capital. There are no special regulations relating to access to capital for firms in the zones. Foreign investors frequently contribute their equity capital in the form of machinery, know-how or management. They rely on the Chinese partner for financial capital. There is no Western-style banking system in China, only a mechanism for allocating capital through state controlled organizations. The few attempts to introduce commercial and investment banking practices have had little impact because the conditions needed for success are not present.

In the absence of effective bankruptcy laws and markets for trading assets there can be no meaningful lien on fixed or working capital so that the only meaningful form of collateral in China is the signature of a guarantor. The acceptability of an agent's guarantee is a function of his or her connections with those who are responsible for the allocation of capital. In the absence of a significant private sector in this context, this means that only government officials, state sector cadres and Party functionaries are acceptable as guarantors. The more senior they are the better the guarantee. The *guanxi* effect dominates again. Regulations providing priority access to

capital to firms according to the nature of their activity or legal status would be redundant. This is another factor forcing foreign investors into joint venture arrangements.

The potential redundancy of regulations conferring privileges on zone firms is well illustrated by the regulations concerning access to labour. There are regulations allowing zone firms to hire and fire labour more freely than non-zone firms. However, the lack of a meaningful labour market in China means that these regulations are largely redundant. According to Chinese economists a 'labour market has also not yet emerged. The government has an over-tight control over personnel. The social security system for labour is far from ideal for free labour movements. Therefore, foreign investment enterprises are unable to select or recruit suitable workers or management staff' (Study Tour 1990).

Wage rates are set by the state and as a matter of policy are maintained at higher levels in the zones than elsewhere. For example, in addition to mandatory contributions to welfare (including housing subsidies) and social security funds, in Xiamen, the Regulations on Labour Administration specify that 'The salary of the employees [of enterprises with foreign investment] shall not be lower than 120 per cent of the average salary of the employees in the State-owned enterprises of the same nature with similar conditions in Xiamen SEZ.' The aim of this regulation is to persuade firms to adopt more modern capital-intensive technology, but so far has been unsuccessful. The average fixed capital per worker in Shenzhen in 1986, for example, was estimated at only US\$5000. This is not a disadvantage, for as one commentator puts it, this is where China's comparative advantage lies. '[A structure of export industry biased towards labour-intensive activities] is actually inevitable since under a relatively free trade condition, the comparative advantage of China lies with its cheap labour. Whereas high technology industries require better market conditions. The supply of highly intelligent labour and good infrastructure and services are not China's comparative advantages (Wang Xiaolu 1990). A sensible policy approach would support, not work against, this natural advantage.

Chinese workers are hired through a local labour bureau which respond to want lists supplied by work units. If adequate numbers of the required types of labour are not available locally then because of residency controls which restrict workers' movements into the zones, the firms must

recruit through government offices. Control over hiring, combined with higher wages in the zones, can be expected to lead to corruption in the allocation of work places. The view that it does is held by many people and concern over nepotism is reported to have persuaded the central government to limit its support for the development of the zones and open coastal cities (Spence 1990:716).

Firms in the zones are subject to the same requirement placed on all firms in China that representatives of the Communist Party be present in the work unit on all levels. The method of recruitment, combined with the need to discuss all labour issues with the labour bureau and Party officials often makes redundant the notional right to fire unsatisfactory workers. As a result, many of the firms in zones are reputed to carry work forces which are too large and partially inappropriate, with negative effects on their competitiveness (see *Chinese Economy Monthly*, Hong Kong, April 1988).

Apart from ineffective hiring and firing regulations other labour use regulations impose extra costs on zone employers, especially those which sometimes require firms to house their employees - forcing them into the property development and management business. Employers also have to provide funds for welfare programs, paid to the local labour bureau and even support unions with a 2 per cent levy on the wage bill (Spence 1990).

Foreign sources – export processing zones

In most export processing zones firms are allowed to import raw materials and intermediate goods without restriction as long as the imports are to be used for approved purposes and are not ruled out by overriding exclusions for non-economic reasons. Capital in all forms is also usually allowed in freely. In many zones, however, regulations restrict the use of foreign labour. Normally managers and technical experts are allowed in, often for restricted periods only.

