

the dti

THE ENTERPRISE ORGANISATION
SOUTH AFRICA



INDUSTRIAL DEVELOPMENT ZONE (IDZ) PROGRAMME

GUIDELINES

As at September 2008

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DEFINITIONS

Definitions as set out in Regulation 1 of the IDZ Programme are applicable. In addition, the following definitions are hereby provided for use in the interpretation of this document:

Customs Controlled Area (CCA)

A CCA as defined in Section 21A(1) of the Customs and Excise Act, 1964 (Act 91 of 1964). The CCA is to be established and administered according to the rules in that section.

CCA Enterprise

An IDZ Enterprise (see definition below) that has entered into an agreement with an IDZ Operator in accordance with the IDZ Programme, for the right to locate in a CCA and that is registered or licensed in terms of and in accordance with the relevant SARS legislation.

IDZ

IDZ shall mean an area designated by the Minister as an Industrial Development zone in terms of and in accordance with the IDZ Regulations.

IDZ Enterprise

Any person or entity that has entered into an agreement with an IDZ Operator for the right to locate in the IDZ. The agreement must be in accordance with the IDZ Programme.

IDZ Operator Permit

The permit granted by the Minister of Trade and Industry to a company authorizing that company to develop and operate a new or existing IDZ in accordance with the IDZ Programme.

IDZ Programme

The programme announced under Section 10 of the Manufacturing Development Act, (Act 187 of 1993) in Government Gazette No. 1224 of 1 December 2000, and as amended by Government Notice No. R1065, published in the Government Gazette No. 29320 of 27 October 2006.

Industries and Services Area (ISA)

An area or location outside of the CCA (see definition) where manufacturing and services industries that may not be importers or exporters; and services industries in support of the CCA operations and general IDZ development (including, but not limited to, logistical services, transportation services, distribution services etc.), may locate.

MDB

Means: the Manufacturing Development Board as established by Section 2 of the Manufacturing Development Act 187 of 1993.

Minister

In these guidelines, the term Minister refers to the Minister of Trade and Industry.

Port

A place (sea port or airport) appointed or approved by the Commissioner of the South African Revenue Service (SARS) under the Customs and Excise Act, 1964 (Act 91 of 1964) through which goods may be imported or exported for customs and excise purposes.

A. INTRODUCTION

1. Purpose of the Guidelines

1.1 This document serves to provide the operational guidelines and processes to the IDZ Programme in terms of the criteria and interpretation that will be applied by the Manufacturing Development Board (“the MDB”) when considering matters according to the IDZ Programme. Nothing in these guidelines should be construed in such a way as that it diminishes or prohibits any discretion that the MDB may have in respect of evaluation of applications for designation, permits, transfer of permits etc.

1.2 Due to the fact that the IDZ Programme is continuously being developed to provide for changing policies and economic climate, these guidelines may be amended from time to time. It is incumbent upon the person who uses these guidelines to ensure that he or she has the latest issue. These guidelines should be read in conjunction with the IDZ Regulations (as amended).

1.3 The document covers the following.

- Strategic Framework
 - Legal and Policy Framework
 - Objectives of the Programme
 - Programme Description
- Guidelines for Designation of the IDZs
- Guidelines for Permitting and Functions of an IDZ Operator
- Guidelines for Contracting and Functions of IDZ Enterprises
- Corporate Governance
- Appeals and Administrative Justice

1.4 For ease of reference, verbatim repeats of the published programme are printed in bold and a textbox.

B. STRATEGIC FRAMEWORK

1. Legal and Policy Framework

The IDZ Programme (“the programme”) is administered by TEO, a division of **the dti**, and is implemented as a programme under section 10 of the Manufacturing Development Act No. 187 of 1993.

The programme is outlined in Government Notice No. 1224 of 1 December 2000, as amended by Government Notice No. R.1065 in Regulation Gazette No. 8569, and published in Government Gazette No. 24320 of 27 October 2006.

The Customs and Excise Act No. 91 of 1964 Section 21A provides for the administration of the CCA within an IDZ.

The Value Added Tax Act No. 89 of 1991 provides for certain exemptions or zero rating of VAT, under specific conditions, for CCA Enterprises.

2. Objectives of the Programme

The IDZ programme is aimed at promoting the competitiveness of South African enterprises through leveraging investment in export-oriented manufacturing industries and promoting the competitiveness of South African firms through the export of value-added manufactured products.

