

MINISTRY PAPER 116/2015
TABLING OF THE WHITE PAPER ON SPECIAL ECONOMIC ZONES

1.0. PURPOSE

1.1. Tabling of the White Paper on Special Economic Zones (SEZs).

2.0. BACKGROUND

- 2.1 Special Economic Zones (SEZs) represent a wide variety of geographically-demarcated areas that offer simple and efficient business regulations and procedures to investors. SEZs will replace Free Zones and will be promoted and facilitated as a strategy to attract and retain targeted investments and will catalyze and sustain economic activity across various sectors of the Jamaican economy. On February 3, 2014 Cabinet approved the development of the SEZ policy framework by way of Cabinet Decision No. 3/14 as a critical element of the Global Logistics Hub Initiative which had been previously approved on September 18, 2012, vide Decision No. 33/12.
- 2.2 A draft SEZ Green Paper was presented to the Growth Agenda Sub-Committee of Cabinet on November 13, 2014. The Ministry was subsequently directed by Cabinet, vide Cabinet Decision 41/14, dated November 17, 2014 to further engage a few organizations in order to clarify and improve specific areas of the draft SEZ Policy. These consultations were carried out and the policy received acceptance from all key stakeholders.
- 2.3 Cabinet approved the tabling of the Special Economic Zone Green Paper in Parliament (vide Cabinet Decision 01/15 dated January 5, 2015) subject to a formal agreement of the Ministry of Finance and Planning in relation to matters on taxation and incentives. Following the non-objection of the Ministry of Finance and Planning the SEZ Policy Framework was then tabled in the Houses of Parliament on January 13, 2015 as a Green Paper. Subsequently, work continued to transition the Green Paper to a White Paper.
- 2.4 The Ministry carried out further extensive work and consultations on the policy driven by a very intense and inclusive consultation process that was guided and honed by both local and international stakeholders who have shown remarkable commitment and support. As such, the MIIC submitted the draft White Paper to Cabinet which, **by Decision No. 27/15 dated July 13, 2015, gave approval for the policy to be tabled in Parliament as a White Paper.**
- 2.5 It should be noted that from the outset, it was determined that a policy of such economic and social significance to Jamaica was best placed under the stewardship of the best talent and intellect that Jamaica can offer. Consequently, the Minister of Industry, Investment & Commerce appointed a multi-disciplined and distinguished body of experts

that constituted the SEZ Policy Steering Committee (PSC). This Committee has been ably led by Mrs Patricia Francis who has worked assiduously on the SEZ PSC to sieve through and prioritize a range of policy issues that necessitated the rigors of SWOT Analyses, peer review, research and consultations with local and international industry players, academia, stakeholder interest groups, among others, in order to produce a policy framework for SEZs that compares favourably with best practices.

2.6 The SEZ White Paper encompasses a policy framework for SEZs in Jamaica where globally competitive firms will thrive, driving unprecedented growth and development for all in a logistics-centred Jamaican economy. It is envisaged that SEZs will operate in a modern, integrated framework that is efficient and predictable, facilitatory of sustainable linkages in the domestic economy, supportive of technology transfers, business innovation, entrepreneurship & human capital formation and catalyses a higher level of transformation in the industrial and social landscape of the country.

3.0 THE RATIONALE FOR THE MOVE FROM FREE ZONES TO SEZs

3.1 The Ministry's intention to upgrade the free zone regime to a modern SEZ regime is strongly influenced by three main factors. Firstly, the move toward a modern SEZ regime is being influenced 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 through its efforts to develop the new SEZ policy 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.

3.2 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 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.

3.3 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.

4.0 MAIN POLICY CONSIDERATIONS

4.1 The SEZ 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 Ministry 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.

4.2 The Jamaica Export Free Zone Act (1982) as currently constituted lacks the level of detail and policy coherence needed for a Special Economic Zone regime and hence will be replaced by new legislation for SEZs. The Ministry will seek to contract a Legal Consultant for the development of drafting instructions and preparation of a draft law appropriate for submission to the legislation committee.

4.3 The Ministry will receive support from the World Bank specifically for the legislative and regulatory framework for SEZs under the Bank's Foundation for Competitiveness and Growth project. The on-site infrastructural development requirements for zone development will primarily be met by the private sector. Public-private partnerships will increase the involvement of the private sector in undertaking private zone development and business operation within the zones. This can have the effect of minimizing the need for financial support from the government.

