

Completing the Law on Tasks and Powers of Economic Zone Management Boards in Environmental Protection in the Operation of Economic Zones in Vietnam

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ABSTRACT

An economic zone is an area with different boundaries with many functions to attract investment, contribute to socio-economic development, and protect national defense and security. Therefore, the environmental protection work in economic zones is also different from other areas with very strict requirements, requiring high organization. The economic zone management board is responsible for managing and organizing the performance of the function of providing public administrative services and other supporting services related to investment and production and business activities for investors in the economic zone industrial and economic zones. Therefore, this study aims to analyze, clarify and make recommendations to further improve the law on the duties and powers of the economic zone management board in protecting the operation of economic zones in Vietnam.

Keywords: Economic zone management board, environmental protection of economic zone; the law on environmental protection of economic zones, Vietnam

INTRODUCTION

Economic zone construction is one of the important economic development policies of countries in the world today. This is an effective solution to attract investment capital, contribute to economic development, and create jobs for workers. The benefits that economic zones bring have been proven. However, the accompanying impacts, especially on environmental pollution, which have affected the surrounding areas, affecting the lives and activities of people, are a big obstacle, challenging countries to meet. households and investors in economic zones.

The experience of many countries around the world, in addition to preferential policies and support for the formation and operation of economic zones, the law provides very specific and strict regulations on environmental protection from the very beginning. investment appraisal until the economic zone comes into operation. Typically, according to the Korean experience, the Korean government determines that attracting foreign investors is the main goal, so the government's preferential policies are aimed at investors.

Specifically, in addition to the support for tariffs, the Korean government also supports a part of the basic infrastructure investment capital of economic zones, the rest will be implemented by the local budget or selected. choose enterprises and negotiate with enterprises on infrastructure investment items. Accordingly: foreign investors investing in free economic zones are entitled to a maximum exemption of 100% of corporate income tax for the first 5 years, a 50% reduction for the next 2 years. In order to enjoy the above CIT incentives, investors need to invest more than the minimum required capital according to sectors and fields (for example, manufacturing sector: 30 million USD; tourism 20 million USD; logistics: 10 million USD and R&D 2 million USD).

In Korea, only special economic zones are eligible for tax incentives. Investments outside special economic zones, including investment in industrial zones, are not eligible for tax

incentives. Investments in economic zones are exempt from all kinds of tax incentives. tax (corporate income tax, personal income, property tax, etc.) from 5-7 years and reduce 50% in the next 2 years.

Priority investment fields in the fields of high technology, education, and hospitals are all supported by the Korean government (Dong, 2019). Or according to Japan's experience, in the comprehensive special zones (CSZ), Japan has applied specific policies. For example, in the case of companies undertaking exceptional projects, companies may be entitled to special treatment, with 20% of sales deducted from taxable income. Depreciation and tax deduction rates are also adjusted to better incentives. However, the designation of CSZ supervisors for the development of international competitiveness will be strictly limited to a small number (Hirokazu Yamaoka, 2019).

RESEARCH RESULTS AND DISCUSSION

Assessment of the legal provisions on the duties and powers of the management board of the economic zone in protecting the environment in the operation of the economic zone

In Vietnam, the establishment and expansion of economic zones is an important economic development policy that the Party and the State pay special attention to. Recently, in the country, many economic zones have been established, expanded, and put into operation, contributing to solving the job needs of the people, especially attracting a lot of investment capital from investors. domestic and foreign investment to serve the goals of economic development and expansion of international integration.

As of June 2019, the whole country has 17 established coastal economic zones with total land and water surface area of more than 845 thousand hectares, there are 38 industrial parks located in economic zones with a total area of about 15,2 thousand hectares. It is estimated that in the first 6 months of 2019, industrial parks and economic zones across the country attracted about 340 foreign investment projects with a newly registered capital of about 8.7 billion USD, bringing the total number of projects. foreign investment capital to about 8,900 projects with a total registered capital of about 186 billion USD (Ministry of Planning and Investment, 2019).

In general, economic zones are increasingly playing an important role in the socio-economic development of the locality and the whole country in economic restructuring towards increasing the proportion of the industry, attracting special investment. especially foreign investment, promoting exports, increasing budget revenue, and creating jobs (Ministry of Planning and Investment, 2019). In particular, along with science and technology, the economic zone has attracted a number of large-scale and very large investment projects in the fields of heavy industry and electronics industry, contributing to improving operational efficiency. of industrial zones and economic zones, gradually affirming Vietnam as a global industrial production base.

