

Venezuela: Domestic and foreign investment opportunities in special economic zones

In more detail

On 20 July, the National Executive along with the National Legislative Assembly issued the Organic Law of Special Economic Zones ("**Law**")¹, complementary to the Anti-Blockage Law, since both laws are destined to promote economic development.² The Law entered into force on the same day that it was issued. The purpose of the Law is to promote the diversification of and an increase in exports through domestic and in-country foreign economic activities while creating new jobs.

The Law repealed all of the articles related to special economic zones (SEZs) that had been established in the Decree with Rank, Value and Force of Law of Integral Regionalization for the Socio-Productive Development of the Homeland.³ Moreover, the Law established the option to adapt or remove SEZs or any special territorial regimes within 180 days of the Law's effective date.

1. Purpose

The development of SEZs is of a strategic nature, of general interest, and a public utility. Therefore, legal entities, goods, services and activities in SEZs are subject to special regulations with regard to guarantees, benefits, and economic, financial, tax, legal and commercial protections.

2. Areas the Law regulates

(i) The creation, organization, operation, administration and development of SEZs, as well as the economic, tax and other applicable benefits.

(ii) Guidelines that condition economic development and national production models guaranteeing social justice through environmentally sustainable resources.

(iii) The creation of the National Office of Special Economic Zones (SUNAZEE), a specialized technical institute with legal personality and its own equity under the vice-presidency of Venezuela. For its operation, SUNAZEE has tax and procedural privileges, prerogatives and exemptions, as well as broad powers.

SUNAZEE will be funded through: (a) budgetary allocations; (b) transfer of assets of the Republic or its entities; (c) donations; (d) its own fees and tariffs, accrued for services rendered; and (e) any other legally authorized resources.

3. Scope

¹ Organic Law of Special Economic Zones dated 20 July 2022 (published in Official Gazette No. 6,710). The constitutionality of this law had been previously declared through Decision No. 0250 dated 6 July 2020 by the Constitutional Chamber of the Supreme Court of Justice.

² Constitutional Anti-Blockage Law for National Development and Guarantee of Human Rights (published in Official Gazette No. 6,583 Extraordinary dated 12 October 2020).

³ Decree with Rank, Value and Force of Law of Integral Regionalization for the Socio-Productive Development of the Homeland (published in Official Gazette No. 6,151 of 18 November 2014). This Law created the SEZ of the Palavecino and Iribarren Municipalities of the State of Lara without any positive result.



The Law is applicable to legal entities — public, private, mixed and communal, national or foreign — that perform economic activities in SEZs, as well as to the organisms and entities of the state (e.g., ministries, institutes). The Law excludes individuals.

Banking and financial entities operating within SEZs will be subject to an exceptional and preferential tax regime, although the Law does not specify which ones.

3. Creation and governance of SEZs

Among other things, the creation of SEZs takes into consideration: (i) geographic relevance; (ii) existing infrastructure; (iii) development potential for the production of goods and services; and (iv) natural resources.

SEZs have 13 main objectives, including those already established for Free Trade Zones, Free Zones and Free Ports, but include some more comprehensive and broader objectives. SEZs have similarities with the current Special Territorial Regimes, not only in having common objectives but because they also will be managed by a Sole Authority that will be in charge of the operation of the SEZ and responsible for compliance with the policies, plans and projects for the particular zone. The Sole Authority will have to coordinate and consult with the state, municipal or communal authorities located within the geographical zone of the SEZ and will be required to report on its management in quarterly reports, or for a shorter period, if required.

SEZs will have a legal, procedural and infrastructural framework. The president of Venezuela will create "Motor Districts," taking into consideration the geographic potential for sub-regional development. The Motor Districts are intended to articulate and develop production among SEZs and consequently, among other purposes, make goods and services accessible to the most needy populations. Likewise, "Productive Links" will be created, and will serve as a means of communication for the development of the activities of SEZs. Through them, SEZs will share strategies for greater production of goods and services. The Law also requires the creation of the Single Window for SEZs (VUZEE), and exclusive platform for SEZs that will be integrated with the current Foreign Trade Single Window (VUCE), to streamline and unify the procedures inherent to SEZs.

To create an SEZ, the president of Venezuela will be required to send to the National Assembly the decree of creation. The Assembly will have 10 days to give its approval but if no decision is made within this time, the decree will be considered approved (a "positive legislative silence" applies).