5.0 VISION

5.1 The vision of the policy is:

"Special Economic Zones are economic powerhouses catalyzing growth and development of a highly competitive logistics-centred Jamaican economy."

6.0 EXPECTED OUTCOMES OF THE POLICY

- a) Modern and integrated policy, financial, legal and institutional framework for SEZ development established;
- b) Trade and business facilitation environment for SEZs improved;
- c) Sustainable linkages between SEZs and the rest of the economy created;

- d) Onsite and offsite infrastructure services, assets and facilities developed;
- e) Productive capacity increased through human capital formation, technology transfer, business innovation and entrepreneurship;
- f) Increased domestic employment;
- g) Competitive incentives with net benefits to the Jamaican society;
- h) Increased exports;
- i) International standards for SEZ development adopted; and
- j) SEZ development initiatives are consistent with development goals under Vision 2030 NDP and existing Government priorities.

7.0 MAIN POLICY RECOMMENDATIONS

7.1 The Global Logistics Hub Initiative brings into sharp focus the importance of the SEZs which will provide the space required for increased productive activities arising from heightened level of transshipment related to the expansion of the Panama Canal. The SEZ White Paper not only proffers policy measures that will directly affect SEZs but will also positively impact the wider economy. These policy measures include the following:

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

7.2.1 To achieve an efficient and predictable business and trade facilitation environment the overhauling of the entire eco-system that affects the production and movement of goods and services in the SEZs becomes a primary focus. Hence, business processes will need to be streamlined through modern systems such as the Authorized System of Customs Data (ASYCUDA), the Port Community System and the Single Trade Electronic Window in order to ensure integrated business processes and efficiency across border agencies.

7.2.2 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. The SEZ White Paper 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 Partial Scope Agreements (PSAs) negotiated by CARICOM countries is conducted. Secondly, the SEZ 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.

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

7.3.1 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 SEZ White Paper recommends the zero-rating of goods and services provided to the SEZs, 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.

7.4 *Competitive Tax and Incentives Regime*

7.4.1 In formulating the tax and incentives regime, it was generally agreed that while tax incentives play a key role in attracting and retaining investments, there will be significant emphasis on enhancing business and trade efficiencies, facilitating reliable physical & social infrastructure, boosting human resource capacity etc., which are areas that will make a complete investor package. Through intensive policy dialogue with key stakeholders, the following tax and incentives provisions were among the measures that will contribute to the investor package:

- a) 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.
- b) 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
- c) Full relief from customs duty (CET), stamp duty, additional stamp duty and GCT on transhipped supplies into SEZs

7.5 *Zone Development and Administration*

7.5.1. A autonomous SEZ Authority will be established to ensure that the businesses in SEZs are facilitated in an expeditious manner. The SEZ Authority will oversee regulatory compliance through the relevant planning and trade facilitation authorities that will be housed in a One-Stop-Shop facility.

7.5.2. Public-private-partnerships (PPP) and private zone development will be facilitated and further improvements in the PPP framework will be examined in the future.

7.5.3. 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 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. (Note: “The activities of the International Financial Services Centre (IFSC) will be governed by a separate regime from the SEZ regime. Hence, the inclusion of financial services on the negative list for the SEZ regime will not affect what takes place under the prospective regime for the IFSC.”)

7.5.4. Urban Support Areas will be designated to provide the proper housing, utilities, transportation, social amenities (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.

7.6 Labour Market and Productivity

7.6.1 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:

- a) Adopt labour practices that are in full compliance with stipulations of the International Labour Organization, including core rights of assembly, organization and collective bargaining;
- b) Align all policies related to the human resource development to existing national policy framework for training and employment and for access to employment opportunities for women and persons with disabilities;
- c) Institute greater collaboration between training institutions and industry to ensure constant supply of skilled personnel for firms in the SEZ; and

- d) Promote a culture of voluntary compliance through awareness-raising/information-sharing programmes and initiatives geared towards investors, managers of enterprises, workers and their organizations.

7.7 *Environmental Sustainability and Climate Change Mitigation*

- 7.7.1 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.
- 7.7.2 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.

