



**SOUTHERN AFRICA MULTI-DISCIPLINARY ADVISORY TEAM
INTERNATIONAL LABOUR ORGANIZATION**

Labour Standards in Export Processing Zones
A Southern African Perspective

For Presentation at the

**1996 Meeting of the SADC Employment and Labour Sector
Lilongwe, Malawi
1-5 April 1996**

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EXECUTIVE SUMMARY¹

This report surveys the role of labour standards in export processing zones (EPZs) in the Southern African context. Recently several countries in Southern Africa have moved forward to create EPZ schemes, some of which include concessions in the area of labour standards in the hope of attracting foreign investors. This report therefore looks at the legal, economic and social implications of the removal or reduction of labour standards in EPZs.

Chapter I explains the concept of EPZs as a tool for creating employment and increasing the export orientation of a national economy. The idea of incentives as a means of attracting investment is introduced as a system of exemptions from national standards, sometimes including labour standards. Chapter II describes the development of EPZs worldwide since their inception in 1959. Substantial growth in the use of EPZs is observed in Asia, where some countries are already phasing them out after having achieved policy objectives. For most of Africa, however, EPZs have just recently entered the scene, with successful schemes generating substantial employment thus far operating only in Egypt, Mauritius and Tunisia.

Chapter III focuses on the situation in Southern Africa. While EPZs are a new phenomenon in the subregion, some countries already have incentive driven policies to attract foreign investment. Although not EPZs in the strict sense of the word, experience in Botswana, Lesotho and Swaziland is instructive in the sense that foreign investment and employment have been generated, while no concessions were made in the area of labour standards. Chapter III goes on to describe the EPZ initiatives recently taken by Malawi, Namibia and Zimbabwe. An assessment is made of the social implications of the suspension by Namibia and Zimbabwe of their national labour laws in EPZs. Note is also taken of an amendment to the EPZ Act pending before the National Assembly of Namibia which would reinstate application of virtually all of Namibian labour law in EPZs.

Chapter IV illustrates the potential conflicts which exists between international labour standards and the lowering of labour standards in Southern African EPZs. The comments of ILO supervisory bodies in similar cases in other member States are taken into account in assessing the extent to which Namibia and Zimbabwe are likely to be at odds with international labour standards.

Chapter V assesses the belief that lowered labour standards lead to greater investment flows into EPZs. Empirical evidence, in particular from Africa, suggests that reduced labour standards would not lead to substantial additional foreign investment. Reductions furthermore might result in a number of negative effects on, for example, the development of human resources and productivity levels. At the subregional level the risk of competition between EPZ host countries might put further pressure on labour standards and efforts at regional integration, while on the international plane the lowering of labour standards could negatively affect trade relations.

¹ This report has been prepared by Joost Kooijmans and David Tajgman of the ILO Southern African Multidisciplinary Advisory Team, Harare, and Aurelio Parisotto of the International Institute for Labour Studies, Geneva.

Chapter VI, finally, discusses the outlook for EPZs in Southern Africa. It looks at EPZs as transitional arrangements aimed to stimulate internationally competitive economies. While EPZs can be a useful tool in this respect, they cannot compensate for much needed overall strategies aimed at embedding foreign investment and efficient organization of production for the international market.

INTRODUCTION

At its Sixteenth Ministerial and Tripartite Meeting in Maseru, Lesotho, on 20 and 21 February 1995, the Southern Africa Labour Commission (SALC) requested the International Labour Office (ILO) "to prepare a study on the subject of the application of national and international labour standards in Export Processing Zones (EPZs) from a subregional perspective by 1995/96."² The results of the study were to be tabled at the next meeting of SALC/Employment and Labour Sector of SADC.

The present report is submitted pursuant to that request. It has been prepared by ILO's Southern Africa Multi-Disciplinary Advisory Team (SAMAT), based at Harare, in cooperation with the International Institute for Labour Studies in Geneva.

The report assesses the role of labour standards in the performance of EPZs, in particular with regard to EPZs in Southern Africa. Its purpose is to assist policy makers in the countries of the subregion in the development of strategies for export oriented industrialization and employment generation.

The report is structured as follows:

- Chapter I introduces the concept and strategy of EPZs;
- Chapter II provides a broad historical and geographical overview of their development;
- Chapter III analyzes the present state of affairs relating to EPZs in Southern Africa, in particular in the context of national labour legislation;
- Chapter IV the application of international labour standards in EPZs and the implications for countries in the Southern African subregion;
- Chapter V addresses the relationship between labour standards and foreign investment;
- Chapter VI discusses the outlook for the success of EPZs in Southern Africa.

I. THE CONCEPT AND STRATEGY OF EXPORT PROCESSING ZONES

1. The concept defined

Special zones for export oriented industries exist under many different names, although the name "export processing zone" has gained the upper hand both in academic writings and in practical use. Broadly speaking, the term represents a strategy for attracting foreign direct investment and creating employment through the provision of incentives and diminution of standards (labour laws, taxation schemes, customs regimes, etc.), under certain conditions. The ILO defined an EPZ as a

2 See *SALC Doc. SALC/XIV/MT/4*, Annex II, p. 1, recommendation 1.(a).

*"clearly delineated industrial estate which constitutes a free trade enclave in the customs and trade regime of a country, and where foreign manufacturing firms producing mainly for export benefit from a certain number of fiscal and financial incentives."*³

The key elements of the EPZ strategy have been highlighted in the definition above. To clarify issues presented later, a few words are said here about these elements and their evolution in recent years.

* *Clearly delineated industrial estates* are a means of limiting the effects and activities of EPZ businesses on the one hand, and facilitating the provision of special incentive benefits on the other. Infrastructure, for example, can be specially developed and provided for EPZ firms if they are gathered together in a small area. Monitoring compliance with the conditions under which EPZ firms are required to operate is also made easier. Special provisions for workers in EPZ firms, such as housing and transport, can likewise be more easily provided. The spillover effects of the diminution of a range of standards as well as the preferred treatment to EPZ firms could also be limited under these conditions. In recent years, there has been a move away from geographically delineated zones and towards reliance upon a pledge of operations within certain requirements in order to qualify for EPZ status and privileges. In practice, this amounts to a system of bonded factories located throughout the host country.

* Location within a *free trade enclave* entitles the EPZ enterprise to tax and tariff free entry of inputs to production. This lowering of tax and tariff standards is given in exchange for the understanding that the EPZ enterprise, or enterprise with EPZ status, exports most or all of its products. It represents a way to offer export incentives and facilities for countries that do not wish to adopt a fully fledged free trade regime.

* The aim of an EPZ strategy is to attract *foreign manufacturing firms* to the host country. Such firms, it is hoped, bring injections of technology, developed human resources, and capital to less developed countries much in need of these inputs. The types of firms (traditionally apparel/textile production, and electronics assembly) which are attracted to a particular EPZ will vary depending on what the EPZ country has to offer, be it particularly favourable access -- geographic or tariff-wise -- to the product market, access to a physical input of production, or low-cost labour of the required skill level. Increasingly, domestic firms have been granted EPZ status provided that they are able to comply with the requirements set for foreign EPZ enterprises. For example, local businesses should achieve the same export level as required of foreign enterprises. Surveys in the late 1980s have shown that in well-developed EPZs the share of domestically owned firms on average amounted to 25%.⁴ Local equity participation varies considerably among the various zones, but it generally increases over time as EPZs become rooted and attract the attention of local entrepreneurs. In Mauritius, for instance, a country with long-standing and successful EPZ-

³ *Economic and Social Effects of Multinational enterprises in export processing zones*, ILO/UNCTC, Geneva, 1988, p. 4.

⁴ Idem, p. 28.

incentives, the participation of local capital is estimated to account for 2/3 of EPZ activities.⁵

* Production of *goods mainly for export* has been the *quid pro quo* for the granting of incentives and reduction in national standards in EPZs. The rationale for this is that foreign investment is more likely to be attracted if market access is not limited to the domestic market. Thus, in an incentive-supported export-oriented environment increased market access will allow the manufacturing sector to expand more quickly, resulting in higher levels of economic growth and employment.

Incentives and Other Concessions in EPZs

Incentives and other concessions offered to investors in EPZs vary from country to country. The following list sums up the incentives and concessions commonly found in EPZs:

- Exemption from corporate income tax (tax holiday)
- Concessionary rate of income tax
- Tax exemption on dividends
- Repatriation of dividends by foreigners
- Importation of goods duty/tax free
- Duty free exports of finished products
- Exemption from import/export control regime
- Exemption from foreign exchange control regime
- Tax exemption on transfer of shares
- Work permits for foreign technical, managerial and training staff
- Exemption from income tax on emoluments paid to foreign employees
- Exemption from labour standards
- High quality infrastructure
- Training grants

Source: SAMAT; *Environmental Issues and EPZs: A Literature review*, Training and Research Support Centre, Harare/ILO Interdepartmental Project on Environment and the World of Work, 1994-5.

2. The broad aim of the strategy

Ideally, the EPZ strategy is meant to be a short to medium term solution to the slow pace of foreign investment in less developed nations; it is meant to be an exceptional condition designed to induce foreign capital and know-how to unknown, and perhaps otherwise unappealing production venues. During the life of the policy, its success as seen from the host country's perspective, can be measured by

- the amount of employment it creates;

⁵ Heyn C., "Multinational Enterprises and Employment in the Mauritian Export Processing Zone", *Multinational Enterprises Programme, Working Paper No. 52*, ILO, Geneva, 1988, p. 17

- the funds, through wages and benefits, it injects into the economy;
- the qualities it develops in the human resources of the host country;
- the technological and managerial know how it imparts to those in the host country who come in contact with the EPZ enterprises; and
- the backward linkages that are made with the domestic economy.

The granting of incentives and removal of standards in the short to medium term represent costs to the host country. These costs are borne in the hope of long term economic and human resource benefits. In the ideal world, the final success of an EPZ strategy can be judged only by its ability to fall away as a means of attracting foreign interest in the production capacity of the host country. Otherwise, the sub-standard and exceptional provisions become the norm. It is useful to keep this long term development objective in mind when considering the issue of standards, including labour standards, in EPZs.

II. THE DEVELOPMENT AND GROWTH OF EXPORT PROCESSING ZONES

1. Development of EPZs

The first export processing area was established in Ireland in 1959. Shannon airport, until then a busy refueling station for transatlantic flights, was rapidly becoming superfluous due to the introduction of long-distance jet aircraft. In a bid to save both the airport and the national airline, it was decided to turn the Shannon area into a free trade zone to attract foreign manufacturing firms which could export their products by air. Over the years, high value added industries have developed in the Shannon free trade zone, creating some 5,641 jobs. In the case of Shannon, no accommodations were given in the area of labour standards. In 1965, five years after the Shannon zone became operational, the first export processing zone in a developing country, India, was established.

