MALAYSIA

AZMI & ASSOCIATES
A member of Terralex International advocates & solicitors

Iskandar Development Region – Malaysia's Guangdong?

By Rosinah Mohd Salleh

The creation of the Iskandar Development Region (IDR) in Johor as a special economic zone came about as the result of a feasibility study conducted by Khazanah Nasional Berhad – the investment holding arm of the Malaysian government – to turn the 2,217 square km area into an international industrial and tourism zone, emulating the success of the Shenzhen Special Economic Zone which was launched in Hong Kong in 1979. Launched on 4 November 2006, the IDR focuses mainly on brown field development (i.e. the services sector), and tests constitutional boundaries and political balances by getting the federal, state and local governments to work together for the common good.

The IDRA, a statutory body formed under the *Iskandar Regional Development Act* 2007, is responsible for facilitating the development of the IDR by providing directions, recommendations of policies and strategies in cooperation with the State Planning Committee and various authorities through the adoption of a Comprehensive Development Plan. The Approval and Implementation Committee formed under the IRDA is tasked with identifying, monitoring and co-coordinating the implementation of major or strategic developments and investments, thus expediting the implementation process. Malaysia's other Special Economic Zones include industrial free trade zones, the granting of BioNexus status to deserving biotechnology and agrotechnology entities, the Multimedia Super Corridor for the development of ICT, and Malaysia Industrial Development Authority initiatives aimed at encouraging foreign industrial investment in the country.

Former Malaysian Prime Minister Tun Abdullah Ahmad Badawi stated that the IDR was modeled after Guangdong's Pearl River Delta region in the PRC. However, the success of the different Special Economic Zones depends on certain features unique to those regions. The Pearl River Delta was originally established as a test bed for reform, chosen due to its proximity to Hong Kong and Macau, and its success was due to various contributory factors including its flexible and non-restrictive economic policies, its generous corporate tax provisions, allowing the repatriation of corporate profits and capital investments after a specified contract period, allowing duty-free imports of raw materials and intermediate goods used for export products, and providing exemption of export taxes and limited access to the domestic market.

The incentives provided for investors through the IDR programme include exemption from the Foreign Investment Committee Rules (Bumiputera participation), freedom to source capital globally, the ability to employ foreign employees freely within the approved zones, and exemption from corporate tax for ten years from the commencement of operations for activities within the zone and outside Malaysia.

The IDR is also unique in that it is classified as a zone within Johor, a Malaysian state, and is thus subject to the authority of the Johor state government. Internally, the collaboration between the local, state and federal governments – for example, on issues such as less stringent land rules on foreign ownership in Johor than might apply elsewhere in Malaysia – will contribute to the success of the IDR.

Further incentives include the relaxation of the Foreign Investment Committee's rulings in order to expedite the approval process for matters relating to property, and the indefinite suspension of Real Property Gains Tax. Progressive amendments and new enactments on property-related legislation to facilitate the IDR include increased protection for property owners and investors by improving enforcement; reduction of investment risk through the expansion of the role of the Ministry of Housing and the jurisdiction of the Home Buyers Tribunal; improved efficiency, governance and accountability through the formation of a joint management body pending the formation of a management corporation under the *Strata Titles Act*; the introduction of the "Malaysia My Second Home" programme; and encouraging the financial sector to come up with new and innovative financial products, such as the establishment of Islamic financial institutions and the 10/90 build-and-sell financing model.

Azmi & Associates
Mergers & Acquisitions Practice Group
14th Floor, Menara Keck Seng, 203 Jalan Bukit Bintang
55100 Kuala Lumpur, Malaysia
Tel: (603) 2118 5058 Fax: (603) 2118 5111
Email: rosinah@azmilaw.com
www.azmilaw.com