



Special Economic Zone and Rent-Seeking Potential



Indonesia Corruption Watch
2021

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LIST OF ABBREVIATIONS

AMDAL	Environmental Impact Assessment
APBD	Regional Revenue and Expenditure Budget
APBN	State Revenue and Expenditure Budget
BIN	National Intelligence Agency
BUMD	Municipally-Owned Corporation
BUMN	State-Owned Enterprise
ITDC	Indonesia Tourism Development Corporation
KOMNAS HAM	National Commission of Human Rights
KPBPB	Free Trade Area and Free Port
SEZ	Special Economic Zone
TLDDP	Other Places Within Customs Area



Indonesia Special Economic Zone at a Glance

Special Economic Zones (SEZ) is a policy that was born in 2009 through Law No. 39 of 2009. The policy regulates a number of things, such as the form of SEZ, the SEZ determination process, incentives for entrepreneurs, and others. SEZ itself in the policy is defined as an area designated to carry out economic functions and obtain certain facilities.

In October 2020, a number of provisions in the Act were amended through Law No. 11 of 2020 concerning Job Creation. Derivative regulations to regulate implementation have been issued, including PP No. 1 of 2020 concerning the Implementation of Special Economic Zones. A few months after the work creation law was passed, the PP was revoked and replaced with PP no 40 of 2021.

As of February 2021, quoted from the official website of the National Council for Special Economic Zones of the Republic of Indonesia, there are 11 SEZs that have been operating and 4 SEZs that are under construction. There are also a number of areas that are said to be getting SEZ status, including the Lido City SEZ and Cikidang SEZ. Both are located in Sukabumi, West Java. Lido City is a project managed by MNC Group and Cikidang SEZ managed by Kiniku Bintang Raya.

In its implementation, SEZ itself cannot be separated from problems. The United Nations Human Rights expert said there was a possibility of human rights violations in the tourism project in Mandalika. In its official statement, it is stated that the local residents who are farmers and fishermen were evicted. Houses, fields, water sources have been damaged because of the Government of Indonesia and ITDC¹. The UN's findings were then approved by Komnas HAM².

This note was prepared by Indonesia Corruption Watch (ICW) to highlight SEZ policies and the potential for rent-seeking in the process. A number of provisions in legal products that regulate SEZs tend to provide benefits for business people. Briefly and specifically, we will also review the Cikidang SEZ and Lido City SEZ.

¹CNN Indonesia, "PBB Soroti Kemungkinan Pelanggaran HAM Di Proyek Mandalika," April 5, 2021, <https://www.cnnindonesia.com/internasional/20210405180951-106-626246/pbb-soroti-kemungkinan-pelanggaran-ham-di-proyek-mandalika>

²CNN Indonesia, "Komnas HAM Setuju Ada Potensi Pelanggaran Proyek Mandalika," April 13, 2021, <https://www.cnnindonesia.com/nasional/20210413191643-12-629473/komnas-ham-setuju-ada-potensi-pelanggaran-proyek-mandalika>



Special Economic Zone in Other Countries

Conceptually simple, SEZ is the concentration of industrial, export, and innovation activities in one area. Thus, in this concept, other classifications are also known, such as free areas and special export areas. According to Zhihua Zheng, SEZ has main characteristics that distinguish it from other zoning, including 1) it is located in a geographically separated location from other regions, 2) aims to efficiently use the limited state budget, 3) facilitates agglomeration of certain industries and 4) facilitates agglomeration of certain industries. workforce development³.

From a developmentalist perspective, SEZs are said to be able to act as a transition towards market liberalization and industrialization.⁴ Practically, the government that implements the SEZ will get benefits including the opening of large numbers of jobs, capacity building of human resources and technology development. The success of SEZs in China, North Africa, and Europe is an example of the success of how industrial centralization has a positive impact on country development.

Research conducted in Cambodia found that companies located in SEZs have competitive products in the international market, acquire technology with international licenses and benefit from a cheap labor market.⁵ Meanwhile, the results of research in India, Bangladesh and Sri Lanka found that industrial agglomeration was achieved due to infrastructure development that had met the needs, locations close to raw materials and cuts in government bureaucracy.⁶

Reflecting on the experiences of other countries, the implementation of SEZs can also invite the potential for corrupt practices and rent-seeking as well as waste of state budgets. In Tanzania, the local government suffered a loss because it had to allocate large costs for incentives and SEZs failed to achieve their targets due to the unavailability of infrastructure.⁷ In Russia in the 1990s, incentives given to business actors were actually used as an arena for rent-seeking.⁸ From this experience, several SEZ models found the preconditions needed to support SEZ success, including the availability of facilities and infrastructure in buffer zones, locations close to international ports, fiscal and non-fiscal incentives, and full support from the central government.

³Zhihua Zheng, "Special Economic Zones:Lessons from the Global Experience," Private Enterprise Development in Low Income Countries, no. 1 (2019).

⁴Koichi Hamada, "An Economic Analysis of the Duty-Free Zone," Journal of International Economics 3, no. 4 (1974): pp. 225-241.

⁵*Ibid*, Warr and Menon

⁶Aradhna Aggarwal, "Special Economic Zones in South Asia: Industrial Islands or Vehicles for Diversification?," World Bank Working Paper, 2008.

⁷Abel Kinyondo, Carol Newman, and Finn Tarp, "The Role And Effectiveness Of Special Economic Zone In Tanzania," WIDER Working Paper, November 2016.

⁸Karita Tuominen and Eero Laminen, "Russian Special Economic Zones," Pan-European Institution, no. 18 (2018).

SEZ Implementation in Indonesia



After being amended through the Job Creation Act, in its technical regulations, namely PP No. 40 of 2021, it is stated that SEZ business activities are:



Production & processing



Logistics & distribution



Research, digital economy & technology development



Tourism



Energy development



Education



Health



Sport



Financial services



Creative industries



SEZ development and management



Provision of SEZ infrastructure



1Other economies

The number of these activities can be reduced or increased at any time upon the agreement of the National Council in consultation with the relevant ministries.