Working Conditions in EPZs

Concern has often been expressed on the working conditions in EPZs, in particular with respect to lengthy working hours, night shifts, overtime, high labour turnover. The skills requirements of EPZ production are generally minimal. Training is on-the-job and of limited duration. The majority of workers are women, many of whom are unlikely to make long-term careers in the firms where they are employed. Because of the short-term nature of EPZ employment, there is no incentive for firms to invest in training and professional development and the acquisition of skills is, on the whole, poor. Discipline, respect for deadlines and a general exposure to modern industrial organization appear to be the main assets that production workers in developing countries have derived from their employment experience in EPZs.

By 1970, some eight EPZs had been created in developing countries. Ten years later, in 1980, this number had increased to 55 zones in about 30 developing countries. Today, there are more than 200 such zones in at least 70 developing countries, and more than half of the developing countries now host EPZs or firms with EPZ status. If this trend continues, the number of operational EPZs can be expected to come close to 300 by the end of the century. Likewise the growth in employment in EPZs has been rapid: from 50,000 in 1970 to some 2.4 million in 1990, or 4.6 million if the Special Economic Zones in Southern China were to be

included.⁶

The expansion of EPZs in the 1970s and the 1980s was stimulated by a number of changes in the international organization of production by large multinational firms. Technological progress and the reduction in the costs of transport and communications increased possibilities to fragment production processes into distinctive stages and to locate them in the most convenient locations worldwide regardless of the final destination of their output. Attracted by sizable incentives, preferential market access and low-cost labour, multinational firms adopted strategies whereby simple manufacturing activities and labour-intensive stages of production were located in export enclaves in developing countries for exporting to third markets in the industrialized countries.

The worldwide integration of the production networks of multinational enterprises along simple integration lines was particularly strong in the textiles and garments and electronics industries. A striking feature of EPZs has been their development into industrial monoculture estates rather than into well-balanced industrial parks as originally planned. For example, over three-quarters of the employees working in EPZs in Bangladesh, Dominican Republic, Jamaica, Mauritius, and Sri Lanka produce textiles and garments. Conversely the majority of employees in Barbados, Malaysia and the Republic of Korea work in the electrical and electronic products industries.

Common features of EPZ development worldwide

Typical activities - Foreign-invested EPZ firms essentially engage in simple assembling operations and the most sophisticated functions such as research and development, design or advanced manufacturing processes are retained in the parent companies at home. As a result the package of assets that is introduced in the host EPZ is generally "poor". Since EPZs' exported products are typically assembled with imported inputs, the net foreign exchange benefits to the host economy have been much smaller than the value of gross EPZ exports. The technological content of EPZ production is limited, and given the "enclave" nature of most EPZs, backward linkages with local suppliers are also limited. Problems concerning the volatility of the operations of foreign investors have also characterized most EPZs.

Success - Where successful, however, EPZs have contributed to foreign exchange earnings and quick generation of employment. More important, EPZ schemes have provided some initial conditions for integration in the global economy, in Asia in particular. The outstanding economic success of these economies is the most visible phenomenon of the 1990s. Underlying this success, however, is a set of factors that accounted for the capacity of local employers to skilfully gain from the introduction of foreign firms in the EPZs.. Within this framework, demonstration effects and emulation by local Asian employers have been the main avenue for the transfer of knowledge and organizational skills from foreign EPZ firms. An active role has also been played by governments in supporting this process.

Failure - It is to be recalled that many zones never lived up to the expectations of their creators, or were outright failures. A number of classical factors which explain these failures can be identified. These include: poor planning; "inconvenient" location; insufficient attention to the basic infrastructure such as roads, airports, telecommunications or electricity supply; lack of effective promotion and mismanagement.

⁶ See e.g., UNCTAD, *Export processing Zones in Sub-Saharan Africa, Part 1, UN Doc UNCTAD/ECDC/225 (Part I)*, pp. 1-4; UNCTAD, "Export Processing Zones: Role of Foreign Direct Investment and Developmental Impact", *UN Doc. TD/B/WG.1/6*, Geneva, 1993.

2. ...In Asia

Half of the global total number of EPZs are found in Asia. Table 1 describes the trends in employment in Asian countries currently hosting EPZs (see below). EPZs in Asia are by far the most instructive, as many have undergone the full life cycle of formation, take-off, maturity and decline. For example, a few EPZs have made the transition from relatively simple labour intensive manufacturing processes such as textiles and electronics assembly to high-technology production of, for example, semi-conductors (e.g., Taiwan, Singapore, and Malaysia). A slightly wider range of activities can be found in the oldest, “mature” EPZs, e.g., metal products, chemicals, precision instruments, toys, sporting goods, but also data processing. In Sri Lanka and Thailand EPZ status has been granted to a large number of companies operating outside EPZ areas. Finally, a number of countries in East Asia have phased out EPZs and conditions favourable to foreign investment have been extended throughout the economy.

An important factor contributing to the success of many Asian EPZs is the presence of a strong industrial core *in the region*. Industrialization and the subsequent rise in costs of production factors in Japan has led to the outsourcing of labour intensive production stages to other countries in the region. This trend has led to the emergence of the newly industrializing economies (NIEs) such as Hong Kong, the Republic of Korea, Singapore and Taiwan. Since the late 1980s, a growing trend has been the very rapid growth of EPZ investment by firms located in these Asian NIEs. Investment from the NIEs has been primarily a response to sharp increases in domestic wage levels, large trade surpluses, high exchange rates and growing protectionism abroad. These pressures pushed NIE firms engaged in labour-intensive, export-oriented industries to relocate to the EPZs of neighbouring Asian countries such as Indonesia, Thailand, and the Philippines, where opportunities could more easily be spotted even by small investors and where geographical and cultural proximity, and ethnic business ties made the organization and coordination of cross-border production networks much simpler.⁷ This development continues with rapid export oriented industrialization in China, where whole areas of the country have been cordoned off into so-called Special Economic Zones. The process of outsourcing of production stages is expected to continue, with the likely involvement of Viet Nam and Cambodia in the near future.

A Post-EPZ Era?

Asia is noteworthy in another way, as it seems to be making the transition to a “post EPZ era”. Competition for investment on an individual country basis seems to evolve into regional arrangements based on resource complementarity. A good example is the newly formed growth triangle of Singapore, Malaysia and Indonesia. The three countries complement each other in that Singapore provides high quality services, Malaysia the intermediate value added production, and Indonesia the unskilled low-cost labour. The proximity of these production factors is the main incentive for investors; incentives in the classical sense as seen in EPZs do no longer play a role of significance.

The presence of this revenue and investment generating industrial core, combined with a strong and deliberate emphasis on training and education, has enabled some countries, such as Taiwan and Singapore, to make the transition to high-tech production processes.

⁷ Some investment has also taken place in the EPZs of Central America, the Caribbean and Africa, primarily in order to take advantage of preferential access to markets in industrialized economies.

These countries, which have created and are operating EPZs under unique circumstances, are the examples most often cited as EPZ success stories.

Table 1

Employment in Export Processing Zones and Firms enjoying EPZ status in Asia and the Pacific

Country	Employment in 1986	Employment in 1990	Employment in 1994
Bahrain	n.a.	4,600	n.a.
Bangladesh	4,515	7,000	20,000
China (Special Economic Zones)	n.a.	2,200,000	3,340,000 (1992)
Fiji	n.a.	n.a.	11,149
India	17,000	30,000	16,390
Indonesia	13,000	50,000	95,000
Jordan	n.a.	n.a.	n.a.
Korea (Republic of)	41,500	24,700	21,910 (1991)
Malaysia	81,700	98,900	123,204 (1993)
Pakistan	1,500	2,000	5,914
Philippines	39,000	35,400	70,000
Sri Lanka	35,000	55,000	134,572 (*)
Syrian Arab Republic	n.a.	n.a.	n.a.
Taiwan	80,469.	70,700	---- (**)
Thailand	4,750	12,000	305,373 (*)
Tonga	1,000	n.a.	n.a.
Turkey	n.a.	n.a.	4,000 (1995)
Singapore	n.a.	210,000	---- (**)
Viet Nam	----	----	n.a.
United Arab Emirates	1,300	12,000	24,000
Yemen	n.a.	n.a.	n.a.

n.a.= data not available

---- = EPZ not yet or no longer operational

(*) Including a large number of enterprises that are not located within EPZ areas but do enjoy the same status as EPZ enterprises.

(**) EPZ no longer operational; incentives have been phased out and/or extended countrywide.

Source: UNCTAD, "Export Processing Zones: Role of Foreign Direct Investment and Developmental Impact", *Doc. TD/B/WG.1/6*, Geneva, 1993; Updating and Modifications: ILO/SAMAT.

3. ...In Latin America and the Caribbean

Some 80 EPZs are located in Latin American and Caribbean countries. A list of these countries is given in Table 2. Measures of success of EPZs in this region vary considerably from country to country, and proximity and preferential access to the US market are very important factors of success. In terms of employment generation, Mexico and the Dominican Republic are considered to be very successful, having generated 608,100 and 176,300 jobs respectively. In a number of other countries, such as the Bahamas, Chili and Ecuador, Trinidad & Tobago, EPZs appear not to have taken off very well. An interesting phenomenon, illustrating the potential importance of access to the domestic market of the host country, is the Manaus Zone in Brazil, which is a large processing zone employing 75,000 people in 1990 and *producing almost exclusively for the domestic market*, although the incentives offered to attract foreign investors are similar to other EPZs.

Table 2

Employment in Export Processing Zones and firms enjoying EPZ status in Latin America and the Caribbean

Country	Employment in 1986	Employment in 1990	Employment in 1994
Antigua & Barbuda	n.a.	n.a.	n.a.
Bahamas	n.a.	8000	n.a.
Barbados	n.a.	20,000	n.a.
Belize	n.a.	600	n.a.
Brazil	63,000	75,000	n.a.
Chile	2,000	8,500	9,975
Colombia	6,700	7,000	n.a.
Costa Rica	n.a.	6,000	75,000 (1992)
Dominica	n.a.	n.a.	n.a.
Dominican Republic	36,000	150,000	176,310
Ecuador	n.a.	n.a.	n.a.
El Salvador	2,080	3,500	50,000
Grenada	n.a.	n.a.	n.a.
Guatemala	n.a.	40,000	118,500 (1993)
Haiti	5,000	43,000	5,000
Honduras	2,590	3,000	49,500
Jamaica	8,000	18,000	16,850 (1995)
Mexico	250,000	460,000	608,100
Montserrat	n.a.	n.a.	n.a.
Netherlands Antilles	400	300	n.a.
Nicaragua	n.a.	n.a.	n.a.
Panama	2,060	200	14,400 (1995)
St. Kitts & St. Lucia	n.a.	n.a.	n.a.
St. Lucia	n.a.	1,500	2,820 (1993)
St. Vincent	n.a.	400	n.a.
Trinidad & Tobago	2,730	400	550

n.a.= data not available

Source: UNCTAD, "Export Processing Zones: Role of Foreign Direct Investment and Developmental Impact", *Doc. TD/B/WG.1/6*, Geneva, 1993; Updating and Modifications: ILO/SAMAT.

4. ...In Africa

Approximately 25 zones are in operation or in preparation in Africa. Three countries (Egypt, Mauritius and Tunisia) account for about 90 of total EPZ employment in Africa. A list of countries and the employment generated is given in Table 3.