The key objectives and rationale behind the IDZ programme is to:

- Position South African-based manufacturing industries to meet the challenges of globalisation,
- Attract advanced foreign production and technology methods in order to gain experience in global manufacturing and production networks through attracting foreign direct investment (FDI),
- Develop linkages between local and international-based industries,
- Provide world class infrastructure and proximity to international ports to offer low cost and efficient logistics services, and

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- Provide services to facilitate overcoming administrative hurdles for investors securing permits required for their operations.

3. Programme Description

The IDZ programme provides a platform for regulation, and monitoring of the establishment, development and management of IDZ projects.

3.1 Characteristics of an IDZ include the following:

- A CCA with dedicated SARS officials to provide support with customs and VAT requirements,
- An industries and services area within the borders of the IDZ ,
- World class infrastructure linked to an international port of entry.

3.2 Characteristics of a CCA include the following:

- Duty rebate and VAT exemption on imports of production-related raw materials, including machinery and assets, to be used in production with the aim of exporting the finished products,
- VAT suspension under specific conditions for supplies procured in South Africa,
- Efficient and expedited Customs administration.

C. GUIDELINES FOR DESIGNATION OF THE IDZs

1. Regulation 3: Industrial Development Zones

In order to enable the Minister to consider an area suitable for the development of an Industrial Development Zone and grant the accompanying operator permit in terms of the Regulations (See Regulation 16: Application for IDZ Operator Permit), the applicant must submit a Business Plan setting out at least the following aspects (additional information may however be requested):

- The **rationale** behind the application for IDZ designation and an IDZ Operator Permit.
- **Broad economic analysis** of the province in which the IDZ is to be located, unemployment figures for the province, the proposed theme(s) of the IDZ and the industrial clusters envisaged.
- Details of the applicant i.e. **statutory documentation** around the establishment of the company that is intending to operate the IDZ, and the proposed ownership and management structure of the company. Where a legal person has shares or an interest in the applicant company, the details of the shareholders / members and directors of that legal entity is also required.
- A **physical master plan** of the proposed IDZ i.e. physical location, location and boundary of industries and services area, location and boundary of CCA, infrastructure development plan and construction plan with delivery timeframes and proposed security measures to ensure the lawful operation of the proposed IDZ.
- Demonstration of how the applicant intends to **provide utilities** i.e. electricity, water, hazardous waste facilities, refuse disposal facilities etc. (In this regard the applicant must indicate all written or verbal arrangements that have been made with the suppliers of such utilities)
- A **financial analysis and projection** for 5 years including the budget for the first 3 years. The expected financial years for break-even and for a surplus must be

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indicated. In the case of a new IDZ, the applicant must indicate access to financial resources equal to at least 20% of the development cost of the first phase of the proposed IDZ at the time of the conclusion of the IDZ operator agreement.

- Estimated **employment** opportunities to be quantified i.e. a distinction to be made between employment during construction and operational phase, direct and indirect employment, and permanent and temporary employment.
- An outline of the **marketing plan** detailing the services to promote foreign direct investment is required.
- Overall **Action Plan** of the IDZ development and indication of the date on which the initial phase of the IDZ is estimated to be operational and the anticipated implementation of subsequent phases of the proposed IDZ i.e. business plan milestones.

(a) The Minister may identify an area as suitable for development of an Industrial Development Zone by notice in the Gazette if the Minister is satisfied that designation of the area as an Industrial Development Zone will -

(1) facilitate the creation of an industrial complex having strategic economic advantage;

Factors to be considered may, amongst others, include the following:

- The potential to develop a critical mass or a cluster of enterprises required to achieve commercial viability of a proposed IDZ, based on specific priority sectors identified in government's industrial policy framework;
- The potential to develop a profile of mainly foreign direct investments focused on exports of value-added manufactured products; and
- An analysis of existing infrastructure to support IDZ development, including access to land and municipal services and utilities.

(2) provide the location for the establishment of strategic investments;

Factors to be considered may, amongst others, include the following:

- In terms of location, it is envisaged that the IDZ be linked to an international port of entry (see definitions) and be in close proximity to local and, more specifically, international markets as outlined in the National Industrial Policy Framework (NIPF). The location should allow for connectivity to the existing transport infrastructure and allow for the provision of bulk services at competitive rates for strategic investments.

