

## ADMINISTRATION OF ADVANCED DEVELOPMENT AREAS AND FREE PORTS OF THE RUSSIAN FEDERATION

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The subject. In the article the problems of creation and development of territories of advanced development and free ports are analyzed. Territories with a special regime for the conduct of business are a phenomenon long known to the world. Classic examples: the island of Delos (Greece) was declared a free trade zone, where merchants were exempt from taxes, duties and certain administrative duties. In Russia, the modern history of territories with a special regime for the implementation of entrepreneurial activity begins in the 1990s, when the first free economic zones were created: Vyborg, Dauria, Kuzbass, Nakhodka, Sadko, Sakhalin, Technopolis

Zelenograd, Yantar, free trade zones or free customs zones Sheremetyevo, Moscow Franco-Port, Franco-Port Terminal. It is necessary to use the positive experience of foreign countries in this field.

The purpose of this paper is to describe the problems of managing the territories of advanced development and free ports and to offer the government of the Russian Federation effective ways of solving these.

Methodology. The author uses a dialectical method, a method of analysis and synthesis, a formal legal method, a comparative legal method.

Results, scope. The author criticizes the Russian system of administration of the territories of advanced development and free ports of Vladivostok. The author points out that since each territory of advanced development and free ports of Vladivostok territory operate simultaneously on the territory of several municipalities, it is obvious that the highest executive authority of the subject of the Russian Federation, specifically the highest official of the subject of the Russian Federation in whose territory the corresponding territory of advanced development. The author also proposes to extend the legal regime of the territories of advanced development and free ports to entities located in the territory of Western and Eastern Siberia. Effective organizational interaction between state and municipal authorities, the Management Company, the Supervisory and Public Councils with entrepreneurs and investors can only be ensured through the use of such a function of the authorities as coordination.

Together, these measures will minimize the existing gap in the standard of living of the population and imbalance in the economic development of regions throughout Russia, and ultimately entail the accelerated economic development of the Russian Federation as a whole.

The results of the study can be applied in the design of the legal regulation of creation and development of territories of advanced development and free ports.

Conclusions. The author comes to the conclusion that the highest executive authority of the subject of the Russian Federation, specifically the highest official of the subject of the Russian Federation (the governor) should become the coordinating center of administration of territory of advanced development and free ports of Vladivostok. This approach will improve the business and investment climate in all (and not in the selected) constituent entities of the Russian Federation, create prerequisites for the development of their economic potential, will allow the subjects of the Russian Federation to make the most of their competitive advantages.

*Keywords: territory of priority development, free port, coordination function, the highest official of the subject of the Russian Federation, development of the economic potential*

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**Introduction**

Territories with a special regime for entrepreneurial activities are a phenomenon which is long known to the world. The island of Delos (Greece) was declared as a free trade area, where merchants were exempted from taxes, duties and some administrative duties (later free trade zones were established in Rome, China, then along the shores of the Mediterranean and the North Seas). The next type of such territories were "porto-franco" zone, which presupposed trade with foreign countries without payment of customs duties (Venice, Marseille, Genoa). The regime of "porto-franco" evolved into the regime of free harbors in the XX century (Genoa, Marseille, Hamburg, Luebeck, Vladivostok, Batumi, etc.) into which it was possible to import foreign goods without duties and without observing customs formalities, store them without restriction terms.

Today the "fourth-generation" zones of the integration type are concentrated in Asia (mainly in China), Latin America, Central and Eastern Europe. These are industrial-production zones, free trade zones, export-processing zones, zones for accelerated economic development, zones for technical and economic development, industrial zones, etc. [1, p. 15-17].

**1. History of development of territories with a special regime in Russia**

In Russia, the modern history of territories with a special regime for the implementation of entrepreneurial activity begins in the 1990s, when the first free economic zones were created: Vyborg, Dauria, Kuzbass, Nakhodka, Sadko, Sakhalin, "Technopolis Zelenograd", "Yantar", free trade zones or free customs zones "Sheremetyevo", "Moscow Franco-Port", "Franco-Port Terminal". Later references to special economic zones appeared in the RSFSR Law of July 4, 1991 № 1545-1 «On Foreign Investments in the RSFSR». From 1996 to 1999, three federal laws were adopted in respect of Special Economic Zones in [the Kaliningrad](#) and [Magadan](#) areas and [the Center "Ingushetia" International Business](#), which have established special regimes of business and investment (tax incentives, the use of a free customs zone regime, simplified procedure for registration of residents, the contractual nature of relations in the field of attracting investments, etc.) for their residents.