In its implementation, there are several institutions in SEZ including the Central Government, Regional Government, Business Entities, National Council, Secretary General of the National Council, Regional Council, and Administrator. The following is an explanation of each institution and their duties, authorities, and rights based on PP no. 40 2021:



Institution



Responsibilities



Authority

Central Government

President

- Support the implementation of SEZ; providing incentives, special treatment, provision of regional infrastructure, SEZ location security lokasi

- Establish environmental approval
- Designating an area as SEZ

Regional government

Governor, Mayor/Regent

- Provide support in the form of the construction of facilities and infrastructure outside the SEZ to support the SEZ development

- Propose the establishment of SEZ
- Establish environmental approval
- Giving approval for SEZ proposal
- Establish a SEZ management business entity

Business entity

- Managing and developing SEZs (if as a proposer)

- Propose the establishment of SEZ

National Council

Coordinating Minister for the Economy (chair)

- Establish strategies and general policies for the establishment and development of SEZs
- Forming SEZ administrator administrator
- Setting management standards in SEZ
- Conducting an assessment on the proposal of an area to be made SEZ
- Provide recommendations for SEZ formation
- Reviewing and recommending development steps in areas with underdeveloped potential
- Resolving strategic problems in the implementation, implementation, management, and development of SEZs

- Request an explanation from the Zone Council and Administrator regarding the implementation of activities
- Request input and/or assistance from government agencies, local governments and or experts as needed
- Cooperating with other parties as needed



Institution



Responsibilities



Authority

Secretary
of the National
Council

- Assist in the implementation of the duties of the National Council

Regional
Council

- Implement general strategies and policies that have been determined by the National Council in the formation and development of SEZs
 - Assist the National Council in supervising the implementation of the SEZ Administrator's duties
 - Determine strategic steps to solve problems in the implementation of SEZ activities in their working areas
 - Submit SEZ management reports to the National Council
 - Submit incidental reports in the event of strategic problems to the National Council
 - Carry out other duties as requested by the Chairman of the National Council
- Request an explanation from the SEZ Administrator regarding the implementation of business licensing, other permits, services and supervision in SEZ
 - Request expert input and/or assistance as needed
 - Cooperating with other parties as needed

Administrator

- Organizing business licenses and other permits required by business entities and business actors
- Non-licensing services required by business entities and business actors
- Supervision and control of SEZ operations
- Get a report or explanation from the Business Entity and/or business actor
- Provide direction to managing Business Entities to improve SEZ operationalization
- Give a warning to the SEZ Business Entity if there is a deviation

The establishment of SEZs can be proposed by business entities, local governments, KPBPB regional councils as long as they meet three criteria including in accordance with the regional spatial plan and do not have the potential to disturb protected areas, have clear boundaries, and the land proposed to become SEZ is at least 50% of the planned has been partially or completely controlled. To propose a SEZ, the submitting party needs to prepare the following requirements to be submitted to the National Council:

- 1) Map of the development location and the proposed area separated from residential areas
- 2) The proposed SEZ spatial plan is equipped with zoning rules
- 3) Financing plans and sources
- 4) Environmental approval
- 5) Economic and financial feasibility study results
- 6) Term of a SEZ and strategic plan
- 7) Ownership of land controlled at least 50%

Especially for the proponent of a private business entity, written support from the provincial and district/city governments is required. In addition to local government and provincial governments, changes in PP no. 40 of 2021 states that the central government can designate an area as a SEZ with justification for expanding and increasing job opportunities as well as the need for national and regional economic growth. Especially for the central government, documents are not required but must do the following:

- 1) Inventory of state land that can be utilized by the National Council as a SEZ location
- 2) Inventory of state land that can be utilized by the National Council as a SEZ location
- 3) Develop a SEZ development plan

The proposal will be evaluated by the Secretariat General of the National Council and reviewed for 30 days. The study will then be submitted to the National Council session and if agreed upon, will be recommended to the president. If the president approves, the SEZ will be established through a government regulation.

If an area has been designated as a SEZ, the manager has three years to start development. The development, development and maintenance costs are sourced from the central/regional government, the private sector, cooperation between the central government, regional governments, the private sector, and other legal sources in accordance with statutory regulations.

The stages of SEZ development start from the establishment of a business entity. If a private business entity is the SEZ proposer, then the company is appointed directly as the manager. This business entity will then be responsible for the fulfillment of funding and development of the SEZ area. Meanwhile, if the SEZ is proposed by the government, a business entity will be appointed to manage the SEZ. After the management business entity is appointed, the SEZ development process and facilities outside the SEZ can be started. SEZ evaluation was carried out at the 12th, 24th and 36th months. Within 36 months, the proponent of the SEZ establishment must complete the construction of the SEZ to be declared ready to operate.

Twelve years since the enactment of the SEZ Law, the government has established 15 SEZs. However, there are only 11 SEZs that have officially been operating. These SEZs include:

No	SEZ	Location	Main Activity	Status	Manager
1	Sei Mangkei SEZ	Simalungun Regency, North Sumatra	Palm oil processing, rubber, tourism and logistics industries	Operating	PT Perkebunan Nusantara III (pengusul) PT Unilever Indonesia (investor)
2	Tanjung Lesung SEZ	Pandeglang Regency, Banten	Tourism	Operating	Jababeka Group
3	Palu SEZ	Palu City, Central Sulawesi	Base Metal Industry, Logistics	Operating	PT Palu Bangun Sulawesi Tengah
4	Mandalika SEZ	Central Lombok Regency, NTB	Tourism	Operating	PT Indonesia Tourism Development Corporation
5	Galang Batang SEZ	Bintan Regency, Riau Islands	Bauxite processing industry, Logistics	Operating	PT Bintan Alumina Indonesia
6	Aru Lhokseumawe SEZ	Aceh Utara & Lhokseumawe, Aceh	Energy, petrochemical and chemical industries, palm oil, timber, logistics	Operating	PT Pertamina PT Pupuk Iskandar Muda PT Pelindo Perusahaan Daerah Pembangunan Aceh PT Patriot Nusantara Aceh