Mauritius was the first country in Africa to create an EPZ. Moving towards independence in 1968, the country was faced with a rapidly growing workforce and an economy almost entirely dependent on the sugar industry. Driven by the need to create jobs, the Government from 1962 on issued "Development Certificates" to develop local industries. These certificates exempted industries from taxation for five years, and provided access to long term loans and protection through import duties and quotas. Although by 1970 this strategy had resulted in the creation of 70 new enterprises which were oriented almost entirely at the domestic market, it became clear that this inward-oriented industrialization would not generate sufficient employment and economic growth. Under these circumstances, the creation in 1970 of an EPZ in Mauritius was mainly aimed at job creation. In this respect, the Mauritian experience can be termed very successful. By 1980, the EPZ had generated more than 21,000 jobs in 101 enterprises. At its peak in 1990, EPZ enterprises employed more than 90,000 persons. This number declined to 82,200 jobs in 494 enterprises in 1994. The

Mauritian EPZ has never been restricted to one geographical location. A system of bonded factories throughout the island prevails, although a number of industrial estates have been developed.

Incentives offered to EPZ investors included:

- * a ten-year total income tax relief on corporate income, and reduced tax relief thereafter up to 20 years;
- * a five-year tax holiday on dividends;
- * duty-free production inputs;
- * a partial tax exemption on re-invested profits;
- * free repatriation of profits, dividends and capital;
- * easy access to loans and investment capital.

In 1985 the tax relief provisions were revised for new investors, providing a 15% corporate tax and a ten-year exemption from tax on dividends.

In the area of labour standards, the 1975 Labour Act applies throughout the country, including EPZs. Section 20 of the 1993 Industrial Expansion Act, however, provides for deviations from the Labour Act for EPZs. As such, separate regulations apply to EPZs regarding a) overtime work (under circumstances compulsory in EPZs and calculated upon a weekly basis instead of a daily basis as is the rule in the remainder of the country), b) maternity leave, and c) termination of employment (no entitlement to severance compensation if dismissed on grounds of serious misconduct)⁸. Likewise, wage levels for the EPZ are determined through Wages Renumeration Orders, and, with some exceptions, generally have been lower than in the remainder of Mauritius.⁹

As regards associational rights, it is noteworthy that no restrictions were imposed on industrial relations and trade union activity. Trade unions have been active in the zone throughout its history, although unionization appears not to exceed 10% of all EPZ workers. In practice, the exercise of associational rights has been hampered. A number of EPZ enterprises have denied access to trade unions, leading to poor labour relations and, in some cases, to wild strikes.

Mauritius is often cited as an example of a very successful EPZ, undoubtedly in view of the highly visible impact on employment in the small island nation. The “reasons explaining the success of the Mauritian EPZ are to be found in the background socio-economic characteristics of the country itself, including political stability and the quality of the labour force and of the local business environment, encouraged by the packages of incentives provided by the government, in conjunction with market access to the EEC under the Lomé Conventions”¹⁰. Connected to this was the influx of a high number of investors from Hong Kong which in the 1980s accounted for some 66% of total multinational participation in equity. There exists some evidence that traditional ethnic ties with Hong Kong, as well as with France, account for the high percentage of investors from these countries, although this relationship is far from clear.

The Mauritian EPZ is the only one of the some 25 in Africa that has reached maturity. Initially, employment in the zone expanded rapidly due to sustained foreign investment in labour-intensive operations. As wages and working conditions improve, capital-intensive

⁸ *Report of the Tripartite Study Tour to Mauritius and Kenya*, by: ZCTU/EMCOZ/GOVT, Harare (November 1994).

⁹ Heyn (1988), at note 4, pp. 15 and 65-67.

¹⁰ *Idem*, p. 49.

production gradually replaces labour-intensive activities, and foreign investment in labour-intensive production decreases. The present decline in employment in the Mauritian EPZ may partly be a result of the outsourcing of labour intensive production stages to Madagascar. Mauritius is thus presently facing the challenge of sustaining its EPZ through diversification and the introduction of more sophisticated production techniques so as to make the change to high value-added production and away from labour intensive production. This as yet appears to be a difficult task, since until recently industries in the zone consisted for some 80% of (labour-intensive) garments and textiles companies. The Government is presently pursuing a strategy of human resources development to support the transformation process.

Table 3

Employment in Export Processing Zones and firms enjoying EPZ status in Africa

Country	Employment in 1986	Employment in 1990	Employment in 1994
Cameroon	----	----	2419
Egypt	25,000	25,000	90,000 (1995)
Ghana	2,600	2,600	n.a.
Kenya	n.a.	2,000	2,800
Lesotho	n.a.	13,000 (1992)	16,000
Liberia	700	n.a.	n.a.
Madagascar	----	----	26,000
Malawi	----	----	----
Mauritius	61,700	90,000	82,200
Morocco	n.a.	1,500	n.a.
Namibia	----	----	----
Nigeria	----	----	n.a.
Senegal	1,200	1,200	n.a.
Togo	n.a.	3,970	4,170
Tunisia	40,000	48,000	93,370 (1991)
Zimbabwe	----	----	----

n.a.= data not available

---- = EPZ not yet operational

Source: UNCTAD, "Export Processing Zones: Role of Foreign Direct Investment and Developmental Impact", *Doc. TD/B/WG.1/6*, Geneva, 1993; Updating and Modifications: ILO/SAMAT.

In Southern Africa, the development of EPZs is as yet in an early stage. In 1994 and 1995, Malawi, Namibia and Zimbabwe adopted EPZ legislation. Steps are being taken in these countries to implement practical arrangements for the actual establishment of the zones, but no EPZs are presently operational in the Southern African subregion. South Africa, furthermore, is studying possibilities for an EPZ strategy. Several countries in the subregion have been managing schemes more or less similar to the EPZ strategy to attract foreign investment. Botswana, Lesotho and Swaziland are offering financial and other incentives to attract investors for the purposes of generating exports and employment. The experience of these countries will be put to use in this report.

III. EXPORT PROCESSING ZONES AND LABOUR STANDARDS IN SOUTHERN AFRICA

While the EPZ laws of Malawi, Namibia, and Zimbabwe introduce the strategy as

such to Southern Africa, Botswana, Lesotho and Swaziland (BLS countries) have been running schemes for the promotion of export oriented industrialization since the late 1960s. Although these schemes differ in many aspects from the EPZ strategy, they share a common theme in that they offer incentives for foreign investment. The strategy followed in Lesotho, most notably, has resulted in an investment pattern closely resembling the classic EPZ profile. As will be seen below, in the case of the BLS schemes as well as the Malawi/Namibia/Zimbabwe approaches, the main objectives are employment generation, export promotion, the transfer of technologies and know how through integration of foreign investors in the local economy. Before we begin our detailed examination, we note that the exemption from national labour standards is a new development which has not previously occurred among the range of incentives offered by countries in Southern Africa.

1. Lesotho's foreign investment strategy: the near-EPZ experience

An export-oriented investment policy in Lesotho took shape with the establishment of the Lesotho National Development Corporation by law in 1967. The semi-public agency's objectives are "to initiate, promote, and facilitate the development of manufacturing and processing industries and commerce in a manner calculated to raise the level of income and employment in Lesotho"¹¹. The LNDC has traditionally focused on export oriented and labour intensive projects to reduce the trade imbalance and generate much needed job opportunities¹². In 1994, 48 LNDC-assisted companies employed 16,000 persons. Current estimates set this figure at 18-20,000, or up to 60% of all private formal employment in Lesotho. The workforce in the LNDC-assisted industries consists of a very high proportion of young women, in some factories up to 95%. Lesotho labour legislation applies throughout the country and thus without exception in LNDC-assisted operations.

"Manufacturers are afforded a full duty rebate on imported raw material or components for use solely in the processing of goods for the export market....

This facility ensures that a company located anywhere in Lesotho can have effective 'Export Processing Zone' status."

Investor's Guide to Lesotho, LNDC, Maseru, (Lesotho), n.d.

The Government of Lesotho in the past offered financial incentives packages which included a number of privileges such as tax holidays. This system was revised in 1993, when most incentives were discontinued. At the same time corporate tax was lowered to 15% which is low for Southern African standards. The LNDC still provides some loans and modest financial grants, and if so requested can become a shareholder in newly created companies. In addition, the country offers to investors market access to European and American markets through preferential agreements. The LNDC presently manages five production zones in Lesotho. It is responsible for processing applications for investment, assistance to investors and the development of the production zones and related infrastructure. The occupancy rate in the zones is high, in some zones up to 94%¹³.

11 Art. 4, Lesotho National Development Corporation Act 1967

12 *LNDC Annual Report 1993/94*, LNDC, Maseru (Lesotho), p. 1.

13 *Idem*, p. 7.

Most LNDC-assisted investors come from South Africa and the Far East, estimated at 45% and 30 % in 1992, respectively. Most are active in textiles and garments, leather, and electronics industry. After the largest proportion of employment in textiles, leather and garment industries - some 70% in 1994 - 10% of employment can be found in support activities. Less than 5% of employment is found in the electronics sector. Virtually all goods manufactured in Lesotho are exported and recent years have seen a diversification Lesotho's export markets, with a significant expansion of exports away from South Africa and towards overseas markets. Exports to the markets of the EU and the USA, for example, increased from 24 to 50% between 1988 and 1992, while exports to the Southern African Customs Union decreased from 74 to 49% over the same period. Preferential access to overseas export markets has played a key role in this diversification. Manufacturing in LNDC-assisted operations constitutes some 75% of total exports.

2. Botswana's investment policy

The Botswana Development Corporation (BDC) was created in 1970 as a private corporation, with all shares held by the Botswana Government. The primary task of the BDC is to identify investment opportunities in Botswana for exploitation by both local and foreign investors. The aim of the corporation is to strive for "a better and more prosperous Botswana, with people who are employed, skilled and have entrepreneurial aspirations and opportunities", by attracting export-oriented investment to generate employment and business opportunities¹⁴. The Government of Botswana through its Financial Assistance Programme (FAP) offered a number of financial incentives to investors, including tax holidays and tax exemptions on dividends. As of 1995 most of these incentives have been phased out while corporate tax is being simultaneously lowered to 15%. Like in Lesotho, the BDC is responsible for assistance to investors and the development of the production sites and infrastructure.

As can be seen below, the pattern of investment under the FAP/BDC scheme varies considerably from the traditional EPZ picture, with a relatively low share of textiles and garments industries and a negligible share of electronics industries. This is because there is no export requirement linked to the provision of incentives under the FAP. As a result, a relatively high proportion of goods manufactured in Botswana under the BDC/FAP scheme are produced for the domestic market. In some firms up to 30-50% of production is destined for local consumption. In addition, a number of industries supply products to African markets which would otherwise have been imported from overseas, resulting in a number of industrial activities that do not fit the traditional EPZ picture.

Recent developments however, seem to indicate a forthcoming change in investment policies in Botswana, with an increased emphasis on export orientation. It appears that the Government is seriously considering the establishment of EPZs in the country. Areas in the

14 *BDC Annual Report 1994*, Botswana Development Corporation, Gaborone (Botswana), p. 15 and 3, respectively.

north-east of Botswana, such as Selibe Phikwe, are seen as potential zones, possibly because the main textiles and garments industries of the country are concentrated in this area.

