

GEO

Guyana Economic Opportunities

Guyana Investment Act (Draft)

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Guyana Investment Act (Draft)

INVESTMENT ACT

PART ONE: GENERAL PROVISIONS

Section 1: Definitions

In this Act –

“investor” means a natural or juridical person investing capital in Guyana on the basis of mutual benefit and observance of the laws of Guyana. “Investor” does not include “portfolio investor” for the purposes of this Act.

“portfolio investor” means an investor who owns not more than 5 percent of the equity or stock of an Investment Enterprise and does not have responsibility for the day-to-day management of the investment enterprise.

“investment enterprise” means an enterprise owned by an investor or investors.

“domestic investor” means

- (a) a citizen of Guyana;
- (b) [any person, not being a citizen of Guyana, who is ordinarily resident in Guyana for a period of more than five years;]
- (c) a citizen of any other member State of the Caribbean Community established under the Treaty done at Chaguaramas on 4th July, 1973;
- (d) a body corporate established in a Member State of the Caribbean Community in conformity with the laws thereof and which is substantially owned and controlled by citizens of such a member state or by persons who are ordinarily resident therein;

“foreign investor” means an investor, not being a domestic investor;

“minister” means the Minister responsible for Finance.

Section 2: Objectives The objectives of this Act are to further the socio-economic development of Guyana, and to attract and facilitate investment, by:

- a) providing legal protection for investment;
- b) increasing the predictability, stability and transparency of the legal regime for Investment;

- c) promoting the development of international best practices regarding investment;
- d) providing a framework for fiscal incentives for Investors and direct investment;
- e) streamlining the existing procedures for investment;
- f) establishing the structure and authority of the Agency responsible for Investment;

Section 3: Government encouragement of investment The Government encourages and seeks to facilitate persons, either individuals or legal entities, to invest capital in Guyana on the basis of mutual benefit and observance of the laws of Guyana and international treaties or agreements to which the State or Government is a party. Such persons hereinafter shall be referred to as “Investors” and their investments shall be referred to as “Investment Enterprises.”

Section 4: Fields of activity open to investors Investors may invest in and operate enterprises in all fields of lawful economic activity including in particular, but not limited, to agriculture, fisheries and forestry, manufacturing, energy, mineral extraction, handicrafts, communications and transport, construction, tourism, trade, financial and professional services, [except for sectors listed in Schedule A].

Section 5: Fields of activity closed to investors Investors shall not invest in or operate Investment Enterprises which are prejudicial to national security, or detrimental to the natural environment, public health or the national culture, or which contravene the laws of Guyana.

Section 6: Forms of investment Investors may invest equity in an Investment Enterprise in either of the two forms listed hereunder¹:

1. a Joint Venture Enterprise between two or more domestic Guyanese Investors; between two or more Foreign Investors; or between one or more Foreign Investors and one or more Domestic Investors; or
2. a Wholly-Owned Enterprise, whether foreign owned or owned by citizens of Guyana.

Section 7: Joint Ventures The organisation, management and activities of a Joint Venture and the relationship between its parties shall be governed by the contract between its parties and the Joint Venture’s Articles of Association, in accordance with the laws of Guyana.

¹ The rights of portfolio investors will be contained in the Securities Act.

Section 8: Contribution of capital to Foreign Joint Ventures Investors who invest in a Joint Venture may contribute any portion of the total equity investment in that Venture. If a Joint Venture has a Foreign Investor or Investors, for the purposes of establishing value, the contribution of the Venture's Foreign Investor or Investors shall be converted in accordance with the laws of Guyana into Guyanese currency at the exchange buying rate then prevailing on the date of the equity payment(s), as quoted by the Bank of Guyana.

Section 9: Incorporation, registration or establishment The incorporation, registration, or establishment of an Investment Enterprise shall be in accordance with the Companies Act 1991, or the Partnership Act, or the Business Names (Registration) Act, or the Friendly Societies Act of Guyana.

Section 10: Legal forms of Investment enterprise Investors shall establish any Investment Enterprise in one of the following forms:

- a) the Registered Office of an Investor;
- b) a Registered Business Name Enterprise;
- c) a partnership;
- d) a private or public company with limited liability for the shareholders under the Companies Act.

Section 11: Ownership regulations An Investment Enterprise may be wholly owned by either Foreign or Domestic Investors. There is no requirement that a Domestic Investor shall own any shares in any Investment Enterprise. Notwithstanding the foregoing, the Government may reserve the right to own some or all of the shares in an Investment Enterprise operating in industries listed in Schedule B or as agreed under the terms of the relevant Investment Agreement concluded with the Government in relation to such Investment Enterprise.

PART TWO: RIGHTS, GUARANTEES AND OBLIGATIONS OF INVESTORS

Section 12: Government protection of investment The Government shall protect investments and the property of Investors in accordance with the laws of Guyana.

Section 13: Compulsory acquisition by Government The Government shall not compulsorily acquire or take possession of any Investment Enterprise, or any asset of an Investor except:

- a) for a purpose which is in accordance with the Laws of Guyana;
- b) on a non-discriminatory basis;
- c) in accordance with the procedures provided by law;
- d) there is prompt payment of adequate and effective compensation together with interest from the date of acquisition or taking possession of the Investment Enterprise or asset to the date of payment at the commercial bank rate on loans to the corporate sector; and
- e) there is a right of access to the High Court by any person claiming such compensation for the determination of any interest in or right over the Investment Enterprise or assets thereof and the amount of compensation.

Section 14: Leasing and owning land Investors may purchase or lease privately owned land and dispose of or transfer their interests in the land; Investors may also hold State lands by grant, lease or license from the State under the State Lands Act.

Section 15: Non-intervention by Government Notwithstanding the provisions of the Trade Act, the Government shall not intervene in the business management of Investment Enterprises or in the sale, pricing, or distribution of the products of those Enterprises, except in the pricing of services provided by utilities for the supply of electricity, water, and telecommunications.

Section 16: Free export and import Notwithstanding the provisions of the Trade Act, the Government shall guarantee the rights of Investors and Investment Enterprises to import or export all or any products free of restriction or limitation except for products the ownership or possession of which is prohibited by law, except as listed in Schedule C.

Section 17: Right to profit distribution The Government hereby guarantees the right of Investors and Investment Enterprises, regardless of form, to freely determine the distribution of all profits or dividends, and the right of Investors to receive their total share in such profits or dividends providing the corresponding tax obligations of the Investors and Investment Enterprise are satisfied.

Section 18: National treatment The Government shall grant national treatment to all Investors so that the Government shall treat Foreign Investors not less favourably than Domestic Investors and correspondingly shall treat Domestic Investors not less favourably than Foreign Investors.

Section 19: Most Favoured Nation Treatment Without prejudice to rights conferred under International Treaties or Agreements, the Government shall grant Most Favoured Nation Status to all Investors and shall not discriminate among Investors on the basis of citizenship, residence, place of establishment or business ownership, or country of origin of any Investor.

Section 20: Employment of foreign personnel Investors shall give priority to citizens of Guyana in recruiting and hiring their employees. However, investment enterprises have the right to employ skilled and expert foreign personnel when necessary and with the approval of the competent authority of the Government of Guyana in compliance with the Immigration and Labour Acts of Guyana. Investors have an obligation to upgrade the skills of their Guyanese employees through such techniques as training within Guyana or elsewhere.

Section 21: Entry and exit The Government shall facilitate the entry into, stay in, and exit from Guyana of Investors, their foreign personnel, and their immediate family members in accordance with the Immigration Act. All such persons are subject to and must obey the laws of Guyana while they are in Guyana.

Section 22: Work permits The Government shall facilitate Foreign Investors and foreign personnel of Investors in obtaining work permits in accordance with the Immigration Act.

Section 23: Tax obligations Investors and their foreign personnel and foreign family members employed in Guyana shall pay to the government personal income taxes in accordance with the Income Tax Act on income earned in Guyana and property tax and capital gains tax under the Property Tax Act and the Capital Gains Tax Act, respectively.

Section 24: Bank accounts Existing and new Investors may open accounts in the currency of Guyana and in foreign convertible currency with any corporate body licensed to carry on banking business in Guyana under the Banking Act.

Section 25: Transfer of funds abroad Subject to the liability for the payment of all applicable taxes due, Investors may freely, unconditionally and without hindrance:

- a) repatriate dividends, earnings and capital from their Investment Enterprises;
- b) remit the proceeds in the event of sale or liquidation of an Enterprise or the interest attributable to an investment;
- c) pay interest on international loans;
- d) pay for imports;
- e) pay fees for trademarks, royalties, and management and other fees; and
- f) pay licensing fees for franchising agreements.

To their own home countries or to third countries through a corporate body licensed to carry on banking business in Guyana under the Banking Act.

Section 26: Limitations on the right to transfer funds abroad Notwithstanding the guarantees in Section 25, the Government may prevent a transfer of funds through the equitable, non-discriminatory and good faith application of Acts relating to:

- a) bankruptcy, insolvency, or protection of the rights of stockholders or creditors;
- b) if criminal or penal offences against the Investor or Investment Enterprise are outstanding before the courts; or
- c) to ensure compliance with orders or judgements in legal proceedings; and
- d) [except when there is a balance of payments emergency].

Section 27: Right of personnel and dependants to transfer funds abroad Foreign personnel of Investment Enterprises and their families may also repatriate their earnings, after payment of Guyanese personal income taxes and all other taxes due, except when any of the conditions under Section 26 prevail.

Section 28: Intellectual property rights Intellectual Property Rights of Investors and Investment Enterprises, such as, but not limited to, patents, trademarks, brand names, and copyrighted materials in printed, recorded, or electronic format are guaranteed by the Patents and Designs Act, or the Trademarks Act, or the Copyright Act, as the case may be.