The next step was the adoption of the Federal [Law](#) as of July 22, 2005 № 116-FZ "On special economic zones in the Russian Federation", which provided the opportunity to create four types of special economic zones for development of various sectors of the economy: industrial production, tourism and recreation, technology development and ports.

The next stage was the Federal Law of December 3, 2011 № 392-FZ "On the areas of territorial development in the Russian Federation and on Amending Certain Legislative Acts of the Russian Federation", which set up another form of territory with a special regime of entrepreneurial activity, and namely the Zone of Territorial development, in order to raise the economy of the lagging regions of the country by providing state support to residents.

And finally, the adoption of the Federal [Law](#) as of December 29, 2014 № 473-FZ "On the territories of advancing socio-economic development in the Russian Federation", (hereinafter - the Federal Law № 473-FZ) established the features of legal regulation of business and investment Activities in the territory of advanced social and economic development (hereinafter - TASED).

Federal [law](#) of July 13, 2015 № 212-FZ "On the free port of Vladivostok" (hereinafter - the Federal [Law](#) № 212-FZ), created the first in modern Russia free port - the free port of Vladivostok (hereinafter - FP Vladivostok). Federal [law](#) of July 3, 2016 № 252-FZ classified the free port of Vladivostok as a municipal territory (including land and water area of sea ports located on the territories of these municipalities): Kamchatka Territory; City District Petropavlovsk-Kamchatsky; Khabarovsk Territory: Vanino Municipal District; Sakhalin Oblast: Korsakovsky urban district; Chukotka Autonomous Okrug: the urban district of Pevek. In total, the territory of FP Vladivostok covers 15 municipalities. In accordance with Art. 2 of the Federal Law No. 473-FZ, the territory of advanced socio-economic development (hereinafter referred to as TACED) is a part of the territory of the subject of the Russian Federation, including a closed administrative and territorial formation, in accordance with the decision of the Government of the Russian Federation, a special legal regime for the implementation of entrepreneurial and other activities which aims to create favorable conditions for attracting investments, to ensure accelerated socio-economic development and create comfortable conditions for providing population activities. In accordance with Art. 3 of the Federal Law No. 473-FZ, the territory of advanced social and economic development is created for seventy years by the decision of the Government of the Russian Federation on the basis of a proposal from the authorized federal body. The term of existence of the territory of advanced social and economic development can be extended by the decision of the Government of the Russian Federation. 13 TASEDs and FP Vladivostok have been created on the territory of Russia.

## **2. Objectives of establishment and legal regimes for the operation of TASED and JV Vladivostok.**

Creating and TASEDs and FP FP Vladivostok pursues the general objectives set out, respectively, by the Federal Law № 473-FZ and the Federal [Law](#) № 212-FZ. They can be formulated as follows:

1. Accelerating the socio-economic development of these territories and raising the standard of living of the population.
2. Creation and development of industries oriented to the production of competitive products.
3. Development of international trade.
4. Using of geographical and economic advantages of the Far Eastern Federal District.
5. Ensuring interaction between federal bodies of state power, state authorities of RF subjects, local self-government bodies, the public, entrepreneurs and investors.

The legal regimes of operation of TASEDs and FP Vladivostok are similar:

1. They have been created for seventy years by decision of the Government of the Russian Federation on the basis of a proposal of the authorized federal body. Term of existence may be extended by decision of the Russian Government.
2. These territories are managed simultaneously by the Management Company, the Supervisory Board, the Ministry of the RF for the development of the Far East, in the case of a free port - additionally by the Public Council.
3. In these territories, by decision of the state authorities and local self-government bodies, a preferential tax regime may be established for residents, which implies a reduction and even

complete exemption of enterprises from corporate profit tax, corporate property tax and land tax, reduction of tariffs of insurance contributions to state extra-budgetary funds.

4. Establishment of a customs procedure for a free customs zone.

5. The status of residents is established. They should invest no less than 500,000 rubles in TASED and no less than 5,000,000 rubles for FP Vladivostok.

6. State support measures relate mainly to the provision of benefits in the sphere of town planning, the adoption of decisions on the preparation of documentation for the planning of the territory, the issuance of construction permits, the commissioning of facilities under a simplified procedure (within 5-7 days).