Free entry of imported inputs (except for labour) requires matching regulations covering access to the foreign exchange to pay for those imports. The usual practice is that firms in zones are allowed to operate bank accounts denominated in foreign currency and to move their balances freely between the zone and overseas (but not into the domestic economy). To cover the purchase of domestic inputs and to pay any taxes imposed on them, they have to convert balances into domestic currency. As long as the firms are 100 per cent export-oriented, or their exports are sufficient to

cover all their foreign exchange needs, this arrangement presents no problem. Problems arise when firms are allowed to sell such a large proportion of their production on the domestic market, that even with 100 per cent retention they do not generate enough foreign exchange to cover their imported inputs and profit repatriation needs. In such cases the government has to decide whether the firm is contributing sufficiently to other objectives (e.g. import substitution or technology imports) to warrant its being given access to the country's limited foreign exchange balances.

Foreign sources – special economic zones in China

In China, all firms in the zones (and other approved areas) can import capital goods, intermediate goods and raw materials for use in production, free of duties, taxes and licensing procedures other than the requirement to submit annual and monthly import plans.¹ The only limit on imports is the availability of foreign exchange. Firms can freely use whatever foreign exchange they bring into China as capital and they are allowed to retain a percentage of gross export earnings. The retention rate for foreign firms is 70 per cent. It used to be 70 per cent for domestic firms in zones also, but this was reduced to 35 per cent in 1990. If firms cannot finance all of their import requirements from capital or retained earnings they can apply to the Bank of China for allocations from its holdings. Subject to availability these will be approved if the firm has been recognized as one which is producing an essential product for the domestic market or one which is introducing desired advanced technology.

The freedom to import and easier access to foreign exchange, especially via the establishment of joint ventures, has, as already mentioned, proved attractive to domestic enterprises. Ministries, provincial and municipal governments, state firms, township enterprises and individuals have all established firms in the zones, often as joint ventures. It has been alleged that some of the 'foreign firms' involved in the joint ventures have been especially established for the benefit of the Chinese partner. The Government of China has established a new body in Hong Kong, the Hong Kong Chinese Enterprises Association, to monitor the activities of the more than 2000 companies of mainland origin which have been established in the territory. According to the *Financial Times* 'many

¹Wine, tobacco and perfume imported for personal use by the firms is limited to a 50 per cent reduction in duty.

of these were run by provincial Chinese officials for illicit trading, property, money exchanging and other deals' (June 1991).

Apart from the obvious attraction of gaining access to otherwise unobtainable goods and foreign travel, establishing units in the zones can also enhance the profitability of enterprises which sell on the domestic market (as most of them do). Even if they pay the notionally required duties on sales into the domestic market, which many can avoid, the reduction in costs due to non-payment of duties and taxes on inputs can have a substantial impact on profit margins. Only in Shenzhen is there any rigorous attempt to monitor movements into the domestic economy, and even there individuals allowed into the zone are permitted to carry home duty free items for personal consumption. Smuggling is also suspected to be widespread.

In sum, the regulations on access to imports and foreign exchange designed to attract private overseas investment into China, appear to have had more impact on domestic investment flows resulting in distortions in the location and pattern of production.

Regulations concerning access to domestic markets

Export processing zones

In addition to regulations concerning the inflow of inputs into export processing zones, regulations are needed to control the outflow of products (and including waste) from the zones. Because zones are extraterritorial in policy terms, their administrators have to ensure that the access of zone firms to the domestic market is subject to standard import procedures. This is to guarantee equality of treatment for domestic producers and traders. Because firms in zones have received cost-reducing privileged treatment there is an incentive to sell on the domestic market, either legally by dispensation or illegally by smuggling. Inefficiency and inequity will result unless effectively applied regulations ensure equality of treatment to all suppliers to the domestic market.