(3) enable the exploitation of resource-intensive industries;

Factors to be considered may, amongst others, include the following:

- The IDZ be located in close proximity to natural resources for which there is a growing international demand. The natural resource-based sector is identified as one of five sector groupings in which industrial growth and employment creation is anticipated, according to the NIPF.

(4) take advantage of existing industrial capacity, promote integration with local industry and increase value-added production;

Factors to be considered may, amongst others, include the following:

- Provide targeted industrial activities and demonstrate how these will broaden and deepen the existing manufacturing base within the area in order to promote further integration with the local industry; and
- Provide an assessment of the immediate and intermediate environment of existing industry.

(5) create employment and other economic and social benefits in the region in which it is located; and

Factors to be considered may, amongst others, include the following:

- Employment opportunities to be quantified with a distinction drawn between employment during construction and operational phases, direct and indirect employment, and permanent and temporary employment; and
- Potential benefit quantified in monetary terms of the contribution to the household income due to the IDZ project.

(6) be consistent with any applicable national policies and law, as determined by appropriate environmental, economic and technical analyses.

Factors to be considered may, amongst others, include the following:

- Compliance with all environmental requirements (including strategic environmental assessments and environmental approvals required) is needed in line with the Environmental Conservation Act, as amended (Act No. 73 of 1989); and
- Current environmental conditions that might hamper development, as well as proposed steps to overcome such conditions.

2. Regulation 3A: Application for Designation

(a) Interested parties may approach the Minister to apply for a specified area linked to a port with customs facilities to be considered as an area suitable for development of an Industrial Development Zone.

The term “linked” refers to a geographical linkage between portions of land that need to be adjacent and contiguous for the purposes of developing an IDZ. However, the port does not need to be contiguous to the identified portion of land.

In the case that non-contiguous portions of land are identified for the development of an IDZ, **the dti** reserves the right to refer for the opinion of SARS. SARS’ opinion will be critical and material to the decision due to the administrative difficulties that can result from approving a CCA within such non-contiguous portions of land.

The following procedures will be followed on receipt by **the dti to evaluate** an application for designation.

- (1) The applicant shall submit its application for designation and Operator’s Permit for the intended IDZ;
- (2) The MDB will be notified in writing of the application for designation of an area as an Industrial Development Zone. Should the MDB be able to, in

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- principle, recommend the application positively to the Minister, steps 3 and onwards will be followed. Where the MDB, in principle, object to the application, it shall refer the application to the Minister for a decision. The Minister May instruct that steps 3 and onwards be followed, or only step 8;
- (3) **The dti** will consult with both the provincial and local governments in the area in which the proposed IDZ is to be located, as well as with SARS in terms of the proposed CCA within the proposed IDZ;
 - (4) A notice will thereafter be published in the Government Gazette stating that a specific area is being considered for designation as an IDZ, the date of the public hearings will be stipulated and interested parties will be called upon to comment within 60 days;
 - (5) Comments from the public hearings and written comments from interested parties will be compiled and a recommendation based on these comments, together with copies of the comments will be submitted to the MDB;
 - (6) The MDB will consider the designation of the specific area and the issuing of an operator permit and make a recommendation to the Minister based on inter alia the capacity of the intended company to develop and operate the IDZ in terms of regulation 17 (d) ;
 - (7) The MDB will submit their recommendations to the Minister, who shall then in terms of regulation 3(a) make a decision to designate and approve the operator permit if he/she deems it appropriate;
 - (8) Where the Minister decides not to designate, the applicant will be notified in writing;
 - (9) Due to the far reaching consequences of a decision to designate, and the fact that designation envisages participation from various spheres of Government, the Minister's decision to designate will be presented to Cabinet for ratification; and
 - (10) If approved by Cabinet, a notice will thereafter be published in the Government Gazette designating the specific area, or such part thereof as is approved, as an IDZ.

(c)The application for designation must be accompanied by an application for an IDZ operator permit by the intended company for the area proposed for development.

The application for designation and the application for an IDZ operator permit (See Regulation 16: Application for IDZ Operator Permit as well as the discussion of the content of a business plan discussed under Section C1 of these guidelines) is a simultaneous application, as per the amended IDZ programme.

3. Regulation 3B: Suspension or Withdrawal of Designation

(a) The Minister may, on recommendation of the Board, by notice in the Gazette suspend or withdraw, on such terms and conditions as he or she may determine, any designation of an area as suitable for development as an Industrial Development Zone.