### **3. Problems of TASED and FP Vladivostok activities and means of increasing their efficiency**

Although the TASEDs and FP Vladivostok have been operating for a short time and have not managed to bring a tangible result, some cases of their inefficient activity are already visible. One can clearly identify the main obstacles to their activities.

Firstly, the financial support for the operation of the TASED infrastructure facilities and FP Vladivostok is provided by the following sources:

- means of the federal budget;
- means of budgets of the relevant subjects of the Russian Federation and municipalities;
- extrabudgetary sources, and namely, means of public-private partnership.

It is necessary to clearly establish the financial flows from each source to each particular project on the basis of the program-target method. Otherwise, the allocated financial resources will be used inefficiently.

Secondly, as we mentioned earlier, these territories are managed simultaneously by the Management Company, the Supervisory Board, the Ministry of the Russian Federation for the development of the Far East, in the case of the FP Vladivostok - additionally by the Public Council. The total number of rights and powers of all these bodies and organizations in the management of TASEDs and FP Vladivostok, according to the most conservative estimates, is 40-50. There is a lack of clarity and coherence in the management of these territories.

It is absolutely clear that in order to obtain a high result from the establishment of the TASED and FP Vladivostok, it is necessary to ensure effective organizational interaction between the state and municipal authorities, the Management Company, the Supervisory and Public Councils with entrepreneurs and investors. Such interaction provides only such a function of the authorities as coordination.

Coordination is a special function of management, the purpose of which is to coordinate the activities of authorities, organizations and other entities that are not subordinated to the coordinating body [2, p. 9]. Coordination ensures the coherence of actions of insubordinate entities in the integrated use and development of the territory. There are horizontal administrative and legal relations, in which the parties are equal in rights and are subject only to the law. In addition, the

coordination function is carried out by program-target, contractual and organizational management methods, excluding direct impact on the will of participants in horizontal legal relations.

It is necessary to use the positive experience of foreign countries in this field. Take the nearest neighbors - the People's Republic of China (PRC). In the PRC, the Urumqi Technological and Economic Zone - the TEZ (analogue of the Russian TASED) was created under the leadership of the party working committee (in fact, the executive authority of a certain territory) and the Government of the Xinjiang Uygur Autonomous Region (hereinafter - XUAR) and the city authorities. The leadership of the TEZ is implemented by the party working committee [3, p. 99-105]. In fact, the party committee coordinates the activities of the administrative committee of the FEZ, the government of the XUAR and the government of the city of Urumqi. And as we can see, the Urumqi TEZ has achieved impressive results, the indicators of the region's economic development are much higher than before the Urumqi TEZ was created. In many respects this result was achieved due to the correct organization of management.

According to the Minister for the Development of the Far East, to date, there are three sources of funding for TASED and FP Vladivostok. Firstly, it is the allocation of public funds in the framework of relevant state programs. The second source is the implementation of priority investment projects (mostly of a resource nature). The third source is foreign direct investment and new Russian investment in non-primary sectors of the economy.

Effective management of TASEDs and FP Vladivostok should be structured as follows.

Since each TASED and FP Vladivostok operate simultaneously on the territory of several municipalities, it is obvious *that the coordination point should be the supreme body of the executive authority of the Russian Federation, and in particular the highest official of the subject of the Russian Federation on the territory of which the respective TASED is operating.* In accordance with Article 18 of the Federal Law of 06.10.1999 number 184-FZ "On general principles of organization of legislative (representative) and executive bodies of state power of subjects of the Russian Federation" a senior official of the subject of the Russian Federation shall ensure the coordination of executive authorities of the subject of the Russian Federation with other state authorities of the subject of the Russian Federation and in accordance with the legislation of the Russian Federation may organize interaction between the executive authorities of the subject of the Russian Federation with federal executive bodies and their territorial bodies, local self-government bodies and public associations.

Since the territory of the constituent entity of the Russian Federation, where the TASED is created, consists of several municipal entities [4, p. 31]. The head of each of these municipalities should coordinate with the highest official of the subject of the Russian Federation, transmitting and receiving from him relevant information. Once again we recall that coordination does not imply the subordination of one entity (local government) to another entity (the highest official of the RF subject), the constitutional principle of independence of local self-government (Article 12 of the Constitution of the Russian Federation) will not be violated.