Even if equality of treatment is ensured, zone firms often find it more attractive to sell on domestic markets rather than on foreign markets due to the higher profits which result from protection of that market and from lower selling costs. Thus if the objective of the zone policy, or one of the constraints on the operation of zone policy, is the generation of exports, then regulations will be required to limit firms' access to domestic markets.

Such regulations often take the form of limits on proportions of output or waste (e.g. offcuts or seconds) which can be sold on the domestic market. The regulations can specify that no sales at all are allowed on the domestic market and even waste has to be exported (as in the Bombay electronics export processing zone) or that a specific percentage, often 10-20 per cent, including waste and seconds, can be sold domestically after payment of import duty.

The problem is enforcement. The profits from selling duty free and tax free products on a protected domestic market can be very high; high enough to encourage smuggling and bribery of low paid civil servants in customs services and zone boundary patrols. It is important that regulations governing access to domestic markets and mechanisms for their enforcement take these possibilities into account. For example, operating a zone policy on an individual factory basis does not mean that the regulations need be any more complicated, only that different mechanisms for their application are required. These can either be in the form of careful scrutiny of invoices and sales vouchers, the use of bank guarantees, and/or the use of double lock bonded storage facilities which can only be entered in the presence of a customs official. In all zones there should be well enforced regulation of movement into, and out of, the bonded areas.

Special economic zones in China

In contrast to export processing zones, there are no regulations governing access of zone firms to the Chinese domestic market.

With no overriding objective to maximize exports, access to the domestic market is another issue that is subject to negotiation between the zone authorities and potential investors. In fact, under the 'markets for technology' policy, access to the domestic market may be used as a carrot to attract foreign investors. In other cases 'infant industry' periods appear to have been negotiated by investors, allowing them access to the domestic market in the early, non-competitive period of production with increasing export shares being negotiated when that period is over. The scope for negotiation in China leads to subjective bargaining, substantial access to the domestic market and monopoly profits.

There are indications that some enterprises, and not just those which are bringing advanced technology into China, are net absorbers rather than generators of foreign exchange. It is difficult to obtain data on zone

enterprises, but one example from Shenzhen can illustrate the point. Hua Fa Electronics Co., Ltd. is a joint venture between a Hong Kong firm, a Ministry of Electronics Industry firm and the municipality's Shenzhen Electronics Group Company. The company operates three factories. The municipal firm provided the land and the ministry built the factories as their shares in the equity. The Hong Kong firm provided the equipment and technology. One factory produces colour televisions, one printed circuit boards and the third is the Accurate Plastic Filling Metals Factory. The output of the three factories in 1987 was 300 million RMB yuan, or something in excess of US\$100 million. Total foreign exchange income was US\$40 million. However, the net foreign exchange income after paying for imports of raw materials was reported to be only US\$1.5 million, suggesting a domestic value added in export sales of only 3.75 per cent. Unless the firm had a 100 per cent retention rate it is difficult to see how it covered the necessary remittances of directors fees, salaries and fees of Hong Kong staff and auditors, and any royalty and profit payments. The final net foreign exchange balance must be very small, if it is positive at all.

The firm had agreed to a 70 per cent export obligation for televisions and printed circuit boards. However, in 1987 90,000 TV sets were left over after export orders had been met – three times the quota for the domestic market. In recognition of its above quota production it was able to negotiate an increase in allowable domestic sales to 60,000 units. As for the remaining 30,000 units, the firm reported that 'the rest of the products for domestic sale will be arranged for sale in some other way' (*Chinese Economic Monthly* April 1988:126).

There are no aggregate figures on the net contribution of the special economic zones to China's balance of payments. As the majority of investments in the zones are high import content processing and assembly industries with joint venture arrangements the net contribution is likely to be very low, if it is positive. The failure, or inability, of the government to fully isolate the zones from the domestic economy is estimated to have resulted in substantial balance of payments deficits, at least in the early years for which data is now available. In the case of the original four zones, for example, one observer estimated that the total deficit was US\$642 million in 1984, or 55 per cent of China's total trade deficit and that it was still US\$414 million in 1987, or 11 per cent of the total deficit (Wang Xiaolu 1990). This is partly due to the high import content of production in

the zones (estimated at around 90 per cent on average) and partly to the poor export performance of zone firms resulting from legal and illegal leaks into the domestic economy. In 1987 of the total retail sales of 23.3 million TV sets, only 17.7 million could be explained by domestic production plus net recorded trade. The rest (5.6 million) are thought to have been imported through the zones (Wang Xiaolu 1990:12).