“We have witnessed a steady rise in the number of export orientated manufacturing enterprises where most, if not all, of their output is devoted to export. The textile industry seems to have taken the lead. Given the limited size of our internal market, our future lies in external markets, to which we must export a significant portion of whatever we produce.”

BDC Annual report 1994, p. 15

The main foreign BDC and/or FAP-assisted investors in Botswana originate from South Africa and to some extent from industrialized countries, while a number of firms originating from Asia can also be found. The main industries in which they are active are the engineering and construction sector (35%); garment, textiles and leather (22%); food processing (18%) and beverage production and bottling (17%). The number of people employed in BDC-assisted operations was estimated to be some 13,000 in some 115 companies. This constitutes an estimated 10% of total formal private employment in Botswana, to which should be added the jobs created in firms from which the BDC has divested. The labour laws of Botswana fully apply with regard to BDC/FAP-assisted operations.

3. The Swaziland industrial development strategy

The most recent investment programme was established in Swaziland. The Swaziland Industrial Development Company is a private development finance company set up in 1986 as a joint venture between the Government of the Kingdom of Swaziland and major international development finance institutions. The company's aim is to promote and to facilitate the economic development of Swaziland by providing long-term loans, equity finance and factory space, as well as advisory services to investors.¹⁵ The Swazi Government furthermore offers to investors a number of incentives, including

- * tax allowances, including a 5 year tax holiday;
- * foreign exchange concessions;
- * free repatriation of dividends, interests and profits;
- * an export finance guarantee scheme.

A lowering of the corporate tax in Swaziland from the current rate of 37.5% could be expected in the next two budgetary years.¹⁶ By 1994, SIDC-assisted projects had generated some 8,000 new jobs, which constitutes approximately 10% of private formal employment in Swaziland.¹⁷ The national labour laws apply uniformly throughout the country.

4. Southern African EPZs: The Schemes of Malawi, Namibia and Zimbabwe

¹⁵ *SIDC Business Reports 1990 and 1992*, Swaziland Industrial Development Corporation, Mbabane (Swaziland).

¹⁶ *Country report Namibia/Swaziland 4th Quarter 1995*, The Economist Intelligence Unit, London (UK), 1995, p. 28.

¹⁷ *SIDC Brochure Your Partner*, Swaziland Industrial Development Corporation, Mbabane (Swaziland), n.d.; *SIDC Business Report 1992*, at note 13.

The BLS schemes are not fully fledged EPZ schemes in that benefiting enterprises are not insulated from the domestic economies. The first country in Southern Africa to adopt legislation for the establishment of segregated EPZs was Zimbabwe in November 1994. Namibia followed shortly thereafter and in July 1995, the Assembly of Malawi likewise passed a bill on EPZs. Implementation of the laws is as yet in an early stage.

Zimbabwe

The Zimbabwe Export Processing Zones Act, 1994 (ZEPZ Act) came into force by presidential consent in 1995¹⁸. The law provides for the establishment of the Zimbabwe Export Processing Zone Authority, which is charged, *inter alia*, with the establishment of EPZs in Zimbabwe; the administration, regulation, development and maintenance of the zones; the provision of the necessary services; and the consideration of applications for investment and the issuance of permits and licenses. At the time this report was compiled, the Government of Zimbabwe was in the process of considering nominations for the Board of the Authority. According to Section 5 of the Act, the board members shall be appointed from among nominations made by the ministries of Finance; Industry and Commerce; Local Government, Rural and Urban Development; and a number of business institutions. Two additional members shall be selected upon the basis of their ability and experience in business. It should be pointed out that, despite the employment promotion objective of the scheme and the expected labour intensity of the enterprises to be attracted, neither the Ministry of Public Service, Labour and Social Welfare, nor workers' organizations are included in this list.

The ZEPZ scheme envisages application by enterprises for EPZ status through the granting of investment licenses. The various financial incentives are then provided with the granting of the investment license. Section 25 of the Act lists the criteria that the Board shall have regard to in considering applications for investment licenses. According to this section, the Board shall assess applications on the basis of

- a) expected employment generation and development of human resources;
- b) the degree of export orientation;
- c) environmental impact; and
- d) likelihood of transfer of technology.

The precise standards to be applied by the Board in each of these criteria are yet to be developed.

The ZEPZ Act requires that EPZ status firms be segregated from the domestic economy, either by location in a geographically segregated zone or through a system of bonded factories (Sections 18 and 20). It does not provide for the amount of exported product required by licensed investors. At the time that this report was compiled, it appeared that this export requirement would be set at 80% of total production for both foreign and domestic companies. A package of financial incentives will be offered to investors in the zones which

will include

- * a tax holiday of 5 years and a 15% corporate tax thereafter;
- * exemption from withholding taxes on dividends, royalties, interest and fees;
- * refund of sales tax on goods and services;
- * exemption from income tax on fringe benefits of persons employed in EPZs;
- * duty free importation of raw materials and capital goods.¹⁹

Section 56 of the ZEPZ Act stipulates that the Labour Relations Act, 1985 “shall not apply in relation to licensed investors operating and employees employed in an export processing zone”. The resulting suspension of the Labour Relations Act in EPZs in Zimbabwe has far-reaching consequences. It bars the application, for example, of Part II of the Act which defines the fundamental rights of employees and unfair labour practices. This includes

- * the right of any employee to be a member, officer or founder of trade unions;
- * the prohibition of discrimination in employment on the grounds of race, tribe, place of origin, political opinion, colour, creed or sex;
- * the right of any employee to a fair labour standards (e.g. minimum wage, working hours);
- * the right of any employee to democracy in the workplace (e.g. workers’ committees, protection from reprisals by employers).

The suspension of the Labour Relations Act further entails the suspension of a number of provisions regarding, *inter alia*,

- * general conditions of employment (e.g., minimum age, sick leave, maternity leave)
- * termination of employment;
- * wage setting mechanisms;
- * workers’ committees; and
- * freedom of association and collective bargaining.

Likewise, Article 17 of the Labour Relations Act, which confers regulatory powers upon the Minister of Labour, Manpower Planning and Social Welfare, cannot be applied in EPZs. This takes away from the Minister the power to make specific regulations in the field of, *inter alia*,

- * minimum wages, social security, benefits, retirement;
- * hours of work, including overtime;
- * leave, including sick leave, maternity leave, and bereavement leave;

¹⁹ *Incentives for Local Investors*, Zimbabwe Investment Centre (August 1995), p. 14.

- * special conditions pertaining to female, juvenile and disabled employees, including the prohibition of child labour;
- * promotion of employment of disabled persons; and
- * termination of employment.

EPZs will furthermore be outside the jurisdiction of the Labour Relations Board and the Labour Relations Tribunal.

The Export Processing Zones Authority “may, in consultation with the Minister responsible for the administration of the Labour Relations Act, 1985, provide rules for conditions of service, termination of service, dismissal from service and disciplinary proceeding that apply in export processing zones.”²⁰

Namibia

In Namibia, the 1995 Export Processing Zones Act (NEPZ Act) provides for the creation of EPZs in the country. Section 3 of the Act sets forth the objectives of the EPZ strategy in Namibia:

- a) to attract, promote or increase the manufacture of export goods;
- b) to create or increase industrial employment;
- c) to create or expand export earnings;
- d) to create or expand industrial investment, including foreign investment; and
- e) to encourage technology transfer and the development of management and labour skills.

The regime in Namibia provides both for location of enterprises within EPZs, and the single EPZ enterprise. Each zone is to be administered by an Export Processing Zone Management Company, which is responsible for the management and infra structural development of the zone. It also is responsible, in consultation with the government, for the issuance of EPZ Enterprise Certificates to investors in the zones. Overall management, liaison with the government, marketing and promotion, and development of the zones is in the hands of the Offshore Development Company established by the Act. Single EPZ enterprises are administered directly by this latter company.

Under the law, any firm can come forward and apply for an EPZ Enterprise Certificate which is granted by the Offshore Development Company or an Export Processing Zone Management Company in consultation with the Ministers of Trade and Industry and of Finance, as well as the Bank of Namibia. EPZ enterprises enjoy freedom of location, either in designated industrial parks or as a single- factory EPZ. Issuance of a certificate can be refused for a number of reasons, most notably in respect of an enterprise -

“which shall not make investments in the export processing zone which shall result in the creation of employment or export earnings;

20 Section 56, para. 2, ZEPZ Act, 1994.

(....)

which does not or does not have the intention to conduct the business of manufacturing, exporting or importing in the export processing concerned... ”²¹.

Part III of the Bill provides for the exemption of the zones from various tax laws. Section 8 provides that the Labour Act, 1992 “shall not apply in an export processing zone”. In order to fill the regulatory vacuum which results, the Minister of Trade and Industry, in consultation with the Minister of Labour and Human Resources Development, may “make regulations regarding (a) basic conditions of employment; (b) the termination of a contract of employment; (c) disciplinary actions; (d) health; (e) safety; and (f) welfare”.²² This list appears to be exhaustive and thus would not confer upon the Minister the authority to make regulations regarding, *inter alia*, freedom of association and collective bargaining rights. Incentives in Namibia include

- * a reduced tax liability between 3.5% and 17.5%, depending on the percentage of goods exported;
- * exemption from corporate tax, customs duties, sales taxes, transfer taxes and stamp duties for EPZ enterprises;
- * 10% tax on dividends for non-resident shareholders;
- * no capital gains tax;
- * training incentives for Namibian employees through 75% reimbursement of training costs by the Government.

The suspension of the 1992 Labour Act in EPZs removes protection for workers in a number of areas. Most notably, it suspends the application of provisions regarding

- * conditions of employment (e.g., working hours, overwork, night work, sick leave, maternity leave, child labour, prohibition of victimization and protection of freedom of association);
- * wage calculation and wage setting mechanisms;
- * freedom of association and collective bargaining;
- * the regime covering collective agreements;
- * termination of employment;
- * occupational safety and health;
- * provision relating to sanctions and offences, in particular forced labour.

The provisions covering affirmative action and complaints in relation to unfair discrimination or harassment likewise will not apply. In addition, the employees and enterprises in the zones will be outside of the jurisdiction of the Namibian labour court system and the provisions regarding labour inspection do not apply. The consequences of the non-appliance of the 1992 Labour Act are far-reaching and should not be underestimated. For example, the provisions that prohibit child labour²³ and protect the constitutional right of freedom of

21 Art. 14(5) NEPZ Act.

22 Section 8, para.2, NEPZ Act, 1995.

23 Article 42, Labour Act, 1992.

association²⁴ no longer apply.

The intended creation of an EPZ in Walvis Bay deserves special attention in this context. Namibia's main port facilities are located in Walvis Bay, as well as a large part of its existing industries. In view of the anticipated foreign investment into Namibia that is expected to congregate in this area, a large part of the economically active population can be expected to find employment in this EPZ. If employment in other EPZs is added to this, the result may well be that a large number of formally employed Namibians will be excluded from the national labour legislation.