No	KEK	Lokasi	Kegiatan Utama	Status	Pengelola
7	Tanjung Kelayang SEZ	Belitung Regency, Bangka Belitung	Tourism	Operating	Banyu Sinergi Multikarya
8	Bitung SEZ	Bitung City, North Sumatra	Coconut processing industry, fishery processing, logistics	Operatin	PT Membangun Sulut Hebat
9	Morotai SEZ	Morotai Island Regency, North Maluku	Fishery processing industry, tourism, logistics	Operating	Jababeka Group
10	Maloy Batuta Trans Kalimantan (MBTK) SEZ	East Kutai Regency, East Kalimantan	Palm oil processing industry, energy industry, logistics	Operating	Melati Bhakti Sakti
11	Sorong SEZ	Sorong, West Papua	Nickel processing industry, palm oil processing industry, forest and plantation products industry, logistics	Operating	PT Semen Gresik PT Henrison Inti Putra PT Bumi Sarana Utama (Kalla Group)
12	Tanjung Api-Api SEZ	Banyuasin Regency, South Sumatra	IPalm oil processing industry, rubber processing industry, petrochemical industry, logistics	Development stage	PT Tria Patria
13	Singhasari SEZ	Malang Regency, East Java	Tourism, technology development	Development stage	PT Pengembangan Pariwisata Indonesia PT Intelegensia Grahatama PT Cakrawala Mandala Nusantara

No	KEK	Lokasi	Kegiatan Utama	Status	Pengelola
14	Kendal SEZ	Kendal Regency, Central Java	Textile and Clothing Industry, Furniture, food and beverage, automotive, electronics, logistics	Development stage	Jababeka Group Sembcorp Development
15	KEK Likupang	North Minahasa Regency, North Sulawesi	Tourism	Development stage	PT Pengesahan Pariwisata Indonesia PT Minahana Permai Resort Development

**List of Special Economic Zones as of February 11, 2021
National Council for Special Economic Zones of the Republic of Indonesia**



Advantages for Businessmen

1

SEZ Buffer Construction

The location of the SEZ which is separated from densely populated areas implies the need for a good buffer zone to facilitate access to the SEZ and the availability of the required public facilities. Experience from the failure of the Mandalika, Tanjung Kelayang, and Tanjung Lesung SEZs strengthens the evidence that infrastructure unpreparedness determines the sustainability of SEZs. To meet this shortfall, the government must issue a large budget, even though the SEZ is determined through a proposal from a private business entity.

Mandalika, Tanjung Kelayang, and Tanjung Lesung are three SEZs engaged in tourism and were respectively established in 2014, 2016 and 2012. In 2018, Mandalika's investment realization only reached Rp 428 billion from the previously targeted Rp 13.5 trillion.⁹ Meanwhile, the realization of investment in Tanjung Lesung only reached Rp 85.3 trillion from the targeted Rp 22.2 trillion.¹⁰

In addition, during 2015 – 2018, the increase in Tanjung Lesung tourists only reached 37.02%. There is the same reason that the realization of investment in the three SEZs is not on target and has not reached the desired tourist target, including land acquisition problems, lack of infrastructure and poor SEZ management. According to one investor in the Tanjung Lesung SEZ, it was stated that the availability of infrastructure to Tanjung Lesung is a determinant of investment realization¹¹.

⁹ Koran Tempo, "Kawasan Ekonomi Terseok-Seok," June 29, 2018, <https://kolom.tempo.co/read/1100247/kawasan-ekonomi-terseok-seok/full&view=ok>

¹⁰ Ibid

¹¹ Ilham Hamudy and Said Rifky, "Tanjung Lesung Special Economic Zone: Expectation and Reality," Policy & Governance Review 5, no. 1 (2021): pp. 50-65.

National Strategic Project	SEZ plan	Proposer
 Trans Sumatra toll road	Tanjung Api-Api	PT Sriwijaya Mandiri Sumsel
 Pandaan – Malang toll road Pejagan – Malang toll road Pemalang - Malang toll road	Singhasari	PT Intelegensia Grahatama
 Pemalang – Batang – Kendal toll road	Kendal	PT Kawasan Industri Kendal
 Likupang Port	Likupang	PT Minahasa Permai Resort Development
 Ciawi – Sukabumi – Ciranjang – Padalarang toll road Cikembar. Airport	Lido Cikidang	MNC Group PT Kiniku Bintang Raya
 PLTSA Sarbagita	Sanur	MNC Group

National Strategic Projects and their relation to SEZ

Based on PP No. 40 of 2021 concerning the Implementation of Special Economic Zones, the responsibility for managing and developing infrastructure in the SEZ area is carried out and becomes the responsibility of the proposer, namely the Central Government, Regional Government, and the private sector. However, based on Article 41 of the same regulation, it is stated that the construction of facilities and infrastructure outside the SEZ to support the SEZ development is the responsibility of the regional government or ministry, even though the SEZ is proposed by a private business entity. The infrastructure in question can be in the form of road, rail, seaport and airport infrastructure. Thus, it can be concluded that there is a state budget allocated to assist the development of strategic projects for private business entities, if the SEZ is not proposed by the government.

The government's obligation to build SEZ buffer areas has implications for SEZs being included in National Strategic Projects, projects implemented by the central government, local governments, or business entities that have a strategic nature to increase growth and equitable development. As of April 2021, there are 223 PSN projects and with a total investment of IDR 4,183 trillion which includes the construction of toll roads, railways, urban transportation, oil & gas and ports. In Tanjung Lesung, PT Banten West Java – a subsidiary of Jababeka Group – which is the manager of the SEZ never planned to build road infrastructure to the SEZ location, so that port and toll road projects are carried out by the government through national strategic projects.¹² The same thing happened to Mandalika and Tanjung Kelayang through the government's agenda to build an international airport, toll roads, and hotel facilities.

¹² *Ibid*

Land Acquisition

The problem of land acquisition is often found by investors and business entities managing SEZs. The intervention of the state apparatus often occurs in this matter. This can be seen, among others, in the Mandalika SEZ. Until 2020, land acquisition in Mandalika has only reached 70% after six years of being designated as a SEZ. In the land acquisition process, the government allegedly involved security forces to evict residents' settlements, until Komnas HAM declared the development a violation of human rights. The same thing also happened in the Bitung SEZ, the construction of which has displaced 500 families.