Section 29: Dispute resolution In the event of disputes between foreign parties within an investment, or between Foreign Investors and Guyanese parties, or between Guyanese partners, or between the Investors and the Government with respect to an investment enterprise, the parties to the dispute shall first seek to settle their differences through consultation or mediation to reach an amicable settlement.

In the event that the disputants fail to resolve the matter, they may then:

- a) submit their dispute to arbitration under the Arbitration Act of Guyana; or
- b) invoke the jurisdiction of the courts of Guyana; or
- c) adopt such other procedure provided for in the Articles of Association of the Investment Enterprise.

Section 30: Obligations of investors to adhere to environmental, health, and safety laws

Investors shall at all times conduct their operations in accordance with the laws of Guyana. In particular, Investors shall take all measures necessary and appropriate to ensure that the facilities, factories, products and activities of their Investment Enterprises protect:

- a) the natural environment under the Environmental Protection Act; and
- b) the health and safety of the workers and the general public under the Factories Act, Occupational Safety and Health Act 1997, the Accidents and Occupational Diseases Notification Act, and the Steam Boiler Regulations Act.

Section 31: Obligation of investors to adhere to the National Standards of Guyana In accordance with the Guyana National Bureau of Standards Act, Investors shall comply with the standards of the Guyana National Bureau of Standards in their importation of products and investment equipment and in their outputs.

Section 32: Union representation, social insurance, and welfare In accordance with the Trade Union Recognition Act of 1997, Investors shall grant union representation at any site of employment if the majority of their employees indicate the desire for union representation. Investment Enterprises shall contribute to the social insurance and welfare programs for their workers in accordance with the National Insurance Act.

Section 33: Accounting standards and audit In the management of their investment enterprises, Investors shall utilise the national system of financial accounting of Guyana. Their accounts shall be subject to periodic audit by the Government's financial authorities in accordance with the applicable accounting regulations in operation in Guyana.

Section 34: Taxation Investors shall pay taxes, including corporation tax, capital gains tax, property tax, consumption tax, excise tax and duties and tariffs in accordance with the Corporation Tax Act, the Capital Gains Tax Act, the Income Tax Act, the Property Tax Act and the Customs Act, except as otherwise specifically agreed to between the Government and the Investor.

Section 35: Tax stability The Government hereby guarantees that corporation tax, capital gains tax, consumption tax, excise tax, and other duties and tariffs shall not be levied at a higher rate than those existing at the time of investment for a period of ten years or otherwise as contained in an Investment Agreement between the Investor and the Government.

Section 36: Inconsistency among laws and legal stability In the case of inconsistency or conflict between the provisions of this Act and other laws of Guyana, the provisions of the law most favourable to the Investor shall prevail.

Section 37: Sovereign immunity In accordance with the provisions of the State Liability and Proceedings Act, the Government shall not assert or claim any right of sovereign immunity in relation to its activities as a Domestic Investor, or its commercial activities in respect of an Investment Enterprise, or in relation to any investment or commercial dispute.

Section 38: The appropriate Minister may make regulations for the implementation of this Act.

PART THREE: FISCAL INCENTIVES

Section 39: Investment priority categories The Government hereby establishes three investment priority categories detailed in Priority Lists as set out hereunder:

- a) Priority Industries/sectors: a list of specific industries/sectors the Government considers make substantial contribution to the socio-economic development of Guyana;
- b) Priority Areas: a list of specific geographical areas in Guyana that the Government consider are in urgent need of additional investment for development; and
- c) Priority Projects: a list of specific, objectively measurable Investment Project characteristics, such as export-orientation, labour absorption, new and advanced product or process technology, that the Government considers will make a significant contribution to national socio-economic development.

Section 40: Tax holidays New Investment Enterprises that fall within one of the three Investment Priority categories shall be granted a tax holiday of five (5) years. New Investment Enterprises that fall within two or more of the three Investment Priority categories shall be granted a tax holiday of ten (10) years.

Section 41: Tariff and consumption tax incentives Except for passenger vehicles, existing or new Investment Enterprises shall be entitled to import plant, equipment, spare and replacement parts for their sole and only use for a period of not less than five years free of all duties (tariffs), consumption taxes, and excise taxes.

Section 42: Master lists for import incentives For Investment Enterprises that qualify for duty and tax free importation of plant, equipment, and spare and replacement parts for their sole use for a period of not less than five years, the competent governmental authority established pursuant to Section 46 of this Act shall evaluate their investment proposals and master lists of items to be imported and determine and approve the amount of each item that they shall be allowed to import at the rates duly authorised.

Section 43: Incentives for export-oriented enterprises Export-oriented Investment Enterprises shall be entitled to import plant, equipment, spare and replacement parts free of all duties (tariffs), consumption taxes, and excise taxes for their sole and only use for a period of five year for the portion of their Investment Enterprises that fall within one of the three Priority Investment categories. In addition, they shall be entitled to import raw materials, semi-finished, and finished inputs to production for their sole and only use free of all duties (tariffs),

consumption taxes, and excise taxes on the portion of these inputs that are used in export production.

Section 44: Publication of incentives granted The Government shall publish in the Gazette full information regarding all fiscal incentives granted to specific Investment Enterprises and to specific Investors.

PART FOUR: ADMINISTRATIVE STRUCTURES AND PROCEDURES

Section 45: Role of Go Invest GO Invest shall be the governmental organisation with responsibility for administering the fiscal incentives investment system. GO Invest shall provide investors with all forms necessary to apply for incentives; assist investors in filling out these forms; and check the forms submitted by investors for completeness and accuracy.

Section 46: The Investment Promotion Committee The Government shall establish a Committee to be called the Investment Promotion Committee. The members of the Committee shall be composed of one representative of GO Invest, and one representative each of the Tax and Customs departments of the Ministry of Finance, representatives of the Ministries of and a representative of the private sector. The Minister of Finance (or the Minister's representative in the Minister's absence) shall be the Chairperson of the Committee. The Committee shall:

- a) develop the three priority lists: the Priority Industries/Sectors list, the Priority Areas list, and the Priority Projects lists specified in Section 39;
- b) in consultation with concerned ministries, develop Schedules A, B, and C and revise them on a regular basis as conditions warrant.
- c) on a yearly basis modify and update these lists and propose these revised lists to the President for signification of his/her approval;
- d) determine the fiscal incentives to which each individual Investor or Investment Enterprise that has applied for the grant of fiscal incentives is entitled;
- e) make recommendations to the President concerning the fiscal incentives to which each individual Investor or Investment Enterprise is eligible for his her/his signification if the Investment is greater than \$XXXX or in the mining, petroleum or forestry industries;
- f) for all other Investments, to reach a binding decision concerning the Investor or Investment Enterprise's eligibility for incentives;
- g) make recommendations on the types and unit volume of imports which shall be entitled to fiscal incentives both for the initial investment and on an on-going basis requested by Investors and Investment Enterprises; and
- h) in highly exceptional circumstances as determined by the Committee, recommend incentives to be provided to Investors or to Investment Enterprise that are not on any of the Priority lists and/or recommend incentives beyond those contained in Sections 40 to 43 inclusive.

Section 47: Time limitations for deciding eligibility for incentives Except for an Investment exceeding in value [US\$ 10,000,000] and in the forestry, mining and energy sectors, the Investment Promotion Council shall render a decision on the eligibility of the application for incentives for the Investment Enterprise within fifteen (15) working days. If a decision regarding approval for incentives has not been rendered within this period, the Investment Enterprise shall be deemed to have been granted the incentives for which it has applied.

Section 48: Timeframe for approval of incentives for zero rated imports For Investment Enterprises that have been granted eligibility for incentives, the Investment Promotion Committee shall approve the list of plant and equipment, spare and replacement parts required at the time of investment and in subsequent years over the life of the investment. If applicable under Section 43, Investment Enterprises may import raw materials, semi-finished, and semi-processed inputs at the time of investment and in subsequent years that will receive incentive duty and taxation rates. The process for approval shall not extend beyond twenty (20) working days after submission. If after 20 working days, approval has not been granted, approval shall be deemed to have been granted.

**Guyana Investment Act (Draft)
with Commentary**

INVESTMENT ACT

(with commentary and discussion)

“Investment Codes are laws that seek to present in one piece of legislation the basic provisions on investment in the country concerned. The primary purpose of such laws is generally to promote or facilitate such investment. They typically offer a variety of guarantees and tax and other incentives for investors. The codes also often set forth simplified procedures for such matters as approval of investments. Their very existence as accessible codifications can facilitate investment by easing prospective investors’ task in identifying the main local rules that will apply to them.” (World Bank, 1992, p. 110, Legal Framework for the Treatment of Foreign Investment, Vol. 1: survey of existing instruments, “Introduction”.)

Introduction

To enhance the investment environment in Guyana so as to increase the flows of investment, the private business community of Guyana has requested that the Government develop and pass as law an Investment Code. (Hereafter, “Code”, “Law” and “Act” shall be used interchangeably and “Investment Code” and “Code” shall also apply to Foreign Investment Codes, Laws and Acts.) Many countries around the world have enacted Investment Codes. Most of these Codes are directed at foreign investors, but, starting in the 1990s, many developing countries, even ones that have a Foreign Investment Law, have enacted Investment Codes that are applicable to all investors.

The major purpose of many sections of these Investment Codes is to give investors more confidence in the laws and regulations that impinge on investors and in the stability of the legal regime on the one hand and to centralise in one Code the rights and guarantees that apply to investors.