At the time his report was written, the National Assembly of Namibia was considering an amendment of the NEPZ Act. The amendment proposes the changing of Section 8 to the effect that the 1992 Labour Act *will* apply in Namibian EPZ. The proposed amendment further foresees a ban on strikes and lock-outs in EPZ, prescribing compulsory arbitration in cases of serious labour conflict.²⁵ While the application of the Labour Act in itself is an important development, the proposed ban on strikes and lock-outs in EPZs is likely to raise questions in the light of international standards ratified by Namibia.

Malawi

In July 1995, the Parliament of Malawi adopted the Export Processing Zones Act, 1995 (MEPZ Act). The objectives of EPZs in Malawi are not expressly stated, but can be deduced from the criteria for the granting of investments licenses (see below):

- * employment generation;
- * transfer of technologies;
- * export orientation; and
- * the utilization of the country's natural resources.

The Act establishes an Export Processing Zones Appraisal Committee which will review "applications [of any enterprise] for the establishment and operation of export processing zones and the production of export products, and making appropriate recommendations to the Minister"²⁶ [for Commerce and Industry]. The Minister is empowered to declare any area or factory as an EPZ and is responsible for the issuance of export enterprise certificates. The Act does not contain provisions with regard to production development and management, and it is presumed that these responsibilities are left to the private sector. According to article 8 of the MEPZ Act, EPZ can be created both as segregated production zones or as individual bonded factories.

In appraising applications for EPZ status, the Committee must take into account:

- (a) labour intensive activities of the project and its propensity to contribute

24 Article 21, para. 1 (e), Constitution of Namibia.

25 *The Namibian*, 28 February 1996.

26 MEPZ Act, 1995, Section 7.

to employment;

- (b) use of advanced technology;
- (c) utilization of local raw materials;
- (d) export oriented activities other than the production for export of tobacco, tea, coffee, and sugar;
- (e) the availability of sufficient warehouses for storage of raw materials and export products;
- (f) documentary evidence of export markets for the export products²⁷.

Export enterprises in the EPZ-system of Malawi will be exempted from the duties levied on imported or purchased materials. The Act does not provide further indications as to the sort of incentives offered to potential investors. Like Zimbabwe, the country is landlocked and in all likelihood will rely on the production of “high value/low volume” products. The MEPZ Act does not restrict or suspend the application of labour standards in EPZs.

IV. APPLICATION OF INTERNATIONAL LABOUR STANDARDS IN EXPORT PROCESSING ZONES

The ILO’s Committee of Experts on the Application of Standards and Recommendations (COE) has in a number of cases addressed the issue of labour standards in EPZs. Most of the cases in question related to freedom of association and collective bargaining, which are covered by the ILO’s Freedom of Association and the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (see Box, below). The Committee’s comments have consistently disapproved of restrictions on fundamental labour standards in EPZs, for example in its 1994 General Survey on Freedom of Association and Collective Bargaining. The Committee said, in connection with the banning of the right to strike in the EPZs of some countries:

‘Such a prohibition is incompatible with the Convention [No. 87], which provides that all workers, *without distinction whatsoever*, shall have the right to establish organizations of their own choosing and that such organizations shall have the right to organize their activities and to formulate their programmes.’²⁸

As will be seen below, this stance by the Committee also encompasses standards other than associational rights. The Governing Body of the ILO stated that “[w]here governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers’ freedom of association or the right to organise and bargain collectively”.²⁹ The Governing Body’s Committee of Freedom of Association, furthermore, in a case brought by trade unions against Pakistan, endorsed the COE’s

27 *Idem.*

28 International Labour Conference, 81st Session 1994, Report III (part 4B), para. 169.

29 *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*, ILO Governing Body, 204th Session, November 1977.

“insistence on the importance of workers in export processing zones - despite the economic arguments often put forward - like other workers without distinction whatsoever, enjoying the trade union rights provide for by the freedom of association Conventions”.³⁰

In terms of similarity to Namibia and Zimbabwe, Bangladesh is a case in point. Bangladesh operates the Export Processing Zones Authority Act, 1980, Section 11A of which enables the Government to exclude the zones from the operation of all or part of the country's industrial relations regulations. During its consideration of the country's report under Convention No. 87, the COE observed that

‘this provision is not compatible with the guarantees provided by Articles 2 and 3 of the Convention and, in particular, with the right of all workers without distinction whatsoever to establish and join organisations of their own choosing, and it urges the Government to amend Section 11A of the 1980 Act so as to bring it into conformity with the requirements of the convention.’³¹

Subsequently, the Government notified the ILO that it had decided to review the provision in question³². In a similar case involving EPZ Pakistani legislation which denied the right to organize to workers in EPZs, the COE took the view that “these restrictions are incompatible with Convention No. 87 which should apply to these zones *as it does to other parts of the country*”.³³

The above cases, as well as the COE's comments in a number of others, illustrate the incompatibility of restrictions on labour norms in EPZs with international labour standards. In addition, they illustrate the COE's position that conventions should apply in the same manner in all parts of the country. Suspending labour standards in EPZs while setting new norms for the zones would thus still be likely to raise questions as to a country's responsibilities in giving effect to international labour standards.

Namibia and Zimbabwe have ratified a number of international labour standards. The current position of their EPZ legislation, in light of the position taken by the Committee of Experts, poses problems in the application of some of those standards.

Zimbabwe has ratified the following conventions:

- * Weekly Rest (Industry) Convention, 1921 (No. 14);
- * Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19);
- * Minimum Wage Fixing Machinery Convention, 1928 (No. 26);
- * Underground Work (Women) Convention, 1935 (No. 45);

30 Case No. 1383 (Pakistan), CFA 253rd Report, p.26.
 31 *Report of the Committee of Experts on the Application of Convention and Recommendations*, 1991, p. 149.
 32 *Idem*, 1994, p. 199.
 33 *Idem*, 1993, pp. 217-8.

- * Labour Inspection Convention, 1947 (No. 81);
- * Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99);
- * Equal Remuneration Convention, 1951 (No. 100);
- * Labour Inspection (Agriculture) Convention, 1969 (No. 129);
- * Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

As was noted above, the suspension of the 1985 Labour Relations Act in Zimbabwean EPZs removes guarantees as regards the prevention of discrimination, complicating the realization of the principle of equal pay for work of equal value set forth by Convention No. 100. The suspension also impairs the application of the ILO's instruments pertaining to labour inspection, Conventions No. 81 and 129. The exclusion of EPZs from the regular wage setting mechanisms may well have implications for Zimbabwe's responsibilities under Conventions No. 26 and 99. While Zimbabwe has not ratified the ILO's instruments protecting freedom of association and the right to collective bargaining, Conventions No. 97 and 98, the principles of freedom of association and collective bargaining are applicable to all the member States of the ILO, irrespective of whether they have ratified the relevant conventions (see box). Zimbabwe's ratification of Convention No. 144, which is founded upon the principles of freedom of association and collective bargaining, further illustrates the country's dedication to these principles.

"In 1944, the Constitution of the ILO was supplemented by the inclusion of the Declaration of Philadelphia, which reaffirmed 'the fundamental principles on which the Organization is based and, in particular, that freedom of expression and of association are essential to sustained progress'. ...The principles thus enunciated in the Constitution are applicable to all the member States of the Organization."

Committee of Experts on the Application of Conventions and Recommendations, ILC Report III (Part 4B), ILO Geneva (1994), p. 2.

Namibia ratified Conventions No's 87, 98 and 144 in 1995. It is ironic that this expression of the country's commitment to tripartism and upholding associational rights was made around the same time that restrictions on these principles in the EPZ Act were being passed. As was noted before, the proposed amendment of Section 8 of the NEPZ Act may come a long way in remedying this situation. The COE may raise questions concerning the application of Conventions Nos. 87 and 98 if the proposed ban on strikes and lockouts is approved by the National Assembly.

As the EPZ laws in Namibia and Zimbabwe attribute regulatory powers to governmental institutions, which may go a long way in remedying the gaps left by the suspension of the labour laws, it is at this point not possible to make an substantive assessment as to the actual impact of this suspension. In neither country, however, do these regulatory powers include a mandate to provide regulations to guarantee the right to freedom of association and collective bargaining.

Other countries in the subregion which have ratified ILO standards and are considering EPZ policies going in the direction of labour law suppression are likely to face similar problems for meeting international obligations. In particular, such problems may arise in respect of the ILO's fundamental conventions pertaining to associational rights

(No.87 and 98), discrimination (No. 100 and 111), forced labour (No. 29 and 105), and child labour (No. 138).

Restrictions on Freedom of Association and Collective Bargaining in EPZs

Examples of former or existing obstacles to establishing and joining trade unions and engaging in collective bargaining in EPZs and export-oriented enterprises operating under similar regimes:

Bangladesh Section 11A of the Bangladesh EPZ Authority Act (1980) prohibits workers from forming and joining trade unions.

China Legal restrictions on the right to organize independent unions outside the official structures of the All China Federation of Trade Unions.

Dominican Republic Refusal of competent authority to register unions in EPZs prior to enactment of New Labour Code (17 June 1992) which now guarantees trade unions rights (Section 390) and collective bargaining in EPZs (Sections 103 and 281). Continued resistance of a number of employers to establishment of unions in keeping with the law.

Fiji Wages of workers in garment factories and other enterprises in EPZs set unilaterally by employers rather than through collective bargaining. Certain employers continue to oppose the formation to unions.

Malaysia The granting of pioneer status to certain export-oriented industries under Section 15 of the Industrial Relations Act results in a five-year limit in negotiation of terms and conditions with respect to working time, paid vacation and sick leave.

Pakistan Section 25 of the EPZ Authority Ordinance (1980) exempts all zones from scope of Industrial Relations Ordinance. Section 4 of the EPZ (Control of Employment) Rules (1982) prohibits all forms of industrial action.

Korea (Rep. of) Strikes not legal in EPZs which are considered to be of public interest.

El Salvador, Honduras, Guatemala, Costa Rica Government-backed, employer-promoted “Solidarist Associations” actively encouraged as alternative to independent trade unions.

El Salvador Employers in EPZs do not hire members of unions.

Turkey Legislation governing strikes, lockouts and conciliation procedures waived for 10 years following start of operations in zones. Disputes submitted to Supreme Arbitration Committee during that period.

Sri Lanka Strikes in export industries may be prohibited under the Emergency (Miscellaneous Provisions and Powers) Regulation No. 1 (1989) and severe sanctions may be imposed against those inciting strike action under the Emergency (Maintenance of Exports) Regulations No. 1 (1992).

Philippines Certain local government authorities have declared EPZs in their areas to be “strike-free zones”. While Article 263 (g) and (I) of the Labour Code has been amended to exclude specific mention of “export oriented industries” and EPZs, the provision imposing compulsory arbitration for settlement of labour disputes likely to, or having caused a strike or a lockout in an “industry indispensable to the national interest”, still poses a problem. A Senate Bill (No. 1757) to limit such action to industries performing essential services is to be discussed.