In addition to the goal of attracting investment and creating jobs, the State and investors in economic zones have recently paid special attention to environmental protection in economic zones, in order to ensure harmony. between economic development and environmental protection. To achieve that goal, the government has issued many documents to regulate environmental protection activities in economic zones, such as the 2014 Law on Environmental Protection, Decree No. 82./2018/ND-CP of the government regulating the management of industrial parks and economic zones, Circular No. 35/2015/TT-BTN&MT on environmental protection of economic zones, industrial parks, export processing zones, and zones high technology. The content of the law on environmental protection in these

documents focuses on adjusting mainly in 3 stages, specifically as follows:

- (i) environmental protection in the preparatory stage for investment and construction of economic zones;
- (ii) environmental protection during the design phase of technical infrastructure for the construction of economic zones;
- (iii) environmental protection during the economic zone's operation. These regulations have created a legal framework to regulate environmental protection activities in economic zones in recent years. However, through the survey, the researcher found that the regulations in these documents, especially those on environmental protection during the economic zone's operation period, still have shortcomings, specifically:

First, regulations on the competence to inspect and handle violations of environmental protection in the operation of economic zones. Decree 82/2018/ND-CP has specific regulations on the responsibilities and powers of state agencies in inspecting, examining, detecting, and handling violations of environmental protection activities in economic zones. Accordingly, the agencies competent to inspect and handle include: the General Department of Environment under the Ministry of Natural Resources and Environment, the Department of Natural Resources and Environment, the Environmental Crime Prevention and Control Department, the Environmental Police Department, and the Department of Natural Resources and Environment, department of natural resources and environment, etc. (Chapter V of Decree 82/2018/ND-CP). This regulation forms a system of agencies strong and thick enough to promptly detect and handle violations of environmental protection in economic zones. However, through the study, it was found that one of the agencies that directly manage environmental protection activities in economic zones, the management board of economic zones, is not empowered to directly inspect and sanction violations of the Administrative law. On the contrary, it is only responsible for coordinating in inspection, handling, and timely detecting to report to the competent handling agency for violations of regulations on environmental protection in economic zones (Clause 4 and 37, Article 14, Circular No. 35/2015/TT-BTN&MT), this provision is really unreasonable. Because:

(i) The management board of the economic zone is the body that directly manages and administers the daily activities in the economic zone, therefore, when a violation of environmental protection occurs, the agency is now eligible to promptly detect and prevent for handling, but the law only stipulates that the management board is responsible for detecting and promptly reporting to competent agencies for inspection and handling. This regulation leads to the fact that when detecting violations causing environmental pollution, the management board must report it to the competent agency for handling, then the prevention and handling are often delayed consequences have occurred. In particular, the phenomenon of environmental pollution, if not prevented and handled in time, will spread very quickly and it will be difficult to control the consequences.

(ii) Because the law does not provide for it, when competent agencies and agencies conduct inspection and inspection of environmental protection activities in economic zones, there is usually no need to agree or coordinate with the management board of the economic zone economy (Hung, 2020). This regulation has blurred the role and position of the economic zone management board. At the same time, affecting the efficiency, timeliness, and thoroughness of the environmental inspection and inspection activities of economic zones. Because, more than any other subject, the management board is the direct management agency, fully understands the environmental protection situation of entities in the economic zone, and is often the first to detect violations. Therefore, it is not appropriate for the agencies

and sectors to carry out inspection and examination activities without the coordinating role of the management board of the economic zone. For example, in Dung Quat Economic Zone, in the regulation on coordination between relevant agencies in the field of environmental protection, which was approved by the Quang Ngai Provincial People's Committee in April 2011, the regulation allows the management board of the economic zone to handle administrative violations if detected. But Decree No. 29/2011/ND-CP and now Decree 82/2018/ND-CP stipulate that the economic zone management board does not have the authority to inspect and handle administrative violations, so in fact, The management board of DungQuat Economic Zone only has two tasks: collecting the wastewater commune fee and coordinating with the agency in inspecting and inspecting the environmental protection work in the economic zone. As a result, the management board must completely depend on the plans of other agencies in inspecting and handling violations of the environment, causing the situation that violations are not detected or prevented in time, causing environmental pollution, affecting business and production activities in the economic zone.

(iii) In addition, the regulation that allows many agencies to have the right to inspect, inspect and handle violations of environmental protection in economic zones has affected the production activities of enterprises. As analyzed above, the system of agencies with the right to inspect and inspect environmental protection activities in the economic zone has created a strong and thick enough force to promptly detect and handle if any violation. However, this hinders the daily production and business activities of enterprises because they have to receive a lot of inspection and inspection teams to work, from the General Department of Environment, the Environmental Police Department to the Department of Environmental Protection to the Department of Natural Resources and Environment, etc. (Danh, 2012).