At the moment, the situation remains such that the incentive structure provides the greatest rewards for trading, largely by domestic firms with no foreign investment. According to Harding 'More than two thirds of Shenzhen's output, much of which required expensive imported components, was consumed inside China rather than exported. Indeed, Shenzhen served as a sales and purchasing agent for the rest of China, marketing (often through illicit channels) the export goods of other provinces and obtaining (again, often through illegal means) vast amounts of foreign capital goods and consumer goods for resale to the interior. Thus far, Shenzhen has served more as an import procurement-region than as an export processing zone' (1987:166). The lack of a clear and unambiguous regulation on domestic market access means that firms and zone authorities can argue that the foreign exchange cost of an enterprise is justified by the contribution it makes to other objectives, such as technology transfer or employment generation. Wang has also pointed out that the leaks into the domestic economy can be seen as a form of import liberalization which means that 'competition in domestic markets is escalated thus [pushing] the technological renovation of domestic industries' (1990:7). In other words, the competition from low cost firms in the zones is forcing domestic firms to upgrade their efficiency in order to maintain their markets.

Regulations concerning taxation

Export processing zones

One of the most prevalent incentives provided by export processing zone regulations around the world is tax reduction. The form varies from zone to zone but most offer some combination of tax holidays, lower profits or corporation tax, accelerated depreciation allowances, the carrying forward of losses, and exemptions from some or all indirect taxes. Regulations are required to establish what tax breaks are available and what conditions have to be met in order to be eligible.

It is not necessary to offer firms freedom from taxation in order to attract them to invest. Guarantees concerning the repatriation of capital and freedom from arbitrary nationalization are more important, as indications of goodwill. Most foreign investment flows do not attract tax concessions (Hughes 1972). Hong Kong does not offer tax holidays to foreign firms investing there. Low and stable taxes are more important than tax holidays. Hong Kong charges all firms a standard 16 per cent profits tax. Mauritius originally offered firms tax holidays under its export processing zone policy, but difficulties at the end of tax holidays, with firms moving abroad or closing down (and sometimes reopening under a new name for a new tax holiday) led the government to change the policy and now all firms pay a standard 10 per cent profits tax.

Regulations should also have to specify whether domestic firms, if they are allowed to benefit from zone policy, will be treated for tax purposes in the same way as foreign firms with respect to their zone activities. This is not a problem if zone policy is applied on a factory by factory basis. However, it can be if it is restricted to physical zones, as it may result in unintended geographical distortions in investment, contradictory to the regional policy of the government. Local companies expect not to pay taxes and lead them to expect the government to pay for infrastructure and services out of taxes paid by other people.

Zone regulations also have to specify whether or not zone firms will be exempt from indirect taxes, both on their inputs and their sales. They should normally pay all taxes which domestic firms pay for sales into the domestic market, including an allowance for direct taxes, otherwise domestic firms will be put at a disadvantage. They should also be exempt from indirect taxes on inputs into that share of their sales which is exported, as are domestic firms and as allowed under GATT regulations. The regulations will also have to specify whether or not exemptions are affected by non-payment of import duties or by duty drawback. The former is preferable on efficiency grounds, as duty drawback systems tie up capital.² But duty drawback systems are easier to police if the exemptions are conditional, for example, on exporting the product using the tax free input.

²The amount of capital tied up can be limited by using a system of bank bonds, or guarantees, instead of advance payments. In this case only the cost of the guarantee is tied up. This is the system used in Sri Lanka.