8.0 CONSULTATIONS

- 8.1 Consultations were conducted primarily on those areas in the SEZ Green Paper (tabled in the Houses of Parliament in January 2015) which required further refinement. An overview of the outcomes of these consultations is provided below:

8.1.1 *Development Approvals/Development Applications Review Process (DARP)*

- 8.1.1.1 One of the gaps identified in the SEZ Green Paper was the absence of a clear framework on the critical matter of handling development applications in a timely and efficient manner, particularly for the SEZs. In light of this, the policy team conducted a consultative session on January 22, 2015 involving representatives from the National Environment and Planning Agency (NEPA), the Ministry of Local Government and Community Development and the Cabinet Office. Among the outcomes of the meeting were improvements to the policy area regarding the operational role of the proposed SEZ Authority versus the development approval responsibilities of the relevant approval and trade facilitation agencies that will be housed in the One-Stop-Shop facility.
- 8.1.1.2 It was agreed that policy coherence between the SEZs' One-Stop-Shop and the work being done in the wider economy to improve the DARP should be expressly stated. In addition, it was recommended that it would be expedient to state upfront that efforts will be made by the government to ensure there are pre-approved sites available for SEZ development which will help to minimize delays in the development approval process.
- 8.1.1.3 Other matters that were centered on ensuring that there is congruence and communication among local development planning authorities as it relates to support

services and the Urban Support Areas initiatives; the trade facilitation agencies and their roles and functions under the One-Stop-Shop arrangements; and the government and other key stakeholders, especially investors as it relates to the precise mechanism and process concerning feasibility assessments, Environmental Impact Assessments and other due processes.

9.1.1 Labour Market and Productivity

9.1.1.1 The policy team commenced its consultations on the SEZ Green Paper on February 3, 2015 with a renewed focus on the labour market. The main entities that were represented were the Ministry of Labour and Social Security/Jamaica Productivity Centre, Planning Institute of Jamaica, Office of the Services Commission and the Jamaica Confederation of Trade Unions.

9.1.1.2 Following this consultation, a revision was made to the policy position on the labour market, its implications for the SEZs and how the SEZs can impact it. This policy position was further refined, summarized and incorporated in the SEZ White Paper. As an important step in this process, the policy team has reached out to the Labour Market Commission for comments but none is forthcoming at this point.

9.2.1 Free Zones Companies

9.2.1.1 On February 10, 2015, the policy team held two separate sets of consultations with companies operating in the Kingston Free Zone and the management team from the Port Authority of Jamaica. Single entity free zones in the Kingston and St. Catherine area including the Kingston Logistics Centre, Kingston Container Terminal, Kingston Wharves Limited, Jamaica Broilers Ethanol Plant, B&D Trawling Limited also participated, along with key government agencies such as JAMPRO, Factories Corporation of Jamaica and selected members of the Jamaica Free Zone Council.

9.2.1.2 The policy team conducted two consultative sessions in Montego Bay on February 13, 2015 with companies in the Montego Bay Free Zone and the management team.

9.3.1 Tax and Incentives

9.3.1.1 Following deliberations on the tax and incentives proposals, the policy team met with the Incentives Working Group (IWG) on March 17, 2015 where extensive discussions were held on the points of concern raised by the stakeholders.

9.3.1.2 Careful consideration was given to the concerns of the stakeholders and a second meeting was convened with the IWG on April 24, 2015. The outcome of this meeting was a significant revision of the tax and incentives proposals which are included in the SEZ White Paper.

9.4.1 Energy

9.4.1.1 The supply of electricity to the SEZs will follow the provisions of Jamaica's electricity regime, namely the All Island Licence and the recently enacted Electricity Act. As such, SEZ operators and occupants will be able to generate energy for their own specific use and connect to the national grid for the purposes of receiving energy at a unique and competitive tariff for SEZs.

9.4.1.2 The GOJ intends to promote sustainable SEZs that will take advantage of low-carbon, green and clean model energy solutions. The SEZ design should improve enterprise competitiveness and therefore incorporate standards that will focus on reducing carbon footprint by targeting emissions reduction through electricity generation such as renewable energy, green building codes and energy efficiency standards, that will increase competitiveness, reduce costs for companies and attract diversified types of investment. Sustainable SEZs are being promoted in the context of the electricity sector's development and growth framework that has supported renewable energy development as a wider country development strategy which is also focused on creating as many backward linkages with the local economy.