In addition, the SUNAZEE will be required to prepare a "Development Plan" for each proposed SEZ that must take into account: (i) the justification for its creation; (ii) the type of investment (public, private, communal, mixed, national or foreign); (iii) development potential; and (iv) the economic area to be developed.⁴

SEZs will be supervised and governed by the following parties:

- The SUNAZEE.
- The International Center for Productive Investment (CIIP), which is competent to promote the activities to be developed in SEZs. In addition, it establishes the requirements and evaluates any "Economic Activity Project," which is the proposal submitted by national or foreign legal entities interested in the development of any economic activity, including their profile of corporate curriculum.
- The Sole Authority, which is an officer appointed by the president of Venezuela.

4. SEZ areas and activities

- **Industrial:** includes production of goods, manufacturing, strategic agribusiness, export and re-export, aeronautics and energy.
- **Technological:** includes the installation of technological parks for the development and production of telecommunication systems, parts, components and pieces, informatics and telematics, computer applications and systems, as well as for recycling and solid and technological waste, scientific research and development activities for outer space, and the development of science and military technology.

⁴ The effective and efficient application of the Law and the success of SEZs will depend on the following factors, among others: political will, substantial reduction of administrative bureaucracy, existing infrastructure for the movement of products and raw materials (ports, airports, highways), geographical area, basic services available in the area, labor force (skilled and unskilled), political stability, and economic soundness.



- **Financial Services:** includes the installation of banking and financial services under the preferential tax regime.
- **Non-financial services:** includes the installation and production of logistics sectors for the presentation and export of tourist services, hotels, recreation, primary livestock production. It also includes any sector necessary for the social development of the individuals involved in SEZs, who promote and develop training modules for the workers and other individuals carrying out productive activities in SEZs.

The Law foresees the social development of these areas since SEZs they are destined to promote and develop capacity-building workshops for the individuals involved in productive activities of the SEZs.

5. SEZ-related announcements

According to public announcements of Venezuelan authorities, the following SEZs are to be created by presidential decree: Paraguaná, Puerto Cabello, La Guaira, Margarita and Isla La Tortuga. It is expected that areas of the state of Táchira and Zulia will be further incorporated into the list of SEZs.

6. Tax benefits

The decree that creates SEZs has to establish the related benefits or incentives in the following areas: (i) tax; (ii) customs; (iii) exchange regime; (iv) financial; and (v) administrative. Benefits or incentives may be optional, variable or temporary. The maximum limit of the incentives to be granted and their standard of measurement is the amount of income tax collected in the previous fiscal year.

The Law specifies the following benefits or incentives for SEZs operators:



- (i) The right of use from the drawback of import levies through the Drawback⁵ restitution regime (the reimbursement of other national taxes whose reimbursement procedure will follow the guidelines of the Organic Tax Code).
- (ii) Privileges and benefits of the Andean Trade Preference Act (ATPA) suspension regime for developers or operators in the SEZ, in particular the benefits set out in the relevant customs legislation and its regulation.⁶
- (iii) An exceptional and preferential tax regime for banking and financial entities operating within the SEZ.
- (iv) A "free convertibility" regime for all economic activities carried out within the SEZ, including financing plans (credit) offered by specialized banking institutions for the development of "the real and productive economy".

In order to obtain the benefits or incentives from SEZs, developers or investors are required to enter into an Economic Activity Agreement with SUNAZEE.

Comparison of SEZs with other special territorial regimes or zones in Venezuela

Concept	Free port ⁷	Customs-Free Zone ⁸	Free Zone ⁹	SEZ
	Special regime where goods enter the country without paying taxes or tariffs, except those required by the Customs Tariff for sanitary, phytosanitary, security and defense, morality or public order reasons.	<p>A specifically delineated geographical area for which the National Executive authorizes the application of a special regulatory regime that is different than for the rest of the country.</p> <p>The Kyoto Convention defines "Customs-free zones" as a part of the territory of a state in which the goods introduced therein are considered as if they were not in the customs territory with respect to import duties and taxes and are not subject to the usual customs control.</p> <p>The Law of Customs-Free Zones¹⁰ defines them as areas of land that are physically delimited subject to a regime, in which the installed companies must destine</p>	<p>The Free Zone of the state of Merida is a zone the objective of which is the development of resources that possess intangible values through activities based on knowledge and intellectual creativity. When performed within the municipalities of Libertador, Santos Marquina, Campo Elías and Sucre of the state of Merida, these activities enjoy a special legal regime that exempts them from various types of taxes.</p> <p>The Tourism Investment Free Zone in the Paraguaná Peninsula is a zone with the objectives of investment in the provision of tourism services and promotion of tourism-related activities. These activities enjoy a special customs regime in the municipalities of</p>	<p>A geographic delimitation that has a special and extraordinary socioeconomic regime, in whose polygonal areas strategic economic activities are developed in accordance with the objectives established in the Economic and Social Development Plan of the Nation (Article 4, the Law).¹¹</p>

