



## MINISTRY OF INDUSTRY, INVESTMENT AND COMMERCE

### SPECIAL ECONOMIC ZONES WHITE PAPER

Policy for the Establishment of Special Economic Zones under the Jamaica Logistics Hub Initiative

June 2015



**JAMAICA** LOGISTICS

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## I. Definitions<sup>1</sup> of Terms and Acronyms

**Capital goods:** Tangible items used in the production of other goods. Examples include factories, machinery equipment (e.g. computers) and tools.

**Consumer goods:** Goods destined for final consumption by individual households or communities (e.g. food and beverages, video games, recorded CDs and DVDs, sports goods, etc.).

**Consumables:** Materials (excluding lubricating oils or fuel for use in internal combustion engines) and articles consumed or expended by an individual or business directly in the process of the production of primary products or the manufacture of goods.

**Country of origin:** Rules of origin are criteria needed to determine the national source of a product. Individual countries define origin according to rules of origin established by each country for imported goods, origin is established by the importing country according to agreements to which they are signatories, subject to WTO Agreements.

**Customs duties:** means the duties laid down in the Customs tariff to which goods are liable on entering or leaving the Customs territory

**Customs territory:** means the territory in which the Customs law of a Contracting Party applies in full

**Demand chain:** The supply chain as seen from the viewpoint of the customer, the entity which chooses among competing products and services and, thus, controls the demand.

**Domestic content of exports (or domestic value added content of exports):** The domestic content of exports measures exports net of imported inputs. It corresponds to the accumulation of the value added created by each of the various domestic sectors that contributed directly or indirectly to the supply chain.

**Equal Footing:** having the same rights and conditions as individual or business competitors

**Free zone:** a part of the territory of a Contracting Party where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs territory.

**Global manufacturing:** Production activities in which different steps of the manufacturing process take place in different countries.

**Gross fixed capital formation:** A general measure of gross net investment in fixed capital (such as machinery, vehicles, and buildings) during an accounting year.

**Intermediate goods and services:** Tangible and intangible products utilized as inputs in production, excluding fixed assets.

**Logistics Parks:** Designated areas where businesses are located together and provide various logistics services and products for other businesses and thus offer value added services for goods and services which are partially prepared there for ultimate or end-use markets and then forwarded on. These logistics services include Container Freight stuffing, storage, consolidation, distribution, and other value added services such as breaking down large quantities into smaller quantities, labelling and packaging.

**Micro, Small and Medium-sized Enterprises:** The classification for micro, small and medium-sized enterprises is as follows:

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<sup>1</sup> Definitions are taken from reputable sources, a list of which is available from the Logistics Hub Secretariat. Sources include the Revised Kyoto Convention of the World Customs Organization.

FIRM SIZE	NO. OF EMPLOYEES	TOTAL ANNUAL SALES/TURNOVER
Micro	≤ 5	≤J\$10 million
Small	6 – 20	> \$10 million ≤ J\$50 million
Medium-sized	21 – 50	> J\$50 million ≤J\$150 million

**Non-Tariff Measures:** Various bureaucratic or legal issues that could result in hindrances to trade.

**Offshoring:** Describes an enterprise's decision to sub-contract the supply of specific goods and services to foreign suppliers. These suppliers can be independent or affiliated firms. Offshore-outsourcing is a special case of outsourcing, when the contractual parties are not resident of the same economy.

**Outsourcing:** An enterprise's decision to acquire specific inputs and services from an outside (unaffiliated) company, instead of producing them internally.

**Production network:** A group of interconnected companies involved in the production of goods and/or services.

**Special economic zone:** Geographically delimited area, usually physically secured (fenced-in), single management/administration, eligibility for benefits based upon physical location within the zone, separate customs area (duty-free benefits) and streamlined procedures.

**Tax avoidance:** A practice of using legal means to pay the least amount of tax possible. This is different to **tax evasion** which is the practice of using illegal methods to avoid paying tax.

**Trade in value added:** An alternative to the traditional measure of international exchanges in goods and services, adapted to the evolution of global supply chains. Enables the domestic content included in gross export flows to be estimated.

**Twenty-foot equivalent unit (TEU):** A unit of measurement equal to the volume occupied by a standard 20-foot container.

**Value added:** The value of output minus the value of all intermediate inputs. It represents the contribution of, and payments to, primary factors of production (wages, profit and taxes).

**Value chain (global):** The sequence of activities that firms undertake to create value, including the various production steps (supply chain), but also all activities belonging to the demand chain, such as marketing, sales and customer service.

AEOs	Authorized Economic Operators
BITs	Bilateral Investment Treaties
CBERA	Caribbean Basin Economic Recovery Act
DARP	Development Applications Review Process
FDI	Foreign Direct Investment
FTP	Foreign Trade Policy
FTAs	Free Trade Agreements
FTZs	Free Trade Zones
GCT	General Consumption Tax
GLHI	Global Logistics Hub Initiative
HACCP	Hazard Analysis and Critical Control Points
IMF	International Monetary Fund
ITC	International Trade Centre
JBDC	Jamaica Business Development Corporation
KFZ	Kingston Free Zone
MBFZ	Montego Bay Free Zone
MERCOSUR	Southern Common Market
MDA	Ministries, Departments and Agencies
MEFP	Memorandum of Economic and Financial Policies
MIIC	Ministry of Industry, Investment and Commerce
MRO	Maintenance, Repair and Operations
MSMEs	Micro, Small & Medium-sized Enterprises
NCC	National Competitiveness Council
NDP	National Development Plan
NTM	Non-Tariff Measures
OSS	One-Stop-Shop
POs	Procedural Obstacles
PSC	Policy Steering Committee
RTC	Revised Treaty of Chaguaramas
SADs	Single Administrative Documents
SADC	Southern African Development Community
SEZs	Special Economic Zones
WTO	World Trade Organization

## Vision

*Special Economic Zones – where globally competitive firms thrive, driving unprecedented growth and development for all in a logistics-centred Jamaican economy*

## II. Executive Summary

The government of Jamaica is demonstrating its commitment through the Global Logistics Hub Initiative (GLHI), to building a competitive business environment and supporting growth-inducing economic activities that will stimulate sustainable economic growth and development. This initiative has gained much momentum and investor interest in recent time. This is due to the enormous value proposition the country offers the global economy in light of the prospects arising from changes in international production, growing world trade and the expansion of the Panama Canal.

The implementation of the GLHI brings into sharp focus the importance of the Special Economic Zones (SEZs). SEZs represent a wide variety of geographically-demarcated areas that offer simple and efficient business regulations and procedures to investors. Under the new SEZ regime, these zones will be promoted and facilitated as a strategy to attract and retain targeted investments and will catalyse and sustain economic activity across various sectors of the Jamaican economy.

It is the government's intention to upgrade the free zone regime to a modern SEZ regime and this is strongly influenced by three main factors. **Firstly, the move toward a modern SEZ regime is being driven by changes in global production and market conditions that are opening up new opportunities for small developing economies like Jamaica to actively participate in global value and supply chains.** The Ministry of Industry, Investment & Commerce through its efforts to develop the new SEZ regime is seeking to place the country at the centre of international trade lanes in order to attract large corporations that are eager to benefit from the near shore value proposition.

**The second rationale is centred on the enormous potential of the SEZ regime to stimulate wide-scale economic activities, especially in new and emerging sectors.** Through the development of the SEZ regime and other initiatives, measures such as business climate reforms, creation & stimulation of sustainable business-to-business linkages, harmonization of fiscal incentives and other reforms, will be intensified so that over time, the Jamaican economy will be transformed to one with greater emphasis on efficiency, transparency and predictability. As a result of these reforms, both businesses in SEZs and businesses in the rest of the economy will be better prepared and equipped to access a larger share of the global market, expand and diversify their economic activities and hire more workers. These are all critical factors and conditions that must be satisfied in order to drive sustained growth and development in Jamaica.

**Finally, the intention to develop a new SEZ regime ensures conformance under the World Trade Organization's (WTO) rules for middle-income countries such as Jamaica.** The existing free zone regime stipulates rigid eligibility requirements in terms of qualifying activities and the amount of manufactured goods that have to be exported (qualifying manufacturing entities are allowed to supply up to 15% of production to the domestic market which attract applicable duties and charges). The new SEZ regime seeks to bring the country into compliance with the WTO Agreement on [Export] Subsidies and Countervailing Measures by 2015 and thereby minimise the potential for challenges from other World Trade Organisation (WTO) Members.

### **Expected Outcomes of the Policy**

- ✓ Modern and integrated policy, financial, legal and institutional framework for SEZ development established;
- ✓ Trade and business facilitation environment for SEZs improved;
- ✓ Sustainable linkages between SEZs and the rest of the economy created;
- ✓ Onsite and offsite infrastructure services, assets and facilities developed;
- ✓ Productive capacity increased through human capital formation, technology transfer, business innovation and entrepreneurship;
- ✓ Increased domestic employment;
- ✓ Competitive incentives with net benefits to the Jamaican society;
- ✓ Increased exports;
- ✓ International standards for SEZ development adopted; and
- ✓ SEZ development initiatives are consistent with development goals under Vision 2030 NDP and existing Government priorities.

### **Main Policy Considerations**

This White Paper explores the major policy considerations that will directly affect SEZs. These policy issues have been prioritized through extensive policy consultations involving industry experts, senior government officials, international development partners and private sector interest groups. Through this consultative process, the policy team has been able to evaluate the strengths, weaknesses, threats and opportunities of several factors that are likely to impact SEZ development, specifically along the lines of international trade, market access, business regulation & facilitation, linkages, sustainable development, employment, incentives, taxation, among other areas. The policy issues and recommendations are discussed below.

### **Efficient and Cost-effective Trade and Business Facilitation Services**

An efficient and conducive business environment is a key strategic focus of the SEZ policy regime. Measures to improve business and trade facilitation can increase the country's capacity to guarantee competitive transaction costs, speed and predictability in the provision of logistics services and can help to create a more attractive environment for investors. Several recommendations have been proffered for tackling issues affecting trade facilitation. Measures proposed are geared towards improving the entire eco-system of the trade facilitation environment, including the streamlining of business processes through the Authorized System of Customs Data (ASYCUDA), the Port Community System and the Single Window in order to ensure integrated business processes and efficiency across border agencies.

For successful access to global markets, Jamaica has to be positioned to offer SEZ investors an attractive Free Trade Agreement (FTA) network that includes key markets in the major existing and future trade lanes. It is accepted that any effort to expand Jamaica's bilateral FTA network will require coordination with our regional trading partners in CARICOM as the Revised Treaty of Chaguaramas requires that bilateral agreements with third party states be subject to review and approval at the regional level.

The policy highlights a few strategies that would help to achieve the market access desired. Firstly, it is critical to ensure that an economic impact assessment on the feasibility of joining existing PSAs negotiated by CARICOM countries is conducted. Secondly, the White Paper highlights the need to negotiate a position in CARICOM on the treatment of Free Zone/Special Economic Zone exports. Thirdly, it is critical to explore whether a negotiation for an amendment of the FTAs



with the Dominican Republic, Cuba and Costa Rica to facilitate a list of goods produced in SEZs is in Jamaica's interests. Fourthly, it will be necessary to implement a standardised economic impact assessment tool to evaluate the strengthening of duty relief in the major trade lanes through engagement of the ASEAN Group, China, MERCOSUR, SADC.

### **Sustainable Linkages between the SEZ and the rest of the economy**

There is recognition that several policy measures can be applied to support greater linkages between and among businesses in the SEZs and the rest of the economy. The application of certain tax measures for example, is highlighted as an important tool that can be used to create linkages. One measure being contemplated is the zero-rating of goods and services provided to the SEZs. However this measure should be applied in such a manner that will not erode the existing tax base. Therefore, activities that are permitted within SEZs will be properly evaluated, selected and controlled so that existing businesses that supply the domestic economy are not incentivized to close down and migrate to the SEZs but to expand their operations to provide the basis of additional tax revenue and generate additional employment.

Other key policy measures to promote linkages include the removal of the export requirement in keeping with WTO rules, capacity improvements and knowledge & technology transfer especially among MSMEs in order to increase the opportunities for business-to-business linkage.

### **Competitive Tax and Incentives Regime for the SEZs**

The tax and incentives provisions are hinged on four (4) important guiding principles. The first is that Jamaica's SEZ regime will focus less on fiscal incentives and more on

providing a platform to deliver the business and trade efficiencies, reliable physical & social infrastructure, human resource capacity etc., that are demanded by the global marketplace. Secondly, where possible, fiscal incentives will not erode the domestic tax base and will not compete with the general tax regime. Thirdly, taxes and incentives will be 'fit for purpose' and will not cause the country to 'give-up' more than it needs to in terms of lost revenue to the government. The fourth principle is that, in support of the government's overall thrust toward fiscal consolidation, there will be a deliberate shift from the government-led zone development to a model that is private-sector led or involves minimal government involvement through public-private-partnerships.

Some of the tax and incentives provisions include:

- i. Low Headline CIT Rate of 12.5% on profits derived from the conduct of a trade, profession or vocation within a SEZ by an approved SEZ Operator, with accompanying tax credits, allowances and deductions that would result in a lower effective CIT rate.
- ii. All domestic supplies into the SEZ will be zero-rated for GCT, including utility services. SEZ supplies into the customs territory will however be rateable at the prevailing standard rate or the applicable rate for particular supply
- iii. Full relief from customs duty (CET), stamp duty, additional stamp duty and GCT on transhipped supplies into the SEZ

### **Zone Development and Administration**

The matters related to zone development and administration is diverse. In light of the significant role that government plays in business and trade facilitation, a SEZ Authority is



being proposed to ensure that the businesses in SEZs are facilitated in an expeditious manner. The role of the SEZ Authority will entail overseeing regulatory compliance through the relevant planning and trade facilitation authorities which will be housed in a One-Stop-Shop facility.

The use of public-private-partnerships (PPP) and private zone development is a strategy that will help to lessen the burden that SEZs can place on the government. The White Paper proposes further improvements in the PPP framework to adequately meet the requirements for formal development agreements between private developers and the government.

The matter of eligibility requirements is another area in zone development about which there has been much debate. The set of eligibility requirements for the SEZ framework in Jamaica necessitates three important considerations. The first is that these requirements must be linked to the scope of the SEZ framework of the country; hence there must be consistency with the strategic objectives of national development and SEZ development. The second consideration is that there is a need to minimize revenue leakage due to migration of firms from the domestic economy to the SEZ. Thirdly, the requirements for eligibility should not be difficult to administer. This policy will follow best practice of identifying a short list of prohibited activities in a 'negative list'. Hence, it is proposed that the following list of sectors be disqualified for SEZ eligibility: Extractive Industries – Mining & Quarrying, Hydrocarbon (Oil & Gas), Tourism, Telecommunications Services, Public Utilities, Financial Services, Construction Services, Real Estate & Property Management Services, Health Services (excluding research & development) and Retail Trade.