Through Law no. 21 of 2020 concerning Job Creation which also revised Law no. 2 of 2012 concerning Land Acquisition for Development in the Public Interest provides flexibility for land acquisition for SEZs. Article 10 states that Special Economic Zones are initiated and/or controlled by the central government, regional governments, BUMN and BUMD as part of the public interest. The implication of the inclusion of SEZs in the public interest is that there will be more cases of land evictions for the sake of SEZ development, especially the track record of SEZ lands that have not been fully acquired by the manager.

Further convenience related to land acquisition is also contained in the revision of Law no. 39 of 2009 concerning Special Economic Zones contained in the Job Creation Law. In the Job Creation Law, additional criteria for the SEZ proposal are added, namely land tenure of at least 50% of the planned or partially or fully controlled land. The existence of this article is an incentive and more certainty for entrepreneurs to invest in SEZs or upgrade their business status to SEZs. This then happened in Lido and Cikidang which were previously owned by MNC Group and PT Bintang Raya Loka Lestari respectively. For the record, these two companies did not experience a good enough income due to the lack of infrastructure for industrial areas.

Fiscal Incentives

Further facilities and conveniences owned by the proposers, managers, and business actors of SEZs are tax incentives. Through the Job Creation Law, the central and regional governments are asked to provide support for the implementation of SEZs through facilities and conveniences including income tax, value added tax or sales tax on luxury goods, import duties and PDRI and customs duties. The provision of this incentive is intended so that the managing business entity will receive compensation in the form of reduced costs for its investment in the SEZ. In a study conducted on the SEZ Sei Mangkei, it was proven that the clarity of incentives was an attraction for investors and SEZ proposers.¹⁶

¹³Majalah Tempo, "Sengketa Lahan Dan Intimidasi Di Balik Pembangunan Sirkuit Mandalika," October 3, 2020, <https://majalah.tempo.co/read/hukum/161570/sengketa-lahan-dan-intimidasi-di-balik-pembangunan-sirkuit-mandalika>.

¹⁴Mongabay, "Program Pembangunan KEK Bitung Dinilai Abaikan Hak-Hak Masyarakat," March 7, 2016, <https://www.mongabay.co.id/2016/03/07/program-pembangunan-kek-bitung-dinilai-abaikan-hak-hak-masyarakat>

¹⁵Susanne Frick, Andres Rodriguez Pose, and Michael Wong, "Toward Economically Dynamic Special Economic Zones in Emerging Countries," *Economic Geography* 95, no. 1 (2019): pp. 30-64.

¹⁶Reffoni Mastaria Tarigan, "The Role of Incentives in Indonesia Special Economic Zone (Case in Sei Mangkei, North Sumatera Province)," *Jurnal Ilmiah Administrasi Publik* 6, no. 3 (2019).

However, in some cases, tax incentives were also found to be an instrument of rent-seeking for SEZ managers and proponents.¹⁷ In the Tanjung Lesung SEZ, tax revenue was reduced from the original 34 billion, which was previously targeted to reach 48 billion.¹⁸ This then prompted the Governor of Banten Province to ask the central government to revoke the Tanjung Lesung SEZ status.¹⁹

The kind of incentives given to managers are further explained in the Regulation of the Minister of Finance No. 237/PMK.010/2020 concerning Treatment of Taxes, Customs and Excise in Special Economic Zones. In the regulation, it is stated that business entities and business actors in SEZ get income tax reduction facilities of up to 100% for investors who invest a minimum of Rp 100 billion. This amount decreased drastically from the 2015 PMK which only stipulated a reduction of 20-100% with a minimum investment limit of IDR 1 trillion. This tax deduction will last for 10 – 20 years depending on the size of the investment and will be given a reduction of 50% for the next two tax years.

In addition, business entities managing and business actors are also given compensation for 10 years. In the previous regulation, the compensation given varied between 5 – 10 years. To get this facility, business entities and business actors must make an investment of Rp 100 billion and have a commitment to fulfill this investment within a period of four years.

With regard to value added tax and sales tax on luxury goods, SEZ managers and actors receive tax-free facilities on the import of certain taxable goods, utilization of intangible taxable goods, delivery of certain taxable goods to SEZ by entrepreneurs from TLDDP and delivery of taxable goods, intangible and/or certain taxable to SEZ. The goods referred to in these provisions include capital goods such as land, buildings, machine tools, and raw materials for manufacturing or logistics.

Regarding customs, in article 36 paragraph (2) it is stated that part or all of the SEZ area can be designated as a customs area. To obtain this status, the business entity must submit an application to the administrator and meet the criteria, including, among others, that there are export and import goods traffic activities, and the area has clear boundaries and there are designated entrances for goods traffic activities. If approved, the managing business entity will be designated as the manager of the Customs Area.

In order to develop SEZ, business entities managing SEZs will be given customs facilities and conveniences including exemption from import duties and no PDRI, no value added tax or value added tax and sales tax on luxury goods originating from other SEZs, TPB and free area. In addition, article 56 also states that SEZs can be provided with their own customs service facilities including attachment or release of security signs, goods loading services, goods release services and other services.

¹⁷ André Rodríguez-Pose and Glaucio Arbix, "Strategies of Waste: Bidding Wars in the Brazilian Automobile Sector," *International Journal of Urban and Regional Research* 25, no. 1 (2001): pp. 134-154.

¹⁸ Ilham Hamudy and Said Rifky, "Tanjung Lesung Special Economic Zone: Expectation and Reality," *Policy & Governance Review* 5, no. 1 (2021): pp. 50-65.

¹⁹ *Ibid*

In addition, in PP No. 40 of 2021, it is also stated that provincial and district/city governments are required to provide support in the form of relief from regional taxes and levies. In article 100 of this rule, the form of reduction referred to is a reduction in the cost of acquiring land and building rights and a reduction in land and building tax in the range of 50% - 100%. Provisions regarding the reduction of regional taxes and levies will be stipulated through regional regulations.