Second, regulations on responsibility for the operation, maintenance, maintenance, and remedy of environmental pollution in economic zones. According to the provisions of Article 31, Decree 82/2018/ND-CP, investors developing economic zone infrastructure are responsible for building and operating centralized wastewater treatment stations and environmental protection works other schools in accordance with the law on environmental protection. At the same time, this subject is also responsible for maintaining and maintaining environmental protection works in the economic zone (Clause 5 &6, Article 31 of Decree 82/2018/ND-CP). This regulation ensures that the conservation works are operated and maintained on a regular and continuous basis, effectively serving production and business activities taking place in the economic zone.

However, the law does not stipulate the responsibility to prevent and remedy as well as the source of funds used to deal with the consequences of environmental pollution. According to current regulations, besides the activities of investors developing infrastructure, in the economic zone, there are also production and business activities of enterprises and residents. These activities can cause environmental pollution, causing damage to the economic zone. The problem arises, if pollution occurs in the economic zone, the remedial action belongs to whom and where does the funding come from?

Third, stipulate the responsibility of coordination of state management agencies on environmental protection in economic zones. In Clause 4, Article 63 of Decree 82/2018/ND-CP, ministries, branches, and local state management agencies, when performing professional tasks in economic zones, are responsible for coordinating and collecting opinions participation of the management board of the economic zone, ensuring that the state management activities in the economic zones are unified, avoiding overlap, and creating favorable conditions for enterprises to operate in accordance with the law. This regulation is

necessary to help the management of environmental state agencies in economic zones be carried out in a timely, synchronous, and effective manner. Because, the responsibility to inspect, inspect and handle the environment in economic zones is not an agency but a system of agencies from the central to local levels. Therefore, it is necessary to have regulations as well as regulations for close coordination between agencies and the management board of the economic zone to avoid overlapping when performing tasks.

However, through comparative research, the author found that regulations on the responsibility for coordination between agencies in inspecting, inspecting, and handling environmental protection activities in economic zones still overlap. Specifically, according to the provisions of Clause 4, Article 63, Decree 82/2018/ND-CP, state agencies when implementing professional tasks in economic zones are responsible for coordinating and collecting opinions of the management board of the economic zone. Meanwhile, in Clause 3, Article 65 of the Law on Environmental Protection in 2014, the management board of the economic zone must be responsible for coordinating with the state management agencies in charge of environmental protection in the organization area carry out environmental protection activities; organize the inspection of environmental protection activities; report on environmental protection activities in economic zones as prescribed by law. Thus, with the same responsibility for coordination to inspect, inspect and handle environmental protection activities in economic zones, but the two documents are contradictory, inconsistent, and confusing for the actors in the activities' practical action.

Moreover, the coordination in environmental protection in the economic zone has not been close and effective in recent years. Through the survey, the author found that the cause of this situation is that between the management board of the economic zone and the relevant state agencies, there has not been regulation on coordination, or there is a regulation on coordination but the first official's Limited capacity and lack of personnel should affect work efficiency. The evidence in the DungQuat Economic Zone shows that, in the coordination regulation, the Department of Natural Resources and Environment is the agency that plays the focal role and assumes the prime responsibility for performing the task of state management of environmental protection in the province economic sector. However, due to the limitation of personnel working in environmental protection work at the Environmental Protection Department, in the inspector of the Department of Natural Resources and Environment and the Department of Natural Resources and Environment in Binh Son District, the management of Environmental protection activities in economic zones are not regular (Danh, 2012).

This situation has also been analyzed by author Vu Dai Thang in his research when he said that the capacity of policy formulation and implementation of state management agencies is still limited, the organizational apparatus and staff are still limited officials, the coordination between state agencies in the management of economic zones is not close and consistent (Thang, 2012).

Some recommendations continue to improve the law on the tasks and powers of the management board of economic zones in environmental protection in the operation of economic zones

First, it is necessary to amend Decree 82/2018/ND-CP and Circular No. 35/2015/TT-BTN&MT to provide additional rights to inspect and handle administrative violations for the economic zone management. This recommendation is based on the following reasons:

(i) Create an initiative for the management board of the economic zone to promptly detect, prevent and handle violations of environmental protection during the operation of the

economic zone. As analyzed, the economic zone management board is established by the Prime Minister's decision but is under the direction of the provincial People's Committee and is the agency performing the direct state management function over activities in the economic zone in the area (Article 61, Decree 82/2018/ND-CP). Because it is the direct management agency in the economic zone, the management board often captures, timely, and closely monitors the production and business activities of the enterprise as well as the entity operating and maintaining the works environmental Protection. Therefore, it is appropriate to allow the management board of the economic zone to directly inspect and handle administrative violations related to environmental protection activities, to promptly detect, prevent, handle and minimize as much as possible damage caused to the environment as well as the operation of the economic zone.