Where a suspension or withdrawal of designation of an area as an IDZ might affect enterprises, established or already confirmed to be established in the IDZ, the IDZ operator permit will only be suspended or withdrawn after **the dti** has taken reasonable steps to ensure that all parties which, in the sole opinion of **the dti** may be affected by such a decision, is notified of the possible decision. The operator as well as any such affected party may present its case in writing to **the dti** in its consideration of such suspension or withdrawal.

Such a decision will be informed based on the following grounds, but not limited to:

- (1) The development and establishment of a specific area as an IDZ is not in accordance with or does not meet the approved terms and conditions as stipulated in the amended IDZ programme;
- (2) The development and establishment of a specific area as an IDZ contravenes a law of the Republic of South Africa;
- (3) The IDZ operator is not complying with the objectives of the amended IDZ programme;
- (4) The IDZ operator so requests citing valid reasons for de-designation; and
- (5) For any other reason that the Minister deems it appropriate.

The suspension of designation of a specific area as an IDZ must not exceed a period of 3 months. During this period, TEO will consult with the IDZ operator in an attempt to resolve the reason for suspension. If the reason behind the suspension can be

resolved through the suspension of the CEO of the IDZ operator or any other implicated official company followed by a disciplinary hearing, this route must receive serious consideration and where possible followed in order to lift the suspension by the Minister.

Failure to resolve the cause of suspension may lead to the withdrawal of the designation and / or the withdrawal of the operator permit.

No decision will be taken in terms of the withdrawal of designation of a specific area as an IDZ unless procedural arrangements for both IDZ enterprises and CCA enterprises have been made and communicated to all enterprises. These procedural arrangements should not be unreasonably to the detriment of the enterprises involved.

If the procedural arrangements are unreasonably to the detriment of the enterprises involved, the MDB may recommend suspension or withdrawal of the IDZ operator permit or any other reasonable steps to rectify the situation. The IDZ Operator must co-operate in effecting any processes necessary to ensure IDZ Enterprises can continue with their operations undisturbed.

4. Regulation 3C: Amendment of the Boundaries of a Designated IDZ

(a) The Minister may, on recommendation of the Board, by notice in the Government Gazette increase or decrease the total landmass of the area designated as suitable for development as an Industrial Development Zone.

Portions of land that are adjacent and contiguous to the designated IDZ are preferred in terms of increasing the total landmass of the area designated. In the case that non-contiguous portions of land are identified, these portions of land should preferably not be separated from the designated IDZ by more than 5 km. **The dti** reserves the right to refer for the opinion of SARS as this would be critical and material to the decision due to the administrative difficulties that can result from approving a CCA within such non-contiguous portion of land. The recommendation from SARS will be considered when the application is adjudicated. Although discretion may be exercised, any decision shall be final.

The following procedures will be followed in terms of the amendment of the boundaries of a designated IDZ.

- (1) The MDB will be notified in writing of the application for amendment of the boundaries of the designated Industrial Development Zone;
- (2) **The dti** will consult with both the provincial and local governments in the area in which the IDZ is located, as well as with SARS in terms of the CCA within the IDZ;
- (3) Where the amendment of the boundaries will result in an increase of landmass, a notice will thereafter be published in the Government Gazette stating that an application for amendment of the boundaries of the designated IDZ is being considered, the date of the public hearings will be stipulated and interested parties will be called upon to comment within 60 days;
- (4) Comments from the public hearings and written comments from interested parties will be compiled and a recommendation based on these comments, together with copies of the comments will be submitted to the MDB;
- (5) The MDB will consider the amendment of the boundaries (increase or decrease) of the designated IDZ and make a recommendation to the Minister;
- (6) The MDB will submit their recommendations to the Minister, who shall then in terms of regulation 3(c) make a decision to amend the boundaries of the designated IDZ if he/she deems it appropriate;
- (7) Where the Minister decides not to amend the boundaries of the designated IDZ, the applicant will be notified in writing;
- (8) Due to the far reaching consequences of a decision to amend the boundaries of the designated IDZ so that the landmass is being increased, and the fact that designation envisages participation from various spheres of Government, the Minister's decision to designate will be presented to Cabinet for ratification; and
- (9) Whether it is a decision to increase or decrease of landmass, a notice will thereafter be published in the Government Gazette amending the boundaries of the designated IDZ.

