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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Code of Conduct Group (Business Taxation)
Subject: Belize's Export Processing Zones - EPZ enterprises regime (BZ002)
– Final description and assessment

BELIZE:

DESIGNATED PROCESSING AREAS ACT, 2018

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No. 27 of 2018

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

21st December, 2018.

AN ACT to repeal and replace the Export Processing Zone Act, Chapter 280 of the Substantive Laws of Belize, Revised Edition 2011; to facilitate investment production of value adding of enterprises in Belize in national priority sectors; and to ensure compliance with regulations and standards; and to stimulate employment, transfer of technology and economic development; and to provide for matters connected therewith or incidental thereto.

(Gazetted 22nd December, 2018.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the

Short title.

DESIGNATED PROCESSING AREAS ACT, 2018.

Interpretation.

2. In this Act unless the context otherwise requires—

“Appeal Board” means the Appeal Board established under section 24.

“approved activity” means economic activity within a national priority sector declared under section (8), and carried on in a DPA;

“approved company” means an entity that is issued, a DPA status under section 9 and a Certificate of Compliance under section 15;

“benefits” mean reliefs and incentives provided under Part V, that are granted to an approved company;

Cap. 250.
Cap. 247.

“Company” means an entity that is formed and registered in Belize under the Companies Act, the Business Names Act or a CARICOM Member State and includes an International Business Company;

“DPAC” means the Designated Processing Areas Committee established under section 3;

“Designated Processing Area” or “DPA” means a geographic area within Belize, that receives benefits, for economic activity in a national priority sector;

“Designated Processing Area Business” or “DPA Business” means a company that is issued, a DPA status as a DPA Business and a Certificate of Compliance, to operate within a DPA that is established and administered by a DPA Developer;

“Designated Processing Area Developer” or “DPA Developer” means a company that is issued, a DPA status as a DPA Developer, a Certificate of Designation and a Certificate of Compliance, to establish and administer a DPA and accommodate DPA Businesses;

“fit and proper” means, at a minimum, a person who is of good character and reputation, not a bankrupt, not convicted of an offence involving fraud or dishonesty and includes any other matter as the DPAC deems appropriate.

“infrastructure” means a physical structure fixed to any land, part of any land, any building or part of any building, and includes roads, bridges or storm sewers;

“Minister” means the Minister of Government with responsibility for Designated Processing Areas and “Ministry” shall be construed accordingly;

“senior management staff” includes a person who, is a member of the board of directors of a corporation, a partner in a partnership, an owner of a sole proprietorship, or manages at least 25 percent of the personnel of a company;

“Special Designated Processing Area” or “Special DPA” means a company that is issued, a DPA status as a Special DPA, a Certificate of Designation and a Certificate of Compliance, to operate one company, excluding its subsidiaries, at an approved location or locations; and

“technical staff” means a position in a company held by a professional, scientist or engineer.

PART II

DESIGNATED PROCESSING AREAS COMMITTEE

3. (1) There is established a body to be known as the Designated Processing Areas Committee.

Establishment
and
composition of
DPAC.

(2) The DPAC shall comprise of no more than ten persons who shall be appointed by the Minister as representatives of the following—

- (a) the Ministry with responsibility for Designated Processing Areas;
- (b) the Ministry with responsibility for Labour;
- (c) the Ministry with responsibility for Economic Development;
- (d) the Ministry of Finance;
- (e) the Ministry with responsibility for Agriculture;
- (f) one representative from the Belize Chamber of Commerce and Industry;
- (g) two representatives from the DPA Developers, DPA Businesses or Special DPAs;
- (h) one representative from the industrial sector with at least three years' experience; and
- (i) one representative from the services sector with at least three years' experience.

(3) The representatives referred to in subsection (2) shall be appointed to serve for a period of two years and be eligible for reappointment of not more than three consecutive appointments.

(4) At any meeting of the DPAC, for the purpose of voting, six members shall constitute a quorum.

(5) Decisions of the DPAC shall be by majority vote, and in any case in which the number of members sitting to vote is even, the Chair shall have a casting vote.

(6) The Minister shall appoint from among the members, one member to be the Chair, to preside over meetings.

(7) The Committee shall, at its first meeting, select from among its members a Deputy Chair.

(8) The Deputy Chair shall, in the absence or unavailability of the Chair, perform all functions and duties of the Chair.

(9) A member of the DPAC may at any time resign from the DPAC, in writing, addressed to the Chair, who shall forthwith cause the resignation to be forwarded to the Minister, and the Chair may resign from the DPAC, in writing, addressed to the Minister.

(10) The DPAC may, after consultation with the Minister, make rules to regulate its procedures for the conduct of its business.

(11) The Minister may terminate the appointment of a member of the DPAC where that member—

- (a) is of unsound mind or is incapable of carrying out their duties;
- (b) becomes bankrupt or compounds with their creditors;
- (c) is convicted of any offence which brings the member's office into disrepute;
- (d) is convicted of misconduct in relation to the member's duties;
- (e) is absent, except with leave granted by the DPAC, for three consecutive duly constituted meetings of the DPAC; or

- (f) fails to carry out any of the duties or functions conferred on or assigned to the member under this Act.

Objectives of the DPAC.

4. The principal objectives of the DPAC shall be the facilitation of trade and the stimulation of sustainable economic development, productivity, investment, employment, and production according to national standards.