Incentives	PMK No. 104/PMK.010/2016	PMK No. 237/PMK.010/2020
Income Tax	<ul style="list-style-type: none"> ■ Income tax reduction of 20-100% for 10-25 years for investors more than IDR 1 trillion ■ Income tax reduction of 20-100% for 5-15 years for investors more than Rp 500 billion ■ 30% reduction in net income over six years Compensation for loss 5-10 years 	<ul style="list-style-type: none"> ■ 100% income tax reduction for 10 years for investors of IDR 100 – 500 billion; 15 years for IDR 500 billion to IDR 1 trillion; 20 years for at least a trillion ■ Reduction of net income by 30% of the total investment for six years at 5% each per annum ■ Loss compensation for 10 years ■ Procurement, sale and lease of land are not subject to income tax ■ Foreign citizens are subject to income tax facilities from those earned for four years
Value Added Tax and Sales Tax on Luxury Goods	<ul style="list-style-type: none"> ■ No tax on imports ■ Imports from other places in customs to SEZ are not collected ■ Expenditure from SEZ to TLDDP is free ■ Transactions between actors in SEZ are not collected ■ Transactions with actors in other SEZs are not collected 	<ul style="list-style-type: none"> ■ No tax is collected for importing goods to SEZ ■ Not collected for the delivery of certain taxable goods to SEZ by entrepreneurs from TLDDP, Free Zone, or TPB ■ Not collected for certain intangible taxable goods and/or taxable services to SEZ by entrepreneurs from TLDDP, Free Zone or TPB

		<ul style="list-style-type: none"> ■ Delivery of certain intangible taxable goods and/or taxable services to SEZ by entrepreneur from TLDDP, Free Zone or TPB ■ Not collected for the delivery of certain taxable goods between business entities, between actors or between business entities in the same SEZ or other SEZs ■ Delivery of intangible taxable goods and/or taxable services, between business entities, between business actors in SEZs or between other SEZs, excluding land and/or building rental services
Customs	<ul style="list-style-type: none"> ■ Imports of goods carried out by business entities are granted exemption from import duty and do not enter PDRI 	<ul style="list-style-type: none"> ■ The entire SEZ area can be designated as a Customs Area ■ Exemption of import duty and not collected tax in the context of import of capital goods ■ Import duty exemption for consumer goods ■ No taxes are collected in the context of imports in the Tourism SEZ ■ Suspension of import duties and free of charge for imports ■ Free import duty for raw materials for 14 types of businesses
Local tax (PP No. 2 of 2011 and PP No. 40 of 2021)	<ul style="list-style-type: none"> ■ Plans for granting exemption or relief from regional taxes and regional levies as well as facilities 	<ul style="list-style-type: none"> ■ Reduction, relief, exemption of regional taxes and levies in the form of reduced duties and reduced land and building taxes

Non-Fiscal Incentives

In addition to fiscal incentives, the government is also required to provide non-fiscal support such as ease of licensing, access to labor and security. Regarding licensing, the requirement is to attach the results of the Environmental Impact Analysis (AMDAL) previously stated in Law no. 39 of 2009 was replaced by environmental requirements in the form of an Environmental Management Plan or efforts to handle impacts on the environment caused by business plans and activities. Through Article 138, SEZ managers and business actors are also given land and spatial planning facilities which include the implementation of land acquisition, land services and special procedures for granting, extension and renewal of land rights, as well as facilitation and spatial planning coordination.

Non-Fiscal Incentives	PP No. 20 year 2021
 <p>Permissions</p>	<ul style="list-style-type: none"> ■ Environmental approval ■ No building permit applied
 <p>Land and spatial planning</p>	<ul style="list-style-type: none"> ■ Using a land scheme in the public interest using the APBD or APBN ■ Charged by HPL to SEZ proposed by the government
 <p>Labour</p>	<ul style="list-style-type: none"> ■ Business entities that obtain HGB or usufructuary rights can be granted 30 years at the same time extended for 20 years after operating and renewed for 30 years ■ In the case of residential ownership, HGB or right of use can be granted for 30 years as well as an extension of 20 years after the residence is declared operational and can be renewed for 30 years
 <p>Freight traffic</p>	<ul style="list-style-type: none"> ■ The ratification of the foreign manpower plan does not apply to directors or commissioners with certain share ownership; the kind of manpower needed in the type of production activity that is stopped due to an emergency, vocational, start-up company ■ No ban on import of goods to SEZ has been determined

Non-Fiscal Incentives for Entrepreneurs in SEZ

Ease of business licensing is also granted for industrial, trade, port, immigration activities for foreigners and is provided with security facilities. In Article 151 of the PP on SEZ Operation, it is stated that business entities and business actors do not require building approval as long as the business entity has established building guidelines or estate regulations.

Potential Conflict of Interest and Distribution of Electoral Allotments

Potential conflicts of interest and the distribution of electoral allotments can occur in SEZ policies. This can at least be seen through the discourse of the Cikidang SEZ and the Lido City SEZ.

a. Cikidang SEZ and Algorithm Hill

SEZ Cikidang is a project initiated by PT Kiniku Bintang Raya. The Cikidang SEZ emerged when on April 7, 2021, PT Kiniku Bintang Raya launched a project called Bukit Algorithm. PT Kiniku Bintang Raya is a company formed through an operational collaboration between PT Kiniku Nusa Kreasi and PT Bintang Raya Lokalestari.

The Bukit Algorithm megaproject is a technology park development program following the Silicon Valley model in the United States which has spawned thousands of technology and information innovations. In the initial plan, this project will be integrated into the SEZ scheme located in Cikidang Village, Sukabumi Regency, West Java and is predicted to cost Rp 18 trillion which will be sourced from foreign investment. Built on an area of 888 hectares owned by PT Bintang Raya Lestari, the project is partnering with one of the state-owned enterprises in the construction sector, namely PT Amarta Karya (Amka). Amka is tasked with building infrastructure, power plants, clean water, and so on.