Urban support designation and development is another area that has been explored in the SEZ White Paper. The purpose of the Urban Support Area is to provide the proper commercial areas, housing, utilities, transportation, social (e.g. schools, hospitals) and recreational infrastructure in close proximity to the workers in the SEZs. This is part of creating the backward linkages into the domestic economy and will help to avoid past mistakes of not adequately providing for the needs of the workers. A specific strategy that is being considered is for the government to grant special developmental status to entitle developers to the streamlined construction regulatory process.

### **Labour Market and Productivity**

The Vision 2030 National Development Plan for Jamaica sets out an elaborate plan for the Jamaican labour market which should result in a transformation of the labour market in a more efficient and harmonious market with a trained and educated productive workforce which sustains the entire economy and attracts quality employment-generating investments. This vision for the labour market has to be fulfilled against the backdrop of a diverse mix of local and international challenges affecting the labour market which must be addressed. This White Paper discusses a range of the specific issues that will affect the success of the SEZ regime. These include getting adequate labour supply and skills development, expected outcomes on the wage bill, the implications for productivity and competitiveness, gender dimensions and industrial relations & social protection. Some of the policy recommendations include:

- i. Adopt labour practices that are in full compliance with stipulations of the International Labour Organization;

- ii. All policies related to the human resource development will be aligned to existing national policy framework for training and employment and for access to employment opportunities for women and persons with disabilities;
- iii. Greater collaboration between training institutions and industry to ensure constant supply of skilled personnel for firms in the SEZ;
- iv. Promote a culture of voluntary compliance through awareness-raising/information-sharing programmes and initiatives geared towards investors, managers of enterprises, workers and their organizations.

### **Environmental Sustainability and Climate Change Mitigation**

SEZs will be developed in full compliance with government's policies on sustainable development which incorporate economic, environmental and social considerations. The policy framework is being formulated with strategies to create backward linkages with individuals through employment and training and among businesses through efforts to stimulate business-to-business linkages. The build-out of Urban Support Areas also ensures economic development with social inclusion.

Regulations to promote environmental sustainability are critical to doing business through the Global Value Chains model. Hence, one of the policy measures is to require the developer and operators of the SEZs to pursue and adopt low-carbon, green strategy with a clear goal and commitment to Greenhouse Gas mitigation. Every effort will be pursued to ensure a strategy of greening the economy and related industries and safeguarding human and environmental health.

### **Implementation**

The government is focused on introducing policy measures that will hasten the development of the SEZs in the short to medium-term. The development of the policy framework for SEZs will result in a phasing out of the existing Free Zone regime with a modern regime that will enhance the country's economic offerings to the local and foreign investor community. This necessitates the upgrading of existing legislative and regulatory frameworks in line with global best practices for SEZs that adequately fit Jamaica's circumstances.

The full implementation of the SEZ framework will involve several private companies, associations, interest groups, MDAs, international development partners and local and foreign investors. Some of these entities have already been engaged in order to ensure that considerations are given to the effective roll-out of the policy strategies.

## **III. Introduction**

Following a submission by the Ministry of Industry, Investment and Commerce (hereafter referred to as the "MIIC") in 2012, Cabinet approved the pursuance of the global logistics hub initiative (GLHI), vide Decision No.33/12 dated September 18, 2012. Cabinet recognizes the GLHI as a national development priority as substantiated by the Vision 2030: National Development Plan and a critical growth-enhancing strategy. This is why all efforts to transform Jamaica into a global logistics hub are nestled in the Growth Agenda which is the general framework guiding economic and social development over the medium-term.

The implementation of the Global Logistics Hub Initiative (GLHI) will be transformative and will have far-reaching

effects on the Jamaican economy over the medium- to long-term. Under the GLHI several geographical areas will be designated as clusters for high impact investors. The businesses in these geographical areas, called Special Economic Zones (SEZs), will experience enhanced procedures and regulations relative to businesses operating outside these areas. SEZs are central to the overall GLHI as they will link industrial development and logistics services and will facilitate MSME participation in export industries. These SEZs will also ensure a smooth transition towards a policy regime that complies with our international obligations under the World Trade Organization (WTO) by 2015.

This White Paper provides an overview of the issues and challenges that the policy framework needs to address and the approaches that are being contemplated to resolve them. It has benefited from consultative engagements with various organizations that are represented on the SEZ Policy Steering Committee (see list of organizations represented on the SEZ Policy Steering Committee in Appendix 1). Other local and international organizations were engaged through policy dialogues which were convened by the MIIC and the SEZ PSC. Research was also carried out by a team of technical officers at the MIIC to inform the recommended policy strategies.

## **The Jamaican Policy Context and the Special Economic Zone Regime**

Following a submission by the Ministry, Cabinet by way of Decision No.3/14 dated March 12, 2014, approved the development of a modern Special Economic Zone regime to replace the Free Zone regime. In so doing, the government has demonstrated its commitment to build a competitive business environment and support growth-inducing economic activities that will stimulate sustainable economic growth and development. These outcomes are all encapsulated in the broader development planning policy framework of the country.

### ***Competitive Business Regulation***

The introduction of a SEZ regime is crucial to enhancing the competitiveness of the Jamaican economy. SEZs will be supported by efficient and cost-effective regulatory procedures for businesses, a single administrative authority, and attractive tax incentives for foreign and local investors alike— all supported by modern legislation and best practices within the institutional framework governing their operations.

Already, there are signs of improvements in business regulation and facilitation. The 2015 Doing Business Report shows significant improvements in the country's rank relative to the previous year, with a move from 94 to 58 in the overall ranking. Several reforms spearheaded by the National Competitiveness Council, chaired by the Minister of the Ministry of Industry, Investment and Commerce, have influenced these improvements. Two of these reforms are the introduction of the Business Registration Form (super form) and the National Collateral Registry. Further improvements are projected over the short to medium term on account of the work underway to reform insolvency and bankruptcy administration in Jamaica. Of significance also is the new SEZ legislation which will offer accelerated improvement in the business environment and will become an incubator for business reform in the wider economy. Hence, improvements in the business environment for SEZs will offset the major impediments in the country's administrative and regulatory framework governing the wider business environment.

### ***Economic Activities***

The SEZ regime will stimulate wide-scale economic activities, especially in new and emerging sectors. Through the SEZ regime and other initiatives, measures such as creation & stimulation of sustainable business-to-business linkages, harmonization of fiscal incentives and other reforms will be intensified so that over time, the Jamaican economy will be transformed to one with greater emphasis on efficiency, transparency and predictability. As a result of these reforms, both businesses in SEZs and businesses in the rest of the economy will be better prepared and equipped to access a larger share of the global market, expand and diversify their economic activities and hire more workers. These are all critical factors and conditions that must be satisfied in order to drive sustained growth and development in Jamaica.

### ***National Policy Coherence***

The expected outcomes under the SEZ regime are congruent with the Vision 2030 Jamaica: National Development Plan, especially in relation to national outcomes for the business environment, economic infrastructure and industry structures and there will be cross-cutting impacts for other priority areas in the Plan. Similarly, the SEZ policy is aligned to the priority outcomes, strategies and actions over the next three years, as outlined by the Medium-Term Socio-Economic Policy Framework for 2012-2015 and the Government's Medium-Term Priorities for enhancing economic growth.

The SEZ policy is linked to several national policies. These include: the Foreign Trade Policy, Environment Policy, MSME and Entrepreneurship Policy among others.

#### IV. Situational Context – Jamaican Free Zones Regime

Free zone operations in Jamaica date as far back as 1976 with the establishment of the Kingston Free Zone (KFZ), on approximately 44 acres of land adjacent to the Port of Kingston. The Montego Bay Free Zone (MBFZ) which initially spanned 3.2 acres with one factory- Akom Limited (28,000 sq. ft.) - was established in 1985, in the southwest region of the city. The KFZ space has since decreased to 16 acres when the Port Authority of Jamaica used a large acreage for port expansion between 2004 and 2006. The MBFZ, on the other hand, has expanded to 44 acres with 352,966 sq. ft. office space and 249,000 sq. ft. factory space. In an effort to improve the efficiency of the public zones and enhance the quality of service to investors, in 1998 there was a merger of the management functions of the MBFZ and the KFZ.<sup>2</sup>

There has been an additional 50,000 sq. ft. of free zone space at the Portmore Information Park. The government also developed over 600,000 sq. ft. of free zone space at the Garmex Free Zones in Kingston and 120,000 sq. ft. at the Hayes Free Zone in Clarendon.

A number of free zones are privately-owned. The Cazoumar Free Zone, located in Montego Bay is a private free zone with over 200,000 sq. ft. of land space. In addition, companies located outside the zones have qualified for free zone status as single entity free zones. The majority of these single entity free zones are involved in the Information, Communication Technology (ICT) sector and a few are involved in the petroleum sector (ethanol production),

warehousing/logistics & distribution, furniture manufacturing. They are predominately located in St. Catherine, St. James, and Kingston.

The Jamaica Export Free Zone Act (1982) allows investors to operate with foreign currency in activities such as warehousing, refining, manufacturing, redistribution, processing, assembling, packaging, and services such as insurance and banking.

#### *Administration and Tax Incentives*

The Jamaican free zone regime is designed to encourage foreign direct investment (FDI), promote export growth and create new employment. Initially, businesses operating in free zones were primarily involved in the textile industries but there has been a gradual shift toward manufacturing, telemarketing, warehousing, data entry, electronic assembly, telecommunication services and business process outsourcing, among other activities. The value proposition that the free zones offer to investors involves easy access to air and seaports, duty-free benefits, minimal customs procedures, large skilled and semi-skilled English speaking workforce and telecommunication, logistics & transportation services.

Free zones are operated under the Jamaica Export Free Zone Act (1982). The Free Zone Council has authority to grant approval for free zone status and the Minister to designate areas as free zones. Approved free zone enterprises benefit from:<sup>3</sup>

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<sup>2</sup> Source: Port Authority of Jamaica

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<sup>3</sup> World Trade Organization (November 2013). New and Full Notification Pursuant to Article xvi:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures

- Duty-free importation of capital goods, consumer goods, office equipment, raw materials or articles for use in connection with the approved product;
- No import licensing requirements;
- Duty-free treatment of articles for the construction, alteration, and repair of equipment of premises in the Free Zones;
- Total relief from income tax in respect of profits or gains earned from approved activities;
- Repatriation of profits (since liberalization of the foreign exchange market in 1991 there are no restrictions on the repatriation of profits);
- Exemption from the normal fees payable with respect to work permits.

Under the Jamaica Export Free Zones Act, MIIC grants approvals for free zone status. Enterprises that are approved to operate in the free zones are required to be registered or incorporated under the Companies Act and are required to carry out prescribed business activities as stipulated by the Act. Qualifying manufacturing entities are allowed to supply up to 15% of production to the domestic market which attract applicable duties and charges.

### ***From Free Zones to Modern Special Economic Zones***

The economic output from the zones has been in decline on account of the structural reforms, failure to encourage business higher up the value chain, preference erosion in the US market and increased foreign competition. Despite the downturn in activities, free zones continue to play a significant role in the country's economic development. In addition, the free zone regime continues to be a critical success factor in attracting investors to the country and supports the overall domestic capacity building efforts of the country.

The existing free zone regime in Jamaica follows the traditional model for free zones in terms of its underlying policy framework. The regime stipulates rigid eligibility requirements in terms of qualifying activities and the amount of manufactured goods that have to be exported. Free zones are primarily developed and operated by the government which offers a diverse mix of incentives to attract occupants of the zones. While there are single entity free zones, free zones are generally located in industrial areas or near ports or airports. Other features that are typical of the traditional model include outdated labour practices and restricted interaction with the rest of the country.

The upgrading of the free zone regime to a modern SEZ regime therefore represents a significant step towards transforming the operations of these zones. Moreover, the upgrading of free zones to SEZs is a move towards conformance under the World Trade Organization (WTO) rules for middle-income countries such as Jamaica. The country is required to bring its free zone regimes into compliance with the WTO Agreement on [Export] Subsidies and Countervailing Measures by 2015.

The concept of a special economic zone is a generic term that has evolved over time and applies to a large variety of zones including recent variants of the traditional commercial zones (see note on SEZ in Appendix II).<sup>4</sup> The new SEZ regime for Jamaica will adopt international standards and growing trends for zone development. These include the following:

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<sup>4</sup> World Bank, 2008. "Special Economic Zones – Performance, Lessons Learned, and Implications for Zone Development." and World Bank 2009. "Clusters for Competitiveness: A Practical Guide and Policy Implications for Developing Cluster Initiatives." International Trade Department, PREM Network, Report, World Bank, Washington DC.



- Countrywide zone development that have no export volume preconditions
- Private sector zone development and management
- Complete two-way trade between zones and the rest of the economy (i.e. a removal of the current 15% cap on domestic sales)
- Labour practices that are consistent with International Labour Organization standards
- Incorporation of development policy priorities other than employment, FDI and value chain development to include innovation, human resource development, rural development and green growth<sup>5</sup>
- Economic, social and environmental sustainability

## V. SEZs and the Global Logistics Hub Initiative

International trade patterns are undergoing significant realignments as a result of the geographically dispersed networks that make up an integrated global production system. This is being driven by the changes that are occurring in the configuration of global value-chains including the central role of contract manufacturing, outsourcing, etc., in optimizing the business process. Other significant trends that are triggered by these developments include the rise of services, innovations in logistics and changes in trade policies.<sup>6</sup> As a result of these changes countries are

<sup>5</sup> OECD (2009) “Towards Best Practice Guidelines for the Development of Economic Zones”, A Contribution to the Ministerial Conference by Working Group 1 – Marrakech.

<sup>6</sup> This is reflected in an increase in the ratio of trade to GDP for the world from 39% in 1990 to 59% in 2011 and the prominence of international supply networks and value chains in global commerce World Economic Forum (July 2013). “Outlook on the Logistics and Supply Chain Industry 2013”, Geneva, Switzerland, 2013.

increasingly becoming more open to and dependent on global trade which is impacting the location of transnational and multinational corporations that are eager to seek out locations that offer competitive transaction and transportation costs and quick turnaround.

An equally significant development is the enormous prospects from the increased trade and data flows throughout the region, as a result of increased South-South commerce, the expansion of the Panama Canal and changing air cargo patterns, scheduled to take place as early as 2015-2016. Trade among developing countries/regions, i.e. South-South trade, has grown tremendously. In 1990, South-South trade accounted for 8% of global trade. By 2012, South-South trade grew to 24% of global trade. South and Central America (including the Caribbean) has grown export sales by 11% annually between 2005 and 2012, which is 3 percentage points above the global growth rate. Notwithstanding the forecasts for increased intra-Asian trade, Jamaica will still remain relevant in future global value chains. Currently, the South America to Asia trade lane accounts for 2% of global trade. By 2020, South America’s trade with Asia will capture 5% of global trade.