Togo Legislation for the setting up of EPZs (Act. No. 98-14 of 18.09.90) contains no provisions indicating whether labour relations in zones are governed by the Labour Code.

Other hidden obstacles to the exercise of trade union rights that have been reported in a number of countries are: unjustified dismissals, suspensions, arrests of unions leaders, blacklisting, promotion of union officials on condition that they relinquish union activities, threats to relocate plants to “union-free zones”, tight security controls limiting access to zones and/or company premises, promotion of company unions to the exclusion of other workers’ organizations, refusal to hire persons with history of involvement in unions or interest in joining such organizations.

V. LABOUR STANDARDS AND FOREIGN INVESTMENT

Experience in Botswana, Lesotho and Swaziland, while different from proper EPZs, is highly informative as there has been both investment and employment creation, while no concessions were made in the field of labour standards. In terms of employment generation, the shares in total private formal employment, 60% in Lesotho and 10% in Botswana and Swaziland, would by global standards rank the three countries among reasonably successful EPZ host countries. The better performance of Lesotho in this regard can be attributed to the considerable presence of labour intensive textiles and garments industries and the relatively small size of its total labour force. Furthermore, the export share of manufacturers under the investment scheme, 75% in Lesotho for example, indicate that the investment schemes of the BLS countries can contribute importantly to bringing about a more export oriented environment.

Since labour standards are fully applied in the BLS countries, the following question should be asked: *does the diminution of labour standards lead to larger investment inflows in EPZs?* In view of the fact that some developments can be discerned in Southern Africa towards the reduction or suspension of labour standards in EPZs, the next question to be addressed is: *what will be the effects of the removal or reduction of labour standards in Southern African EPZs?*

1. Labour standards and investment inflows

So far, very few attempts have been made to evaluate how labour laws are perceived by foreign investors and how they affect choices of locations to invest. A recent survey of foreign investors in Eastern Africa might help to partially fill this gap. The survey was conducted for the World Bank in five East African countries in 1994. It covered 150 current and potential investors from Europe, Asia and South Africa who were already active or had shown their concrete interest in operating in Eastern Africa. Their investment projects had a significant, albeit not prevalent, export orientation (about 60 per cent, of which 17 per cent to the African market).³⁴

"Fundamentals" rather than "incentives" were indicated by the respondents as the main reason for their investment decisions. Host country incentives were ranked as having the same importance as factors such as long established personal relations, previous trade relations and favourable information.³⁵ The findings also confirmed that Africa, Eastern Africa at least, is not in the short list of investment that is "footloose". The majority of the firms surveyed spotted a locationally specific opportunity for investment but did not consider alternative locations prior to making their investment decision. Those who did, considered alternative sites in the region (40 per cent), with only a very small proportion (4 per cent) considering alternative locations in Europe or Asia.

³⁴ Economisti Associati (1995). *Eastern African Survey of Foreign Investors: Summary of Main Findings*, Bologna, Italy.

³⁵ *Idem*, p. 3. The sample may not be indicative of those firms who *a priori* rule Africa out of their global investment strategies. However, it comprises firms who are well informed about investing in the region and whose opinions should give insight into what is deterring investment in Africa for all those seriously considering such an option.

Both current and potential foreign investors were particularly sensitive to a broad range of operational constraints to the expansion of their activity. Of the twelve categories of deterrents identified in the survey, the respondents indicated political and policy risk as the most serious one, followed by poor basic infrastructure (see Table 5.1). A number of concerns pertaining mainly to regulations on foreign exchange, remittability of profits, financing and trade followed next. In general, potential investors regarded government regulations as an area of major concern, while current investors were much more appreciative of recent reforms. This suggests that an “image” problem remains as the legacy of pervasive forms of regulations on prices and labour markets that traditionally characterized the business environment in the region.

Problems related to the cost and/or quality of labour were ranked among low range constraints. More specifically, the most serious concerns concerning labour were the lack of middle management and technicians, and the lack of skilled workers. Regulations concerning expatriate personnel were perceived as a mid-range handicap. Other labour regulations, trade unions and labour costs were perceived as moderate to minor constraints (see Table 5.2). In short, it was not the cost of labour but rather its productivity and the level of skills that seemed to matter the most to the surveyed firms.

A similar picture emerged from a study on the opportunities for the development of an export-oriented garment industry in Africa. The study suggested that the major areas of concern for foreign investors included labour market regulations, import/export regulation, the exchange rate regime, the security of investment, the level of infrastructure, and the managing of quotas. The cost of labour was not listed as a concern. The constraints deriving from labour regulations, moreover, were less stringent in a number of countries that had recently undertaken reforms, e.g. Ghana, Kenya and Zimbabwe.³⁶

These findings support the results of interviews by the ILO among some foreign investors in Lesotho and Botswana about the low ranking of labour-related issues among the factors that foreign investors consider important in their location decisions.³⁷ Those interviewed indicated that labour standards did not figure prominently among the considerations that led to decisions to invest. Factors considered to be more important were:

- * preferential access to foreign markets;
- * free foreign exchange;
- * political stability;
- * duty free importation of raw materials;
- * financial incentives;
- * good infrastructural facilities;
- * a favourable productivity/labour cost ratio.

³⁶ Biggs et al. (1993). *Africa can compete!*, World Bank Discussion Papers, Africa Technical Department Series, World Bank, Washington DC, pp. 50-54.

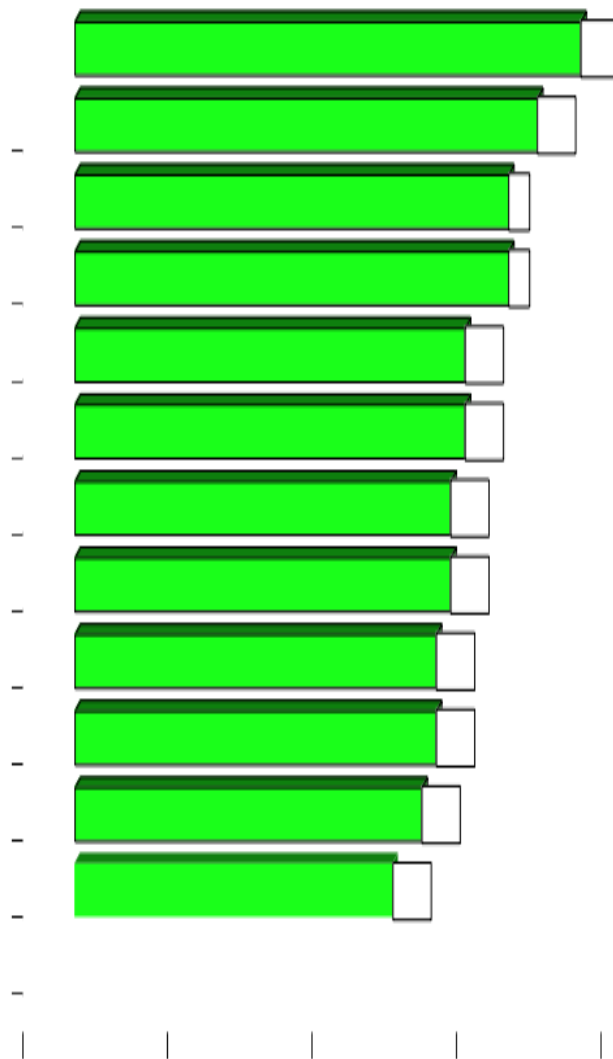
³⁷ These interviews were conducted with investors in the textiles and garments (3), electronics (1), metal (1), and plastics industries (1) and with officials of the LNDC and BDC during October and November in Lesotho and Botswana.

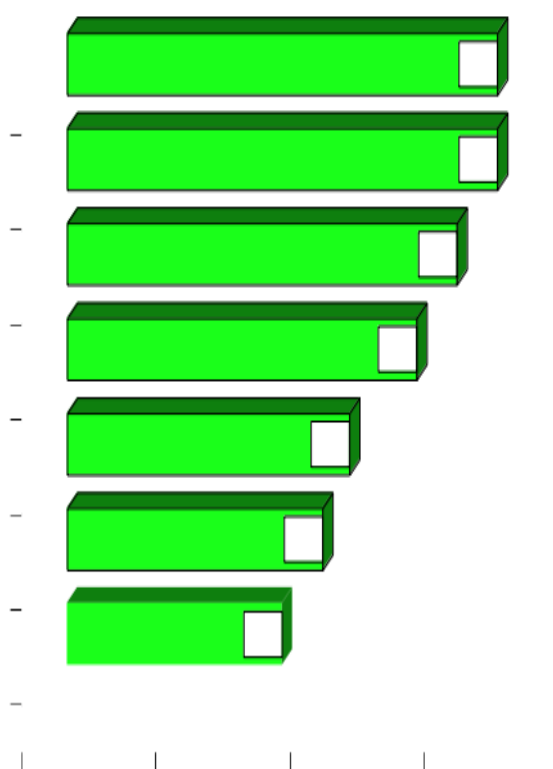
In the particular case of Botswana, access to the domestic market was also an important consideration to some investors. While the above findings are based upon a limited number of interviews, they seem to be corroborated by other surveys and reports which rank labour costs and labour issues among the less important factors influencing investment.³⁸ The Organisation for Economic Co-operation and Development, for example, recently stated that the “[a]vailable evidence seems to imply the FDI [foreign direct investment] location does not depend to an important degree on an active government role in shaping core labour standards. ... there is limited evidence that investors are disproportionately attracted to areas where unions are weak”.³⁹

While labour standards fully apply in Botswana, Lesotho and Swaziland, there have been practical problems in the management of human resources which have lead to labour disputes. The removal of procedures to resolve labour disputes is not likely to improve this situation. Indeed, in the Southern African setting it may be the cause of increased friction between workers and employers. In Lesotho, for example, it was asserted that recent labour unrest was to some extent a result of the fact that trade unions were both insufficiently recognized by employers and inadequately organized. It was felt by employers’ and workers’ organizations, as well as government officials, that limiting the labour movement’s representational function by banning it in selected sectors such as EPZs, or by removing its access to workers in those sectors would probably further worsen the industrial relations climate and lead to work disruption.

In sum, experience and empirical evidence appear to underscore the relatively minor influence of labour standards on export oriented foreign investment in Southern Africa. At the same time, investors consider labour issues such as trade union representation useful as a channel for negotiation and dispute resolution.

38 See e.g., “Trade and Labour Standards”, *OECD Doc. COM/DEELSA/TD(95)7*; “Annual Investment Intentions Survey”, *Corporate Location*, September/October 1995, p. 12.
 39 *OECD Doc. COM/DEELSA/TD(95)7*, p. 44.





2. The effects of removing or reducing labour standards in EPZs

Governments in the subregion may feel that a removal of labour standards is needed to entice firms to start operations in a new EPZ environment and compensate for other local

disadvantages. Investors can indeed be lured by the opportunity to make extra-profits by means of operating in a site in which labour standards are not respected. As a matter of fact, however, relatively high and growing wages and a sound industrial relations system have not hampered the growth of the few EPZ schemes that have been successful in Africa so far. A complex set of factors, in fact, govern firms' decisions as to where to locate their foreign investments. Some admittedly scant evidence is available to show that, on the whole, foreign investors in Africa are not primarily sensitive to low labour costs and deregulated labour markets. Rather, they seem mainly concerned by the lack of managers and skilled workers, and by specific constraints such as those placed on expatriate staff.