Although it has been stated that the Bukit Algorithm project will be located in the Cikidang SEZ, the status of the Cikidang SEZ has not been confirmed. On April 7, 2021, when the project was launched, Cikidang Village, Sukabumi Regency, West Java had not yet received SEZ status. This was confirmed by the Deputy for Coordination of Regional Development and Spatial Planning of the Coordinating Ministry for Economic Affairs, Wahyu Utomo. In his statement, Wahyu said there had been no proposal regarding the establishment of the Bukit Algorithm SEZ. In West Java Province, only one SEZ is being processed, namely Lido City.²⁰

This status was confirmed by the statement of the Secretary of the SEZ National Council, Enoh Suharto Pranoto. Quoted from Koran Tempo, according to him, PT Bintang Raya Lokalestari had proposed the status of SEZ and passed at the local government level in 2018. However, the application was rejected when evaluated by the Secretariat of the National SEZ Council for administrative reasons.²¹

Cikidang Village has long been proposed as a SEZ location. The proposal to designate Cikidang Village as a SEZ has been made since 2017. At that time, the West Java Provincial Government proposed six regions to become SEZs, and Cikidang Village was one of them. In early 2019, the Regent of Sukabumi Marwan Hamami unilaterally stated that President Jokowi had designated the Cikidang sub-district as a SEZ in Sukabumi.²² In 2019, West Java Governor Ridwan Kamil stated that the Pangandaran SEZ proposal was rejected so that Cikidang became a priority location.²³

²⁰André Rodríguez-Pose and Glauco Arbix, "Strategies of Waste: Bidding Wars in the Brazilian Automobile Sector," *International Journal of Urban and Regional Research* 25, no. 1 (2001): pp. 134-154.

²¹Tempo, "Area Bukit Algoritma Sempat Gagal Meraih Status KEK - Ekonomi Dan Bisnis," April 14, 2021, <https://koran.tempo.co/read/ekonomi-dan-bisnis/463859/area-bukit-algoritma-sempat-gagal-meraih-status-kek>.

²²Okezone, "Presiden Jokowi Setujui Cikidang Jadi Kawasan Ekonomi Khusus : Okezone Economy," February 21, 2019, <https://economy.okezone.com/read/2019/02/21/320/2020969/presiden-jokowi-setujui-cikidang-jadi-kawasan-ekonomi-khusus>.

²³Kompas.com, "Rencana KEK Pangandaran Mandek, Ini Strategi Pemprov Jabar," April 2, 2019, <https://regional.kompas.com/read/2019/04/02/18325301/rencana-kek-pangandaran-mandek-ini-strategi-pemprov-jabar>.

The discourse on the development of the Cikidang SEZ for the digital technology industry only emerged in February 2021 when PDIP politician Budiman Sudjatmiko announced plans to develop Silicon Valley Indonesia on land owned by PT Bintang Loka Karya Lestari.²⁴ In the same month, the Minister of Tourism Sandiaga Uno met with Ridwan Kamil and confirmed the construction of the Cikidang SEZ, apart from the Lido SEZ discourse in Bogor Regency.²⁵

However, four years since the discourse of the Cikidang SEZ has been rolling up to the MoU for the construction of Algorithm Hill, there is still no Government Regulation that stipulates Cikidang Village as a SEZ. Ridwan Kamil even responded with skepticism about the Bukit Algorithm discourse considering that the indicators to follow the Silicon Valley model have not yet been met²⁶. This then raises questions about parties who are really interested in the Cikidang SEZ.

The Cikidang Village as the location of the SEZ itself has the potential to cause a number of problems. First, Cikidang is part of the Mount Halimun National Park (TNGHS) area and is inhabited by rare animals.²⁷ This is contrary to the SEZ criteria according to PP No. 40 of 2021 which states that the SEZ area must not disturb the protected park area. Based on the 2006 GHSNP report, this area has been damaged by mining company activities despite its status as a national park. Second, due to this destruction, Cikidang has become an area prone to landslides, floods, and natural disasters such as earthquakes.²⁸ Third, this region does not yet have a transportation system and public facilities such as electricity, fuel, and good food. Thus, supporting projects are needed to make the Cikidang SEZ successful.

Companies Behind the Algorithm Hill Project

ICW conducted a search on the company that manages the Bukit Algorithm mega project. The companies that manage them include PT Kiniku Bintang Raya. However, searching through the website of the Directorate General of AHU of the Ministry of Law and Human Rights, the company was not found. The search then found that the company was a form of operational cooperation between PT Piniku Nusa kreasi and PT Bintang Raya Lokalestari. In addition to the two companies, ICW also traced the management structure of PT Amarta Karya.

²⁴Rada Sukabumi, "Budiman Sudjatmiko Bakal Sulap Cikidang Sukabumi Seperti San Francisco, Ini Yang Akan Dilakukannya: Laman 2 Dari 5," February 15, 2021, <https://radarsukabumi.com/berita-utama/budiman-sudjatmiko-bakal-sulap-cikidang-sukabumi-seperti-san-francisco-ini-yang-akan-dilakukannya/2/>.

²⁵IDX Channel, "Ridwan Kamil & Sandiaga Uno Siap Kawal Movieland Di KEK Lido," accessed April 15, 2021, <https://www.idxchannel.com/economics/ridwan-kamil-sandiaga-uno-siap-kawal-movieland-di-kek-lido>.

²⁶CNN Indonesia, "Ridwan Kamil Harap Proyek Bukit Algoritma Tak Sekadar Gimik," April 13, 2021, <https://www.cnnindonesia.com/nasional/20210413073442-20-629077/ridwan-kamil-harap-proyek-bukit-algoritma-tak-sekadar-gimik>.

²⁷Windra Kurniawan et al., "Analisis Konflik Pemanfaatan Lahan Di Kawasan Taman Hutan Lindung Nasional Gunung Halimun Salak," *Jurnal Pengelolaan Sumberdaya Alam Dan Lingkungan* 3, no. 1 (July 2013): p. 24.

²⁸Sukabumi Update, "Diapit Dua Sesar Aktif, BMKG Ingatkan Potensi Gempa Di Bukit Algoritma Sukabumi," accessed April 14, 2021, <https://sukabumiupdate.com/posts/84434/diapit-dua-sesar-aktif-bmkg-ingatkan-potensi-gempa-di-bukit-algoritma-sukabumi>.