9.5.1 Other Policy Discussions

9.5.1.1 The policy team had an opportunity to meet with senior managers at the Port Authority of Jamaica (PAJ) on March 6, 2015 where discussions centered on the status of the PAJ and the implications of some of the policy recommendations. In essence, the meeting served the purpose of bringing clarity with regards to the matters related to the payment of property taxes and the SEZ Authority as set out in the SEZ Green Paper and expectations regarding the status of promoters in the SEZ Act versus the role as set out in the Free Zone Act. Other concerns were similar to those raised during meetings with the clients and operators of the Free Zones.

9.5.1.2 The International Monetary Fund requested a meeting with the policy team which was held on March 24, 2015. The purpose of this meeting was to inform the IMF on various areas of the policy framework. The IMF showed particular interest in understanding the expectations regarding the tax incentives for the SEZs, the complementary reforms that would be necessary and the congruence of reforms under the broad framework of the SEZ policy and those that are ongoing.

9.5.1.3 The Ministry of Finance and Planning arranged a meeting with the IMF and the policy team. The purpose of this meeting was to have in-depth discussions on the revised tax and incentives proposals that had been compiled based on deliberations with the IWG. This meeting was held on Tuesday, May 5, 2015 at the offices of the MOFP.

9.5.1.4 In summary, the concerns raised by the IMF related to three (3) main areas:

a. *Risks Related to Tax Leakages*

- a. The IMF reiterated the need to ensure that the risks related to tax leakage are properly managed. In practice, these risks could primarily arise from migration of businesses from the domestic territory to the SEZs. Risks could also arise if the zero-rating of transactions is not properly managed and this is further heightened by the policy objective of creating linkages between the SEZs and the domestic territory. The IMF would want to be satisfied that the SEZ policy makes provisions for effectively managing these risks.

b. *Eligibility Requirements*

- a. The matter of identifying suitable eligibility requirements for entry into the SEZs has not been adequately addressed by the SEZ Green Paper, according to the Fund. The IMF expressed concerns regarding the absence of a list of industries that are likely to benefit from the proposed incentives. After deliberations on what activities should be promoted/supported in the SEZs and what activities should be discouraged, it was agreed that the activities that should be promoted in the SEZs should be transformative and should not include tourism and extractive/primary industries such as mining and agriculture. In keeping with best practice when determining eligibility requirements, a 'negative list' will be prepared to identify activities to be discouraged so that the GOJ can state definitively the activities that will not be supported by the SEZ regime.

c. *Ensuring Uniformity and Coherence with the Overall Tax Reform Process*

- a. The IMF reiterated the need to ensure that the revised tax proposals for the SEZs are supportive of the move away from the discretionary taxation policy. One question that was raised in relation to this was why it was deemed necessary to incentivize certain activities such as R&D, training, innovation, technological development etc., in the SEZs and not in the wider economy. The discussion that ensued on this particular query centred on the objectives of the GOJ to use the SEZs to catalyse growth by ensuring value-added activities at the high end of the value chain. These activities once supported will have a transformative impact on production and productivity. Furthermore, there are important spill-offs to be derived by the rest of the economy as firms engage in more training activities, become innovative etc.

9.5.1.5 The IMF acknowledged that while we want to ensure the SEZs are competitive, it is important to ensure there is uniformity in the tax structures for the SEZs and the rest of the economy. The IMF also highlighted that the reform process taking place in different agencies of the GOJ should be given consideration as the SEZ regime is being rolled out, especially given the changes that are being made to agencies such as the Jamaica Customs Agency. In particular, the question of what regulations, structures, capacities would be needed within these key entities to help manage the risk to the overall reform process was

raised. The discussion led to the understanding that the SEZ legislation will ensure coherence and that consequential amendments in the SEZ law will be used to influence the overall reform process.

- 10.0 The SEZ Policy Steering Committee convened a Policy Validation Session on May 26, 2015 with the purpose of conducting a final evaluation of the SEZ White Paper and give endorsement for it to be tabled as the SEZ White Paper. The Validation was successful and with the exception of concerns regarding further revision of the tax and incentives proposals and minor changes in certain areas of the policy document, there was overall consensus from ten (10) out of the sixteen (16) organizations represented.

A handwritten signature in black ink, appearing to read 'G. Hylton', is written over a horizontal line.

G. Anthony Hylton, MP
Minister of Industry, Investment and Commerce
July 21, 2015