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NEGOTIATING THE FREE TRADE ZONES IN A  
DEVELOPING ECONOMY: POLICY DIRECTIONS FOR  
UGANDA.

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## Introduction.

A free trade zone (FTZ) is geographical area that is designated to facilitate free economic transactions. Specially, within the FTZ, the movement and repackaging of goods for export are not subject to export and import duties.

The idea of the FTZ is to boost export through encouraging productivity and value addition. The Uganda's Free Zones Act (FZA) of 2014 provides guidance on the creation and management of FTZ. The FZA of Uganda led to the instituting of the Uganda Free Zones Authority (UFZA)<sup>1</sup>, and the Free Zones (General) Regulations No.68 of 2016. The Uganda Free Zones Authority is a body corporate with the ability to sue and be sued in its own name under the supervision of the Ministry of Finance, Planning and Economic Development and started operations on 1<sup>st</sup> September 2014. The authority is responsible for the establishment, development, management, marketing, supervision and control of free zones and to provide for other related matters.

## Declaration of free zones in Uganda.

The Free Zones (General) Regulations No.68 of 2016 provide two scenarios where a free zone may be declared<sup>2</sup>; (i) the Minister may on recommendation of the authority, by statutory instrument, declare any building or area of land in Uganda to be a free zone. (ii) Secondly, a person who wishes to operate a free zone may apply to the Minister to have any particular area or building in Uganda a free zone. A free zone may be established by one or more domestic or foreign developers<sup>3</sup>.

## Licensing.

There are three categories of licenses that are required for investors wishing to join the free zones in Uganda as per the laws;

The developer's license<sup>4</sup>, this basically is a license which is given to a business enterprise which is undertaking the infrastructural development of the free zone. This may include construction of industrial buildings and warehouses, development of internal roads, landscaping and fencing, as well as provision of utilities like power, water, sewerage systems and telecommunications lines.

There are also licenses for operators<sup>5</sup>. These fall in two categories: manager's license which is offered to a business enterprise which will undertake management of a free zone and a free zone operator's licence. The free zone operator's license is issued to a business enterprise authorising it

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<sup>1</sup> Section 6 of the Free Zones Act, No. 5 of 2014.

<sup>2</sup> Section 3 of the Free Zones Act No.5 of 2014 and Regulation 4 of the Free Zones(General) Regulations, No.68 of 2016

<sup>3</sup> Section 25 (1) of the Free Zones Act, No. 5 of 2014 and Regulation 5 (2) of the Free Zones(General) Regulations, No.68 of 2016

<sup>4</sup> Section 25 of the Free Zones Act No.5 of 2014 and Regulation 6, 7, 8, 9 and 10 of the Free Zones (General)Regulations, No.68 of 2016

<sup>5</sup> Regulation 14 of the Free Zones (General)Regulations, No.68 of 2016

to carry out any service or other industry including manufacturing or processing, commercial activities like breaking bulk, re-packaging, re-labelling and trading export-oriented services.

The Free zones Act and Regulations provide a step by step procedure for obtaining these licenses and the applicant must be a company incorporated within Uganda with the Uganda Registration Services Bureau for the sole purpose of developing and/or operating a Free Zone in Uganda. The company submits a duly filled application form with the relevant documents<sup>6</sup>. After which the evaluation committee scrutinises the application and prepares a detailed report within 3 months from receipt of application<sup>7</sup>. Upon being satisfied with the application, the Authority writes a recommendation letter to the Minister of Finance, Planning and Economic Development to issue a declaration instrument declaring the area a free zone. The Authority then notifies the applicant of the decision to grant the licence and the licensee is required to start operations within 12 months from the grant of the license<sup>8</sup>.

The UFZA issued the first licence in January, 2017 and therefore we are yet to see and assess the operationalisation of the free zones in Uganda.

#### Benefits of free zones.

The free zone among other things provide for a comprehensive package of incentives for holders of free zone developer, operator or manager licenses which include: exemption from taxes and duties on all export processing imported raw materials and intermediate goods, machinery and equipment, spare parts, for exclusive use in the development and production of output for the business enterprise.