PT Kiniku Nusa Kreasi

PT Kiniku Nusa Kreasi runs its business in various sectors, such as crop farming, coal and lignite mining, information service activities, programming, real estate, veterinary services, and so on. The following is the composition of the management and shareholders:

Name	Position	Shareholding
Tedy Tri Tjahyono	Director	47,5%
Dani Firmansyah	Director	15%
Budiman Sudjarmiko	President Director	27,5%
Mariyanto	Commissioner	10%

Management Structure and Composition of Share Ownership of PT. Kiniku Nusa Kreasi, Directorate General of AHU, April 1, 2021

Budiman Sudjarmiko is a PDIP politician and former activist in the New Order era. He served as a member of the DPR RI 2014 – 2019 and is known as the initiator of the Village Law which was passed in 2014. Budiman is also known to be a supporter of Joko Widodo in the 2014 and 2019 Presidential Elections. He currently serves as an independent commissioner of PT Perkebunan Nusantara V (Persero).

PT Bintang Raya Lokalestari

The following is the composition of the management and shareholder composition of PT Bintang Raya Lokalestari.

Name	Position	Shareholding
Budi Handoko	President Commissioner	60%
Dhanny	Director	20%
Lim Kioek Jin	Commissioner	20%

Management Structure and Share Ownership Composition PT. Bintang Raya Lokalestari, Directorate General of AHU, 15 August 2018

Tirto.id reports that Dhanny is the son of Budi Handoko. Budi Handoko is known as an oil palm businessman who started his career in Bengkulu in the 1990s. Budi once initiated a hunting tour with the former Head of BIN, AM Hendropriyono. He was once found guilty by the Balikpapan District Court for a criminal offense of causing state losses of Rp. 3.2 billion in a legal case for the procurement of fast ferry transportation in four regencies in East Kalimantan. After expanding his palm oil business, he founded PT Bintangraya Lokalestari in 2018.²⁹

²⁹ <https://tirto.id/keluarga-pengusaha-sawit-dan-hobi-berburu-di-balik-bukit-algoritma-gcAx>

■ PT Amarta Karya

PT Amarta Karya is a state-owned company engaged in the construction sector. The following is the composition of the management and shareholders:

Name	Position	Shareholding
Republic of Indonesia	-	100%
Ruspen Saragih	Commissioner	-
Ir. Royaldi Rosman	Director	-
Ahmad Zainuri	President Commissioner	-
Nikolas Agung Sr. St	President Director	-
Hidayat Wahyudi	Director	-

Management Structure and Share Ownership Composition PT. Amarta Karya, Directorate General of AHU, 26 October 2020

PT Amarta Karya is known to have been in arrears of up to Rp 2.4 billion in debt to the steel procurement company PT Stahlindo Jaya. Amarta Karya ordered steel from PT Stahlindo Jaya for the Ready-to-Use Factory Building Project (BPSP) IX in the Wijayakusuma Industrial Estate with a project value of Rp 7 billion.³⁰

b. Lido City SEZ

Lido City is a project managed by MNC Group. The project is built on an area of 3,000 hectares with playground facilities, hotels, resorts, villas, housing, transit oriented development, golf courses, and botanical gardens.³¹

Similar to the Cikidang SEZ, until April 2021 Lido City has not been officially designated as a SEZ. The proposal for Lido City as a SEZ can be traced back to 2016 when PT MNC Land through its subsidiary, PT Lido Nirwana Parahyangan signed an MoU with the Korea Agency for Infrastructure Technology Development (KAIA) and PT Indako Finance & Development to build a smart city infrastructure with an investment value of 900 billion won for 160 projects.³² In addition to companies from Korea, PT MNC Land also cooperates with companies from China, China Metallurgical Corporation Group and gets financing through the Chinese Export and Credit Insurance Corporation.³³ One year later, the discourse on Lido development began after PT MNC Land planned to build an amusement park on an area of 3000 hectares, involving the President of the United States, Donald Trump.³⁴ Until 2017, Trump did have tourist sites in Bali and Lido.³⁵

³⁰Suara.com, "BUMN Kasus Lagi. Kini Amarta Karya Nunggak Rp 2,4 Miliar Ke Perusahaan Baja," January 17, 2020, <https://www.suara.com/bisnis/2020/01/17/211657/bumn-kasus-lagi-kini-amarta-karya-nunggak-rp-24-miliar-ke-perusahaan-baja>.

³¹Bisnis.com, "Proyek 3.000 Ha, MNC Lido City Dikembangkan Sampai 20 Tahun: Ekonomi," March 3, 2021, <https://ekonomi.bisnis.com/read/20210303/47/1363479/proyek-3000-ha-mnc-lido-city-dikembangkan-sampai-20-tahun>.

³²Beritasatu.com, "Bangun Smart City Lido, MNC Land Gandeng KAIA Dan Indako," March 11, 2016, <https://www.beritasatu.com/archive/354260/bangun-smart-city-lido-mnc-land-gandeng-kaia-dan-indako>.

³³Beritasatu.com, "Bangun Smart City Lido, MNC Land Gandeng KAIA Dan Indako," March 11, 2016, <https://www.beritasatu.com/archive/354260/bangun-smart-city-lido-mnc-land-gandeng-kaia-dan-indako>.

³⁴Merdeka.com, "Hary Tanoë Beberkan Proyek Sekelas Disneyland Di Lido," September 30, 2015, <https://www.merdeka.com/uang/hary-tanoë-beberkan-proyek-sekelas-disneyland-di-lido.html>.

³⁵Tempo, "Ini Daftar Lengkap Perusahaan Donald Trump Di Indonesia ," January 23, 2017, <https://bisnis.tempo.co/read/838883/ini-daftar-lengkap-perusahaan-donald-trump-di-indonesia>.

Companies Behind the Lido City Project

Lido City is a project managed by PT MNC Land Tbk. The following are the results of ICW's investigation of the management structure and composition of PT MNC Land's share ownership.