### *Jamaica’s Value Proposition*

The value proposition of the enormous prospects arising from changes in international production and trade and the expansion of the Panama Canal is simply that as a logistics hub that is supported by SEZs in the middle of these trade routes, Jamaica will enhance synergies of sea-air connectivity and provide near shore opportunities for value-added industries. In other words, through the use of a logistics-centric model that is similar to what is used in global logistics centres in Dubai, Rotterdam and Singapore, Jamaica will be able to offer quick turnaround through ‘near shore’ value-



added logistics services that will reduce the time to Latin American and other markets within the western hemisphere. The SEZs will also benefit from superior market access arrangements through a network of trade agreements that will minimise trade duties in the major trade lanes.

An even closer look reveals an open, diversified market economy and a world class financial services sector supported by a large pool of highly qualified professionals, globally connected by a robust ICT platform. With these endowments, Jamaica is well poised to become the financial and business logistical support centre of the Caribbean. This centre will be an important source of funding and will create the vehicles for the transnational corporations setting up in the SEZs. These transnational corporations can look to finance their aviation and maritime operations from financial entities.

Jamaica has devoted a significant amount of resources to the modernization of its suite of legislation to facilitate the establishment of a wide range of business entities that are required by businesses that are engaging global markets of all descriptions and which have a need to organize entities and provide logistical support to their international outreach. This is being spearheaded by the Jamaica International Financial Services Authority (JIFSA) which was established by statute in 2011 to market and promote Jamaica as an international centre for the organization of business entities and the provision of business logical support services. In pursuit of these goals, Jamaica will be offering a wide range of services, designed to meet the needs of the global market. The updated legislation makes provision for:

- International Holding Companies
- General Partnerships

- Limited Partnerships
- Trust & Corporate Services Providers
- Segregated Accounts Companies
- Trusts (domestic & foreign)

Additionally, in order to provide the requisite regulatory oversight over the professionals who will support the establishment and maintenance of these vehicles, a Trust & Corporate Service Providers Bill has also been drafted.

The GLHI is multifaceted and involves several arms of the government. The MIIC is assigned a major role in providing the foundation necessary for the realization of the goals of the initiative and will employ several strategies to ensure its effective and timely implementation.

## **VI. Exploring the SEZ Model for Jamaica**

It is the mission and purpose of the government of Jamaica to set the right foundation for the successful development and long-term sustainability of the SEZs, through strategies that will help to shift Jamaica's economic paradigm to one that creates higher value goods and services and leads to higher growth and job creation, in accordance with international best practices.

The experiences of countries with successful SEZs make a strong case for their development. SEZs have the potential to be:

- Highly effective for job generation, particularly for women entering the workforce and is a significant source of employment particularly for small countries like Jamaica.

- Stimulants for export growth and diversification in both the range of products and markets.
- Major foreign exchange earners
- Food and energy security enablers
- Attractive for foreign direct investment
- Sources for government revenue
- Enablers of technology transfer and skills upgrading

- Enhancers of trade efficiency of domestic firms
- Laboratories for wider economic reforms in the country

The main inputs, activities, outcomes and outputs that are related to the development of the SEZ regime are outlined in the logical framework (see Table 2).

### ***Activities to be promoted in the SEZs***

Several activities will be promoted and facilitated in the SEZs as a strategy to attract and retain targeted investments in geographical, industry-specific clusters. A more elaborate exploration of these will be included in the Master Plan for the overall Global Logistics Hub Initiative.

**Table 1: Activities Being Contemplated for SEZs in Jamaica**

Example	Location	Eligible Activities (being contemplated)	Examples in other parts of the world
Commodity Port	St. Thomas, St. Catherine, and Clarendon	Petrochemical and other heavy industry; dry and wet bulk	Rotterdam
Dry Dock	Clarendon, Kingston	Maintenance and repair of ships, boats, and other watercraft	Dubai, Singapore, Malta, Bahamas
Airport-based	Vernamfield, Clarendon	Air cargo trade and transshipment, maintenance, repair and operations (MRO)	Morocco (MRO), Singapore, Dubai
	Norman Manley International	Air cargo trade and transshipment; passenger	Miami, Amsterdam, New York, London
	Sangster International	Air cargo trade and transshipment; passenger	Miami, Amsterdam, New York, London
Port-based	Kingston Container Terminal and Kingston Wharves	Merchandise trade, semi-finished products and transshipment	Mariel, Colon, Singapore,
	Portland Bight	Heavy industries and commodities	Singapore
Technology Park	Country-wide	High technology and science-based industries	Singapore
Caymanas SEZ	Caymanas, St. Catherine	Light manufacturing and assembly	Panama Pacifico
Garmex and others SEZs such as KFZ & MFZ	Kingston	Light manufacturing and assembly, BPO	Maquiladoras (Mexico), Costa Rica

### ***Zoning and Zone Development***

Integrated, mixed-use, large-scale SEZs with purpose built on-site and off-site facilities will be constructed through public expenditures, public-private partnerships, joint ventures or private developments. The right public-private partnerships model and private development model will have to be determined and executed, with clear demarcation in the roles of the government and the private sector.

### ***Zone Administration***

The administration of SEZs will take on a new form in comparison to what obtains under the Free Zone regime. One of the main requirements for successful zone development is the enactment of a Special Economic Zone Act and Regulations that will govern SEZ operations and the establishment of a central SEZ Authority. This Authority will operate on the principles of autonomy (i.e. being an executive agency under MIIC) and transparency and will be charged with the responsibility of regulating all SEZs in Jamaica. It shall only have regulatory powers and thereby prohibited from being an owner, developer, operator or business occupant of SEZs.

The new administration of the SEZs will adopt more international standards and principles than its predecessor, which will include the following:

1. Simplified and streamlined single window clearance procedure for the development of an SEZ;
2. Established qualifying criteria for the occupancy of the SEZ;
3. Simplified and streamlined single window for granting of all licenses connected to the SEZ;

4. Simplified and streamlined single window one stop shop that allows the Authority to be the interface between MDAs and the investor; and
5. Urban Support Area designation and development licence.

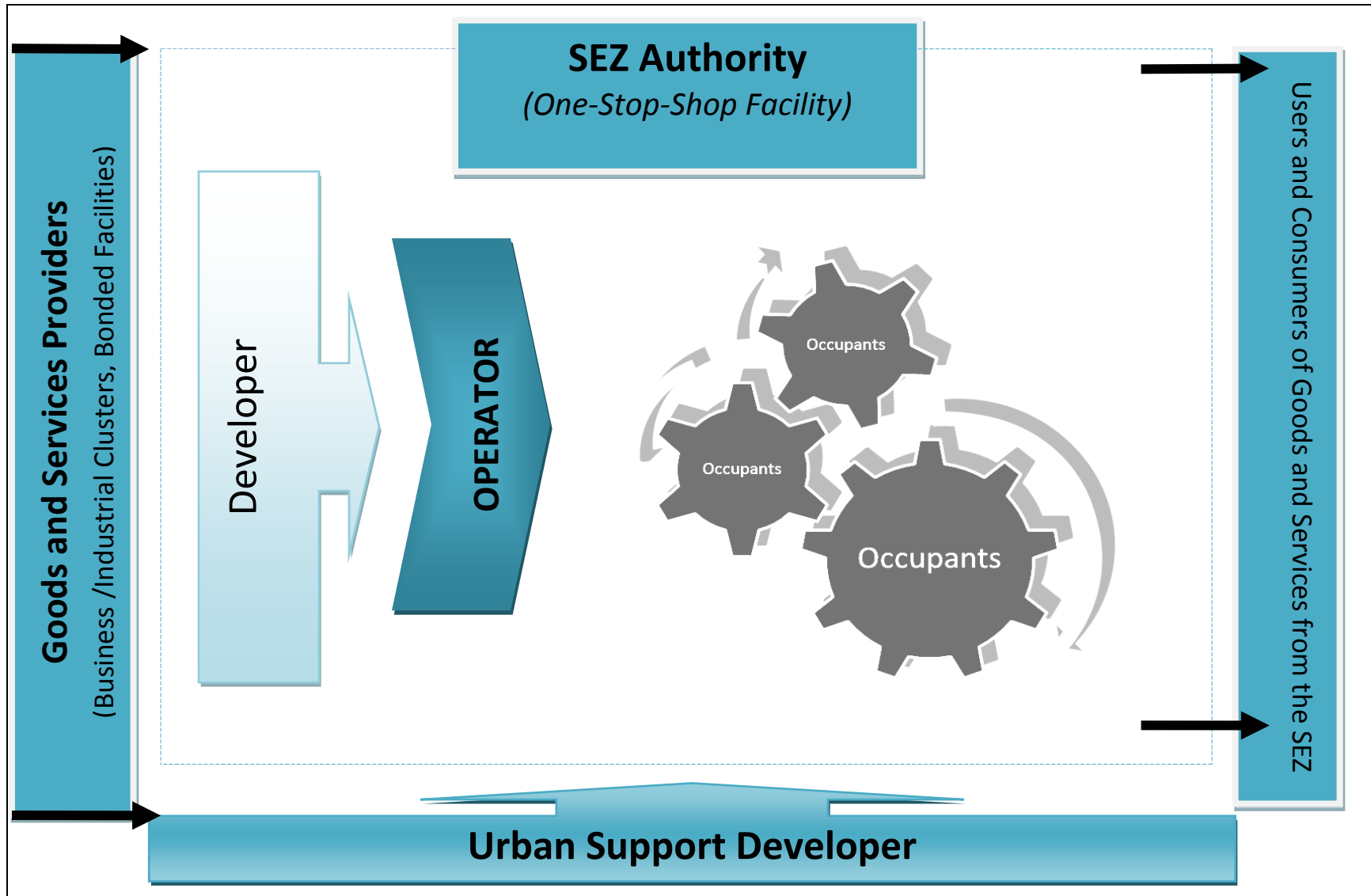
There are several key stakeholders within the SEZ environment and the smooth interface between them will determine the success of any SEZ. A description of each is provided below:

- **The Authority:** as described previously
- **SEZ Developer:** charged with the infrastructural development of the SEZ and may be executed through a PPP/Joint Venture or a private structure.
- **Operator:** this may or may not be the developer but this party is charged with responsibility of managing the SEZ. This will either be done through a PPP/JV or private structure. The Authority will grant licences to operators.
- **Occupants:** these are investors that will use the SEZ as a platform to conduct their business. These will not be limited to foreign investors as international best practice indicates that allowing domestic occupancy greatly contributes to the success of an SEZ.
- **Goods and Services Providers:** these are domestic businesses that reside in the Customs Territory but provide the SEZs with goods and services. The Authority shall register and monitor the activities that will take place between the service and goods providers to the Developer, Operator and/or Occupants of the SEZ. Therefore, a mechanism will be created to facilitate the backward linkages into the domestic economy and allow for the ease of monitoring

from a Customs law enforcement and tax compliance perspective of both goods and persons coming in and out of the SEZs.

- **Urban Support Area Developer:** this developer will be granted a special license to develop an area adjacent to a SEZ for habitation along with social infrastructure, such as, housing, schools, hospitals, etc., in keeping with the relevant zoning and environmental considerations.
- **Other Agencies:** these would fall under the one-stop-shop of the Authority

Chart 1: Main Elements of a Typical SEZ



**Table 2: Policy Framework for the Special Economic Zone Regime**

The GOJ's mission is to establish a modern integrated policy framework for the operation of Special Economic Zones, which are:

- ✓ Efficient and cost-effective;
- ✓ Creating sustainable linkages with the domestic economy;
- ✓ Promoting public-private partnerships; technology transfer, business innovation, entrepreneurship and human capital formation;
- ✓ Bolstered by competitive incentives in keeping with international standards for SEZ development and the Vision 2030 - National Development Plan.

	Narrative Summary	Measurable Indicators	Means of Verification	Key Assumptions
Outcomes	Modern and integrated policy, financial, legal and institutional framework for SEZ development established	New SEZ legislation and regulations promulgated by September 2015	SEZ National Policy, New SEZ Legislation and Regulations, Master Plan for LHI including plans for SEZ Development, JIFSC laws passed	Available and suitable financial resources as needed
	Trade and business facilitation environment for SEZs improved	Jamaica ranks among top 20 countries in the Logistics Performance Index by 2020 Jamaica ranks among top 10 countries on the Doing Business Index by 2020	SEZ National Policy, New SEZ Legislation and Regulations, Master Plan for LHI including plans for SEZ Development, improved ranking in the LPI, Doing Business Report	Full support of all key stakeholders
	Sustainable linkages between SEZs and the rest of the economy created	At least 30% of goods and services produced in the domestic economy are exported to the SEZs and vice versa	STATIN data	Infrastructure meets user expectations
	Onsite and offsite infrastructure services, assets and facilities developed	Increase Gross Fixed Capital Formation as a fraction of GDP from 19.66% in 2012 to 25% in 2020	STATIN and World Bank data sources	Full support from Cabinet
	Productive capacity increased through human capital formation, technology transfer, business innovation and entrepreneurship	50% increase in the number of persons trained in skills and vocation-based areas by 2020 50% increase in number of business operators trained in entrepreneurship Move at least 10 places in Jamaica's ranking in the Global Information Technology Report along the various sub-indices by 2020	Global Entrepreneurship Monitor Report Jamaica Productivity Report Global Information Technology Report Reports from HEART/NTA, CMI, JBDC, UWI, UTECH etc.	Human resources are adequate
	Increased domestic employment	75% increase in domestic employment in SEZ relative to existing levels in Free Zones by 2020	STATIN data	Interest from local and foreign investors to develop and operate in SEZs
	Competitive incentives with net benefits to the Jamaican society	Established tax measures affecting businesses in SEZs that will make local and foreign companies better off with at least neutral effect on debt-GDP ratio, fiscal deficit-GDP ratio	MEFP, Reports from the Ministry of Finance and Planning	
	Increased exports	75% increase in exports from SEZs relative to existing levels in Free zones by 2020	STATIN data	
	International standards for SEZ development adopted	Adopt international standards for SEZ development in the areas of eligibility of benefits, foreign and local ownership, private zone development, linkages with the customs territory, labour policies etc.	Publications from the World Bank and the OECD highlighting Jamaica's experience with SEZ development	
	SEZ development initiatives are consistent with development goals under Vision 2030 NDP and existing Government priorities.	Alignment of SEZ policy strategies and the Medium-Term Economic Framework and the Sector Plans of the Vision 2030 - NDP	Vision 2030- NDP Sector Plans Medium-Term Economic Framework	