Drawing together the provisions in laws that impinge on investors, however, has one problem, a problem that has not prevented this practice in other countries: repetition in two laws of the same provision. Countries have dealt with this problem in several ways:

1. By not enacting an Investment Code at all, but rather in depending on their commercial laws, such as laws on corporations, taxation, and so on, and guarantees under their Constitutions.
2. By ignoring the problem and simply restating the provision in another law in the Investment Code. For example, a Code may state, “Investors may freely transfer abroad profits, dividends, and capital” without reference to an existing law on foreign exchange.
3. By mentioning the relevant law: “In accordance with the Law on Foreign Exchange”
4. By citing articles in the relevant law: “In accordance with Article 10 of the Foreign Exchange”

5. By expressly repealing or rescinding a law or an article in a law that is in conflict or is not consistent with the Article in the Code.
6. By implicitly repealing or rescinding an article in a law by having an article in the Code that states, “If there is a conflict between any article in this Code and another Law, the Article most favourable to investors shall prevail and be binding.”

This problem, however, has not prevented over 96 countries from enacting some form of an Investment Code. The World Bank (1992) states that according to The Investment Laws of the World, compiled by the International Centre for the Settlement of Investment Disputes, from 1979 to 1991, 48 countries enacted Investment Codes. Including countries that had enacted Investment Codes prior to 1979 and subsequent to 1991, over 96 countries have enacted some form of an Investment Code (Source MIGA, Investment Documentation, ipanet.net). The legal systems of many of these countries are based on English common law: Malaysia, Bangladesh, Thailand, India, Pakistan, Kenya, Uganda, the Cook Islands, Cyprus, Fiji, Malawi, Ghana, Myanmar, Nepal, Philippines, Sudan, Tanzania, Australia, Canada, and New Zealand. Guyana is in a minority among countries with a legal system based on English Common Law that do not have an Investment Code. Moreover, Guyana is the only country in the world that has had a prolonged period under a socialist economic system that, when it has changed to a market system, has not enacted an Investment Code. On the other hand, only one other English-speaking Caribbean country, Trinidad and Tobago, has an Investment Act. The Trinidadian Act focuses mainly on issues pertaining to land.

Enactment of an Investment Code will not by itself lead to a significant increase in investment. An Investment Code is but one factor among many needed to attract investors. Government must also improve infrastructure, streamline investment procedures by reducing government regulation of the micro-economy, remove tariff and non-tariff barriers to trade, remove price distortions in the economy, provide access to low-cost capital, reduce tax rates and broaden the tax base, provide macroeconomic stability and reduce political uncertainty, reduce corruption and have a strong rule of law, increase the level of education and skills of workers, etc.

These other measures, however, can often only be implemented in the long run. In the short run, an Investment Code can improve the investment environment by giving some assurance to investors concerning the legal framework for investment in the country. In so doing, an Investment Code can improve the investment climate of the country and increase investment. Recent statistical studies by Lecraw (for UNCTAD) and Lecraw and Conklin (for the World Bank) and Contractor (for UNCTAD) have clearly demonstrated that Investment Codes (and Bilateral Investment Treaties) have a significant impact on investment in developing countries.

Over ninety percent of all Investment Codes contain provisions on fiscal incentives and the structure and procedures of the investment system in the country. Recent best practice in the design of Investment Codes, however, places the fiscal incentives in the Tax and Customs Laws of the countries. Guyana, however, has a relatively high tax rate on corporate profits, few fiscal incentives, such as tax holidays, and relatively high duties and taxes on some capital equipment, replacement and spare parts, and on inputs to production.

Although fiscal incentives are of only moderate importance in attracting investment (UNCTAD, 1994), Guyana's fiscal incentives are significantly below those of other countries in the region and place it at a disadvantage in attracting investment, particularly export-oriented investment. Moreover, the few fiscal incentives that are available to investors in Guyana are administered in a discretionary and not completely transparent manner. This also decreases Guyana's attractiveness as an investment site.

For these reasons, Guyana needs to have a major revision of its fiscal incentives system. In the short and medium term, this change must be to introduce a broader application of tax holidays and reduction/elimination of duties (tariffs) and taxes on imports of plant, equipment, spare and replacement parts, and raw materials and intermediate product inputs to production. In the longer run, as the tax base is broadened and the basic tax rate reduced, tax holidays can be reduced.

As mentioned above, best practice is to place fiscal incentives in the Tax and Customs Acts. They have been included in this Investment Code for three reasons:

1. Typically, in the past, they have been located in Investment Codes;
2. They need to be somewhere and it may be more difficult and time consuming to amend the Tax and Customs Acts than to have them in this Code;
3. There are concerns that if this Investment Act is enacted without fiscal incentives, they may not be placed in the Tax and Customs Acts.

Hence clear, non-discretionary fiscal incentives have been placed in this Investment Act and the procedures for administering the incentives basic system have been made more transparent and less discretionary.

In the remainder of this document, specific possible provisions for Guyana's Investment Act are presented. In a box following each provision or section of the Code, the **rationale** for the provision and the results of a **discussion** or review of the draft with a small group of Government and private sector representatives are presented. The purpose of these discussions was to assess the initial reaction of both groups to the draft and is not intended to represent a consensus of either the Government or the private business sector.

PART ONE: GENERAL PROVISIONS

Section 1: Definitions

In this Act –

“investor” means a natural or juridical person investing capital in Guyana on the basis of mutual benefit and observance of the laws of Guyana. “Investor” does not include “portfolio investor” for the purposes of this Act.

“portfolio investor” means an investor who owns not more than 5 percent of the equity or stock of an Investment Enterprise and does not have responsibility for the day-to-day management of the investment enterprise.

“investment enterprise” means an enterprise owned by an investor or investors.

“domestic investor” means

- (a) citizen of Guyana;
- (b) [any person, not being a citizen of Guyana, who is ordinarily resident in Guyana for a period of more than five years;]
- (c) a citizen of any other member State of the Caribbean Community established under the Treaty done at Chaguaramas on 4th July, 1973;
- (d) a body corporate established in a Member State of the Caribbean Community in conformity with the laws thereof and which is substantially owned and controlled by citizens of such a member state or by persons who are ordinarily resident therein;

“foreign investor” means an investor, not being a domestic investor;

“minister” means the Minister responsible for Finance.

Rationale: Standard section to define terms

Discussion: (b) is not usual practice among developing countries. Its inclusion was suggested at one meeting.

Section 2: Objectives The objectives of this Act are to further the socio-economic development of Guyana, and to attract and facilitate investment, by:

- a) providing legal protection for investment;

- b) increasing the predictability, stability and transparency of the legal regime for Investment;
- c) promoting the development of international best practices regarding investment;
- d) providing a framework for fiscal incentives for Investors and direct investment;
- e) streamlining the existing procedures for investment;
- f) establishing the structure and authority of the Agency responsible for Investment;

Rationale: This section of the Code spells out the rationale for the creation of the Code and the Code's objectives. It also differentiates itself from a law covering portfolio investors.

Discussion: No disagreement.

Section 3: Government encouragement of investment The Government encourages and seeks to facilitate persons, either individuals or legal entities, to invest capital in Guyana on the basis of mutual benefit and observance of the laws of Guyana and international treaties or agreements to which the State or Government is a party. Such persons hereinafter shall be referred to as “Investors” and their investments shall be referred to as “Investment Enterprises.

Rationale: Statement of overall Government policy toward investment that states explicitly that the Government welcomes investment, both foreign investment and domestic investment.

Discussion: Both groups want to consider placing some sort of limits on who is defined as an investor and what is an Investment Enterprise – based on assets or employment. The purpose of this is to exclude micro foreign investors. It is recommended that a floor equivalent to US \$50,000 be established.

Section 4: Fields of activity open to investors Investors may invest in and operate enterprises in all fields of lawful economic activity including in particular, but not limited, to agriculture, fisheries and forestry, manufacturing, energy, mineral extraction, handicrafts, communications and transport, construction, tourism, trade, financial and professional services, [except for sectors listed in Schedule A].

Rationale: Historically, many developing countries have excluded investors, particularly foreign investors, from investing in specified sectors of the economy. Section 4 assures investors that essentially all sectors of the economy are open to investment by both foreign

investors and domestic investors. A Section of this type is standard in Codes, although some Codes have a schedule of restricted industries for investors in general and/or for foreign investors. The advantage of using a Schedule for this purpose is that it can be changed from time to time by a less formal procedure without amending the Code itself. Best practice is to use a schedule (negative list) – if any sector is to be excluded.

Discussion: Although at present Guyana has no explicit impediments to 100% foreign ownership in all sectors, the private sector has some reservations concerning retail trade. This issue was left for discussion among their members. This is also a policy decision that the Government must take in consultation with the private sector. It is recommended to leave it open the way it is. An efficient retail distribution system is necessary for a modern economy.

Section 5: Fields of activity closed to investors Investors shall not invest in or operate Investment Enterprises which are prejudicial to national security, or detrimental to the natural environment, public health or the national culture, or which contravene the laws of Guyana.

Rationale: A Section of this type is standard in Codes. It has been worded quite generally, although this may give some concerns to investors, in order to give the Government some latitude for interpretation. It places restrictions, albeit reasonable ones, on the types of Investment Enterprises in which investors may invest.

Discussion: No disagreement. Comment by the private sector was that in some countries health and safety regulations are relaxed in duty free or export zones to attract investors. It is recommended that such regulations NOT be relaxed.

Section 6: Forms of investment Investors may invest equity in an Investment Enterprise in either of the two forms listed hereunder²:

1. a Joint Venture Enterprise between two or more domestic Guyanese Investors; between two or more Foreign Investors; or between one or more Foreign Investors and one or more Domestic Investors; or
2. a Wholly-Owned Enterprise, whether foreign owned or owned by citizens of Guyana.