(b) The criteria and prerequisite procedures for such an increase or decrease shall be a matter of policy and will be set out in the guidelines to this programme.

The following criteria and prerequisite procedures will be followed in considering the amendment of the boundaries of a designated IDZ.

Increases:

- The growth in clusters in the IDZ necessitates the expansion of the total landmass of the area designated;
- The expansion should compliment the current clusters;
- The proposed area should be able to accommodate more than one enterprise being established; and
- Public comment, and comment from enterprises already established on the proposed area.

Decreases:

- Due to unforeseen circumstances around the total landmass designated, the landmass needs to be decreased; i.e. new developments happening adjacent to the IDZ with significant national importance and benefit; and
- The Operator is unable to gain control of the proposed area, despite the reasonable attempts to do so.

D. GUIDELINES FOR PERMITTING AND FUNCTIONS OF AN IDZ OPERATOR

1. Regulation 16: Application for IDZ Operator Permit

(a) Any party interested in obtaining an IDZ operator permit shall, in the prescribed manner, submit a completed IDZ operator permit application to the Minister.

See Appendix A: A Checklist for the Application for IDZ Designation and IDZ Operator Permit has been attached for ease of reference.

(1) In case of a new IDZ, the application for an IDZ operator permit must accompany the application for designation of an area for which the IDZ operator permit is sought.

Refer to Regulation 3A: Application for Designation

(b) an applicant for an IDZ permit must:
(1) show its control of the land within an existing IDZ or within the area under application designated for development as an IDZ or within a new IDZ pertinent to its application in the detail and manner as indicated in the guidelines;

The term control of the land refers to ownership of the land – or sufficient right to use the land for a long term period taking into account the nature of the clusters targeted by the applicant - by the party applying for the IDZ operator permit and includes long term leases, and / or holding of an option over the land that will allow for ownership, long term leasing or servitude of the land at the instance that the IDZ operator permit is granted. A spes for control in the near future may also qualify, but the applicant must clearly set out what the nature of that control obtained will be, as well as the likelihood of that realising. The MDB may in these circumstances recommend additional conditions to the operators permit, for example, in respect of reporting, and by providing for the exclusion of that portion should the MDB be of the opinion that the Operator will not be reasonably able to gain control in the foreseeable future.

The applicant must support any allegation of control with applicable documentation such as an extract from the land register, title deeds, contracts (for a lease or an option), negotiation documents, or court papers (in terms of a spes).

(2) submit a comprehensive feasibility study in the detail and manner as indicated in the guidelines;

In addition to the business plan required as part of the application for designation (Refer to Regulation 3A: Application for Designation), a comprehensive feasibility study must be submitted, and must include:

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(1) Proof of completion of all the necessary geo-technical and environmental studies in line with applicable laws; and

(2) A credit report must be submitted for each shareholder/member/director of the applicant, as well as for the applicant, if already registered. Vetting forms, which may be obtained from **the dti**, must also be completed in order to enable **the dti** to submit such documents to the National Intelligence Agency for criminal record investigating that is done from time to time.

It is important to note that this list is not exhaustive and additional information may be requested from the applicant to enable the MDB to thoroughly consider the matter and make an informed recommendation to the Minister.

(4) comply with such other criteria and prerequisite procedures as is set out in the guidelines to this programme; and

In terms of the ownership and funding arrangements of the party interested in obtaining an IDZ operator permit, the applicant must indicate its funding resources in the application as follows:

- Where the applicant is wholly owned by the private sector, funding of the proposed IDZ including the development, operation and management thereof must be fully sourced by the applicant;
- Where the applicant is a private public partnership (PPP), the funding arrangements within the partnership must be agreed upon, clearly stipulated and must be fully sourced by the partnership; and
- Where the applicant is wholly owned by the Government, whether as a public entity or otherwise, steps to ensure that **the dti** is, or becomes the nominated major and controlling shareholder of the company must be set out. There must further be a detailed set out to indicate that there is sufficient committed financial resources from both the company and the other Government Departments or Organs that are shareholders in the company.

(5) Each applicant shall submit 4 copies of the application to the Minister, 1 copy of which must be an original.

Applications can be addressed, or hand delivered, to the Chief Director: Special Projects, 2nd Floor, Block A, **the dti** Campus, 77 Meintjies Street, Sunnyside, Pretoria.