Powers, duties and functions of DPAC.

5. (1) The main function of the DPAC shall be to regulate the DPAs.

(2) For the purpose of carrying out the objectives specified in section 4, the DPAC may have and exercise the powers, duties and functions as conferred on it by this Act and in particular, to—

- (a) advise and make recommendations to the Minister on all aspects of development of the DPAs;
- (b) develop and propose policies and legislation to the Minister for the development of the DPAs;
- (c) examine and determine applications by a company for a DPA status and issue relevant approvals;
- (d) issue, vary, suspend or revoke a DPA status or a benefit granted by the DPAC, in accordance with the requirements of this Act;
- (e) ensure the recovery of any costs to implement and administer DPAs;
- (f) set standards and procedures for the development, efficient management and maintenance of DPAs;

- (g) implement administrative procedures for the management of all goods and merchandise imported into or exported from DPAs;
- (h) set administrative fees or fines for the violation of any of the provisions of this Act, after consultation with the DPA Developers, DPA Businesses and Special DPAs; and
- (i) do all other acts as may be incidental or conducive to the attainment of the objectives of the DPAC or the exercise of the proper performance of its powers duties and functions under this Act.

(3) The DPAC may grant to a company that is not an approved company, permission to operate within a DPA, if the good, product or service provided by the company is deemed by the DPAC to be complementary to or enhance the DPAs.

(4) A company that is granted permission under subsection (3), shall not be eligible for DPA benefits.

(5) The DPAC may enter into an agreement with the Comptroller of Customs to facilitate the efficient operation of a DPA, including—

- (a) the availability of Customs services in a DPA on a continuous basis;
- (b) to carry out any Customs procedures and systems, to enable the pre-arrival clearance of goods destined for the DPAs; and
- (c) the efficient transportation of goods and equipment destined for a DPA from a port,

subject to compliance with any security and bonding arrangement as determined by the Comptroller.

(6) The DPAC may establish subcommittees to advise on issues to assist the DPAC in the performance of its duties and functions and the exercise of its powers under this Act.

(7) A Member of any subcommittee established under subsection (6) may be a member of the DPAC or a person with technical expertise in any area of the specific issue that is being advised on.

Personal liability of members.

6. No personal liability shall attach to any member of the DPAC for –

- (a) any act or omission of the DPAC; or
- (b) anything done or permitted in good faith in the course of the operations of the DPAC, under this Act.

DPAC Secretariat.

7. (1) The DPAC shall be managed by a Secretariat which shall serve as the technical arm of the DPAC.

(2) The members of the Secretariat shall be selected by the Minister from among the employees of the Ministry with responsibility for investment.

(3) A member of the Secretariat shall be selected by the Minister to be the Coordinator of the Secretariat.

PART III**APPLICATION PROCEDURE FOR DPA
STATUS**

8. The Minister may by Order, declare a sector to be a national priority sector, in accordance with the National Plan or any other plan or policy of the Government.

Approved
activities.

9. (1) A company may apply to the DPAC, for a DPA status, to renew or vary a DPA status, as any of the following, in the approved Form—

Application
for DPAsstatus.

- (a) a DPA Developer;
- (b) a DPA Business; or
- (c) a Special DPA.

(2) A company may apply to the DPAC to administer a DPA that was previously administered by an approved company, if the DPA status of the approved company is revoked by the DPAC.

(3) A company that forms an intention to change ownership, in whole or in part, shall inform the DPAC of that intention.

(4) In its consideration of an application under subsection (1), the Secretariat shall consult with the following—

- (a) the Ministry of Finance;
- (b) the Ministry with responsibility for economic development;
- (c) the Ministry with responsibility for natural resources;

- (d) the Labour Department;
- (e) the Bureau of Standards; and
- (f) the Department of the Environment.

(5) In consideration of an application under subsection (1), the Secretariat may consult with the following—

- (a) Ministry with responsibility for Agriculture;
- (b) Directorate General of Foreign Trade;
- (c) the Central Building Authority; or
- (d) any other relevant Ministry or Authority as the Secretariat deems necessary.

(6) The DPAC may refuse an application—

- (a) if it determines that the activity of the company will distort competition in the market or be inconsistent with fair trade practices; or
- (b) for any reason as determined by the DPAC.

Eligibility for
DPA status.

10. (1) A company shall be eligible for DPA status if—

- (a) the activity of the company is an activity listed under the national priority sectors as determined under section 8;
- (b) the principals of the company are fit and proper persons;
- (c) the company commits in its application that the proposed business of the

company will generate a minimum capital investment as prescribed under this Act;

- (d) the activities of the company do not violate any environmental laws of Belize;
- (e) the application for a DPA status is accompanied by a business plan which includes all relevant approvals;
- (f) the company provides proof of financing in accordance with the requirements of the DPAC;
- (g) the company includes in its application, a list of the non-controlled items required for the proposed activity of the company; and
- (h) the company submits proof that the proposed DPA is located in an area that is suitable for the proposed activity, in accordance with any established developmental or environmental plans for the area.

(2) A company shall not be eligible for a DPA status as a DPA Developer or a Special DPA unless the company submits proof that it is the title owner of or has a notarised or registered lease for the property the company proposes to use as the DPA.

(3) A company shall not be eligible for a DPA status as a DPA Business or a Special DPA unless the company demonstrates that it has—