As argued before, there are already sufficient specific reasons for firms from outside and within the subregion to invest and locate some export-oriented operations in Southern Africa. But there appears to be some upper limit in the total volume of foreign investment that is likely to ultimately accrue to the newly established EPZs. Compromises in the field of labour standards might capture some marginal additional investment to the benefit of a given location, but would not result in a much higher flow of investment into the subregion. They would grant extra-profits to EPZ investors, including those that would have invested without the perspective of lower or no labour standards. But since EPZ investment is generally highly volatile, such a premium is not a guarantee for further investment and employment. The benefits in terms of newly created jobs could be short-lived, but the implications for the welfare of workers and the pattern of labour relations in the host economy would last long.

Likewise, it has been argued that the removal or reduction of labour standards could be relied upon as a way to build up significant comparative advantage. The international uncompetitiveness of countries in the whole of Africa is affected by geographical disadvantages and a generally poor policy and infrastructure environment, which create conditions unfavourable to the international operations of firms. Major reductions in the cost and rigidity of labour would be required to compensate for the structural disadvantages of Southern Africa relative to other regions. The scope for such reductions is quite limited. Moreover, wages in the subregion are already comparable with those of most locations competing for EPZ investment in different parts of the world, i.e. they are close to the internationally competitive level of wages for this kind of investment. Under the pressure of countries such as China and Vietnam, that have an almost unlimited supply of unskilled workers migrating from the rural sector to work in EPZ firms, this level is very low. It might approximate the point at which, taking into account the motivation and nutritional effects of pay, substantive reductions could actually result in higher costs because of reduced productivity.

Downward pressures on wages are just one aspect of the economic implications of the removal of labour standards. Other aspects concern the productivity that a well-trained and well-motivated workforce can deliver. Removing labour standards might reduce the incentive for foreign and local EPZ firms to invest in the development and better management of their human resources and to compete by increasing efficiency. By restraining freedom of association, such removal also inhibits the positive contribution of workers and workers' organizations to helping raise workplace productivity and quality of output. Emphasis on efficiency is particularly important in order to sustain the competitive position of EPZ firms and allow them to move up market. For instance, recent trends such as the adoption of "lean retailing" systems (zero or no stocks) by large retailers of consumer goods in industrial

countries are conferring a definite advantage to those EPZ locations that can grant reliable quality, effective coordination, and fast delivery. At present, this is probably premature for EPZ firms in Southern Africa, but the labour standards premises for a strategy based on the development of “competitive” advantages in EPZ production should be in place from the start.

The removal or reduction of labour standards is also likely to have negative implications for the other major comparative advantage of Southern African as a site for labour-intensive activities: unrestricted preferential access to markets in industrial countries. The current system of quotas and tariffs on internationally traded goods is going to be phased out in the post-Uruguay Round era. The actual implementation of the new system, however, will be a matter of lengthy negotiations, coupled with some measures to safeguard exports from the least developed countries. Preferential access to major markets will maintain a considerable importance for less developed countries for some time.

Given the at times dramatic effects on labour markets in importing countries and the poor reputation of EPZs as concerns the circumstances under which production is carried out, EPZ firms are under the scrutiny of the international community. Overt violations of national and international standards, not uncommon in an unregulated EPZ labour environment, attract the attention of international agencies, trade unions, consumer groups, etc. They might reduce the chances of Southern African countries to bargain for privileged access to markets in industrial countries. Some governments benefitting from the United States GSP scheme, for instance, have already been faced with the threat or actual suspension of preferences following violations of labour standards. In its new GSP Scheme, the European Union is envisaging the possibility to grant additional preferences to beneficiaries that apply ILO Conventions Nos. 87, 98 and 138. Concern for the application of labour standards also applies to private business. A growing number of high-profile transnational companies in labour-intensive industries have adopted guidelines or codes of conduct that condition the choice of subcontractors and local partners in joint ventures to respect for basic standards (e.g. Levi Strauss, J.C. Penney, Reebok, IKEA). In a number of cases, open violation of standards concerning child labour or forced labour has induced major companies to withdraw from their operations in given countries, with considerable export losses for these latter.⁴⁰

Finally, the issue of labour standards in the EPZs should be seen from a subregional perspective. There is the possibility of an incentive war as a consequence of the simultaneous introduction of EPZs. If extensive concessions in the social and labour fields are an integral part of the incentive package offered to EPZ investors in a given country, the consequences would be found in those neighbouring countries competing for the same kind of investment. It would be more difficult for them, for instance, to resist investors’ pressures for the granting of similar concessions. The notion of an “unfair” competition for FDI could penetrate the policy debate in the subregion, generating frictions in the relationships between countries. The implication could be the weakening of the process towards greater cooperation and economic integration at the subregional level, a vital element for the expansion of sustainable investment, trade and development for all of Southern Africa in the long-term.

40 *The Economist*, “Consciences and consequences”, 3 June 1995.

VI. EXPORT PROCESSING ZONES AND ECONOMIC GROWTH: THE OUTLOOK FOR SOUTHERN AFRICA

In Southern Africa, significant opportunities for international investment stem from location advantages such as abundant natural resources, the variety of tourist attractions, the widespread knowledge of English, low-cost labour and preferential access to markets in industrial countries. Measured in hourly rates at prevailing exchange rates, African labour is as cheap as in most locations in Asia, and generally cheaper than in those countries of Central America that are recently experiencing a massive wave of EPZ investment (see Table 5.3). Paradoxically, those countries of Africa that have the most successful EPZs are also those with the highest hourly wage costs (e.g. Mauritius and Tunisia). Foreign investors, in fact, are not attracted by low labour costs "per se", but by convenient access to final markets and low unit labour costs (nominal wages/labour productivity). Differences in the level of wages across locations competing for foreign investment are offset by differences in the productivity of workers. For export-oriented investment, other factors comprising the total unit costs of production also play a role, e.g. the transaction and transportation costs involved in organizing cross-border production networks and the timely delivery of output to its final destination. The interest of foreign investors is also being fueled by a number of recent developments. Some countries are slowly beginning to reap some benefit from past, painful macro-level reforms and the liberalization of their trade and FDI regimes. The political situation in the subregion is on the whole more stable. South Africa and its large economy have rejoined the international community.

In discussing the international competitiveness of locations in Southern Africa, it is useful to distinguish between two groups of investors: international "footloose" investors and investors who have specific motives to establish affiliates and cross-border production ties with locations in the subregion.

1. International "footloose" investment

As the first group of investors is concerned, there are signs of their growing interest in supplying industrialized countries's markets for simple manufacturing consumer goods from export platforms in Africa. As shown by the experience of Lesotho, the trend is already visible in the most typical EPZ industry, textiles and garment.

Two main sources of location advantage could drive a wave of footloose investment into Southern African countries. The first is low labour costs and reasonably low unit labour costs for some kind of products, e.g. garments. The manufacturing of standardized clothing is a labour-intensive activity, for which the environmental obstacles that account for high unit labour costs and make export-oriented investment in a developing country uncompetitive are relatively less significant. High levels of skills are not required locally, since design, marketing and other "sophisticated" activities are taken care of elsewhere. The weight and volume of the major input - fabrics - and output - garments - account for a negligible share of transportation costs in total costs. Estimates are available to show that selected locations in Africa, including in Southern Africa, can compete on the international market for clothing on a par with other sites in Asia (see Table 5.4). In principle, this newly-found competitiveness of Africa in manufacturing basic garment items for export should also be found for similar

simple, standardized and globally traded items such as footwear, low-end consumer electronics, toys, etc.

Table 5.3	Hourly wage costs in the clothing industry in selected developing countries in US dollars; 1993 (wages+social contributions)	
AFRICA	Egypt	0.43
	Kenya	0.23
	Mauritius	1.04
	Morocco	1.06
	Nigeria	0.27
	Tunisia	1.54
	Zambia	0.24
	Zimbabwe	0.35
ASIA	Bangladesh	0.16
	China	0.25
	India	0.27
	Indonesia	0.28
	Malaysia	0.77
	Pakistan	0.27
	Philippines	0.33
	Sri Lanka	0.35
	Thailand	0.71
	Vietnam	0.26
CENTRAL AMERICA	Costa Rica¹	0.88
	Dominican Republic¹	0.64
	Honduras¹	0.48
	Jamaica¹	0.83
¹ refers to 1991		
Source: <i>ILO - Recent Developments in the Clothing Industry, ILO Sectoral Activities Programme, Geneva, 1995</i>		

Table 5.4 Cost Comparison (US\$) for Men's Casual Long-Sleeved Shirt

<i>Country and Item</i>	<i>Zimbabwe</i>	<i>Kenya</i>	<i>Senegal</i>	<i>Ghana</i>	<i>India</i>	<i>United Arab Emirates</i>
Fabric	3.28	3.00	4.31	3.18	2.90	2.95
Misc. Materials	0.31	0.40	0.55	0.42	0.39	0.37
Washing	0.10	0.12		0.11	0.12	0.12
Labels/Packaging	0.16	0.31	0.36	0.36	0.40	0.42
Dir./Indir. Labour	1.72	1.34	2.36	1.22	1.22	1.60
Transport to port	0.18	0.20	0.15	0.05	0.15	0.17
Subtotal	5.75	5.37	7.73	5.34	5.18	5.63
Quota Cost	n.a.	n.a.	n.a.	n.a.	3.00	1.50
Total Cost	5.75	5.37	7.73	5.34	8.18	7.13

Note: This study was conducted before the devaluation of the CFA Franc. Given the recent devaluation, Senegal's labour cost now appear to be more in line with its neighbors.

Source: Biggs et al. (1993). *Africa Can Compete!*, World Bank Discussion Papers, Africa Technical Department Series, Washington DC, p.41.

The second major source of location-specific advantage is the preferential access of Southern African countries to markets in industrial countries. Textiles and apparel, for instance, are excluded from the Generalized Systems of Preferences (GSP) - which accords duty free status to goods from a number of developing countries - but are subject to quantitative restrictions, or quotas, imposed by single importing countries under the Multi Fibre Agreement (MFA). At present, with the exceptions of Mauritius and Lesotho, no quotas are imposed on Sub-Saharan African countries by the United States, one of the world's largest importers. No major Asian manufacturer of garment, on the contrary, enjoys unrestricted access to markets in the United States and the European Union.