This Section clearly presents the two major forms of investment

² The rights of portfolio investors will be contained in the Securities Act.

Rationale: and states that both foreign and domestic investors may invest in either form.

Discussion: No disagreement.

Section 7: Joint Ventures The organisation, management and activities of a Joint Venture and the relationship between its parties shall be governed by the contract between its parties and the Joint Venture's Articles of Association, in accordance with the laws of Guyana.

Rationale: This Section highlights the importance of the Articles of Association of a Joint Venture in governing the relationship among the joint venture partners. It also shows that the internal organisation, management and activities of the Joint Venture are the responsibility of the Joint Venture partners and are not subject to Government regulation, except via Government regulation over the Articles of Association.

Discussion: No disagreement.

Section 8: Contribution of capital to Foreign Joint Ventures Investors who invest in a Joint Venture may contribute any portion of the total equity investment in that Venture. If a Joint Venture has a Foreign Investor or Investors, for the purposes of establishing value, the contribution of the Venture's Foreign Investor or Investors shall be converted in accordance with the laws of Guyana into Guyanese currency at the exchange buying rate then prevailing on the date of the equity payment(s), as quoted by the Bank of Guyana.

Rationale: Section 8 clarifies how the foreign contribution, if any, to a Joint Venture shall be valued, a necessary clarification for countries without a freely convertible foreign exchange regime. This Section also highlights the free nature of Guyana's foreign exchange regime as a positive factor for foreign investors.

Discussion: No disagreement.

Section 9: Incorporation, registration or establishment The incorporation, registration, or establishment of an Investment Enterprise shall be in accordance with the Companies Act 1991, or the Partnership Act, or the Business Names (Registration) Act, or the Friendly Societies Act of Guyana.

Rationale: Standard provision. Useful for foreign investors so that they know that they must incorporate under the laws of Guyana, not under the laws of their home countries.

Discussion: No disagreement.

Section 10: Legal forms of Investment enterprise Investors shall establish any Investment Enterprise in one of the following forms:

- a) the Registered Office of an Investor;
- b) a Registered Business Name Enterprise;
- c) a partnership;
- d) a private or public company with limited liability for the shareholders under the Companies Act.

Rationale: In some countries, foreign investors are limited in the forms which their investment may take. Section 10 shows the forms of Investment enterprise permitted in Guyana.

Discussion: No disagreement.

Section 11: Ownership regulations An Investment Enterprise may be wholly owned by either Foreign or Domestic Investors. There is no requirement that a Domestic Investor shall own any shares in any Investment Enterprise. Notwithstanding the foregoing, the Government may reserve the right to own some or all of the shares in an Investment Enterprise operating in industries listed in Schedule B or as agreed under the terms of the relevant Investment Agreement concluded with the Government in relation to such Investment Enterprise.

Rationale: Section 11 is important for investors, particularly foreign investors, since it clearly shows investors that they can invest in most sectors of the economy with 100% private ownership for both foreign and domestic investors. It does allow the Government to mandate Government ownership participation in an Investment Enterprise listed in Schedule B.

Discussion: The Government must decide what, if any, sectors would be listed in Schedule B. These might include such sectors as telecommunications, electric power generation, transmission, and distribution, water supply, large-scale mining, petroleum and natural gas production, etc.

PART TWO: RIGHTS, GUARANTEES AND OBLIGATIONS OF INVESTORS

Section 12: Government protection of investment The Government shall protect investments and the property of Investors in accordance with the laws of Guyana.

Rationale: Standard “motherhood” statement. It needs to be included, however, since its absence might well be noticed by investors. This Section simply states that the Government will create an enabling business environment through the legal system.

Discussion: No disagreement.

Section 13: Compulsory acquisition by Government The Government shall not compulsorily acquire or take possession of any Investment Enterprise, or any asset of an Investor except:

- a) for a purpose which is in accordance with the Laws of Guyana;
- b) on a non-discriminatory basis;
- c) in accordance with the procedures provided by law;
- d) there is prompt payment of adequate and effective compensation together with interest from the date of acquisition or taking possession of the Investment Enterprise or asset to the date of payment at the commercial bank rate on loans to the corporate sector; and
- e) there is a right of access to the High Court by any person claiming such compensation for the determination of any interest in or right over the Investment Enterprise or assets thereof and the amount of compensation.

Rationale: This is a very important guarantee. It is standard in Investment Codes, even though similar guarantees often exist in a country’s constitution or elsewhere in the laws. It should be noted that the provision recommended above reflects the principles recommended for adoption in the revised Constitution of Guyana currently under consideration. The present Constitution provides for the payment of market value as the criterion of compensation, but only in the case of land compulsorily acquired by the State. For non real property, the present Constitution provides that the law authorising the acquisition or taking of property may specify the principles governing the payment of compensation.

Discussion: No disagreement.

Section 14: Leasing and owning land Investors may purchase or lease privately owned land and dispose of or transfer their interests in the land; Investors may also hold State lands by grant, lease or license from the State under the State Lands Act.

Rationale: This is an important Section for investors, particularly foreign investors. It is a major positive factor for investors in Guyana that all investors have the right to own land.

Discussion: One representative of the private sector proposed the possibility of requiring foreign investors to deposit foreign exchange in a bank in Guyana in the case of purchase or leasing of land in order to move foreign exchange through the banking system. Given the foreign exchange regime in Guyana, this would not be an onerous requirement, but it would also be inconsistent with “national treatment.” (See below.) This matter is under discussion over setting up a National Land Authority to try to ameliorate the problems with land acquisition in Guyana.

The Government needs to make a policy decision about the manner in which issues relating to land will be administered. At present, foreign investors are, in theory, permitted to own and lease land. In practice, however, the conveyancing procedures entail significant delays.

Section 15: Non-intervention by Government Notwithstanding the provisions of the Trade Act, the Government shall not intervene in the business management of Investment Enterprises or in the sale, pricing, or distribution of the products of those Enterprises, except in the pricing of services provided by utilities for the supply of electricity, water, and telecommunications.

Rationale: This is an important Section for inclusion in the Code, particularly having regard to past history when there have been price controls and extensive governmental regulation of the micro-economy.

Discussion: No disagreement.

Section 16: Free export and import Notwithstanding the provisions of the Trade Act, the Government shall guarantee the rights of Investors and Investment Enterprises to import or export all or any products free of restriction or limitation except for products the ownership or possession of which is prohibited by law, except as listed in Schedule C.

Rationale: Again, this is an example of an important Section for inclusion in the Code having regard to the pervasive import controls that once existed in Guyana. Schedule C should be made as short as

possible.

Discussion: *This Section may be problematic for the Government since exports and imports of a few goods are still subject to licensing. The export of certain types of logs is controversial. Moreover, Government may have problems with circumscribing its powers in the event of a balance of payments or trade emergency. Negotiation over some wording that would be acceptable to both sides is needed, possibly with the inclusion of a Schedule of products to which this section will not apply.*

Section 17: Right to profit distribution The Government hereby guarantees the right of Investors and Investment Enterprises, regardless of form, to freely determine the distribution of all profits or dividends, and the right of Investors to receive their total share in such profits or dividends providing the corresponding tax obligations of the Investors and Investment Enterprise are satisfied.

Rationale: *A standard provision in a Code. In some countries the government places limitations on dividends in relationship to profits or to equity capital. This Section is needed to show that Guyana is not one of those countries.*

Discussion: *No disagreement.*

Section 18: National treatment The Government shall grant national treatment to all Investors so that the Government shall treat Foreign Investors not less favourably than Domestic Investors and correspondingly shall treat Domestic Investors not less favourably than Foreign Investors.

Rationale: *This is a very wide-ranging and sweeping guarantee. Many high income countries, most notably the United States, have requested “national treatment” for their investors when negotiating Bilateral Investment Treaties. “National Treatment” has wide-ranging implications for Government’s ability to discriminate in favour of domestic (or foreign) investors. For example, it proscribes Government from favouring domestic investors in tendering for government contracts, in taxation (such as the current withholding tax on dividends payable to foreigners outside Guyana), and in access to the banking system (prohibitions on foreign investors from borrowing domestically or domestic investors from holding foreign exchange bank accounts). This Section should be read in conjunction with Article 149 (3(a)) of the Constitution.*

Discussion: *This has proven to be a problematic section for Government since it would rule out the 15% dividend tax on foreign investors and*

has implications for their ability to differentiate among domestic and foreign investors. They are taking it under advisement as a policy matter. The private sector wants one exception to national treatment: foreign investors may not borrow in the financial markets of Guyana. Another problem with national treatment is in “closed industries” as noted above.

Section 19: Most Favoured Nation Treatment Without prejudice to rights conferred under International Treaties or Agreements, the Government shall grant Most Favoured Nation Status to all Investors and shall not discriminate among Investors on the basis of citizenship, residence, place of establishment or business ownership, or country of origin of any Investor.

Rationale: The purpose of this Section is to level the playing field for all investors. This is a fundamental principle for Investment Codes. Note that this section also takes into account Guyana’s membership in Caricom. This Section should be read in relationship to Article 149 of the Constitution.

Discussion: The Government has concerns about this section. Among other things, the Government is concerned that if it grants a right to investors from one country under a BIT, it will automatically be extended to all investors. On the other hand, BITs usually have an MFN clause in any event. It is recommended that the provision be retained. This Section is under policy advisement by the Government.

Section 20: Employment of foreign personnel Investors shall give priority to citizens of Guyana in recruiting and hiring their employees. However, investment enterprises have the right to employ skilled and expert foreign personnel when necessary and with the approval of the competent authority of the Government of Guyana in compliance with the Immigration and Labour Acts of Guyana. Investors have an obligation to upgrade the skills of their Guyanese employees through such techniques as training within Guyana or elsewhere.