The list of powers of the Ministry for the Development of the Far East is fixed in Resolution of the Government of the Russian Federation No. 664 of 30.06.2012 and fixes more than 50 powers of the Ministry of the Russian Federation for the RF. From this list, the following main powers can be singled out: rendering assistance in the implementation of state programs, federal target programs for the development of the Far East; Implementation of search and attraction of investors and rendering assistance in the implementation of investment projects; support for small and medium-sized enterprises; development of competition in the Far East; the organization of interaction of

federal executive bodies, executive bodies of state power of subjects, local governments, business entities in this sphere of activity.

The Supervisory Board reviews and approves the long-term development plans and joint venture TASED Vladivostok. The Management Company provides creation and operation of infrastructure on the territory of the joint venture and TASED Vladivostok.

When the face of the highest official of the subject of the Russian Federation shall be established a structural division (Committee, Commission), engaged in coordinating the activities of various entities directly and indirectly involved in the activities of the joint venture and TASED Vladivostok: Governor of the subject; heads of municipalities of the subject of the Russian Federation on the territory of which are located TASED and FP Vladivostok; representatives of the Far East Ministry of the Russian Federation; representatives of the Management Company and the Supervisory Board; existing and potential investors.

The Office of the Governor should regularly hold meetings at which each of the designated entities to report on progress, and by the end of the meeting by a majority vote to adopt conclusions containing comments and proposals on the development of the joint venture and TASED Vladivostok and Investor Relations.

TASED potential is huge. This is development of transport and logistics sector, agribusiness, aerospace, and resource-use of raw materials industries, tourist and recreational destination. FP Vladivostok mode creates the prospect of creating a whole network of international ports in the Far Eastern Federal District, which implies a development on an unprecedented scale shipping, shipbuilding, and foreign trade activities of the Russian Federation.

## **Conclusions.**

Summarizing all the above, the following should be noted. In accordance with the Federal Law № 473-FZ originally TASED and FP Vladivostok have been formed only in the Far Eastern Federal District. Meanwhile, according to statistics ***80% of all foreign investment in Russia accounts for 10 regions, half of them in Moscow and St. Petersburg. The remaining 75 subjects of the Russian Federation remain undeveloped for investors.*** The Russian leadership is aware of this problem. Since the Decree of the Russian Government dated 29 December 2016 number 1536 and the Government Decree of December 29, 2016 №1550 in the Republic of Bashkortostan have been created on the territory of two TASED monocities: TASED "Belebei" was created to promote the development of an urban settlement by Belebei diversification of the economy, attract investment and create new jobs, not related to the activities of city-forming organization focused on the automotive industry (JSC "Belebeevsky" Avtonormal"); TASED "Kumertau" created to promote the development of the urban district Kumertau to diversifying the economy, attract investment and create new jobs, not related to the activities of city-forming organizations (JSC "Kumertau Aviation Production Enterprise").

However, these measures are not sufficient. There are many so-called "depressive" regions with low living standards and the extremely weak economy On the territory of Russia, particularly in Western Siberia and Eastern Siberia (with the exception of the Tyumen region), which is vital to the state support of investment development. These are the Republic of Altay, the Republic of Tyva, Khakassia, Kemerovo region, Trans-Baikal Region and some other regions of the Siberian Federal District.

Such an approach will improve the business and investment climate in all (rather than elected) subjects of the Russian Federation, will create preconditions for the development of their economic

potential, will allow the RF subjects to make maximum use of its competitive advantages. Taken together, these measures will help to minimize the existing gap in the living standards of the population and the imbalance in the economic development of regions throughout Russia, and eventually will lead to the rapid economic development of the Russian Federation as a whole.

### **References**

1. Gorodilov AA, Gomin A.C., Kargapolov S.G., Kulikov A.V. XXI v: Free zone and special status. Ed. E. Chirkova. Kaliningrad, Yiantarnyi skaz Publ., 2001, 201 p. (In Russ.).
2. Kazannik A.I. Coordination function of local councils of workers' deputies in the modern period: on materials of Eastern Siberia. Author's abstract. Cand Diss. Irkutsk. 1970. 22 p. (In Russ.).
3. Potienko L.I. Problems of formation of territories of advanced development. Vestnik Vladivostokskogo gosudarstvennogo universiteta ekonomiki i servisa, 2014, no. 3. pp. 99-105 (In Russ.).
4. Kostyukov A.N. Subjects of municipal legal relations. Constitutionnoye i municipalnoye pravo. 2003, no 1. pp. 28-34 (In Russ.).

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