For EPZ goods, the existence of preferential channels is a main factor in determining the geographical composition of investment and trade. In previous years, for instance, a wave of relocation to newcomer countries such as Bangladesh, China, Mauritius and Sri Lanka took place as a result of growing wage pressures and the imposition of quotas on those Asian economies that first developed a thriving export-oriented garment industry. In most recent years, the number of exporting countries subject to quotas in the US apparel market has increased considerably, inducing a further geographical reshuffling in the decentralized production networks comprising the industry. The coincidence of newly found, reasonably competitive conditions for the manufacturing of garment in selected locations in Africa and the increased value of their quota-free status, is inducing international garment manufacturers, from Asia in particular, to consider some relocation to the region. US importers, whose sourcing strategies span the globe, are also aggressively searching for quota free, low cost producers to serve the low and medium price segments of the apparel market. Some large buyers have already established purchase programs from selected locations in Africa, and set

up local offices.⁴¹

2. Region-specific investment

Region-specific investment include international investment which is attracted to Southern Africa by locationally specific resources such as primary commodities or other endowments.⁴² A major group of investors, however, include investors from the region. As a result of higher wages and the need to upgrade production, Mauritian firms have started to relocate labour-intensive stages of production to EPZs in Madagascar and, to a lesser extent, Kenya. In this, they follow a pattern common to many firms in developing countries that after having successfully entered the international market now need to consolidate their position in the international economy by moving up market. The reach of Mauritian investors might well spread to other locations in the region, by virtue of the advantages of geographical proximity in organizing production across borders, thereby ultimately leading to the creation of regional investment and production networks.

Since the end of apartheid, moreover, there have been significant investments to nearby countries from South Africa. Large firms, in particular, are exporting and investing massively to consolidate their economic leadership in the region, before moving on to the international market. The consequences can be seen in the investment in mining, brewing, food processing and retailing that flowed to countries such as Zambia, Tanzania and Mozambique, but also in the success of the schemes for the promotion of industrialization in Botswana, Lesotho and Swaziland. In a medium-term perspective, South Africa could emerge as a growth pole for the subregion, and its domestic market a potential target for investors from outside the region, accessible either directly or indirectly through export platforms in the subregion.

3. The EPZ fever in Southern Africa

In the light of the investment prospects described above, there is a rationale for efforts to enhance and promote the attractiveness of selected locations in Southern Africa to both international and regional investors. It is no surprise that in Namibia, Malawi, Zimbabwe and more recently South Africa and Botswana there is an interest to establish EPZs in order to take advantage of the FDI drive for employment purposes.

41 For instance, AMC in Harare, see Biggs et al. (1993), at n. 35, p. 44. That the quota system accounted for a significant incentive to FDI in Southern Africa can also be gauged by the allegations that Chinese investment into Lesotho has been used for transshipment of Chinese-made garments to the US market, (*idem*, p. 52).

42 For instance, in addition to those required to set up the EPZ facilities, investment projects in the planned EPZ in Walvis Bay include a marble processing plant, an oil refinery, a regional airline, and a clothing factory. Only this latter one is of a footloose kind, see Lucienne Fild, "Meeting to drum up support for EPZ", *The Namibian*, May 1995.

The benefits of an EPZ strategy in Southern Africa...

By providing incentives and facilities, EPZ may alleviate perceived operational constraints of foreign investors, enticing them to take advantage of Southern Africa labour and unrestricted access to markets in industrialized countries. EPZs or firms with EPZ status would then generate some net foreign exchange earnings and rapidly create jobs. Since Africa suffers of a poor reputation as a production site, EPZs could be used as a marketing tool for image-building and further promotion of FDI.

Local firms, not only foreign investors, could derive benefits. Those with export potential could increase their links with international markets by being granted EPZ status. In this regard, duty-free access to foreign production inputs that are essential for international competitiveness is likely to be a main advantage. Locally owned firms could gain exposure to new management and marketing skills by teaming up with EPZ foreign investors or working for them as subcontractors. Some pooling of entrepreneurial skills within a zone or an EPZ promoted industry might also foster externalities and innovation. Through emulation, spill-overs would then slowly accrue to non-EPZ firms.

... and the limits

While the potential benefits are important, it is also important to consider the limitations to what can be achieved simply by means of an EPZ-type investment-promotion strategy. First, it is unlikely that EPZs in Southern Africa will attract large scale manufacturing investment by major, well-established transnational corporations. The business environment is likely to be considered still too risky to justify the establishment of specialized subsidiaries, like for instance those assembling key components for the global production and distribution networks of major companies in electronics. The lack of reliable potential local partners, or the lack of information about them, will also make it less easy to enter into joint venture arrangements as a way to alleviate the costs of foreignness.. Small and medium-sized investors, whose investment strategies are more flexible and less demanding of capital as well as more volatile, will be mainly interested in exploiting the new EPZ opportunities.

Other factors militate against the probability of a massive inflow of investment in Southern Africa EPZs. Competition for FDI in simple labour-intensive activities in the developing world is much stronger now that it was twenty or ten years ago. In this competition, geography matters. Even for the geographically highly decentralized production networks that comprise EPZs, there are forces pushing towards grouping around regional market clusters. Relative to Southern African countries, current and prospective competitors at the bottom-end of EPZ production chains in Asia, such as China, Vietnam and Cambodia, can take advantage of their geographical and cultural proximity to those firms that are now the most dynamic investors in the traditional EPZ industries. Countries in Central America profit from their closeness to the US market and trade agreements such as NAFTA and the Caribbean Basin Initiative. Countries in Central and Eastern Europe and North Africa are favoured by the interest of the European Union in developing commercial links with those regions.

Trade preferences matter too, but the value of Southern Africa unrestricted access to markets in rich countries is unstable and temporary. An excessively rapid growth in imports from a given country could induce a revision in its quota allocations. In textiles and garment, moreover, the phasing out of the Multi-Fibre Arrangement over a ten-year period has been agreed at the Uruguay Round negotiations. The abolition of the quota system is bringing about behind-the-scene concern by less developed MFA suppliers for the geographical reconcentration of production to highly competitive, dominant suppliers such as those based in the Hong Kong-Coastal China region.

Large EPZ investment into Southern Africa could also find a natural brake in infrastructure and other deficiencies. EPZ operations do not generally require particularly sophisticated business and physical infrastructure. At a modest level of activity, existing deficiencies should only modestly affect the competitive edge of firms based in Southern African in exporting simple goods. Were operations to expand significantly, these deficiencies could soon become major weaknesses. The lack of managers and skilled workers would become critical, while the supply of unskilled labour could reach a limit in some locations, unless compensated by intra-regional migration. The administration of EPZs would become burdensome (some official sources admitted that the simple recruitment and training of custom officials to control shipments of EPZ goods in and out of a country is a major challenge). Major bottlenecks would appear in telecommunications and transportation, seriously affecting the profitability of EPZs. Bottlenecks in transportation would be particularly severe for landlocked countries. For example, Zimbabwe's access to port facilities (Beira, Mozambique or Durban, South Africa) requires overland transportation. Thus, it is subject to the poor condition of roads, breakdowns in the rail system or security risk.

In general, operational constraints would grow stronger as EPZ operations grow in sophistication and embrace a broader range of industries, e.g. food processing, data processing. Incidentally, it is worth noting that to significantly address bottlenecks in transportation and telecommunications or handle cross-border movements of labour would require concerted efforts and cooperation at the intra-regional level.

Other traditional problems of EPZs are the volatility of investment and poor backward linkages. What is important to emphasize is that positive spillovers do not automatically accrue to the host economies through the temporary presence of foreign EPZ firms. There is a need for a broad range of policies to support the capacity of local firms to assimilate spillovers and induce some stickiness of foreign investment by making Southern African locations more attractive in terms of infrastructure, quality of labour, trust relationships etc.

Finally, since various Southern African countries are simultaneously introducing EPZs, prospective investors in the subregion would soon be faced with a situation in which they can choose from a host of competing locations. This could create a "negative-sum game" incentive war. There is some evidence that firms target broad geographical areas in their investment plans; identify a number of suitable alternative locations; shop around; and then place the investment in the site where they can seize the most concessions from local

authorities.⁴³

Host governments in Southern Africa could be locked in a situation in which they feel they need to offer more than their nearby competitors as a means to tilt the balance of investors' interest towards their own country. Whoever gets the investment, however, the burden of concessions would increase for all the competing locations, and the benefits from the investment would be considerably reduced for the winner. At the limit, were countries to offer a same hard package of incentives, FDI decisions would be ultimately determined by pre-incentive "fundamental" features, such as natural port facilities, a large supply of labour, a competent and efficient public administration, or political stability. The suggestion could be made that, in order to attract efficient investment on the best terms, Southern African countries should desist from offering excessive concessions and rather try to build their appeal directly around those elements of their genuine location advantages that best complement the needs of foreign investors. The case might also be there for mutually agreed de-escalation of incentive packages between countries in the subregion.

To sum up, EPZs in Southern Africa should be considered as transitional arrangements useful to grasp some benefit from temporary shifts in the geographical organization of production of a few simple manufacturing items that are traded globally. They cannot compensate for far-reaching efforts at removing operational constraints to greater investment in manufacturing. EPZ design and implementation have to be integrated within overall strategies aimed at embedding foreign investment, building up genuine location advantages and creating conditions for the efficient organization of production for the international market throughout the host Southern African economies. To simply establish an EPZ is not a solution in itself. Even less a solution is any bid to achieve location advantage by means of building up the reputation of a country as a low cost, union-free production site.

43 *The Determinants of Foreign Direct Investment*, UNCTC, United Nations, New York (1992), p. 60.

CONCLUSION

Echoing successful examples in East and South-East Asia, many countries in Southern Africa are introducing EPZ-type incentive schemes with the aim to generate badly needed jobs and to pave the way for greater participation of their economies in international markets. Despite the fact that sites in Africa are usually not on the short list of international investors, some factors suggest that success might be found in this initiative. Experience in Lesotho is showing that footloose investors from outside the region may react with some promptness to the opportunities to fill export quotas which are left to countries in Southern Africa under existing arrangements for preferential access to industrialized countries' markets. Beyond this, the success of EPZs in Southern Africa could be favoured by the formation of cross-border production networks driven by core investors rooted in the region. The relocation of labour-intensive manufacturing activities from Mauritius to neighbouring locations, and the growing flows of investments from South Africa to nearby countries are embryonic but remarkable examples. Overall, however, the replication of EPZs throughout Southern Africa is not a guarantee of attracting foreign investors. Competition among developing countries for foreign investment is strong and sophisticated. The comparative advantages of locations in Southern Africa may quickly fade away, particularly as long as they stem exclusively from low labour costs rather than improvements in the (business and physical) infrastructure needed to organize production for the international market. EPZ strategies must be accompanied by efforts to attract stable and efficient foreign investment and by measures to promote indigenisation of export capabilities for the regional and global markets.

As shown by existing incentive-driven investment policies in the Southern African subregion as well as empirical evidence from elsewhere, EPZ-type strategies can be comparatively successful without diminishing labour standards. Furthermore, as investment decisions are not substantially motivated by labour costs, it is unlikely that the reduction of labour standards will lead to significant additional investment into the region. It is on the other hand certain that the diminution of labour standards will at least be destabilizing and at worst have adverse consequences for productivity and skills development in the region. The resulting constraints may hinder efforts at creating sustainable competitive advantages and embarrass governments in their relationships with supranational bodies and other countries in the region and the world. To conclude, the removal or reduction of labour standards is not only contrary to internationally recognized principles which have been accepted in the subregion, but also unnecessary for the success of Southern African EPZs.