Name	Position	Shareholding
UOB Kay Hian (Hongkong) Ltd	-	47,5%
PT MNC Investama Tbk	-	17,06%
HT Investment Development Ltd	-	10,89%
Masyarakat	-	52,55%
Hary Tanoesoedibjo	President Director	-
Andrian Budi Utama	Vice President Director	-
Michael S. Dharmajaya	Director	-
Alex Wardhana	Director	-
Soesilawati	Director	-
Vincent Henry Richard Hilliard	Director	-
M. Budi Rustanto	President Commissioner	-
Liliana Tanoesoedibjo	Commissioner	-
Susaningtyas Nefo H. Kertopati	Independent Commissioner	-
Stien Maria Schouten	Independent Commissioner	-

*Management Structure and Share Ownership Composition
PT. MNC Land, MNC Land official website, 15 April 2021*

Hary Tanoesoedibjo is the President Director and beneficial owner of PT MNC Land, a subsidiary of the MNC Group which is one of the dominant actors in the media industry in Indonesia. He is known as the founder and general chairman of the Perindo Party. Tanoe owns land in Lido District after acquiring 1037 hectares of assets owned by the Bakrie Group and PT Bakrie Toll Road, which is engaged in toll road construction.³⁶ In 2016, Tanoe was questioned by the Attorney General's Office investigators in the PT Mobile-8 Telecon restitution corruption case.³⁷ Tanoe admitted that the case had been completed in pretrial in mid 2017.³⁸

In the political field, Tanoe had declared himself a vice presidential candidate in the 2014 presidential election, accompanying Wiranto, the general chairman of the Hanura Party. However, the candidacy failed and Tanoe supported the Prabowo-Hatta candidate. Although Perindo did not succeed in taking part as a formal opposition in the first term of Jokowi's administration, the pressure that the president put on its business managed to encourage Tanoe and Perindo to turn back to Jokowi in 2018. Ahead of the 2019 General Election, Perindo supported the candidacy of Jokowi-Ma'aruf Amin and Tanoe played a role as the advisory board of Jokowi's winning team. In the 2019 election, Perindo was also listed as the party that received the most campaign donations, although in the end it failed to break the parliamentary threshold.³⁹ Currently, Angela Tanoe, daughter of Hary Tanoe, serves as Deputy Minister of Tourism.

Four years after the Lido development discourse by MNC Group, West Java Governor Ridwan Kamil announced his support for making Lido District the first Tourism SEZ in West Java.⁴⁰ The investment value of SEZ development is said to have reached 38 trillion and the presence of MNC Group in Lido facilitates the registration process, considering that the land owned has met the minimum limit of 250 hectares.⁴¹ In March 2021, the construction of the Lido SEZ was inaugurated along with the laying of the first stone for the establishment of the Lido Music & Arts Center.⁴² On June 16, 2021, Lido City was officially designated as a SEZ. The determination is regulated through Government Regulation (PP) Number 69 of 2021⁴³.

³⁶Tempo, "Bakrie Jual Lido Resort Ke Hary Tanoe ," December 11, 2012, <https://bisnis.tempo.co/read/447533/bakrie-jual-lido-resort-ke-hary-tanoe/full&view=ok>.

³⁷Kompas.com, "Kasus Mobile 8, Hary Tanoe Diperiksa Penyidik Kejagung," July 6, 2017, <https://nasional.kompas.com/read/2017/07/06/10414531/kasus.mobile.8.hary.tanoe.diperiksa.penyidik.kejagung?page=all>.

³⁸Okezone, "Hary Tanoe Tegaskan Kasus Restitusi Pajak Mobile 8 Sudah Selesai Di Praperadilan : Okezone Nasional," July 6, 2017, <https://nasional.okezone.com/read/2017/07/06/337/1730255/hary-tanoe-tegaskan-kasus-restitusi-pajak-mobile-8-sudah-selesai-di-praperadilan>.

³⁹Detik.com, "Sumbangan Dana Kampanye Perindo Rp 82 M, Terbesar Dari 15 Partai Lain," accessed April 15, 2021, <https://news.detik.com/berita/d-4368847/sumbangan-dana-kampanye-perindo-rp-82-m-terbesar-dari-15-partai-lain>.

⁴⁰Tempo, "Ridwan Kamil Dorong KEK Pariwisata Lido Bogor: MNC Punya Tanah," July 19, 2020, <https://travel.tempo.co/read/1366966/ridwan-kamil-dorong-kek-pariwisata-lido-bogor-mnc-punya-tanah/full&view=ok>.

⁴¹Pemprov Jabar, "Lido Bogor Bakal Jadi KEK Pariwisata Pertama Di Jabar," July 15, 2020, https://jabarprov.go.id/index.php/news/38495/Lido_Bogor_Bakal_Jadi_KEK_Pariwisata_Pertama_di_Jabar.

⁴²Pikiran Rakyat, "Peletakan Batu Pertama Kawasan Ekonomi Khusus (KEK) Lido Bogor Dijadwalkan Hari Ini," March 10, 2021, <https://www.pikiran-rakyat.com/ekonomi/pr-011566530/peletakan-batu-pertama-kawasan-ekonomi-khusus-kek-lido-bogor-dijadwalkan-hari-ini>.



Conclusion

Prone to State Capture Practices and Concession Sharing

The brief note above shows the potential for SEZs to become a wetland for rent-seeking practices. The various facilities and conveniences provided will make many parties target SEZs for profit. In addition, the central government has now gained more authority through changes to the Job Creation Law. So SEZ has the potential to be used as a way for the ruling government to share concessions.

This indication strengthens when one sees that a number of business people have previously stated that their business has been categorized as a SEZ, while the stipulation has not been officially issued. This indicates that they have received guarantees for obtaining such status from the authorities without prior formal determination.

SEZ in the Employment Creation Law: Providing Benefits for Businessmen

The provisions regarding SEZ in the Job Creation Law also confirm that the legal product benefits business people. The controversial Job Creation Law is allegedly driven by business interests, so it is strongly suspected that state capture has occurred. Provisions regarding Special Economic Zones that benefit business people should be suspected as part of that.

The Principle of Public Accountability Still Applies

The principle of public accountability still applies in the SEZ. The existence of regulations governing support for SEZs through tax incentives, goods traffic, and so on shows the active role of the state. Countries may also be required to build supporting infrastructure to support SEZs. So that if there are projects in the SEZ that do not use APBN/APBD funds, the accountability principle still applies in its management. There needs to be transparency in the implementation of SEZ policies.