Problems can arise if there is differential tax treatment of domestic and zone firms with respect to the same activity. The result may be distorted location decisions and loss of revenue to the government. For example, if a raw material is subject to an export tax in its unprocessed form but is free from that tax if it is exported in processed form under zone policy, then the foreign exchange receipts of the country may fall. This will happen if the zone firm is a less efficient processor than its competitors on world markets, as in Sri Lanka in the early days of its export processing zone policy. In this case firms in the zone using local rubber as an input were exempt from paying export duties on their purchases of rubber, although legally sales into the zones were the equivalent of exports. Because relatively inefficient rubber processing plants in the zones had higher production costs than international competitors, as a result, when they exported their products, Sri Lanka received less for its processed rubber than it would have received from exporting it in unprocessed form. The value added by the process was negative, and the government lost tax revenues.

Special economic zones in China

In China, regulations with respect to the tax treatment of enterprises in the special economic zones are clear cut. All firms with any foreign investors are fully exempt from local income tax. The national rate of income tax on such firms is set at a fixed 15 per cent.

However, when we turn to tax holidays and reductions the situation is more complex, with a plethora of special cases receiving privileged treatment. The 1990 edition of *A Guide for Investment in the Xiamen Special Economic Zone* specifies the following tax exemptions. There is a general tax holiday clause for all productive (i.e. non-service sector) enterprises engaged in industry, agriculture and animal husbandry with expected operational lives greater than 10 years. Such firms have a tax holiday for the first two years in which they make profits net of carried forward losses. They are then allowed a 50 per cent reduction in the 15 per cent tax for the following five years. There is a threshold criterion for service industries. In these industries the foreign investment component has to be in excess of US\$5 million. If this additional qualification is met then such firms are allowed one net profit making year free of taxes and two with 50 per cent reduction. Firms involved in the construction of wharves and harbours with expected lives greater than 15 years get five years tax

free and five at the 50 per cent discount. Firms which employ advanced technology have a further three years in which they pay tax at the reduced rate of 10 per cent. Any firm which, after the expiration of the tax holiday and 50 per cent discount period, exports at least 70 per cent of its production by value will have its tax rate maintained at 10 per cent. Losses can be carried forward five years.

For comparison, under new tax laws introduced on 1 July 1991 the standard rate for enterprises in the 14 open coastal cities and other open coastal areas will be 24 per cent while the rate on enterprises with foreign investors involved anywhere else in China is 30 per cent (*Financial Times*, 20 March, 1991). This is the existing rate for joint ventures and simply removes a discrimination against wholly foreign owned companies, currently paying up to 55 per cent. Arrangements for tax holidays and reductions are similar to those in the zones.

Commercial sales into the domestic markets are subject to normal import duties, and for 104 designated product groups a consolidated (sales) tax, varying between 1.5 per cent and 66 per cent is also charged. Import substitution firms which can convince the authorities that they are of 'advanced standard at home' are given a two year holiday from payment of consolidated tax - five years if they are banks. All firms pay a property tax of 1.2 per cent of the depreciated value of their buildings (including housing), or 18 per cent of the rental value.

Tax incentive regulations may be less than fully effective in China because the soft budget constraint of the domestic economy also operates in the zones. The profit motive does not operate as it does in market economies but individuals can and do benefit from expenditures, for example on housing, banquets, cars and foreign travel. Similarly individuals do not lose if a firm is making losses, because of the soft budget constraint. The Chinese partner in virtually all joint venture operations (almost all of the enterprises in the zones) is a subsidiary of a government entity in one form or another so that if losses occur they can draw on the resources of the state. There are no bankruptcies, only mergers, with the losses being carried over to the new firm.

If tax incentives working through profits taxes are irrelevant in systems where the profit motive does not operate, it may be argued that at least the foreign investor in a joint venture has an incentive to generate profits. However, in situations where auditing practices are undeveloped it

is relatively easy for foreign partners to use transfer pricing mechanisms to accumulate their profits abroad. This could also happen in connivance with the domestic partner who would have an interest in building up balances of foreign exchange abroad. It has even been suggested that the foreign partner is sometimes simply an overseas branch of the domestic partner.