**Table 2: Policy Framework for the Special Economic Zone Regime Cont'd**

<p>The GOJ's mission is to establish a modern integrated policy framework for the operation of Special Economic Zones, which are:</p> <ul style="list-style-type: none"> <li>✓ Efficient and cost-effective;</li> <li>✓ Creating sustainable linkages with the domestic economy;</li> <li>✓ Promoting public-private partnerships; technology transfer, business innovation, entrepreneurship and human capital formation;</li> <li>✓ Bolstered by competitive incentives in keeping with international standards for SEZ development and the Vision 2030 - National Development Plan.</li> </ul>				<p><b>Key Assumptions</b></p> <p>Research and Analysis completed on a timely manner</p> <p>Availability of data to support analysis</p>
<b>Key Outputs</b>	<b>Narrative Summary</b>	<b>Measurable Indicators</b>	<b>Means of Verification</b>	
	SEZ Policy, Legislative and Regulatory Framework	SEZ Policy, Legislation and Regulation in place by end of 2015	Official documents/announcements from the MIIC	
	Master Plan for LHI to include areas suggested for new SEZs	Master Plan to be completed by December 2015	Official documents/announcements from the MIIC	
	Modern SEZs in strategic locations	Existing Free Zones to transition to SEZs Several others to be developed by 2020	Official documents/announcements from the MIIC	
	SEZ Authority	Authority to be instituted by March 2016	Official documents/announcements from the MIIC	
	One-Stop-Shop Facility	Instituted by March 2016		
	Industrial Clusters in strategic locations	Several Industrial Clusters will be established by December 2015 Several others to be developed by 2020	Official documents/announcements from the MIIC	
	International Financial Services Centre	International Financial Services Centre established by 2020	Official documents/announcements from the MIIC	
<b>Key Activities</b>	Business Development Support	Increase funding and capacity development support to Business Development Support Organizations	Official documents/announcements from the MIIC	
	Linkages Programmes	Existing linkages programme at JAMPRO enhanced through increased support by 2015 Supplier-training programmes launched through collaboration with various agencies	Official documents/announcements from the MIIC	
	Skills/Vocational Training Programmes	Supplier-training programmes launched All educational institutions at the secondary to tertiary level will offer skills/vocational training	Official documents/announcements from the MIIC	
	Investment promotion	Increased investment promotional efforts starting 2015	Official documents/announcements from the MIIC	
	Research and Analysis	Feasibility studies for low hanging projects and Industry Analysis completed by July 2015	Official documents/announcements from the MIIC	
<b>Inputs</b>	Qualified and competent Human Resource	Full complement of human resource, including consultants needed up to that point for the LH Secretariat by December 2014	Official documents/announcements from the MIIC	
	Equipment and office space	Purchase of all necessary equipment and office supplies to support SEZ development through the LH Secretariat by March 2015	Procurement documents	
	Financial support	Adequate funding identified or provided by March 2015	Agreed fund amount posted to MIIC's accounts	
	Policy guidance and technical support from SEZ Policy Steering Committee, CSEZ Enterprise Team and other key stakeholders	Timely feedback from key stakeholders	Meeting notes, written recommendations	
	Support from Cabinet Office	Timely approval of all policies, legislation, regulations etc.	Reports, official documents from Cabinet Office	



## VII. Major Policy Considerations and Recommendations

This section explores some of the major policy considerations that will directly affect the timely implementation of the new SEZ regime. It does not attempt to offer the most comprehensive picture of the range of issues that will impact SEZ development however the discussions on issues identified, are ongoing and are being guided by research and the technical expertise of the members of the SEZ Policy Steering Committee as well as the wider public, including regional and international development partners. Consultations undertaken involve an evaluation of a wide spectrum of strengths, weaknesses, threats and opportunities that will impact SEZ development, specifically along the lines of market access, business regulation & facilitation, linkages, sustainable development, incentives and taxation, among other areas. These are explored below.

### **Policy Element: Efficient and Cost-effective Trade and Business Facilitation Services**

The country's progress in undertaking business environment reforms that will guarantee competitive transaction costs, speed and predictability in its logistics system lies at the centre of the establishment of SEZs. The move to place greater reliance on business and trade facilitation reflects not only international best practice but also follows a growing global trend by governments that use their regulatory functions as services to investors. Countries often use zones as demonstration areas to test the impact of new regulatory policies and approaches. Examples include Aqaba SEZ (Jordan) which used automated business licensing and

customs systems in the zone before applying more broadly in Jordan.

### **a. Trade Facilitation**

#### *Policy Issues*

Trade Facilitation is of keen interest in the global trading community. In December 2013 WTO members concluded negotiations on a Trade Facilitation Agreement (TFA). The TFA will enter into force once two-thirds of members have completed their domestic ratification process.

The TFA outlines binding commitments aimed at expediting the movement, release and clearance of goods at the border. It also seeks to improve transparency and cooperation among WTO Members on border measures. The implementation of the measures identified in the TFA can improve the cross border trading processes in Jamaica, and will benefit the development of SEZs.

According to a report produced by the International Trade Centre (2013)<sup>7</sup>, the most frequent non-tariff measures (NTM) encountered by Jamaican firms were export inspections and these were predominately encountered through interaction with the Jamaica Customs Agency, Ministry of Health, Ministry of Agriculture, Bureau of Standards among other government bodies. Export inspections are particularly burdensome due to the large number of procedural obstacles (POs) that include lengthy delays associated with the inspection process, associated costs and the arbitrary behaviour of officials regarding inspections.

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<sup>7</sup> International Trade Centre 2013, "Jamaica: Company Perspectives – An ITC Series on Non-Tariff Measures" Geneva.

Exporters encounter these challenges in meeting international quality standards, conformity assessments and pre-shipment inspections especially for agro-based exports to main markets such as the United States, Canada and the United Kingdom. There are product-specific legally binding requirements in these markets which subject products (mainly fresh produce) to regulations that are difficult to implement and are associated with a large number of POs including delays, high fees and associated costs. The ITC report notes that the relevant legislative and institutional framework for quality, standards, and other requirements are in place however, service delivery is inefficient and is significantly hampered by: *high cost of implementation of international standards; high costs and variable quality of basic services such as product testing and certification; and the burden of having to deal with multiple testing and laboratory services provided by several government agencies, among other things.*

Importers are also affected by problems associated with licensing, inspections and certification imposed by local authorities. POs encountered in the implementation of domestic regulations include burdensome charges and fees and other para-tariff measures and delays. Charges and fees associated with obtaining permits and licenses, and fees from valuations are problematic for local companies that import inputs for products. This is further compounded by inefficiencies resulting from ill-equipped government officers within the regulating agencies.

It is widely accepted that poor zone performance has been linked to cumbersome procedures and controls. Therefore, streamlining business processes should be a core part of zone benefits.

### *Policy Recommendations*

1. Ensure high level support across MDAs to advance the work of the Trade Facilitation Task Force to design an implementation work programme for the implementation of trade facilitation measures across MDAs (including but not limited to TFA measures),
2. Continuously improve the one-stop-shop (OSS)<sup>8</sup> facility with all export documentation and inspection officers
3. Improve domestic laboratory and testing facilities for particular products
4. Implement risk management systems earlier in the clearance process and establish clearing times
5. Expedite the implementation of Food Safety/HACCP Management Systems to reduce hassle associated with testing and certification
6. Expedite integrated development of automated processing systems, including the Port Community System, Single Electronic Window and the Authorized System of Customs Data (ASYCUDA)<sup>9</sup>
7. Make the necessary amendments to the Customs Act in line with best practice, taking into account the harmonization of the Customs Acts across CARICOM.
8. Execute regular training and sensitization especially among inspections, licensing and permit dispensing officers across various agencies with emphasis on cost and

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<sup>8</sup> Efforts are being made to further enhance the OSS arrangements which involve all trade departments and agencies. One such effort is the training of hybrid officers to reduce the need for numerous staff members in the facilities. The implementation of the Single Window which provides the virtual platform for all border agencies is recognized as crucial to enhancing the OSS.

<sup>9</sup> The prototype for ASYCUDA was completed by UNCTAD and the official launch of ASYCUDA World Implementation Project took place in August 2014. The total system is expected to be implemented by April 2015.

time minimization. Training should also be geared towards a mind-set change toward customer service and customer satisfaction and higher levels of collaboration and coordination with MDAs and the private sector.

9. Execute ongoing sensitization and information-sharing among all border and non-border entities that influence business and trade facilitation. As part of this effort, the MIIC should continue to engage in regular scenario planning exercises in order to increase awareness and buy-in among all key players.<sup>10</sup>
10. All MDAs and private sector organizations (including insurance companies, banks and other non-border entities) should become more sensitized about their role in business and trade facilitation, in order to enhance the level of predictability and efficiency and general business climate reforms, across the board.
11. Streamline all mechanisms, protocols and procedures that facilitate the sharing of information among MDAs. These mechanisms, protocols etc., must be re-organized in a way that helps to enhance the level of overall integration among MDAs involved in trade and business facilitation.
12. Encourage private sector to undertake capacity building exercises among staff and engage in frequent communication with business support organizations to enhance service delivery.
13. Encourage the immediate implementation of commitments under the EPA such as single administrative documents (SADs).<sup>11</sup>

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<sup>10</sup> The MIIC has started scenario planning exercises with the Jamaica Customs Department

<sup>11</sup> It was agreed that within the next three years inter alia the following provisions of the TFA will be implemented:

- Prior consultations by customs and border agencies;
- Provisions for efficient processing of perishable goods;

14. To maximize the outcomes of the SEZ regime, SEZ operators should be required to be familiar with all the business and trade facilitation requirements outlined by the SEZ laws and regulations.

## **b. Market Access through Trade Agreements**

### *Policy Issues*

There are 73 logistics services operators operating on the Far East to North America route, which represents the largest amount of logistics service providers globally for any trade route. SEZ operations in Jamaica would be mainly 'efficiency seeking' investments (i.e. investors who locate in a host country to access export markets, more so than the domestic market of the host). Hence, investors will require market access to the existing trade lanes and the future trade lanes which will emerge in the medium-term.

Currently, the major trade lanes are:

- Asia to Europe- 8.8% of global trade in 2013
- Asia to North America- 7.8% of global trade
- North America to The EU with 4.8% of global trade in 2013

While Jamaica currently provides market access to Europe, the USA and Canada, the current non-reciprocal market

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- Non introduction of mandatory use of Customs brokers;
  - Free inland transit of goods in Free Zones (currently goods have to be ferried between national Free Zones).

access agreements with the USA and Canada require a waiver in the WTO<sup>12</sup>.

By 2020, the major trade lanes are predicted to be:

1. **Intra- Asia:** Forecasted to cover 25% of world trade by 2020. This will be influenced by growth mainly in trade between emerging economies in Asia
2. **Middle-East, Africa- Asia:** Forecasted to cover 18% of world trade by 2020. Driven by increased consumer spending in Africa and Chinese investment in African natural resources
3. **South America- Asia:** Forecasted to cover 5% of world trade by 2020. Driven by increased consumer spending in South America

Jamaica does not currently provide any meaningful market access to these emerging trade lanes.

A brief analysis of the treatment of goods produced/processed in free zones in CARICOM's various trade agreements, and unilateral arrangements shows the following:

- **CARICOM:** goods produced in or shipped through free zones can be eligible for preferential treatment under the community arrangement. Article 239 of the RTC provides for the development of a protocol on free zones and this is currently under discussion at the COTED.

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<sup>12</sup> Where necessary, preference granting countries must be willing to seek the legal cover of a WTO waiver for the non-reciprocal trade arrangement.

- **Costa Rica: FTZ goods do not qualify except a list provided in the agreement.** Annex 3.04.6 specifies the list of goods produced by companies operating under FTZs which are eligible for tariff elimination benefits.
- **Dominican Republic: FTZ goods do not qualify under the agreement**
- **Cuba: FTZ goods do not qualify under the agreement.**
- **EPA: allows the certificate of origin (Eur 1 form) to be accorded to originating goods which undergo further processing in FTZs.**
- **Venezuela: FTZ goods can qualify under this agreement for duty preferences.** This is a non-reciprocal arrangement which only provides for duty relief for a select list of CARICOM exports to Venezuela and not vice versa.
- **CBERA (for USA trade) and the CARIBCAN are silent on FTZ goods** benefiting from the arrangements but administrative practice over several years of implementation indicates that free zone goods are normally granted preferential access under these agreements.

It will be important to offer SEZ investors an attractive Free Trade Agreement (FTA) network that includes key markets in the major existing and future trade lanes. Any effort to expand Jamaica's bilateral FTA network will require coordination with our regional trading partners in CARICOM as the RTC requires that bilateral agreements with third party states be subject to review and approval at the regional level.<sup>13</sup>

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<sup>13</sup>Article 79 and 80, Revised Treaty of Chaguaramas (RTC).

*Policy Recommendations*

Jamaica can strengthen the duty relief in the major existing and future trade lanes by enacting a six (6) point plan namely:

1. Explore the possibility of a one way Partial Scope Agreement<sup>14</sup> (PSA) with the People's Republic of China.
2. Conduct an economic impact assessment on the feasibility of joining existing PSAs negotiated by CARICOM countries.<sup>15</sup>
3. Negotiate a position in CARICOM on the treatment of Free Zone/Special Economic Zone exports. As previously noted, regional policy discussions on this issue are already underway. It should further be noted that amendments to CARICOM negotiated bilateral agreements will have to be done as CARICOM.
4. Explore whether a negotiation for an amendment of the FTAs with the Dominican Republic, Cuba and Costa Rica to facilitate a list of goods produced in SEZs is in Jamaica's interests. Arguably, Jamaica could seek the relaxation of provisions which prohibit SEZ goods receiving the benefits of the Cuba and DR FTAs, at minimum for 15 years for a list of products starting with medical equipment; generic pharmaceuticals; and auto parts. This could be done by importing provisions similar to the Costa

<sup>14</sup> Trade agreements limited to a specified list of goods of interest of the Parties. There could be some WTO challenges regarding any unilateral PSA benefits which a sustainability assessment could evaluate.

<sup>15</sup> This can be actioned through section 1.4 of the draft June 30 Foreign Trade Policy (FTP) action plan specifically the item "support the development of new and niche markets (see June 30 FTP Action Plan page 7). Additionally, section 1.6 of the FTP Action Plan proposes to identify potential markets for trade and to conduct sustainability impact assessments for entering into trade negotiations (see page 9 of the FTP action plan). These elements of the FTP action plan should be expedited to begin in 2014.

Rica Annex 3.04.6.<sup>16</sup> However, as noted previously, this will require a regional approach.

5. Implement a standardised economic impact assessment tool to evaluate the strengthening of duty relief in the major trade lanes through engagement of the ASEAN Group, China, MERCOSUR, and SADC. These assessments would include the impact on the domestic industry, the type of agreement that would be recommended as well the implications with regards to existing trading arrangements (e.g the CARIFORUM/EC Economic Partnership Agreement)
6. Evaluate Air Services Agreements (ASAs) with countries in the major trade lanes. Jamaica, as at 2014, has ASAs with Singapore, Spain, Chile, Brazil, Mexico, The UAE and Switzerland whilst at various stages of the process with other major players such as China, India and Qatar.

### **Policy Element: Sustainable Linkages between the SEZ and the rest of the economy**

The integration of the local economy into SEZs is critical for the sustainability of these zones and increases their potential to contribute to the economic development of the host country. The creation of linkages with medical facilities, local & international financial institutions, training and education facilities, and telecommunications services (high speed internet etc.), and business consulting services et al., are critical to ensuring that the benefits obtained from SEZs translate into real opportunities for the local economy.