⁵ Drawback is the regime through which the customs taxes that have been charged on the goods used in the production process of exported goods and which have been paid directly by the exporter, or whose payment has been assumed by the exporter in the purchase price of such goods, are refunded. This customs regime is included in spite of the fact that this drawback mechanism has not yielded results for some time. It does not apply to final consumption goods, to those that displace national production (it will require a CNP certificate) or those that affect the objectives of the import substitution plan.

⁶ Depending on the geographic potential, the necessary infrastructure may be installed to carry out multimodal transportation operations with preferential loading and unloading zones and with the possibility of carrying out customs activities of loading, unloading, transit, transshipment, stowage, storage and dispatch, as well as other activities inherent to the mobilization of goods. Both the goods manufactured in the SEZ and the goods, parts and accessories manufactured abroad, which are brought into the national territory for consumption, will be subject to the tariff and legal regime in force for the customs declaration. Goods that leave the boundaries of the SEZ must pay all the taxes that are caused by reason of their entry to the rest of the national territory.

⁷ Law of Free Port of the State of Nueva Esparta (published in Official Gazette No. 37,006 of 3 August 2000).

⁸ Law of Free Zones of Venezuela (published in Official Gazette No. 34,772 of 8 August 1991).

⁹ Law of the Cultural, Scientific and Technological Free Zone of the State of Merida (published in Official Gazette No. 4,937 of 14 July 1995).

¹⁰ Law of Customs-Free Zones of Venezuela of June 27, 1991 (published in Official Gazette No. 34,772 of 8 August 1991).

¹¹ <https://www.asambleanacional.gob.ve/leyes/sancionadas/tercer-plan-socialista-de-desarrollo-economico-y-social-de-la-nacion-2019-2025>.