The specific benefits of the free zones in Uganda include; acceleration of export-oriented manufacturing, boosting Direct Domestic Investment (DDI) and attraction of Foreign Direct Investment (FDI), generation of employment opportunities and incomes for people, boosting exports and increasing foreign exchange earnings.

The Uganda Free Zones Authority further foresees dynamic benefits of the enhancement of technology transfer, creation of backward and forward linkages within the economy as well as accelerated economic growth.<sup>9</sup>

UFZA has so far issued out 8 licences to developers. This is steady growth and development of free zones and the government is deliberate in addressing economic shortfalls by allowing investors to produce and or process large quantities and better quality goods at relatively competitive lower cost for the export market.

#### Deficits of the free zones

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<sup>6</sup> Section 28 of the Free Zones Act, No.5 of 2014

<sup>7</sup> Section 30 of the Free Zones Act, No.5 of 2014 and Regulation 7(3) of the Free Zones (General) Regulations, No.68 of 2016

<sup>8</sup> Section 31 of the Free Zones Act, No.5 of 2014

<sup>9</sup> Uganda Free Zones Authority Manual.

There are major challenges facing the export sector in which the free zones regime operates; lack of standards in products, supply chain constrains; lack of market information, lack of export infrastructure and global competition. The UFZ needs to work with the Uganda Investment Authority to ensure standards in the products.

Furthermore, Ugandans are unaware of free zones and how they operate. The state has in the recent past overly encouraged foreign investors and therefore there is need for deliberate sensitisation of Ugandans on the benefits of free zones so as to encourage local investors to partake of the opportunities to facilitate the desired economic development. There is a likely danger of the foreign investors taking a leading role in the free zones in Uganda hence leaving local investors out of benefitting from this great initiative. The state therefore should deliberately encourage local investors to take up this initiative and even go ahead to develop regional state owned free zones so that local investors come in as operators.

### What next!

In order for free zones to be of greater benefit, exports must be maximised. This is only possible when there is value addition to whatever the country exports. The locals should therefore be educated on processing, branding, packaging, labelling products to ensure they generate more per unit.

In addition, for free zones to benefit the economy, exports should be maximised through promoting trade agreements with target countries to ensure market for products originating from Uganda. Unless particular markets are targeted, there stands a chance of over production for the domestic market and the benefits of free zones will be defeated. The domestic market is currently covered in the provision of 80/20 threshold<sup>10</sup> where an operator is free to sell 20 per cent of the products on the domestic market and 80 percent are exported. However, if the market of the 80 percent of the products is not guaranteed, the free zone business enterprises will look for market within the region to supply their products hence defeating the purpose of free zones.

Furthermore, export efforts need to focus on the high value exports and in particular those that maximise Uganda's competitive advantage such as in agro-processing, minerals, oil and gas, services like logistics and pharmaceuticals. UFZA needs to work with Uganda Bureau of Standards to ensure standards of products.

The free zone regime needs to be popularised around the country so that the locals understand how the free zones operate and how best to tap into the opportunities being created in Uganda. This will in turn make free zones a vehicle through which the government can create employment for the youth and increase exports and ensure economic growth through increased exportation.

There is need to increase government involvement especially in the establishment of free zones and putting in place the necessary infrastructure. The companies in the Free Trade Zones should have the dual benefits of enjoying the developed infrastructure at the site such as proper roads and drainage, telecommunication links and other utilities as well as third-party warehousing facilities.

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<sup>10</sup> Section 47 (1) (b) (iv) of the Free Zones Act, No. 5 of 2014

Regardless of the challenges, having a free zone law is a positive step towards increasing Uganda's trade participation in the region to try and align with its counterparts in Kenya where the law has operated since 1990, Tanzania where Special Economic Zones have been in existence since 2002 following the enactment of the Export Processing Zones Act