<sup>16</sup> The FTP can action this through sections 1.5 and 2.2 of the FTP action plan which proposes "periodically reviewing trade agreements for relevance and impact" as well as "negotiation of flexible rules of origin<sup>16</sup>". This element of the FTP should be fast tracked to begin in 2015.

There is recognition that while the creation of linkages is critical, (border) tax measures that will be applied should not erode the existing tax base. Therefore, activities that are permitted within SEZs have to be properly evaluated and controlled so that existing businesses that supply the domestic economy are not incentivized to close down and migrate to the SEZs. The aim of the SEZ regime is to encourage new business operations and help existing businesses to expand, with overall benefits to the economy.

#### **a. SEZ Integration in the Goods Producing Sector**

##### *Policy Issues*

In order to not create enclaves characteristic of traditional free zones, future SEZs should act as a catalyst for the rest of the economy through programmes that create backward and forward linkages with the rest of the economy. Taiwan (China) and the Republic of Korea for example, provide local producers with duty-free access to inputs supplied to the zones. Tax credits and rebates on duties paid are also provided on imported materials used in products sold to the zones.

Sub-contracting by zone-based firms to local producers is encouraged in countries like Taiwan, Republic of Korea, and Ireland which promote personnel exchanges, support training efforts, and provide technical assistance to potential suppliers. This involves significant utilization of local universities or research institutions and the expertise of export-oriented firms to work with local suppliers.

Currently, GCT is applied to goods/services that are sold to companies in the free zones, from the domestic economy. These firms have been absorbing these payments on their zero-rated exports, as they are unable to pass these on to the consumers in the export market. Usually, a GCT refund is provided by the Tax Administration of Jamaica (TAJ),

however, this process has become protracted and negatively impacts the cash flow of companies that purchase from domestic services and goods suppliers. There is therefore a clear disincentive to create sustainable linkages between the SEZ and the domestic economy.

##### *Policy Recommendations*

1. Integrate zones into the rest of the economy by extending “Equal Footing” policies to domestic suppliers of capital and intermediate goods.
2. Goods produced in the SEZ should be treated in a like manner as imported goods in the event that they enter the customs territory.
3. Create a platform which supports linkages with the local industries. This should include programmes to support the upgrade of local service suppliers through transfer of knowledge and technology in areas that will enhance suppliers of local input and services to meet international standards and technological efficiency that increases their overall productivity.
4. Develop bonded facilities to support value-added activities between operators within the zone and businesses outside the zone.
5. Zero-rate goods and services provided to the SEZs and ensure clarity in all laws related to the application of GCT on goods and services provided to SEZs.

#### **b. SEZ Integration in the Services Sector**

##### *Policy Issues*

The proper incorporation of the services sector in the development of Special Economic Zones (SEZs) is extremely critical given the growing importance of the services sector to international trade and the high service content represented in goods exports. In countries such as China, Singapore, and



India, where SEZs have contributed significantly to economic growth<sup>17</sup>, the services sector has been noted as the most crucial facilitator for such success. The symbiotic relationship between the SEZs and the services sector must also be highlighted, as while sophisticated services are required for the optimal operations of SEZs, the FDI attracted through these special zones produces large multiplier effects for the development of the local services sector in general.

Given that trade in services is a relatively new concept in international trade when compared to trade in goods, the requirements for services integration into SEZs may be slightly different. Firstly, there is less need for access to duty-free inputs. By contrast, firms in the services sector require better access to local markets for supplies and labour, which may in fact be hindered in the current export orientation of SEZs (Free Zones). Secondly, firms require access to high quality, low cost ICT infrastructure and facilities that are conducive and attractive for high-skilled workers.

The proper streamlining of legal, management and administrative processes, flexible labour laws allowing for temporary appointments of service providers, and the proper integration of IT and transportation services in the processes of the SEZs, have been outlined, among other things, as enablers for the successful operation of SEZs, and positively affect their ability to contribute to the economic development of host countries. The specific trends garnered from a preliminary research on countries that have had successful SEZ regimes include:

- Increasing the number of privately owned versus publicly owned SEZs. Research shows that privately-owned zones attract higher investment, as investors are willing to pay for higher quality services and infrastructure facilities. Private zones in the Dominican Republic, for example, boast quality telecommunications and business support services, which work to the benefit of both the export sectors and the local economy.
- Previously, special economic zones were developed as remote enclaves in specified geographical areas; however, modern trends show SEZs integrating with other areas of the local economy. There are several examples of SEZs that are proximate to key areas of the local economy that can serve as feeder industries or providers of key support services.<sup>18</sup>

#### *Policy Recommendations*

1. Create a platform which supports linkages with the local industry. This should include programmes to support the upgrade of local service suppliers through transfer of knowledge and technology in areas that will enhance suppliers of local input and services to meet international standards and technological efficiency that increases their overall productivity.
2. Implement supplier-training programmes in collaboration with foreign investors to help local producers upgrade their technological capabilities – directly through sharing

<sup>17</sup> In 2008, it was estimated that nearly 3000 zones produced 70 million jobs and contributed USD 500 billion in direct trade related value.

<sup>18</sup> The Dubai Internet City for example is an example of specialized SEZs that is located in IT and Technology zone adjacent to a University. This creates the important direct linkages with curriculum development at the university to match the emerging needs of that particular SEZ, and can in turn, provide the transfer of industry specific knowledge to students in that particular field. Another example is the petrochemical zones in Leom Chabang Industrial Estate in Thailand that is located in petrochemical hubs and other sources that provide efficient energy.



production techniques and product design and assisting with technology acquisition, or indirectly through the expectation of high standards and feedback on suppliers' output.

3. Formulate strategies to enable the education sector to respond to the ever-changing needs of the SEZs, through collaboration with the education sector and industry players.<sup>19</sup>
4. Ensure that SEZ incentives apply equally to services activities prescribed in the policy.
5. Mechanisms that help to control the kinds of services activities permitted within SEZs must be clearly defined.

### c. MSMEs Integration

#### *Policy Issues*

The development of SEZs is fully in line with the MIIC's policy of inclusiveness, ensuring that the appropriate linkages are provided for our private sector, especially the MSME sector. In this regard, the MIIC tabled a MSME and Entrepreneurship Policy in 2013 which provides an integrated policy framework that will boost the levels of innovativeness and competitiveness of the sector, through programmes that will help MSMEs satisfy supply and service opportunities generated by large corporations. The implementation of the policy also seeks to create market access, expand and promote business support services, access to finance & technology,

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<sup>19</sup> In Poland, companies from the BPO sector together with the Spot University of Applied Science and public institutions established the BPO Education Center, which is the only school in Poland fully dedicated to education of service centre employees. This is a form of non-financial incentive to attract FDI, as companies will be motivated by the constant supply of skilled personnel, offering quality services to their firms.

boost the level of service, goods & process standards and ensure the protection of intellectual property. In so doing, MSMEs will be able to meet certain requirements that will enable them to be integrated into global supply and value chains through non-equity mode (NEM) of international production, to include contract manufacturing, services outsourcing, franchising, licensing, management contracts and other contractual arrangements through which multinationals and transnational corporations can coordinate their activities with local businesses.<sup>20</sup>

#### *Policy Recommendations*

1. Develop an Industrial Cluster Development Programme to support the formation of clusters of MSMEs in and alongside SEZs
2. Expand the business-to-business linkages programme through the use of web-based portals to support marketing and e-commerce
3. Launch supplier-development training programmes for MSME goods and service suppliers to the SEZs
4. Implement an integrated and targeted business development programmes to help fledging and prospective MSMEs that are linked to SEZ operations
5. Encourage large enterprises in SEZs to develop procurement policies that will support commerce with MSMEs
6. Consideration will be given to women-owned businesses in the procurement of goods and services and general business development.

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<sup>20</sup> In addition, there can be strong linkages formed with MSMEs involved in landscaping companies, construction companies, food service providers, repair technicians, logistics and delivery service providers, among other services

7. All MSMEs wishing to conduct business with entities in the SEZs will be required to register, have a tax compliant certificate and should possess the required quality and standards certification required based on their respective industries.

### **Policy Element: Competitive Tax and Incentives Regime for the SEZs**

Based on preliminary research and ongoing consultations with industry experts, there are several key principles upon which the treatment of fiscal incentives should be established.

The first principle is that Jamaica's SEZ regime will focus less on fiscal incentives and more on providing a platform to deliver the business and trade efficiencies, reliable physical & social infrastructure, human resource capacity etc., that are demanded by the global marketplace. Hence in this policy regime, incentives will be predominantly non-fiscal and will help to create a simpler, cost-effective and predictable environment for all businesses to grow. Some of the major areas for business and trade environment reform were previously discussed. It should also be noted that efforts to address the business environment are being made through the National Competitiveness Council which is driving overall business climate reform.

The second principle is that fiscal incentives will not erode the domestic tax base and should not compete with the general tax regime. It is for this reason that the approach to creating the incentive framework for the SEZs will be compliant with the medium-term programme of tax reform and there will be a ring-fencing of incentives to prevent SEZ entities from benefiting from incentives allocated to businesses in the domestic economy. Similarly, rigorous eligibility criteria will be included to ensure that there is limited migration of locally

established firms. Hence, the approach to creating fiscal incentives for SEZs will seek to ensure alignment with provisions of key pieces of legislation, including the Fiscal Incentives (Miscellaneous Provisions) Act, 2013 and the Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act, 2013. A key outcome of the SEZ regime, therefore is the harmonization of the existing incentives framework in order to increase transparency, reduce discretion, and establish a more competitive and predictable playing field for all firms.

The third principle is that taxes and incentives will be 'fit for purpose' and will not cause the country to 'give-up' more than it needs to in terms of lost revenue for the government. This means taxes and incentives will reflect what the international market requires while providing sustained benefits to the Jamaican economy. Hence, activities permitted within the zones and to which certain incentives will be applicable, will be properly evaluated and prioritized in order to ensure that the specific success factors for zone development are in place and there are benefits for the economy.

Finally, in support of the government's overall thrust toward fiscal consolidation, there will be a deliberate shift from the government-led zone development to a model that is private-sector led or involves minimal government involvement through public-private-partnerships. Private development, ownership and operation of the zones will lessen the burden that SEZs can place on the government through the restriction of operational and commercial risks.

With due consideration given to the above principles, industry experts have deliberated some specific taxes and incentives to support the SEZ regime. The specific tax and incentives for SEZs are elaborated in the following section. It must be

reiterated that these measures are intended to satisfy the above principles.

### **i. Fiscal Incentives**

#### *Policy Issues*

The research shows that fiscal incentives are offered by jurisdictions in and outside the region. Countries such as The Bahamas, Dominican Republic, Trinidad and Tobago and the United Arab Emirates offer a diverse mix of attractive incentives including tax holidays, exemptions from stamp duty and import/export duties for qualifying transactions and exemptions from other national taxes and contributions. In Panama there are various investment incentives that provide lower tax rates or exemptions particularly for business operations in the Petroleum Free Trade Zones and the Colon Free Trade Zone. (See Table 3 for summary of incentives). It stands to reason therefore, that the tax and incentives framework for SEZs will be an important factor in creating a competitive space for the country.

At the heart of the discussions among policymakers is recognition of the need to develop fiscal incentives for SEZs that are attractive to investors that will be targeted for the SEZs. It is understood that incentives should be consistent with the Memorandum of Economic and Financial Policies (MEFP) which sets out the government's commitment to its international development partners. With respect to incentives, the MEFP emphasises a shift from a reliance on specific tax holidays/exemptions and more toward performance and rules-based incentives that are broadly applicable across sectors and will typically take the form of credits and allowances. In light of this, the key features will include:

- (1) A simple, transparent tax regime for internationally mobile investors supported by performance-based eligibility criteria;
- (2) Non-discrimination against domestic investors and producers; and
- (3) “Indirect exporter”<sup>21</sup> status for domestic suppliers into the SEZ and “extra-territorial” status for SEZ sales into the domestic market

The rationale for providing incentives for SEZs in Jamaica is premised on three main arguments. The first is that the competitor countries either offer no tax or relatively low tax regimes for enterprises operating in SEZs. At the very least consideration should be given to adopting a low tax regime that will make Jamaica a competitive location for investors.

Secondly, the strategy of developing SEZs is an opportunity to create an investor-friendly economic space necessary for attracting and retaining local and foreign investments, boosting foreign exchange earnings, and expanding the growth and diversification of the country's export base. The SEZs will be a prominent feature in attracting foreign direct investments to Jamaica, over the medium to long-term. A number of projects have already been singled out for strategic and premier investments, including the Caymanas Special Economic Zone, Dry Dock SEZs, Airport SEZs and many others. Likewise, SEZs will enhance and stimulate export

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<sup>21</sup> The indirect exporter status is applicable to those in the domestic market who supply to the SEZ. Their goods and/or services would be treated as exports since the recipient is extra-territorial and not part of the domestic customs territory. Hence, indirect exporters would receive the same treatment as for a domestic entity directly exporting to a foreign territory. These indirect exporters would have to be certified to receive this benefit and would be given the same treatment as a domestic entity directly exporting to a foreign territory.

growth and diversification in both the range of products and markets. As the economy becomes more integrated in the global value chain, the export of secondary products and services is expected to also expand. The economic impact of SEZ is quite significant. According to the World Bank exports from Zones, contribute USD\$851.032 Billion in global exports (40.8% of global exports). In the Americas Zones accounted for 39% of exports and were respectively 79%, 77% and 67% of Nicaragua's, the Dominican Republic's and Panama's exports.

Thirdly, there are direct benefits not only for investors but to the country on a whole. These include large scale employment in the SEZs, increased government revenue and opportunities for technology transfer and skills upgrading. Some of the more elusive 'indirect' economic benefits that are anticipated include enhanced trade efficiency of domestic firms and the creation of a laboratory for wider economic reforms in the country.

#### *Policy Recommendations*

Low Headline CIT Rate of **12.5%** on profits derived from the conduct of a trade, profession or vocation within a SEZ by an approved SEZ Operator, with the following tax credits, allowances and deductions:

- A non-refundable Employment Tax Credit (ETC) applied to trading income, capped at 30% of income tax chargeable on profits/income from a trade, profession or vocation. It should be noted that the ETC may not be claimed against any income tax chargeable on non-trading income, such as passive investment income. Given a headline rate of income tax of 12.5%, a SEZ Operator who claims the maximum ETC available (i.e. up to the cap of 30% of the tax chargeable on active trading activities) will therefore be

subject to an effective income tax rate of approximately 8.75% on such trading activities.