		their production of goods for export.	Carirubana, Falcón and Los Taques of the state of Falcón.	
Benefits	<p>Goods brought into the country under the free port regime are exempt from domestic taxes, cigarette taxes and taxes on alcohol and alcoholic species.</p> <p>Goods may be exported, or re-exported to the national territory or abroad upon payment of the corresponding customs duties.</p> <p>Goods do not have any restriction if they are introduced to other zones where there are preferential treatments, free zones, free ports, duty-free warehouses, customs warehouses, and the like.</p>	<p>Free of import duty for goods originating abroad that enter a free trade zone.</p> <p>Tariff taxes and internal taxes are not assessed on added value, sales or other similar value.</p> <p>Taxes are not assessed for customs services.</p> <p>The goods are free of tariff and para-tariff restrictions, except for sanitary, phytosanitary, security and defense reasons and established by the Customs Tariff.</p> <p>Legal entities established in the free trade zones are exempt from income tax for 10 years, when the production is destined for exportation or when enrichments come from capital interests destined to finance industrial, commercial, service or infrastructure investments within the zone.</p> <p>Companies operating in a free zone are entitled to receive any current export benefits and incentives .</p> <p>Goods that have undergone some type of improvement, originating goods, and goods coming from abroad that are in a free zone may be: exported; re-exported; sold for consumption in ships or aircrafts that are going to sail to foreign ports or airports; and sold to other free trade zones or free ports.</p>	<p>Goods introduced under this regime will not be subject to customs duties or para-customs duties (except for sanitary reasons), customs service tax, domestic taxes, value added taxes or sales taxes.</p> <p>.</p> <p>The goods and services that have been legally acquired in the Free Zone of Merida may be exported or re-exported freely, or transferred to the national territory when their value does not exceed the amount established by the norms of free zones or free ports of the country.</p> <p>The income derived from culture, science and technology activities in the state of Merida is exempt from income tax payment.</p> <p>Goods introduced under the regime of Free Zone of Tourist Investment of Paraguaná, are exempt of customs taxes.</p> <p>Goods are not subject to the payment of the corresponding internal taxes.</p> <p>Income obtained by tourist services providers on new infrastructure investments is exempt from the payment of income tax for a 10-year-period.</p>	<p>The Law establishes a system of tax reimbursements or refunds, which includes taxes levied on imports (drawback).</p> <p>Application of the ATPA – the agreement applies at the time that raw materials, semi-finished products, parts or pieces that are necessary to complete the project are entered into the SEZ. TPA does not apply to final consumption goods, those that displace domestic production, or those that affect the objectives of the import substitution plan.</p> <p>The reimbursement of other national taxes is applicable and the reimbursement procedure will follow the guidelines of the Organic Tax Code.</p> <p>The ministry with competence in matters of economy, finance and foreign trade will establish, by means of a resolution, the maximum limit of the total of all incentives granted for the development of the participation projects in SEZs referred to in the Law, based on the amount collected for income tax in the respective previous fiscal year.</p> <p>Both the goods manufactured in the SEZ and the goods, parts and accessories from abroad that are brought into the national territory for consumption will be subject to the tariff and legal regime in force at the time of the customs declaration.</p> <p>Capacity building workshops must be developed for the workers or individuals related to the different productive activities of the SEZ.</p>
Limitations	<p>The introduction of vehicles to the free port is subject to the automotive norm compliance.</p> <p>Vehicles and vessels introduced under this regime must be presented annually before Customs to prove their permanence in the territory of the state of Nueva Esparta.</p>	<p>The commercial activities that are carried out in a free zone must be destined to facilitate the international trade of produced articles, not internal trade.</p> <p>Goods that, being foreign, do not undergo any</p>	<p>The special regime of the free zone of the state of Merida only supports culture, science and technology. Any activity not directed towards these objectives is excluded from the regime.</p>	<p>In order to enjoy the benefits or incentives of SEZs, the developer or investor must have signed the relevant Economic Activity Agreement with SUNAZEE.</p>



	<p>Any operation involving alienation or transfer of possession of these vehicles must be notified to Customs, otherwise the fine established in the Organic Customs Law is applied.</p> <p>The goods acquired in the Free Port are for the use and consumption of the individual in transit; therefore they cannot be commercialized in the rest of the national territory.</p>	<p>transformation in the free zone, or only undergo a non-substantial transformation, are subject to ordinary customs legislation.</p> <p>Prohibited activities within the free zone, include: private dwellings; retail sales; exploitation of oil and natural gas; storage of goods that cause pollution; processing and handling of waste or other polluting substances; breeding, cultivating, processing and commercializing protected species of flora or fauna.</p>	<p>Only goods produced entirely in the zone that comply with substantial transformation criteria, or with the origin requirements in the Cartagena Agreement, are considered originating from the Free Zone of the state of Merida.</p> <p>The goods introduced from the Free Zone of Paraguaná, Falcón State to the national territory are subject to the regulations contemplated in the law of creation of this special regime.</p> <p>The maximum amounts of alcoholic beverages, tobacco or tobacco products in the zone are subject to a quota that the Ministry of Treasury (today Ministry of Economy and Finance) established by resolution.</p>	<p>SEZs shall be limited (although they may be expanded) to the development of the following sectors and activities:</p> <p><i>Industrial:</i> includes production of goods, manufacturing, strategic agro-industry, export and re-export, aeronautics, and energy</p> <p><i>Technological:</i> includes the installation of technological parks for the development and production of telecommunications systems, parts, components and pieces, informatics and telematics, computer applications and systems, as well as for recycling of solid and technological waste, scientific research and development activities for the matter of outer space, and the development of science and military technology</p> <p><i>Financial services:</i> includes the installation of banking and financial services under a preferential tax regime</p> <p><i>Non-financial services:</i> includes the installation and production of logistics sectors for the provision and export of tourism services, hotels, recreation and entertainment.</p> <p><i>Primary livestock production:</i> includes primary production activities in the agricultural, livestock, fishing and aquaculture sectors for export purposes and to achieve the country's food sovereignty.</p> <p>The type of SEZ will be defined based on the items or activities established in the Law and any other sector and activity considered necessary for the development of the country.</p>
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