To the extent that profits are diverted abroad then tax incentives will be ineffective. It is too soon to know if there will be a problem in those cases where profits do occur and cannot be hidden. In other countries firms have closed down and opened again with a different name to gain a new tax holiday, or simply moved to a new tax haven.

Conclusion

The regulatory framework of special economic zones is modelled on export processing zones found in market economies but the objectives and management structure of the zones are specific to China. That framework, however, requires a market environment to work effectively and efficiently and such an environment does not exist in China. The experiment with market forces has intentionally been very limited. According to the *Beijing Review*, the special economic zones 'are not a special administrative division following the principle of "one country two systems"'. They still implement the socialist system and adhere to the socialist orientation for development. In economic activities, the market mechanism is brought into full play under the guidance of the state plan for economic development. Regulation through the market is more flexible and wider in scope than in other domestic areas' (34(14):18).

Chang believes that the 'guidance' referred to here is particularly strong in the zones. He argues that 'the Chinese leadership has made it clear that the twin goals of the SEZs are to achieve material progress and socialist spiritual civilization; failure to achieve either one is tantamount to complete failure. It would appear from the evidence that the authorities are more concerned with 'socialist spiritual civilization' in the SEZs, for they know that they cannot justify material prosperity without the development of the necessary spiritual civilization which distinguishes them from capitalists' (1986:112). The restrictions placed on the operation of the Shenzhen stock market soon after it came into existence bear witness to the dominance of this philosophy. The guidance is enforced by a state

economic management system closely linked to the Communist Party organization and staffed by cadres who 'must adhere to the four fundamental principles and to the political line laid down by the Third Plenary Session of the Eleventh Central Committee of the Chinese Communist Party and have a good and clean record' (Chang 1986). The result is extensive state intervention, with the same market behaviour it encourages in the domestic economy - allocation of resources by contact rather than productivity - being carried over into the zones. Firms are encouraged to put effort into developing contacts and seeking favours rather than improving efficiency.

The regulations governing access to the domestic market are too loosely defined and redundant. When it is in their interest to do so, firms manage to find outlets in the domestic market regardless of any nominal export obligation. As a result, all the available evidence suggests that the zones are a net drain on China's foreign exchange reserves.

Without a properly functioning market environment, the regulations, explicit and implicit, governing access to inputs cannot work as they are intended. In the face of the dominance of the planning control mechanisms they are redundant. Profitable firms can be constrained from expanding by limiting their access to inputs or by restricting their freedom of action, while loss making inefficient firms can be sustained by being provided with resources for which they cannot pay. The consequences of failing to introduce macroeconomic and enterprise ownership reforms in the domestic economy carry over into the zones.

While regulations fail to isolate the zones from the domestic markets and regulations seeking to emulate a market environment are dominated by control mechanisms, the incentives provided by tax breaks and freer access to foreign exchange and imports continue to operate. Their main beneficiaries are the national enterprises which can manipulate the state control mechanisms. The additional bureaucratic control associated with access to the zone incentives has led many foreign investors either to invest elsewhere in China or in other countries. Of the 'hundreds of thousands of Sino-foreign joint ventures, cooperative and solely owned enterprises established' in the four original zones by 1990, only 1614 industrial enterprises involved private overseas investment (*Beijing Review* 34(14):18). Of these virtually all were majority owned by the Chinese (state) partner and the foreign investors were overseas Chinese with good mainland connections.

If the special economic zones policy is to work effectively its objective must be limited and well defined. Only then can clear, transparent, automatic and unambiguous regulations be established for the zones. Furthermore, the zones will have to have a properly delineated economic space, free from the constraints of the command economy and politicized bureaucracy. It has been argued that the establishment of export processing zones *within* special economic zones, such as the proposed Waigaoqiao Free Trade Zone in Pudong, could create such an environment. Without enterprise reforms in China to allow the establishment of private enterprise firms and the removal of the factors which currently limit inward flows of private overseas investment, this will not work. Otherwise the substantial and physically impressive development in the special economic zones will remain costly and result in a net loss to the Chinese economy.

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