- A Promotional Tax Credit (PTC) for expenditure on specified activities (such as R&D, Training, Technology Transfer and Innovation based activities), to be capped at a maximum of 10% of the tax chargeable on profits/income from a trade, profession or vocation. Given the proposed headline rate of 12.5%, a SEZ Operator taking full advantage of the Promotional Tax Credit may benefit from a further CIT rate relief equivalent to 1.25 percentage points. Note that the ETC and PTC are not mutually exclusive and can be applied in any order. Hence, a SEZ Operator claiming the maximum ETC and PTC would be subject to an effective CIT rate of 7.5%.
- Other general provisions of the Income Tax Act will be applied in the computation of chargeable income, including the provisions for the treatment of deductions, allowances, and the restrictions on tax losses carried forward. Of note, an accelerated capital allowance (to include a 20% initial allowance) is available on expenditure incurred on the construction, renovation or repair of buildings within a SEZ and on Machinery and Equipment, pursuant to the rules provided in the Income Tax Act.

#### **ii. Personal Income Tax**

##### *Policy Issues*

The accumulation of the most talented human capital needed to transform the economic base of the country is a critical success factor for SEZ development. The skills base has to include the appropriate mix of talent and competencies required for logistics and logistics-related industries. This

brings the management of human capital from local and foreign sources into sharp focus and highlights the need for labour policies that will ensure attraction and retention of labour at competitive labour costs.

It is the practice of some countries to offer reduced personal income taxes paid by expatriate staff. In Tunisia, foreign staff pay a flat individual income tax rate of 20%; in Yemen, non-Yemeni workers are exempt from taxation on their income and in Jordan, non-Jordanian employees get a 12 year tax holiday.

#### *Policy Recommendations*

- There shall be no special relief for Personal Income Tax (PIT) under the SEZ regime. Income tax will be imposed on Jamaican tax-resident individuals at the standard rate (currently 25%) on income in excess of an annual tax-free threshold. With effect from 1 January 2016 (i.e. the Year of Assessment 2016) this threshold will be increased to J\$592,800.
- Statutory deductions will apply in the normal manner as currently provided for in the Income Tax Act for Jamaican-tax resident individuals, with no relief.

### **iii. Withholding Taxes**

#### *Policy Issues*

The withholding taxes should be comparable to other jurisdictions and should have limited impact on the overall effective tax rate on income for corporations linked to SEZs.

#### *Policy Recommendations*

- A zero rate of withholding tax will be applied to distributions by way of dividends on profits derived from the conduct of a trade, profession or vocation within a SEZ by an approved SEZ Operator. All other distributions/service payments made by SEZ Operators would be liable to withholding tax as provided for in current income tax regime under the Income Tax Act.
- To reduce the likelihood of profit shifting through other forms of passive income as well as avoiding the unnecessary surrender of taxing rights to foreign jurisdictions, the withholding tax on passive Income (excluding Dividends) will be subject to the Double Taxation Arrangements (DTA), where applicable.
- In the circumstances where there SEZ Operator is from a jurisdiction that does not have a DTA with Jamaica, tax on these passive incomes will be applied at the lower tax rate applicable in Jamaica or the tax rate in the jurisdiction from which the SEZ Operator comes.
- For the avoidance of doubt, SEZ companies will be subject to the general anti-avoidance rules for all transactions with connected entities. In particular, a SEZ Developer/Operator will be subject to the provisions of the Transfer Pricing Rules for Jamaica, the legislation for which has been laid in the House of Representatives.

### **iv. Indirect Taxes**

#### *Policy Issues*

The literature shows several strategies that are used to encourage business linkages between the businesses in the zones and the wider economy. One is 'equal-footing policies' which includes duty-free access to inputs that are supplied to



the zones and tax credits and rebates on duties paid on imported materials used in products sold to the zones (examples include Taiwan & Republic of Korea). In the Howard (Panama-Pacific) Special Economic Area in Panama, in-bond manufacturing companies may import equipment and raw materials on a duty-free basis and subsequently export 100% of production, receiving a tax-free benefit. Such companies do not have to pay VAT on imports. In the Bahamas, the free zones incentives include exemptions from stamp duty and import/export duties for qualifying transactions.

### *Policy Recommendations*

#### **a) Domestic GCT**

- All domestic supplies into the SEZ will be zero-rated;
- Utility services (incl. electricity and telephony) supplied into the SEZ will be zero rated;
- SEZ supplies into the domestic market are rateable at the prevailing standard rate (currently at 16.5%) or the applicable rate for the particular supply (if a special rate exists)

#### **b) Property Taxes**

SEZ Developer will be liable for the payment of property tax, unless the land on which the SEZ is located is vested in the SEZ Authority.

#### **c) Transfer Taxes and Stamp Duty (Inland)**

Transfers of real property (in the case of land only) in the SEZ to be subject to partial relief from transfer taxes and stamp duty:

- On the acquisition of land by an Approved SEZ Developer, the Approved Developer will be exempt

from stamp duty in respect of the transaction, up to an amount equivalent to 50% of the transaction price.<sup>22</sup>

- Vendors in a land transaction related to SEZ development will, however, still be liable to pay the transfer tax and stamp duty, except in the circumstances where that vendor is a SEZ Developer. Currently, buyers are not liable for transfer tax on the acquisition of land.
- SEZ Authority will be exempt from the payment of transfer tax and stamp duty on land transactions in relation to the promotion, development and construction of an SEZ.

#### **d) Border Taxes**

- Full relief from customs duty (CET), stamp duty, additional stamp duty and GCT on imports into the SEZ – similar to current relief extended to existing zones);
- Full customs duty, additional stamp duty and GCT to be applied to sales from the SEZ into the domestic market;
- SEZ operators to pay customs fees and other levies/charges applicable to imports

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<sup>22</sup> Note that according to market conventions, the stamp duty applicable on conveyances is typically shared equally (50/50) between vendor and buyer. However, in some circumstances, a different allocation may be negotiated. The structure of the relief proposed above is designed to provide significant relief to the buyer (i.e. SEZ developer) in normal circumstances while reducing the risk that vendors escape tax liability by “negotiating” away such liability. For example, if the transaction between vendor and SEZ developer requires stamp duty to be assessed on the documents in a proportion of 30%/70% for the vendor and SEZ develop, respectively (which violates the accepted convention), then the SEZ developer would only qualify for relief of up to 50%.

**v. Treatment of Rental Income**

The Approved SEZ Developer will be exempted from the payment of income tax on rental income on property in a SEZ carrying out an approved SEZ activity (unless the landlord and tenant are connected persons within the meaning of the Income Tax Act).



**Table 3: Summary of Incentives Regimes for Selected Economies**

<b>China</b>	<b>India</b>	<b>Singapore</b>	<b>UAE</b>	<b>Brazil</b>	<b>Dominican Republic</b>	<b>Panama</b>	<b>Cuba</b>	<b>Nicaragua</b>	<b>Netherlands</b>	<b>Bahamas</b>	<b>Jamaica (Free Zone Regime)</b>
There is a geographically based incentive focused on new/high-technology enterprises. This incentive (in addition to the 1.5% rate that applies to all new high technology enterprises is a two-year tax holiday followed by three years at a 12.5% rate	Undertakings set up in SEZs are exempt from tax on their export profits subject to compliance with other conditions. Other tax holidays are available based on industry and region.	Various incentives are available for pioneer and expanding companies, headquarter activities, financial services, asset securitization, fund managers, international maritime activities, international trading and R&D.	Free trade zones are offered renewable 50-year tax holidays and exemption from import duty on goods brought into that free zone.	Firms that earn at least 50% of their revenue from exports are exempt from federal social contributions on gross income (PIS and COFINS)	Various tax incentives are available and include regimes (e.g. those for free trade zones, tourism and renewable energy) that, in many cases, provide a 100% exemption from national taxes and contributions.	Various investment incentives provide lower tax rates or exemptions. Incentives are available in the Petroleum Free Trade Zones, Colon Free Trade Zone, etc.	Licenses and operators in free zones are fully exempt from tax on profits for 5-12 years, depending on activities carried out and exempt from 50% of the tax on the use of the workforce for 3 or 5 years, depending on the activities. They are also exempt from payment of customs tariffs and duties. Additionally, the Foreign Investment Act provides for various incentives, including partial and full tax exemptions.	Companies operating under certain special incentive regimes, such as Free Trade Zone companies, are exempt from income tax. After the third year of operations, companies are subject to tax on their Nicaraguan-source income, which equals the higher of the following: 30% of net taxable income <ul style="list-style-type: none"> <li>• 1% of immovable and movable. Gross taxable income (income subject to withholding at source is not included in the tax base)</li> </ul>	Various investment deductions and reliefs are available. Assuming a marginal tax rate of 25%, the net benefit will be 15%.	While there are no company taxes, the Bahamas offers free zone incentives, including exemptions from stamp duty and import/export duties for qualifying transactions.	<ol style="list-style-type: none"> <li>1. Companies registered under the Jamaica Export Free Zones Act are relieved from tax on income derived from the manufacturing and international trading of products. This regime is retained under the current tax reform process pending migration of same to a WTO-compliant SEZ regime by December 31, 2015.</li> <li>2. Duty-free importation of capital goods, consumer goods, raw materials or articles for use in connection with the approved product;</li> <li>3. Duty-free treatment of articles for the construction, alteration, and repair of equipment of premises in the Free Zones;</li> <li>4. Repatriation of profits (since liberalization of the foreign exchange market in 1991 there are no restrictions on the repatriation of profits);</li> <li>5. Exemption from the normal fees payable with respect to work permits.</li> </ol>

### **Policy Element: Zone Development and Administration**

Over the past 15 years, there have been noticeable increases in privately-owned, developed and operated zones worldwide. Privately owned enterprises account for 62 per cent of zones in developing and transition countries, a significant jump from 25 per cent in the 1980s. In the Americas out of the 540 total zones 394 are private and 146 are public. The USA has 20 public zones and 246 partly-private zones<sup>23</sup>; Panama has two public and eight private zones; Colombia has one public and 14 private zone; and the Dominican Republic has 20 public and 38 private. Singapore and the United Emirates are the exceptions, with 42 and 26 public zones respectively but no private zone.

#### **a. From Free Zone Council to SEZ Authority**

##### *Policy Issues*

The regulatory framework for SEZs must facilitate business in an expeditious manner. A notable practice is to separate the regulatory role as much as practically possible from the roles of owner, developer and operator. The authority of the Ghana Free Zones Board (GFZB) makes a clear separation of these roles. The Board is concerned with the planning, promotion and regulation of the Zone and has been restricted from the outset from involvement in zone development. In Costa Rica, Jordan and Thailand some government agencies that regulate zones have now become corporate entities primarily to enable them to operate efficiently without civil service restrictions.

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<sup>23</sup> The US Foreign Trade Zone Regime requires that the zone “grantee” be a public body such as a port authority or a municipality which means that the USFTZs cannot be classified as totally “private”

Leaving zone development to private sector however does not mean the zone authority has no role in the development process. Its role as a regulator is critical and it must ensure that development processes are transparent and effective. Hence, the zone authority will have responsibility for administering and regulating SEZs and will spearhead the overall strategy for the establishment and operation of SEZs.

The Authority will coordinate with the relevant approval and trade facilitation agencies which will all be housed in a one-stop-shop facility<sup>24</sup> to allow for easy coordination and efficiency in the services they provide to developers and entities within the zones.

##### *Policy Recommendations*

1. Facilitate the establishment of the SEZ Authority with the relevant authorization to interface with all government bodies to facilitate transaction between developers and SEZ occupants in a timely manner.
2. Develop Comprehensive Implementation Plan for housing relevant regulatory agencies under one roof to facilitate seamless approvals and inspection and to accelerate business processes. This process will be managed by the SEZ Authority.
3. To ensure policy coherence, every effort will be made to ensure that the development of SEZs is fully consistent

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<sup>24</sup> This is a practice in the Philippines where a One-Stop-Shop facility for businesses is established in each Ecozone to facilitate registration of new enterprises, licensing and the issuance of permits.

with the current reform of the Development Applications Review Process (DARP)<sup>25</sup>

4. The approved structure of the SEZ Authority will be self-reliant with its own budgeted revenue streams sufficient to meet the expected operating expenditures.
5. Developers will be allowed to grant approvals for activities to be carried out in the zones but final approval will reside with the SEZ Authority.

### **b. From Free Zones to SEZs**

#### *Policy Issues*

The Free Zone Act while useful, as currently constituted lacks the level of detail and policy coherence needed in a Special Economic Zone regime. It is therefore not a very good tool for the establishment of the modern SEZ regime but can be used as a transitional tool for the SEZ regime. Moreover, the Act provides a framework through which investors (foreign and domestic) can operate and helps to send a clear signal to the market that Jamaica is committed to implementing SEZs.

It is the government's intention to ensure that existing Free Zones will be transitioned from the Free Zone regime to the SEZ regime. This includes standalone/single-entity Free

Zones that will become standalone/single-entity SEZs. These standalone/single-entity SEZs will further enhance the economic landscape through their flexibility in locating close to skills, production inputs, infrastructure etc., thereby offering potential investors more options to choose from.

#### *Policy Recommendation*

1. Set up Enterprise Teams to deliberate and resolve matters related to business case for the zones and engagements with investors
2. Develop transitional strategy for Free Zone operations in collaboration with developers and occupants
3. Ensure there are pre-approved sites in order to minimize delays in the development approval process.

### **c. Public-Private Zone Development**

#### *Policy Issues*

Private development, ownership and operation of the zones will lessen the burden that SEZs can place on the government. One approach that is being considered is for the government to take on certain stages of zone development and subsequently transfer its interest in the zone to a private operator which has a proven track record and experience in SEZ development and operations.

Growing trend towards private zone development can be observed in Asia and the Pacific where zones have been traditionally run by government. In Aqaba SEZ (Jordan), PPP opportunities are tendered out through the Aqaba Development Corporation.; In the Philippines, zones are run on a commercial basis (41 privately owned, 4 public owned zones); and in India, authorities allow private developers to make their own proposals for zone development. The regime

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<sup>25</sup> In December 2014, Cabinet approved several recommendations for improving the DARP. Among these recommendations was that there will be a Joint Technical Team to review, assess and monitor certain applications. Other recommendations from Cabinet should result in: full implementation of the Application Management and Data Automation (AMANDA) system; amendments to the Local Improvements Act and Town and Country Planning Act to allow for electronic filing of applications and documents through the AMANDA system; improvements in the capacity of key agencies such as KSAC, NEPA, the Portmore Municipal Council and other key agencies, to enable them to better execute their responsibilities, etc.

allows for hiring of separate operators to manage zone facilities.

#### *Policy Recommendations*

1. To help prevent cost overruns and encourage greater efficiency in both the development and operations, private sector involvement should be encouraged in development and operation of zones on a market-oriented, commercial basis (cost-recovery).
2. Critical success factors must include systematic criteria for private zone evaluation or designation and a formal development agreement between private developers and the government.
3. Enhance the PPP framework through better planning that will guide development agreements, particularly with Master developers. One consideration is that PPPs will be limited and finite (e.g. one-off support such as the provision of land), in order to limit the government's exposure to future fiscal risks.

#### **d. Eligibility Requirements**

##### *Policy Issues*

Many countries<sup>26</sup> are reducing or totally eliminating their export requirements as a performance requirement for operating in SEZs and are instead placing more emphasis on improving their investment climate that include good infrastructure, access to markets, transparent business environment, skilled labour force, and cost-effective production.