Rationale: Most developing countries have this type of provision in their Investment Codes. It is designed to increase the employment generation of investment and to foster the development of the domestic workforce. The Government, usually the Labour Ministry, decides if Guyanese can adequately fill the needed position. Governments (and domestic citizens) seem impervious to the obvious argument that investors have every incentive to reduce costs by hiring locally and training domestic workers rather than hiring relatively expensive foreign personnel, unless domestic workers are not available. This Section does not give much comfort to investors. This Section is quite liberal compared to ones

existing in some developing countries that impose numerical quotas on foreign personnel and/or phase down requirements.

Discussion: No disagreement on the section as written. The private sector would like to have a tax concession of being able to deduct 150% of the costs of bona fide training courses for tax purposes in order to recover some of their expenses as personnel leave after they have received training. The Government is taking this under advisement. It is recommended that the provision be included, given the high turnover rate among skilled workers. This provision is not uncommon in other countries (or the government gives training grants, as in Barbados).

Section 21: Entry and exit The Government shall facilitate the entry into, stay in, and exit from Guyana of Investors, their foreign personnel, and their immediate family members in accordance with the Immigration Act. All such persons are subject to and must obey the laws of Guyana while they are in Guyana.

Rationale: Obtaining visas is often a problem for foreign investors and for expatriate employees of all investors. This Section enjoins the government to “facilitate” obtaining a long-stay visa for foreign investors and personnel and their families.

Discussion: No disagreement as written. The Government requested that the words “travel within and stay within” in the original draft be deleted. It is recommended that “stay within” be re-inserted, since investors have concerns with obtaining the long-stay visas needed to own and operate Investment Enterprises and for visas for foreign personnel and dependants.

Section 22: Work permits The Government shall facilitate Foreign Investors and foreign personnel of Investors in obtaining work permits in accordance with the Immigration Act.

Rationale: This Section has a similar purpose to Section 21. Often obtaining a work permit is difficult for foreign investors and expatriate personnel and serves as an impediment to investment. This Section enjoins government to “facilitate” obtaining a work permit.

Discussion: No disagreement.

Section 23: Tax obligations Investors and their foreign personnel and foreign family members employed in Guyana shall pay to the government personal income taxes in accordance with the

Income Tax Act on income earned in Guyana and property tax and capital gains tax under the Property Tax Act and the Capital Gains Tax Act, respectively.

<p><i>Rationale:</i></p>	<p><i>This Section highlights the requirement that foreign investors, expatriate personnel and their families are liable for taxes on the income and capital gains they earn in Guyana and for property taxes if they own property. It also highlights the necessity for the Government to negotiate Double Taxation Agreements with major investor countries as a means of increasing investment.</i></p>
<p><i>Discussion:</i></p>	<p><i>No disagreement. Both groups, however, recognise that this is a significant impediment to foreign investors, but to tax them at a lower rate would not be politically feasible. This problem would be ameliorated if the Government were to undertake as a matter of priority negotiating double taxation agreements with major investor countries.</i></p>

Section 24: Bank accounts Existing and new Investors may open accounts in the currency of Guyana and in foreign convertible currency with any corporate body licensed to carry on banking business in Guyana under the Banking Act.

<p><i>Rationale:</i></p>	<p><i>Access to the international banking system is extremely important in this era of globalisation. This Section guarantees the right of <u>all</u> investors to open foreign currency accounts in a bank in Guyana. Note should be taken that this Section is directly at variance with current regulations in Guyana that circumscribe the ability of Guyanese citizens to open foreign currency accounts.</i></p>
<p><i>Discussion:</i></p>	<p><i>This is supported by the private sector. Government may want to take it under advisement, since they may have concerns that this would lead to the dollarisation of the economy. It is recommended that the section be retained.</i></p>

Section 25: Transfer of funds abroad Subject to the liability for the payment of all applicable taxes due, Investors may freely, unconditionally and without hindrance:

- a) repatriate dividends, earnings and capital from their Investment Enterprises;
- b) remit the proceeds in the event of sale or liquidation of an Enterprise or the interest attributable to an investment;
- c) pay interest on international loans;
- d) pay for imports;

- e) pay fees for trademarks, royalties, and management and other fees; and
- f) pay licensing fees for franchising agreements.

To their own home countries or to third countries through a corporate body licensed to carry on banking business in Guyana under the Banking Act.

<p><i>Rationale:</i> As with Section 24, this is an important Section and is standard in Investment Codes. It also highlights the fact that Guyana has a market determined exchange rate, a major plus for investors.</p> <p><i>Discussion:</i> The private sector supports this Section. Government may decide to take it under advisement: (a) contravenes the Foreign Exchange Act (that does allow the Government to block payments abroad). It also reduces the Government's ability to intervene during a foreign exchange or Balance of Payments crisis. It is recommended that this Section, suitably modified to address the Government's concerns, should be in the Investment Act, particularly given Guyana's past foreign exchange regime.</p>

Section 26: Limitations on the right to transfer funds abroad Notwithstanding the guarantees in Section 25, the Government may prevent a transfer of funds through the equitable, non-discriminatory and good faith application of Acts relating to:

- a) bankruptcy, insolvency, or protection of the rights of stockholders or creditors;
- b) if criminal or penal offences against the Investor or Investment Enterprise are outstanding before the courts; or
- c) to ensure compliance with orders or judgements in legal proceedings; and
- d) [except when there is a balance of payments emergency].

<p><i>Rationale:</i> This Section circumscribes Section 25 in that it limits the rights of investors to transfer funds out of the country in certain instances. Without this Section, however, under Section 25 investors would have the right of unrestricted transfer of funds, even if the conditions described in this Section prevailed at the time of transfer.</p> <p><i>Discussion:</i> The Government is taking (d) under advisement since, unless d) is included, the Section limits Government's right to intervene if there is a BoP or foreign exchange crisis in the future. It is</p>
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recommend omitting the “exception” so as not to highlight the possibility. If there were a BoP crisis, Government could deal with it via emergency legislation – as has happened in many countries.

Section 27: Right of personnel and dependants to transfer funds abroad Foreign personnel of Investment Enterprises and their families may also repatriate their earnings, after payment of Guyanese personal income taxes and all other taxes due, except when any of the conditions under Section 26 prevail.

Rationale: This Section is needed to extend the right of investors provided in Section 25 to expatriate personnel and their families.

Discussion: No disagreement, except as noted above concerning the “exception” of a BoP crisis, which the Government may want to take under advisement. Again, it is recommended omitting the “exception” so as not to highlight the possibility. If there were a BoP crisis, Government could deal with it via special or emergency legislation – as has happened in many countries.

Section 28: Intellectual property rights Intellectual Property Rights of Investors and Investment Enterprises, such as, but not limited to, patents, trademarks, brand names, and copyrighted materials in printed, recorded, or electronic format are guaranteed by the Patents and Designs Act, or the Trademarks Act, or the Copyright Act, as the case may be.

Rationale: Intellectual property rights have become an important issue in international investment. If a country does not have such a guarantee, investment will be reduced.

Discussion: No disagreement.

Section 29: Dispute resolution In the event of disputes between foreign parties within an investment, or between Foreign Investors and Guyanese parties, or between Guyanese partners, or between the Investors and the Government with respect to an investment enterprise, the parties to the dispute shall first seek to settle their differences through consultation or mediation to reach an amicable settlement.

In the event that the disputants fail to resolve the matter, they may then:

- a) submit their dispute to arbitration under the Arbitration Act of Guyana; or
- b) invoke the jurisdiction of the courts of Guyana; or

- c) adopt such other procedure provided for in the Articles of Association of the Investment Enterprise.

Rationale: This is one of the standard guarantees/rights in an Investment Code. It spells out the arbitration procedures and methods for settling disputes.

Discussion: No disagreement.

Section 30: Obligations of investors to adhere to environmental, health, and safety laws

Investors shall at all times conduct their operations in accordance with the laws of Guyana. In particular, Investors shall take all measures necessary and appropriate to ensure that the facilities, factories, products and activities of their Investment Enterprises protect:

- a) the natural environment under the Environmental Protection Act; and
- b) the health and safety of the workers and the general public under the Factories Act, Occupational Safety and Health Act 1997, the Accidents and Occupational Diseases Notification Act, and the Steam Boiler Regulations Act.

Rationale: Again, this is a standard provision in Investment Codes. Among other things, it centralises all the Laws in the country regarding the environment and health and safety.

Discussion: There was some discussion from private sector representatives about relaxing these standards in duty free or export zones to attract investment. It is recommended that such a relaxation NOT be included.

Section 31: Obligation of investors to adhere to the National Standards of Guyana

In accordance with the Guyana National Bureau of Standards Act, Investors shall comply with the standards of the Guyana National Bureau of Standards in their importation of products and investment equipment and in their outputs.

Rationale: The Guyana National Bureau of Standards sets product standards with which investors must comply. Investors need to be made aware of these requirements.

Discussion: No disagreement.

Section 32: Union representation, social insurance, and welfare In accordance with the Trade Union Recognition Act of 1997, Investors shall grant union representation at any site of employment if the majority of their employees indicate the desire for union representation.

Investment Enterprises shall contribute to the social insurance and welfare programs for their workers in accordance with the National Insurance Act.

Rationale: This Section is needed to inform investors concerning the labour legislation of Guyana and its impact on their operations. Also, it informs them of their legal obligation to contribute to the social security insurance and welfare schemes for their workers as established by law.

Discussion: No disagreement.