(ii) Create an initiative for the management board in coordinating to inspect, inspect and handle environmental protection activities in the economic zone. As analyzed, the current situation because it is not assigned the right to self-inspect and handle, the management board of the economic zone must depend on the coordinated plan of the state management agencies in charge of the environment in the economic zone. Moreover, if detecting violations of environmental protection, the management board of the economic zone must report it to the competent agency for inspection and handling. As a result, violations are not checked and prevented in time. To overcome this situation, it is necessary to assign the management board the right to directly inspect and handle violations of the environment so that this agency can be proactive in detecting and preventing violations in a timely manner at the same time, take the initiative in formulating and implementing plans to coordinate with state management agencies in charge of the environment in the economic zone.

Second, it is necessary to amend Decree 82/2015/ND-CP to stipulate additional responsibilities and funding sources to prevent and overcome consequences when environmental pollution occurs during the operation of economic zones. As analyzed, currently in the economic zone, production and business activities of enterprises, activities of residents living in the economic zone, operation and repair of environmental protection works take place of the investor, etc. These activities can completely pollute the environment, causing damage to the economic zone as well as the neighboring areas. However, the responsibility to prevent and remedy as well as the source of funds for use is not regulated by the law. Therefore, if the actual environmental pollution in the economic zone occurs, it is very difficult to determine the responsibility as well as mobilize funds for treatment. Therefore, in Decree 82/2018/ND-CP, it is necessary to clarify responsibilities in preventing and overcoming the consequences of environmental pollution in the direction of (i) stipulating the responsibilities of each subject in each activity. action if causing environmental pollution; (ii) attach responsibility for funding sources to acts that the subject causes to prevent and remedy environmental pollution; (iii) assign responsibility to the management board of the economic zone to inspect, supervise and monitor the process of preventing and overcoming the consequences of environmental pollution.

Third, it is necessary to assign responsibilities to the economic zone management board to act as the focal point and preside over the coordination with state agencies in the management of environmental protection activities in the economic zone. On the basis of amending Decree 82/2018/ND-CP to assign the right of self-inspection and handling to the management board of the economic zone, Provincial People's Committees continues to direct and assign the management board to act as the focal point to proactively coordinate with local environmental management agencies to develop regulations on coordination with the following basic contents:

(i) Assign responsibility to the economic zone management board to act as the focal point and coordinate with relevant agencies in the area to conduct the inspection, inspection, and handling of environmental protection activities in economic zones. This regulation helps the management board to take the initiative in building and promptly organizing inspection and inspection activities to detect and prevent environmental violations in the economic zone. At the same time, promote the role and responsibility of the management board as the direct management agency of environmental protection activities in the economic zone.

(ii) Specifying responsibilities, powers as well as specific time and plans for each agency in inspecting and examining environmental protection activities in economic zones. This regulation helps agencies take the initiative in time and plan in coordinating inspection, inspection, and handling of environmental violations in economic zones. At the same time, the agencies are well aware of their responsibilities and powers, avoiding the situation of overlapping and “stomping each other’s feet” when performing their responsibilities for state management of the environment in economic zones. Moreover, helping businesses to be proactive in business activities as well as planning to receive inspection and inspection delegations, avoiding annoying situations for businesses like the reality in many economic zones today. At the same time, the regulations also need to stipulate the powers of unexpected inspection and inspection to avoid the situation of dealing with enterprises in the economic zone.

(iii) In addition, the regulations need to specify the content of coordination work, how to conduct inspection and inspection as well as the order and authority to handle violations of the environment of economic zones on the basis of current regulations.

CONCLUSION

The above research results show that, over the past time, the state has focused on environmental protection activities during the economic zone’s operation, with specific regulations on the responsibilities of the investor in operation. , maintenance of environmental protection works as well as responsibilities of management boards and state management agencies in inspecting, examining and handling environmental violations.

However, some regulations are still overlapping, lacking practicality, affecting the effectiveness of environmental protection during the operation of the economic zone over the past time. In order to improve the efficiency of environmental protection in the operation of economic zones, on the basis of practical surveys, the article has seriously analyzed to point out the inadequacies of the law, thereby proposing complete solutions. The project is highly practical, helping legislators to have a useful reference channel for completing the legal framework on environmental protection in the economic zone in the coming time.

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