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<sup>26</sup> This practice is followed in the Middle East, the Aqaba Jordan Free Port and JAFZA Free Zone. These zones do not have export requirements but instead rely on improving the business and investment climate to attract both export-oriented and domestic investors.

Export requirements have the disadvantage of excluding certain businesses as ineligible even though they may have critical supplier linkages with exporting firms. According to the World Bank, the best approach is to remove minimum export requirements in line with WTO rules. In so doing, the country could broaden the range of eligible activities while stating clearly the prohibitive activities enumerated on a 'negative list'. In addition, the World Bank highlighted that maximizing flexibility could also entail:

- equal treatment of foreign and domestic investments;
- removal of ownership restrictions; and
- extension of indirect exporter benefits and privileges to domestic suppliers to zone-based enterprises.<sup>27</sup>

The set of eligibility requirements for the SEZ framework in Jamaica necessitates three important considerations. The first is that these requirements must be linked to the scope of the SEZ framework of the country; hence there must be consistency with the strategic objectives of national development and SEZ development. In broad terms, the eligibility requirements for the development and occupancy of the SEZ should take account of WTO rules, the country's obligations under existing trade agreements and Bilateral Investment Treaties (BITs) and the country's broader development goals.

More specifically, these requirements must be guided by the concept of clustering economic activities/sectors which provide significant transformative value to the economy and/or employment. At the same time, sectoral targeting must be sufficiently flexible to reduce the errors of "picking

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<sup>27</sup> World Bank 2008. Special Economic Zones- Performance, Lessons Learned and Implications for Zone Development". FIAS, Report, World Bank, Washington DC.

winners”. Furthermore, the plan is to promote a range of activities in the SEZs that will target multiple markets and industries (see activities to be promoted in the SEZs in table 1). By allowing for a wide range of activities within the zones or a variety of zones, the country offers investors more options and the government can exercise greater flexibility with facilitating all future zones that may be suited for innovative industries that are slowly emerging.

The second consideration is that there is need to minimize revenue leakage due to migration of firms from the domestic economy to the SEZ. While allowing for the possibilities of future industrial innovation and emergence of new areas of economic activity not previously considered, SEZ promotion must guard against “margin gathering” by established economic activities i.e. a migration into the SEZ purely to benefit from a more favourable tax regime without any additionality in production.

Thirdly, there should be ease of administration. That is, requirements for eligibility should not be difficult to administer thereby requiring for the most part, accessible/reproducible and verifiable data. Further, where such criteria are subjective they should allow for a statement of the factors to be considered in deciding eligibility and/or require a statement of reasons for disqualification.

#### *Policy Recommendations*

1. As a matter of policy, there will be a high degree of flexibility in the activities permitted in the SEZs. However, as part of the eligibility criteria for acquiring SEZ status it is proposed that SEZ status be granted on a determination that:

- The SEZ operator undertakes (or proposes to undertake) a new activity or an existing activity not currently conducted on a commercial scale in Jamaica; provided also that,
  - The domestic tax authorities (i.e. the TAJ Commissioner General) are satisfied that the substantive purpose of the activity is not for tax avoidance or abusive tax practices.
2. Certain size criteria are being contemplated. These can be stated either in terms of size of expected initial investment, size of expected annual output, or size of expected annual exports, all in dollar terms.<sup>28</sup>
  3. To ensure high occupancy rates the SEZ regime should allow a wide range of activities (multi-sectoral), albeit subject to the considerations previously discussed. The practice is to list only a small set of prohibited activities in a negative list.<sup>29</sup> Hence, it is proposed that the following list of sectors be disqualified for SEZ eligibility:
    - *Extractive Industries – Mining & Quarrying; Hydrocarbon (Oil & Gas)*
    - *Tourism*

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<sup>28</sup> Note that the expected size of the export is not to be confused with an export quota (in terms of a minimum share of output going to exports) – there is nothing in this requirement which specifies any restriction on the amount of output to be sold into the domestic market by an SEZ operator.

<sup>29</sup> The proposed negative list includes sectors where tax leakage risk is high (e.g. sectors which currently contribute significant shares of corporate tax revenues) or which, for economic reasons, are not good candidates for SEZ participation (e.g. high-economic rent-generating activities such as natural resource-based activities or regulated sectors), while also allowing sufficiently flexibility in SEZ promotion to avoid errors in picking winners.

- *Telecommunications Services*
- *Public Utilities*
- *Financial Services*
- *Construction Services*
- *Real Estate & Property Management Services*
- *Health Services (excluding research & development)*
- *Retail Trade*

### **e. Urban Support Area Designation and Development**

#### *Policy Issues*

The purpose of the Urban Support Area is to provide the proper housing, utilities, transportation, social (e.g. schools, hospitals) and recreational infrastructure in adjacent areas to the workers in the SEZs. This is part of creating the backward linkages into the domestic economy and will help to avoid past mistakes of not adequately providing for the needs of the workers.

#### *Policy Recommendations*

1. Coordinate with the national planning agencies to designate Urban Support Areas and ensure there is adequate provision of social services in the designated areas.
2. Where necessary, grant special developmental status to entitle developers to the streamlined construction regulatory process.<sup>30</sup>

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<sup>30</sup> The reform of the development application review process (DARP) will apply to all developers but while this is being done provisions should be made to ensure developers benefit from any special provisions as may be required.

### **Policy Element: Labour Market and Productivity**

The Vision 2030 National Development Plan for Jamaica sets out an elaborate plan for the Jamaican labour market. Based on this plan, by 2030, the labour market should be transformed into a more efficient and harmonious market with a trained and educated productive workforce which sustains the entire economy and attracts quality employment-generating investments. This vision for the labour market has to be fulfilled against the backdrop of a diverse mix of local and international challenges affecting the labour market. Locally, the labour market has been characterized by high rates of unemployment and underemployment. As a result, policy makers are challenged to determine how to generate decent jobs in sufficient supply, especially among the youth, women and the lower-skilled segments of the labour market. Hence, it is indeed an important objective of the SEZ policy to pursue employment growth.

At the international level, the country faces the issue of increased competition in a rapidly changing customer-driven market economy, due to globalization, liberalization and privatization. In this era, industries require flexibility in managing manpower to address the occasional upsurge or slowdown in demand. Interest groups complain that the rigid labour laws, enacted even before independence (50 years ago), is restricting right-sizing of manpower and creating hurdles in smooth functioning of industries.

Notwithstanding the foregoing concerns, there have been improvements in the labour market in recent times. In an attempt to enhance Jamaica's locational advantage to potential investors, there is comprehensive labour market reform initiative underway and Cabinet has approved the establishment of a Labour Market Reform Commission that will help to spearhead this initiative. The labour market



reform process can create the level of dynamism in the labour market which will foster productivity & flexibility, enhance social safety net, attract investment and increase real incomes. Some of the areas that the reform will focus on are: Education & Training; Social Protection; Productivity, Innovation & Technology; Industrial Relations; and, Labour Policies and Legislation. The reform will also be aligned with the goals of Vision 2030 Jamaica and the ILO Decent Work Agenda.

Already there are improvements in the legislative framework for the labour market. The Employment (Flexible Work Arrangements) (Miscellaneous Provisions) Act was passed in October 2014 and several pieces of legislation have been amended or are in the process of being amended, for example, the Occupational Safety and Health Legislation and the Holidays with Pay Order and the Employment (Equal Pay for Men and Women) Act. These steps help to enhance the attractiveness of Jamaica as the location of choice for investors.

In the broader development paradigm envisaged for the Jamaican labour market, there are a number of critical principles that become paramount to the discussion on labour market reform. Some of these are elucidated below.

- i. The labour market is the most important link between households and the economy, as it plays the critical role of determining household income and ultimately aggregate demand. To achieve the government of Jamaica's decent work agenda, the labour absorption rate, the composition of economic activities and the sustainability of the growth path are as important as the quantum of growth. Employment must therefore be the overarching goal of economic policy and not the residual outcome of other policies. **All efforts should be made to ensure that the**

**labour market can effectively and efficiently respond to economic signals through an “employment-led developmental growth-path”.**

- ii. Labour productivity is key to measuring development, because it compares social-labour and productive factors. By the very way it is calculated, labour productivity is highly correlated with GDP per capita, which continues to be the main indicator for comparing wellbeing across countries. **Labour market policies should therefore ensure a fair distribution of the fruits of productivity among businesses and workers from the perspective of social equity, but also to sustain economic growth.**
- iii. To fully leverage increased investment and new technologies, it is essential to improve the quality and coverage of education, professional preparation and worker training. Helping workers to move from sectors with low and stagnant productivity to more buoyant sectors with growing productivity is also a winning strategy. These are also critical for strong linkages between the SEZs and domestic economy. **Hence, less productive sectors, especially those with high potential to expand, require public investment to boost productivity. For example, support for research, innovation, infrastructure, training and access to markets and financing.**

#### **a. Labour Supply and Skills Development**

##### *Policy Issues*

In general, SEZ operations are labour-intensive. There are over 3,500 SEZs globally that employ over 68 million people. In the Americas there are over 3 million SEZs-related jobs. In Honduras SEZs account for 4.6% of national employment, in



the Dominican Republic it is 6.2%, in Mauritius it is 24% and in the UAE it is 25% of total employment. Evidence suggests that for small countries like Jamaica with population of less than 5 million, SEZs are a significant source of employment. Hence, the prospects for increased employment in SEZs are indeed positive.

In order to ensure there is increased employment in SEZs, Jamaica's skills base has to include the appropriate mix of talent and competencies consistent with global standards and requirements, especially for logistics and logistics-related industries. While most enterprises in SEZs worldwide are labour-intensive, assembly-oriented activities such as textiles, apparel and electrical and electronic goods,<sup>31</sup> newly diversified activities in SEZs increasingly include higher technology sectors (medical equipment, pharmaceuticals, and electronics) and services (BPO and logistics). That is, SEZs have evolved from initial assembly and simple processing activities to include high tech and science zones, finance zones, logistics centres and even tourist resorts. For Jamaica, over time, a number of knowledge-based operations have been attracted to the Free Zones, signalling a shift from the assembly-oriented type of activities that once existed. This gives the country a unique comparative advantage over its regional counterparts as it has the flexibility to meet the demands of both knowledge-based industries as well as assembly-based industries and there is significant scope for entering into other types of activities.

<sup>31</sup> Apparel assembly dominates activities in low-wage countries (Bangladesh, Sri Lanka, Madagascar, Nicaragua, Honduras and the Dominican Republic). Electronics, electrical and automotive components dominate in middle-wage countries (Mexico, Malaysia and Thailand).

### *Policy Recommendations*

1. Jamaica has an excellent training infrastructure that should be offered to SEZ firms to satisfy their training requirements. These institutions include the University of the West Indies, the University of Technology and the HEART TRUST/NTA, among others. This is also an excellent way to reduce training cost to the companies and at the same time forge greater linkages with the domestic economy.<sup>32</sup>
2. There should be sustained investment in building skills, including through vocational training as well as basic and higher education.
3. Greater collaboration between training institutions and industry to ensure consistent supply of skilled personnel for firms in the SEZ<sup>33</sup>
4. Create Competency Development Systems to continuously update or reorient workers' competencies through shared or company-led contributions to human resource development activities.
5. Enhance employment opportunities through the introduction of current best practice initiatives in SEZs, including:

<sup>32</sup> Organizations such as HEART/Trust NTA have already begun to expand training in an attempt to meet the employment requirements of the SEZs.

<sup>33</sup> The experience of Intel in Costa Rica is instructive. Upon arriving in Costa Rica in 1997, Intel signed an agreement with the Costa Rica Institute of Technology to train personnel to satisfy its needs. The Institute crafted a one-year programme, called "Electronics Diploma" and another called "Intel's Associate Degree" designed to fit Intel's needs. Several other firms have indicated they have also benefited from the graduates of these programmes. Furthermore, Intel has also helped in improving the curricula of the electrical engineering as well as the computer sciences schools of the University of Costa Rica (the most important higher-education institution in the country).

- encouraging investors to, with the help of the local responsible Ministry, establish skills development/vocational training centres on site, thereby ensuring supply of skilled labour force.
- establishing R & D centres in investment zones to support development of products and enhancement of industrial operations.

## **b. Wage Bill, Productivity and Competitiveness**

### *Policy Issues*

The literature indicates that salaries paid by the great majority of SEZ firms are higher than the reported median salary paid in the local economy for the same occupation group. In fact, 96.8% of SEZ firms in Costa Rica indicated that they pay more than the reported median Costa Rican salary to their plant and machine operators, which comprise the bulk of their workforce. This picture holds true for administrative employees, clerks as well as for managers.

The wage bill may account for one of the most important “link” between SEZ firms and the host nation, and the most likely channel through which the local economy may benefit from SEZ activity. It is clear then, that knowing the characteristics of the labour force SEZ firms employ, as well as the salaries they pay is a key issue for policy makers who make SEZ related decisions in terms of what kind of firms they attract.

The discussion on the wage bill to be borne by firms in the SEZs is not only a matter of increasing the welfare of households that will benefit from the job opportunities but it also brings the matter of productivity and competitiveness into sharp focus. Using measures of international price

competitiveness such as the real unit labour cost (RULC)<sup>34</sup> highlights the role that a dynamic, flexible and efficient labour market plays in economic growth and competitiveness process. If the RULC of Jamaican goods or services falls relative to our main competitors, then Jamaica’s products are said to be more price competitive than those of our main trading partners, the converse is also true. Thus, the need to increase labour productivity faster than increases in real wages is a critical element in economic management and decision-making.

Overall, there is growing recognition that an SEZ’s competitiveness in attracting quality investors is largely based on the productivity of its workforce and labour-management practices. These areas are likely to be improved through workforce upgrading and skills development through formal training and apprenticeship programmes, and “learning by doing” in the SEZs. However, productivity gains may be syphoned off to some extent if investors in the SEZs with short time horizons have little incentive to invest in productivity enhancement and skills development or view labour more as a cost to be contained than as a resource to develop (UNCTAD, 2002).

### *Policy Recommendations*

1. More attention, effort, and resources need to go into addressing the supply side challenges to competitiveness, namely measures to enhance productivity and boosting labour-management practices; and

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<sup>34</sup> The real unit labour cost (RULC) is a commonly used measure of international price competitiveness. It is measured as the ratio of real wages to labour productivity.

2. The tripartite partners (Government, JCTU and JEF) must work together to ensure that investments in the SEZ are successful in generating quality jobs and building strong linkages with the rest of the economy.

### c. Gender Dimensions

#### *Policy Issues*

The high unemployment rate among young females and the fact that SEZs employ a disproportionately high number of females (women make up the majority of workers in the vast majority of zones, reaching up to 90 per cent in some zones) may constitute a good mix and a good starting point. Indeed, having a larger proportion of female workers is an important characteristic of SEZ regimes since they offer formal employment opportunities to a segment of the domestic population where the alternative employment opportunities may be rather limited (i.e., young female workers with little or no education or experience). Under those circumstances, the social impact of SEZs in the domestic economy can be quite beneficial. However, there is a suggestion that as the nature of employment in zones evolves, with higher technology inputs, the gender profile of the workforce changes.