Section 33: Accounting standards and audit In the management of their investment enterprises, Investors shall utilise the national system of financial accounting of Guyana. Their accounts shall be subject to periodic audit by the Government's financial authorities in accordance with the applicable accounting regulations in operation in Guyana.

Rationale: Investors are concerned about what accounting system should be used in the host country. This Section clarifies the situation.

Discussion: No disagreement.

Section 34: Taxation Investors shall pay taxes, including corporation tax, capital gains tax, property tax, consumption tax, excise tax and duties and tariffs in accordance with the Corporation Tax Act, the Capital Gains Tax Act, the Income Tax Act, the Property Tax Act and the Customs Act, except as otherwise specifically agreed to between the Government and the Investor.

Rationale: This Section serves two functions: it alerts investors to the Tax and Customs Acts on the one hand and to additional provisions on incentives contained in this Act on the other hand.

Discussion: No disagreement.

Section 35: Tax stability The Government hereby guarantees that corporation tax, capital gains tax, consumption tax, excise tax, and other duties and tariffs shall not be levied at a higher rate than those existing at the time of investment for a period of ten years or otherwise as contained in an Investment Agreement between the Investor and the Government.

Rationale: This Section gives investors the assurance that the fiscal system will not be changed for them over the next ten years. This reduces the risk of investment and enhances investors' ability to calculate the projected profitability (after tax) of their investments.

Discussion: Both the private sector and the Government have some reservations about placing a ceiling on taxes, most particularly consumption taxes. Another issue is the probability that a VAT will be introduced. Both groups are taking this under advisement. It is recommended that consumption and VAT taxes be excluded from the tax ceiling. This section might also specifically exclude taxes and fees on timber, oil, and bauxite.

Section 36: Inconsistency among laws and legal stability In the case of inconsistency or conflict between the provisions of this Act and other laws of Guyana, the provisions of the law most favourable to the Investor shall prevail.

Rationale: As described in the introduction to this commentary, one of the potential problems in Investment Codes may be conflicts between the provisions for investors in the Code and in other laws of the country. This Section assures investors that if there is a conflict, the Act most favourable to investors will prevail and take precedence. As well, under this Section, future laws would not necessarily have precedence over this one.

Discussion: This section has engendered considerable discussion. Among other things, it reads as if it supersedes the Constitution, which it obviously cannot. (This could be taken care of by a simple “except”.) It also raises the issue as to who is the one to determine which provision is most favourable to investors. Also, it affects the legal principle that subsequent Acts over-ride previous Acts. Most importantly, it restricts Government from prejudicing investors by, for example, enacting more stringent environmental laws. The Government is taking this Section under advisement. It is recommended that it be retained, if in modified form to address the concerns of the Government.

Section 37: Sovereign immunity In accordance with the provisions of the State Liability and Proceedings Act, the Government shall not assert or claim any right of sovereign immunity in relation to its activities as a Domestic Investor, or its commercial activities in respect of an Investment Enterprise, or in relation to any investment or commercial dispute.

Rationale: The Government often has commercial relationships with private investors as a joint venture partner or as a contractor, buyer or supplier. This Section assures investors that if there is a dispute between the investor and the Government, the Government will not claim sovereign immunity to protect itself from suit.

Discussion: No disagreement.

Section 38: The appropriate Minister may make regulations for the implementation of this Act.

Rationale: Any Act needs additionally to have detailed regulations made pursuant to it in order to facilitate implementation of the Act. This Section enables the Government to do so, so that investors have a clear understanding of the functioning of the investment system.

Discussion: No disagreement.

PART THREE: FISCAL INCENTIVES

As stated in the Introduction to this commentary, best practice is for all tax and customs incentives to be in the tax and customs laws. Despite this, over 90% of all Investment Codes contain a section on fiscal incentives. Were the Government to decide to incorporate fiscal incentives in the Tax and Customs Acts, this Part could serve as a guide to this initiative.

Section 39: Investment priority categories The Government hereby establishes three investment priority categories detailed in Priority Lists as set out hereunder:

- a) Priority Industries/sectors: a list of specific industries/sectors the Government considers make substantial contribution to the socio-economic development of Guyana;
- b) Priority Areas: a list of specific geographical areas in Guyana that the Government consider are in urgent need of additional investment for development; and
- c) Priority Projects: a list of specific, objectively measurable Investment Project characteristics, such as export-orientation, labour absorption, new and advanced product or process technology, that the Government considers will make a significant contribution to national socio-economic development.

Rationale: As described in the introduction to the commentary (and as voiced by the private sector), at present the legal basis for fiscal incentives is non-transparent and highly discretionary. The 1998 amendment of the Income Tax (Aid to Industry) Act restates that if “in the opinion of the Minister . . . the investment is wholly of a developmental and risk-bearing nature and is likely to be instrumental to the development of the resources of, and beneficial to Guyana, the Minister may issue a direction to that effect and thereupon the income of such comp[any shall be exempt from taxation for a period not exceeding ten years . . . “ This Section of the Investment Act requires the Government to develop and publish lists of concrete, specific industries/sectors, geographical areas, and project characteristics in which investments can automatically obtain tax incentives and specifies the length of the incentive period.

Also, this form of structuring the incentives regime allows the Government to adjust incentives over time to meet changing conditions and in relationship to changes in its industrial policy and strategy.

Ultimately, in the long run, the incentives system should be changed to one with a lower overall tax rate for all Investment Enterprises, no targeted tax incentives (such as tax holidays) and a broader tax base. Also, tariffs and taxes on imports should be reduced/eliminated on all imports.

Discussion: The Government is taking this category system under advisement, since it limits its discretion and power in awarding incentives. All other parties enthusiastically support it, as do some members of the Government. It is recommended that the provision be retained in its present form.

Section 40: Tax holidays New Investment Enterprises that fall within one of the three Investment Priority categories shall be granted a tax holiday of five (5) years. New Investment Enterprises that fall within two or more of the three Investment Priority categories shall be granted a tax holiday of ten (10) years.

Rationale: This Section makes the length of tax holidays clear and transparent for all investors and investment enterprises.

Discussion: This section raises the issue of an existing Investment Enterprise that makes a major investment, for example, doubling its assets. Possibly a provision of this sort should be incorporated in the Act whereby the tax rate under the tax holiday would be in proportion to the new assets to the total assets after the investment. Such a provision for re-investment could be included. The government is taking it under advisement.

Section 41: Tariff and consumption tax incentives Except for passenger vehicles, existing or new Investment Enterprises shall be entitled to import plant, equipment, spare and replacement parts for their sole and only use for a period of not less than five years free of all duties (tariffs), consumption taxes, and excise taxes.

Rationale: This is a very important Section. At present, much of the industry in Guyana uses old, outdated and inefficient plant and equipment. Also, many spare and replacement parts must be imported over very high tariffs and taxes. This has placed Guyana's industry at a severe competitive disadvantage both in export markets and in competition with imports. This Section addresses this problem. At present, duty and tax free importation of some items is effected under a decision of Cabinet (or Ministerial Order?) dated December 1, 1998 [to be verified] and is done on a case by case basis. This Section also addresses this problem.

Discussion: The Government is taking this section under advisement, since it limits its flexibility/discretion in determining which imports enter zero rated. This has revenue implications. I support it, as do all the other parties.

Section 42: Master lists for import incentives For Investment Enterprises that qualify for duty and tax free importation of plant, equipment, and spare and replacement parts for their sole use for a period of not less than five years, the competent governmental authority established pursuant to Section 46 of this Act shall evaluate their investment proposals and master lists of items to be imported and determine and approve the amount of each item that they shall be allowed to import at the rates duly authorised.

Rationale: This Section provides a check on the amount of each item that Investors and Investment Enterprises want to import, both at the time of investment and over time. This Section will allow Government to place reasonable limits on the importation of such items as cars, Televisions, and air conditioners to be imported by Investors.

Discussion: No disagreement.

Section 43: Incentives for export-oriented enterprises Export-oriented Investment Enterprises shall be entitled to import plant, equipment, spare and replacement parts free of all duties (tariffs), consumption taxes, and excise taxes for their sole and only use for a period of five year for the portion of their Investment Enterprises that fall within one of the three Priority Investment categories. In addition, they shall be entitled to import raw materials, semi-finished, and finished inputs to production for their sole and only use free of all duties (tariffs), consumption taxes, and excise taxes on the portion of these inputs that are used in export production.

Rationale: In order to be competitive in export markets, exporters must have access to inputs at world prices. The Section allows this important condition to be achieved.

Discussion: No disagreement.

Section 44: Publication of incentives granted The Government shall publish in the Gazette full information regarding all fiscal incentives granted to specific Investment Enterprises and to specific Investors.

Rationale: This Section increases the transparency of the incentives system. At present, the system is not transparent and investors have concerns that some investors are receiving special concessions

that are not given to them.

Discussion: No disagreement.

PART FOUR: ADMINISTRATIVE STRUCTURES AND PROCEDURES

Section 45: Role of Go Invest GO Invest shall be the governmental organisation with responsibility for administering the fiscal incentives investment system. GO Invest shall provide investors with all forms necessary to apply for incentives; assist investors in filling out these forms; and check the forms submitted by investors for completeness and accuracy.

Rationale: This Section clearly specifies Go Invest as the first point of contact for investors desiring to receive incentives. It reinforces Go Invest's role as an investment facilitator.

Discussion: The government is currently considering revising the enabling law for Go Invest. This will have implications for all the Sections in Part Four.