#### *Policy Recommendation*

Implement a programme of skills development/upgrading specifically for women that are employed in sectors that are likely to expand and sectors with higher technology inputs or skills requirements.

### d. Industrial Relations and Social Protection

#### *Policy Issues*

Labour market legislation establishes the rights and responsibilities of employers and workers, and therefore provides the basis for labour market institutions<sup>35</sup> to proactively manage employment relationships. In recent times, there has been a marked improvement in labour management corporation, resulting in a relatively mature and harmonious industrial relations climate. This has benefitted enterprises, workers and society at large.

In the interest of industrial harmony, it is important that no effort be spared to ensure peaceful industrial relations climate, which the economy has enjoyed over the past decade and a half. Due to the nature of human behaviour, there is always the possibility of deterioration in the industrial relations climate, which can have negative consequences for the labour market and the economy at large. Accordingly, promoting appropriate mechanisms to facilitate tripartite collaboration to ensure smooth industrial relations are critical.

It is also important to address matters related to working conditions and social protection with a view to highlight the positive attributes and build on them; as well as identify deficiencies so that they can be corrected. The GOJ is committed to pursuing the “decent work agenda” articulated by the International Labour Organization. This agenda sums up the goals of people in their working lives – their

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<sup>35</sup> In Jamaica, several institutions actively participate and determine labour market outcomes. These include The Ministry of Labour and Social Security (MLSS), Jamaica Confederations of Trade Unions (JCTU), Jamaica Employers’ Federation (JEF), Industrial Disputes Tribunal and the tripartite Labour Advisory Committee (LAC).

aspirations for opportunity and income; rights, voice and recognition; family stability and personal development; and fairness and gender equality.<sup>36</sup>

#### *Policy Recommendations*

1. Implement labour practices that are consistent with stipulations of the ILO, particularly the fundamental and the governance conventions bargaining;
2. The regulatory framework for the labour market should be flexible, liberal and transparent for both domestic and foreign workers;
3. Ensure policy coherence - all policies related to the human resource development should be aligned to existing national policy framework for training and employment and for access to employment opportunities for women and persons with disabilities;
4. Promote a culture of voluntary compliance through awareness-raising/information-sharing and initiatives geared towards investors, managers of enterprises, workers and their organizations;
5. Ensure the tripartite mechanisms for setting minimum wage influences minimum wages in the SEZs; and
6. Consider a levy on SEZ firms with contribution by workers to develop an unemployment programme coupled with the phase out of the current Employment (Termination and Redundancy Payment) Act. This could be funded initially by work permit fees or NIS.<sup>37</sup>

<sup>36</sup> Decent work is captured in four strategic objectives that apply to all workers (formal and informal) in employment or working on one's own account: fundamental principles and rights at work and international labour standards; employment and income opportunities; social protection and social security; and social dialogue and tripartism.

<sup>37</sup> Mauritius has developed a welfare fund to cater for the needs of SEZ workers and is exploring the possibility of developing a pension plan specifically adapted to the EPZ workforce. China, Malaysia and Singapore

#### **Policy Element: Sustainable Development**

Adopting the definition for sustainable development that is used by the United Nations World Commission on Environment and Development, the policy framework for SEZ considers sustainable development to encompass economic and social development and environmental protection. Hence, the SEZs will be developed in keeping with government's policies on sustainable development which incorporate economic, environmental and social considerations.

#### **e. Social Inclusion**

##### *Policy Issues*

The development of SEZs will stimulate interest and create opportunities for many but for the most vulnerable groups<sup>38</sup> (poor, women, persons with disabilities and the youth) in the Jamaican society, there has to be a deliberate effort to ensure that their interests are equally protected and supported and that they have equal access to opportunities afforded under the SEZ regime.

##### *Policy Recommendation*

1. Develop integrated socio-economic development approach that restricts social dislocation and increases

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have all insisted that zone enterprises make the appropriate contributions to social security funds. This is also required in other countries with social insurance legislation that is general in its application.

<sup>38</sup> The emphasis on the vulnerable groups becomes necessary in light of the experiences of SEZ developments in countries such as India. Research shows that in the case of one SEZ in Polepally commercial pressures on land and forced evictions resulted in various forms of socio-economic challenges especially for women and the poor. Source: Rawat, Bhushan and Surepally (2011). The Impact of Special Economic Zones in India: A Case Study of Polepally SEZ. International Land Coalition.

participation of the most vulnerable in the Jamaican society.

2. Include a gamut of strategies that will support sustainability of the Jamaican society. As indicated in previous sections, the policy framework is being formulated with strategies to create backward linkages with individuals through employment and training, and among businesses through efforts to stimulate business-to-business linkages.
3. Build Urban Support Areas that provide proper housing, utilities, transportation, social (e.g. schools, hospitals) and recreational infrastructure in adjacent areas to the SEZs. This will also ensure economic development with social inclusion.

#### **f. Environmental Sustainability and Climate Change Mitigation**

##### *Policy Issues*

It is well accepted that industrial growth and increased urbanization have implications for natural resource consumption and environmental protection. Countries such as China which have been experiencing rapid urbanization and industrial development are currently grappling with ecological disasters that result in low quality air, soil and water. When it comes to SEZs there are two important dimensions to their impact on environmental sustainability. On one hand, while SEZs have been proven to effectively drive industrial development and growth, if there are no proactive approaches to develop environment-friendly practices within the zones, the outcome on the environment can be less than desired. On the other hand, SEZs can be developed as laboratories in the implementation of sustainable development practices, even if only on a small scale. These practices can then be expanded to the country on a whole in

the same manner that simplified business regulations within SEZs are being promoted in the wider economy.

As part of the effort to mitigate climate change, corporations within SEZs will be required to incorporate low carbon policies and strengthen their commitment to corporate responsibility. Moreover, environmental sustainability or regulation is not being viewed as an impediment to businesses but rather as a critical part of doing business through the GVC model.

##### *Policy Recommendations*

Through the application of appropriate regulations, the developers and operators of SEZs will be required to pursue and adopt low-carbon, green strategy with a clear goal and commitment to Greenhouse Gas mitigation.

1. Every effort will be pursued to ensure a strategy of greening the economy and related industries and safeguarding human health and environmental sustainability.
2. Policy measures will seek to ensure coherence with the Ministry of Water, Land, Environment and Climate Change comprehensive environmental policy (being developed). Some strategies that will be emphasized include:
  - Adopting environmental practices in line with regulatory requirements overseen by NEPA. These include the adopting of practices to reduce ozone depleting substances, hazardous spills etc.
  - Including a representative of NEPA at the proposed one stop shop which will facilitate a smooth transition into the zone.

- Stipulating that the SEZ Authority ensures that regular Environmental Audits are done to ensure compliance within the SEZs.
- Providing housing and other social infrastructure in consultation with all key government bodies in order to eliminate conflicts such as the duplication of expenditure on the same structure.

effective roll-out of the policy strategies, through ongoing engagements with entities such as the Bureau of Standards, Jamaica Customs Agency, JAMPRO, Ministry of Finance & Planning, Trade Board, Ministry of Foreign Affairs & Foreign Trade, among others. Much of the work to develop the SEZ regime will be guided by the SEZ legislation and regulations.

## **VIII. Implementation, Monitoring and Evaluation**

The Ministry of Industry, Investment and Commerce will see to the proper development, execution, monitoring and evaluation of the SEZ policy framework. The MIIC will be guided by the Special Economic Zone Act and Regulations to be enacted before the end of 2015 that will govern SEZ operations and the establishment of a central SEZ Authority. This Authority will operate on the principles of autonomy and transparency and will be charged with the responsibility of regulating all SEZs in Jamaica. Its functions will be carried out through collaborative efforts involving the relevant MDAs that will influence the effectiveness of the regime.

It should be noted that while the SEZ Authority and the work of MIIC will play a significant role the development of SEZs, it is recognized that the full and effective implementation will involve several private companies, associations, interest groups, MDAs, international development partners and local and foreign investors. The MIIC has already begun to explore the kinds of considerations that will have to be given to the

## IX. Legal Implications

### ***Current Legal and Regulatory Framework – Jamaica Free Zones Act (1982)***

The Act as currently constituted lacks the level of detail and policy coherence needed in a Special Economic Zone regime.

The lack of policy coherence includes:

1. The responsibilities and functions of the Port Authority of Jamaica under s. 6-18 vs those of other Promoters ( s. 7) is greatly disproportional, and could be viewed as prejudicial and discouraging to private investment. Additionally, the presence of the Port Authority as a Promoter and regulator makes the Act very untidy and counter to international best practice where business and regulatory functions are separated.
2. There is a heavy restriction on retail trade under s 25. This limits the policy space for creative investment opportunities for Free Zone shopping malls or for free ports.
3. There is severe prohibition on the storage of petroleum products under section s32. This would have a chilling effect on a commodity port and on bunkering activities with tank farms.
4. All goods coming into the Free Zone have to be consigned to Promoter or approved enterprise under s23 (3). This could have a chilling effect on the 3PL business and efficiency of moving goods generally.
5. There are no labour standards expressly mentioned in the Act or its Regulations.
6. There are no environmental standards expressly mentioned in the Act or its regulations.
7. It is unclear if the JPS All Island Licence applies to Free Zones. The Act grants a Promoter the right under

*S.4(2)(b): A Promoter may set the price for services offered by him such as garbage removal, customs processing, security and any other services related to the Free Zone under his control. This could be read to include the generation and distribution of energy. Additionally, the Port Authority is granted the power under S.6(3)(f): In the exercise of its functions under this Act, the Authority may provide water, light and power, telecommunications and any other public utilities or service and enter into contracts for the supplying of said utilities and services.*

Other sections of the Act that contribute to the lack of policy coherence may include:

1. Section 23(5), (6), (7) – Movement of goods out of the Free Zone into Jamaica. The monitoring of this could become a potential bottleneck and create an unnecessary burden on the resources of Customs. Hence, as much as it is possible Customs will have to explore creative approaches to administering its protocols that will minimize the burden of bureaucracy while maintaining the integrity of a robust monitoring mechanism. Additionally, this section makes no provision or clear guidelines for goods that may leave a Free Zone into the customs territory for value addition purposes and to be returned to the Free Zone for export.
2. Section 29 – Manufacturing in the Free Zone record keeping. This is another area of unnecessary bureaucracy which should be avoided.
3. Section 32 – Goods not to be taken into the Free Zone. Such restrictions are necessary for national security reasons, however, they should not be so restrictive as to stifle lawful activities we wish to attract to Jamaica.
4. Section 33(3) – Movement of goods from Free Zone to Free Zone. The Act lacks clarity on the generally



prescribed terms and conditions that should be met for this activity.

In light of the policy gaps identified in the current Free Zone Act, a Special Economic Zone Act and the attendant Regulations will be developed in line with the necessary policy framework, in order to give effect to the proposed Special Economic Zone regime. The draft SEZ legislation would need to be harmonized with modern Port Authority of Jamaica and Maritime Authority of Jamaica legislation in order to ensure coherence with all pieces of legislation that

will impact the SEZ regime. By harmonizing these pieces of legislation, possible duplication of the functions among the MIIC, the Port Authority of Jamaica and the Maritime Authority of Jamaica will be avoided.

## Appendices

### Appendix I

#### Composition of SEZ Policy Steering Committee

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|--|--|
| 1. <b>Mrs. Patricia Francis</b>        | Chair, PSC   |
| 2. <b>Professor Gordon Shirley</b>     | Port Authority of Jamaica                          |
| Mrs. Beverley Williamson*              |  |
| Mr. Edmond Marsh*                      |  |
| 3. <b>Mr. Oneil Grant</b>              | Jamaica Confederation of Trade Unions              |
| 4. <b>Mr. Donovan Wignal</b>           | MSME Alliance                                      |
| 5. <b>Mr. Norman Horne</b>             | Jamaica Manufacturers' Association                 |
| 6. <b>Mr. Yoni Epstein</b>             | Business Processing Industry Association of Ja     |
| 7. <b>Dr. Eric Deans</b>               | MIIC's Task Force/Logistics Hub Secretariat/MIIC   |
| 8. <b>Mrs. Beverley Rose-Forbes</b>    | Ministry of Industry, Investment and Commerce      |
| 9. <b>Mr. Reginald Nugent</b>          | Ministry of Industry, Investment and Commerce      |
| 10. <b>Mr. Stephen Wedderburn</b>      | Ministry of Industry, Investment and Commerce      |
| 11. <b>Mrs. Shullette Cox</b>          | JAMPRO   |
| Mrs. Cheronne Allen*                   |  |
| 12. <b>Mr. Dennis Morrison</b>         | Omnibus Incentives Committee                       |
| 13. <b>Mrs Pamela Folkes</b>           | Ministry of Finance and Planning                   |
| Mr. Ian Scarlett*                      |  |
| 14. <b>Mr. Eric Crawford</b>           | Jamaica International Financial Services Authority |
| 15. <b>Dr. Kathy-Ann Brown</b>         | Attorney General's Chambers                        |
| 16. <b>Mr. Warren McDonald</b>         | Jamaica Chamber of Commerce                        |
| Mr. Oliver Chen*                       |  |
| 17. <b>Mr. Charles Johnston</b>        | Shipping Association of Jamaica                    |
| Mr. Grantley Stephenson*               |  |
| 18. <b>Ms. Alicia Morris</b>           | Ministry of Foreign Affairs and Foreign Trade      |
| 19. <b>Mr. Albert Edwards</b>          | Office of the Parliamentary Counsel                |
| 20. <b>Major (Ret'd) Richard Reese</b> | Jamaica Customs Agency                             |
| Ms. Shandilayne Davis*                 |  |
| Mrs. Karlene Henry*                    |  |
| Mr. Clive Thompson*                    |  |
| *Alternates                            |  |

## Appendix II

SEZs versus Free Zones	
Special Economic Zones	Free Zones
SEZs are characterized by geographically delimited area, usually physically secured (fenced-in), single management/administration, eligibility for benefits based upon physical location within the zone, separate customs area (duty-free benefits) and streamlined procedures.	The core definition of a free zone, as well as proposed guidelines and standards for them, are contained in the Revised Kyoto Convention of the World Customs Organization (WCO). Specifically, Annex D and the accompanying guidelines provide standards and recommendations on the treatment of imports to and exports from free zones including territorial limits (free zones are defined as “outside the customs territory” for purposes of the assessment of import duties and taxes); minimal documentation requirements; and issues to be covered by national legislation. Free zones typically allow for duty- and tax-free imports of raw and intermediate goods.
World Bank (2009). “Clusters for Competitiveness: A Practical Guide and Policy Implications for Developing Cluster Initiatives.” International Trade Department, PREM Network, Report, World Bank, Washington DC.	

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