Section 46: The Investment Promotion Committee The Government shall establish a Committee to be called the Investment Promotion Committee. The members of the Committee shall be composed of one representative of GO Invest, and one representative each of the Tax and Customs departments of the Ministry of Finance, representatives of the Ministries of and a representative of the private sector. The Minister of Finance (or the Minister's representative in the Minister's absence) shall be the Chairperson of the Committee. The Committee shall:

- a) develop the three priority lists: the Priority Industries/Sectors list, the Priority Areas list, and the Priority Projects lists specified in Section 39;
- b) in consultation with concerned ministries, develop Schedules A, B, and C and revise them on a regular basis as conditions warrant.
- c) on a yearly basis modify and update these lists and propose these revised lists to the President for signification of his/her approval;
- d) determine the fiscal incentives to which each individual Investor or Investment Enterprise that has applied for the grant of fiscal incentives is entitled;
- e) make recommendations to the President concerning the fiscal incentives to which each individual Investor or Investment Enterprise is eligible for his her/his signification if the Investment is greater than \$XXXX or in the mining, petroleum or forestry industries;
- f) for all other Investments, to reach a binding decision concerning the Investor or Investment Enterprise's eligibility for incentives;

- g) make recommendations on the types and unit volume of imports which shall be entitled to fiscal incentives both for the initial investment and on an on-going basis requested by Investors and Investment Enterprises; and
- h) in highly exceptional circumstances as determined by the Committee, recommend incentives to be provided to Investors or to Investment Enterprise that are not on any of the Priority lists and/or recommend incentives beyond those contained in Sections 40 to 43 inclusive.

Rationale: This is an important Section. It spells out the procedures for developing the Priority lists and in awarding incentives. It also gives the Government some latitude in awarding incentives “in highly exceptional circumstances” to give it the flexibility to deal with unusual investment projects. The President of Guyana will have ultimate signing authority over incentives.

Discussion: There is considerable controversy over the composition of this Committee. Some parties want all the responsibility to rest with Go Invest except for large projects and those in sensitive sectors, such as timber, mining, and energy. This issue is under policy advisement.

Section 47: Time limitations for deciding eligibility for incentives Except for an Investment exceeding in value [US\$ 10,000,000] and in the forestry, mining and energy sectors, the Investment Promotion Council shall render a decision on the eligibility of the application for incentives for the Investment Enterprise within fifteen (15) working days. If a decision regarding approval for incentives has not been rendered within this period, the Investment Enterprise shall be deemed to have been granted the incentives for which it has applied.

Rationale: This Section is important since it sets a time limit for granting incentives, except in the forestry, mining, and forestry sectors, sectors in which more detailed analysis may be necessary, and for large projects.

Discussion: The Government is taking this Section under advisement due to both the time factor and the automatic grant feature. It is recommended that the Section be retained as is.

Section 48: Timeframe for approval of incentives for zero rated imports For Investment Enterprises that have been granted eligibility for incentives, the Investment Promotion Committee shall approve the list of plant and equipment, spare and replacement parts required at the time of investment and in subsequent years over the life of the investment. If applicable under Section 43, Investment Enterprises may import raw materials, semi-finished, and semi-processed inputs at the time of investment and in subsequent years that will receive incentive

duty and taxation rates. The process for approval shall not extend beyond twenty (20) working days after submission. If after 20 working days, approval has not been granted, approval shall be deemed to have been granted.

Rationale:

Discussion: The government is taking this Section under advisement both for the time frame and for the automatic granting of incentives if the deadline is not met.

A Comparison of Investment Incentives in the Region

1. Guyana

(a) Regional Incentives

Tax incentives are available in the Linden region.

(b) Sectoral Incentives

Approved mortgage finance companies and building societies are exempt from corporate taxes. Petroleum and mining companies also qualify for tax exemptions in some circumstance.

Companies involved in the development of real estate may deduct development costs over a ten-year period.

Tax holidays were reintroduced to Guyana in 1998 for high-risk industries. The Government will determine tax holidays for high-risk industries in certain regions.

(c) Export Incentives and Free Trade Zones

Subject to certain conditions, companies registered in Guyana may claim tax allowances for exports of manufactured, processed, or agricultural products. The allowances can equal 50 per cent of export profits when export sales exceed 61 per cent of total sales. From 1997 allowance can equal 75 per cent export profits when export sales exceed 61 per cent of total sales.

(d) Tax Incentives Legislation Highlights

Source tax incentive legislation includes:

- Income Tax Act., Sec. 33B

(e) Statutory Tax Rate

The national rate of corporate tax is 45 per cent. Non-commercial companies are subject to a rate of 35 per cent. Withholding tax on dividends and interest is 15 per cent. Interest paid on approved loans, trade accounts and temporary bank loans is exempt from tax. Royalties are subject to withholding tax at 10 per cent.

2. Venezuela

(a) Regional Incentives

Imports and sales performed in the Insular Region (Margarita Island,) under a free-port regime, are exempt from the general sales tax of 16.5 per cent.

(b) Sectoral Incentives

An investment tax credit related to new fixed assets other than land is permitted until 1 July 1999. This incentive is available only for taxpayers engaged in industrial, agribusiness, fishery,

and cattle-raising or livestock activities. The credits are for 20 per cent of the value of new investment. Those not used may be carried forward for up to three more years.

Other incentives include:

1. New Investments Discount

An amount of 20 per cent of investment in new fixed business assets other than real property, may be credited against income tax. The assets must be kept in use for a minimum of four years and must represent an effective increase in productive capacity of the taxpayer or must be used for new enterprises. This incentive will be available until July 1999 and only for taxpayers engaged in industry, agribusiness, tourism, farming and fishing.

2. Oil and Gas Promotion

Taxpayers engaged in the exploitation of hydrocarbons and connected activities such as refining and transportation, are granted a tax credit equal to 8 per cent of investments in new fixed assets in Venezuela. An additional 4 per cent of the total cost of new investment made in exploitation, drilling and other connected activities is granted. This extra credit can only be offset against income tax derived from hydrocarbon and related undertakings. Those not used may be carried forward for up to three years.

3. Farming, Fishing and Forestry Incentive

Entrepreneurs engaged in farming, fishing and forestry are exempt from income tax on profits from primary activities. Primary level activities are those that does not involve industrial processing.

(c) Export Incentives and Free Trade Zones

Foreign trade zones and free port areas have been created to promote manufacturing and other activities. They provide customs duties exemptions, among other tax benefits.

(d) Other Incentives

Under a tax refund (drawback) regime, a total or partial refund of import tax paid by Venezuelan or foreign exporters is available, for example, on materials used to produce goods for export . Refunds are effected by means of a tax refund certificate, which can be used to pay national taxes.

(e) Statutory Tax Rate

The effective corporate tax rate is 34 per cent. The rate is 15 per cent on the first 2,000 tax units, 22 per cent on the next 1,000 units and 34 per cent on income exceeding 3,000 tax units. A tax unit is currently 7,400 BS.

There is no withholding tax on dividends. Interest paid to a non-resident individual is subject to withholding tax at a rate of 34 per cent applied to 95 per cent of the gross payment, producing an effective withholding tax rate of 32.3 per cent. Interest paid to non-resident banks is subject to a

withholding tax of 4.95 per cent. Royalties paid to a non-resident company or individual are subject to tax at a maximum rate of 34 per cent applied to 90 per cent of the gross payment, producing an effective rate of 30.6 per cent.

3. *Brazil*

(a) *Regional Incentives*

Regional incentives seek to encourage economic and social development of certain areas of the country. Two autonomous federal agencies administer the regional incentives traditionally available: the Superintendency for the Development of the Northeast (*Superintendência do Desenvolvimento do Nordeste* - SUDENE) and the Superintendency for the Development of the Amazon Region (*Superintendência do Desenvolvimento ad Amazônia* - SUDAM). The north-eastern region, covering about 19 per cent of Brazil's territory, includes the states of Alagoas, Bahia, Ceará, Paraíba, Pernambuco, Piauí, Rio Grande do Norte, and Sergipe and parts of the states of Maranhão and Minas Gerais. The Amazon region, which occupies almost 60 per cent of the country, includes the northern states of Acre, Amapá, Amazonas, Pará, Rondônia, Roraima, and Tocantins; the northern portion of the state of Mato Grosso; and the western part of Maranhão.

Enterprises operating in the north-eastern region for which the SUDENE is responsible are eligible for the following incentives:

- A 37.5 per cent reduction up to December 2003, of the income tax for enterprises established in the region. This percentage is scheduled to be reduced to 25 per cent from January 2004 to December 2008, and to 12.5 per cent from January 2009 to December 2013.
- For projects approved after January 1998, a 75 per cent reduction of the income tax effective up to December 31, 2003. This percentage is scheduled to be reduced to 50 per cent from January 2004 to December 2008, and to 25 per cent from January 2009 to December 2013.
- Partial exemption from state and municipal taxes.
- Exemption from duties on imported equipment.

Eligibility for these benefits depends on the SUDENE's prior approval of a new project or the expansion of an already existing project. Any income derived from the project cannot be remitted abroad.

Approved enterprises operating in the Amazon region for which the SUDAM is responsible are offered similar incentives.

Numerous state tax incentives and financing programs are also available. Governors in all regions of the country, but most notably in the states of Paraná and Rio Grande do Sul (southern states), Bahia, Ceará, and Minas Gerais, are competing fiercely to attract business investment and generate employment in their states.

(b) Sectoral Incentives

A number of tax incentives are based on Brazil's agro-industrial technology development programs, which seek to increase industrial technology development. The incentives apply to projects previously approved by the Ministry of Science and Technology (Ministerio ad Ciencia e Tecnologis - MCT) and some of them are scheduled for a progressive reduction up to the tax year 2013. In general, they grant or allow:

- Accelerated amortisation of some intangibles.
- Accelerated depreciation on domestically produced equipment.
- Double deduction of technology development expenses, limited to 8 per cent of the basic income tax liability.
- Reduction of up to 50 per cent of withholding income taxes due on remittances of royalties and technical services fees.
- Increase of the deduction of royalties and transfer of technology expenses to 10 per cent of related gross sales.

(c) Export Incentives and Free Trade Zones

1. Manaus Free Trade Zone

A free trade zone has been established in and around the port of Manaus on the Amazon River. Manaus lies about 1,000 kilometres (625 miles) from the Atlantic Ocean. The zone has become the principal assembly point for radios, television sets, videocassette recorders, motorcycles, and other goods that depend on imported parts. The constitution guarantees the existence of the Manaus free trade zone until 2013. The following incentives, intended to encourage occupation and development of the region, are available to all companies located within the free trade zone's boundaries:

- Suspension or reduction of import duties until the product leaves the zone or is used in the company's manufacturing process.
- Federal excise tax (IPI) waiver on imported products that remain in the free trade zone and on products manufactured in the zone.
- Deemed state VAT (ICMS) credit on the purchase of products from other states in Brazil and refund of a percentage of the ICMS paid.

These exemptions, however, do not apply to imports of automobiles, weapons, jewellery, perfume, alcoholic beverages, and tobacco products. There is no time limit on storing goods duty free in the zone. Companies incorporated in Brazil but owned by foreigners may be set up in the zone, but branches of foreign companies may not. The procedure for setting up in the zone is similar to the procedure for establishing projects under the SUDAM and the SUDENE, but the responsible agency is the Superintendency of the Manaus Free Trade Zone (*Superintendência ad Zona Franca de Manaus - SUFRAMA*).

2. Export Processing Zones

In 1988, the government authorised the creation of export processing zones (*zonas de processamento de exportação - ZPEs*). ZPEs are free export trade zones that may be created by states and municipalities in the areas covered by the SUDENE and the SUDAM to reduce

regional differences and further Brazil's development. Companies established in these zones must have manufacturing goods for export as their business purpose and must commit themselves to predefined minimum levels of local expenditure. Eighteen ZPE authorisations were granted by November 1996.

Imports and exports of companies operating in the ZPEs are exempt from import duties, IPI, the social contribution on turnover, and the financial transactions tax; however, ZPE companies are subject to income tax, and depreciation of imported equipment cannot be claimed as a deductible expense. Warehouse space at concessionary rates is also available in ZPEs.

No restrictions are in force to prevent anyone - Brazilians or foreigners - from acquiring control of an existing company located in a ZPE and thus obtaining ZPE benefits. The initial term for operations is twelve months, subject to renewal.

(d) Other Incentives

Equipment imports related to CDI-approved projects that involve the introduction of new technology are granted a reduction in import taxes.

(e) Tax Incentives Legislation Highlights

The core of Brazilian Federal Tax Legislation, including the various incentives offered at federal level, is Decree 3.000 of 26 March 1999.

(f) Statutory Tax Rate

In addition to the statutory corporate income tax rate of 15 per cent, Brazil imposes an 8 per cent social contribution tax. For financial institutions, the social contribution tax rate is 18 per cent.

An additional surtax is imposed on legal entities and financial institutions. The rate is 10 per cent on income in excess of R\$ 240,000. The effective rate therefore varies with the chargeable profits. For legal entities, the maximum effective rate for 1997 was 33 per cent. For financial institutions, it was 43 per cent because of the greater burden related to social contribution tax.

Dividends paid are not subject to withholding tax. Withholding tax on interest and royalties is 15 per cent although interest paid to the government or its agency is exempt from tax.

4. Barbados

(a) Sectoral Incentives

1. Information Technologies

- 15-year tax holidays and 21/2% corporate tax rate thereafter
- \$50/month training grant for 18 months
- subsidised land and facilities rentals
- duty free importation of equipment

2. Financial services

- 15 year tax holidays
- duty free import of equipment

(b) Export incentives

- 10-year tax holidays and 21/2% corporate tax rate thereafter
- \$50/month training grant for 18 months
- subsidised land and facilities rentals
- duty free importation of plant, equipment, inputs to export production

5. Jamaica

Basic Tax rate: 33 1/3%, no withholding or capital gains tax or tax on interest remitted abroad.

(a) Regional Incentives

Montego Bay and Kingston Free Zones

- 0% corporate tax forever
- equipment, raw materials and supplies a 0% duty or tax, no export tax

(b) Sectoral incentives

- Agriculture: tax holiday 10 years
- Film: tax holiday for 9 years
- Hotels: tax holiday for 10-15 years
- Information technology: infinite tax holiday
- Shipping: tax holiday for 10 years
- Finance: infinite tax holiday
- Foreign Sales Corporation: tax holiday for 5 years
- All of the above, duty free import of plant and equipment, spare parts, and inputs.
- Depreciation: 50% the first year and 50% of the remainder the second year.

6. St. Lucia

(a) Sectoral Incentives

- Hotels: duty free import of all plant and equipment, tax holiday 15-20 years, withholding tax exemption
- International Business Companies: tax and customs duty exemptions for 20 years
- Basic Tax Rate: 30%
- Withholding tax of 15% on dividends
- No capital gains tax

(b) Performance incentives

- Tax holiday 15 years if domestic value is 50% or more
- Tax holiday of 12 years if domestic value is 25%-50%
- Tax holiday of 10 years if domestic value is 10%-25%
- For all of the above, import duty exemptions

7. Dominican Republic*(a) Sectoral incentives*

- Non-traditional agriculture: no taxes or duties
- Electronics, telecommunications, tourism: duty free imports of plant and equipment, inputs, tax free from 8 - 20 years

(b) Regional incentives

- There are 51 Free Trade Zones. In the zones, 15 years (with another 15 years renewable) free of all taxes and duties.
- If the investment is located near the border with Haiti, 20 years free of all taxes and rent subsidies for land and facilities.

8. Trinidad and Tobago*(a) Performance incentives*

- for investments greater than US\$8.3; or
- Export-oriented; or
- Substantial domestic value added
- Tax holiday of 10 years, duty and tax free import of plant, equipment, inputs.

(b) Sectoral incentives

- Hotels: 10 year tax holiday and duty free import of plant, equipment, and inputs.

**A COMPARISON OF
INVESTMENT INCENTIVES IN THE CARIBBEAN**

Country / Incentive	Guyana	Venezuela	Brazil	Barbados	Jamaica	St. Lucia	Dominican Republic	Trinidad And Tobago	Suriname
Tax rate (%)	35%-45%	34% 43% financial institution	23%	2 ½%	33 1/3%	30%	NA	38%	NEW INVESTMENT LAW UNDER DEVELOPME T
Depreciation	60% + st.line	20% ITC	Accelerated	Accelerated	50% + 50%	Accelerated	Accelerated	CCA 50%	
Loss carry forward	Infinite	3 years	5 years	Infinite	5 years	5 years	5 years	5 years	
Tax holidays	Discretionary: risk bearing and developmental nature	Yes	Reduction only	Yes: information technologies, financial services, exports: 10-15 years	Yes: 5-15 years	Yes: DV .50% (15), DV 25%-5-% (12), DV 10%-25% (10)	Yes	Yes	TEN YEARS
Div. Withholding	15%	No	No	No	No	15%	10%	No	
Low int. Loans	No	No	No	No	No	No	No	No	
Tax on interest	15%	15	4.95%	No	No	No	N/A	15%	
Duty rem.: capital equip.	Yes	Yes	Yes	Yes: export-oriented	Yes	Yes (hotels and International Business Companies)	Yes, in the zones	yes	
Duty rem.: inputs	Export-oriented	Yes	Yes	Export-oriented	Yes: export oriented	Yes as above	Yes, in the zones	Yes	
Ind. Parks.	1	5	4	1	No	No	51	1	
EPZs	No	Yes	Yes: 18	Yes	2: Zero corporate tax forever, duty free imports of everything	No	51: free of all taxes and duties for 25 years, renewable for 15 years	2 free of all taxes and duties	
Trade Protection	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Regional incentive	Yes: 1, Linden	Yes: 2	Yes: 2	No	No	Yes: border with Haiti:	No		

Country / Incentive	Guyana	Venezuela	Brazil	Barbados	Jamaica	St. Lucia	Dominican Republic	Trinidad And Tobago	Suriname
						free of all taxes and rent and lease subsidies			
Industry incentive	IT?	20% tax rebate, 0% for fishing, farming, and forestry	50% of dividend tax	Information technologies (training grant), financial services	Agriculture (10), film (9), hotels (10-15), Information technology (infinite), Shipping (5), Finance (infinite), foreign service companies (5)	Non-traditional agriculture: no taxes or duties; electronics, telecommunications, tourism: duty free imports of plant and equipment and all inputs, tax free 8-20 years	Hotels Substantial domestic value added For projects not already supplying 60% of the domestic market 10 year tax holiday; duty free imports, no dividends tax.		
R&D incentive	No	No	Double deduction	No	No	No	No		
Tech. incentive	No	Yes		Yes	No	No	No		
Export incentive	Yes: tax reduction, duty free import of plant and equipment, inputs	Yes	Yes in free trade zones	Yes + training grants	Yes, in Free trade zones	51 Free Trade Zones: 15 years no taxes or duties, renewable for 15 years	Tax holiday for 10 years, no dividends tax, tax free import of plant and equipment		
Infra. incentive	Housing	No	No	No	No	No			
HQ incentive	No	No	No	No	Yes	No			
Training incentive	No	No	No	Training \$50/month for 18 months	No				

CA = capital allowances E = export oriented A = accelerated depreciation ITC = investment tax credit DV = domestic value