2. Regulation 17: Withdrawal or Suspension of an IDZ Operator Permit

(j) The Minister may withdraw or suspend an IDZ operator permit, on the recommendation of the Board, should the IDZ operator:

- (1) fail to accomplish any of the milestones set in their business plan;**
- (2) contravene IDZ Regulation or any law of the Republic;**
- (3) by notification from the Commissioner of the South African Revenue Services to the Minister, be in contravention of or failed to comply with the customs and excise rules and procedures applicable to an IDZ operator; and**
- (4) the applicant request that withdrawal.**

In addition to the grounds as stated in Regulation 17(i), the IDZ operator permit may be suspended or withdrawn, should the suspension or withdrawal of designation of an area as an IDZ is being considered in terms of Regulation 3B of the IDZ Regulation and such consideration is to the detriment of the IDZ enterprises involved.

Suspension or withdrawal of the IDZ operator permit is considered as the last resort.

In terms of the suspension or withdrawal of the IDZ operator permit, **the dti**, will consult with all enterprises established or already confirmed to be established in the IDZ; the IDZ Operator and such other stakeholders as **the dti** deems appropriate, and inform them of the intention to suspend or withdraw the IDZ operator permit. The operator as well as any such affected party may present its case in writing to **the dti** in its consideration of such suspension or withdrawal.

Once the IDZ operator permit has been suspended, **the dti** will, as an interim measure, take over the management of the IDZ operations, or appoint a management agent until the issue has been resolved. This managing agent can be another existing IDZ operator or a consortium of existing IDZ operators. All rights and obligations that have legally accrued to IDZ enterprises as against the previous IDZ operator's permit shall remain enforceable against the IDZ operator and the

managing agent shall ensure that such rights and obligations are honoured subject to the provisions of the PFMA.

During the suspension period, **the dti**, will consult with the previous IDZ operator in an attempt to resolve the reason/s for suspension. If the reason/s behind the suspension can be resolved through the suspension of the CEO of the IDZ operator company or any other implicated official, followed by a disciplinary hearing, this route must receive serious consideration and where possible be followed in order to lift the suspension.

Failure to resolve the cause of suspension within 3 months may lead to the withdrawal of the IDZ operator permit and the appointment of an alternative IDZ operator by notice in the Government Gazette. The new IDZ operator will takeover all the rights and obligations that have accrued to IDZ enterprises as against the previous IDZ operator's permit, as a condition to their IDZ operator permit. Nothing prohibits the new IDZ operator from entering into bona fide negotiations with each IDZ enterprise involved in order to amend such rights and obligations that have accrued against the previous IDZ operator's permit by written agreement between them.

E. GUIDELINES FOR CONTRACTING AND FUNCTIONS OF IDZ ENTERPRISES

1. Regulation 31: Responsibilities of an IDZ Enterprise

(a) An IDZ enterprise must operate its business in compliance with this regulation; other applicable legislation; standards and rules established for the IDZ; and the conditions contained in the IDZ operator permit relating to IDZ enterprises in the subject IDZ;

In terms of IDZ enterprises, it is the responsibility of the IDZ operator to select IDZ enterprises, in accordance with:

- The IDZ programme and the applicable legislation,
- The specific clusters identified as forming part of the IDZ, and
- The conditions stipulated in the operator permit.

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The following aspects, as pertaining to IDZ enterprises, are applicable.

- A company registered in terms of the Companies Act (Act No. 61 of 1973), or
- A closed corporation registered in terms of the Closed Corporation Act (Act No. 69 of 1984), or
- Any other legal entity registered for tax purposes within the Republic of South Africa.

The IDZ Operator must ensure that a contract of sale of land will influence the required control that the IDZ Operator will have over that portion of the IDZ. If challenged, **the dti** might have to reconsider the control of the Operator in respect of such portion of land. In this regard the IDZ Operator is advised to, where land will be sold and transferred to the IDZ Operator, include in the contract of sale:

- An undertaking that the purchaser (IDZ Enterprise) will not withdraw or request a withdrawal of its operations from the IDZ,
- A right of first option to purchase, and
- A right to approve the party to whom the property will be sold, should the IDZ Operator elect not to exercise the option.

In addition, the IDZ operator must ensure that the following information, as pertaining to IDZ enterprises, is provided to **the dti**.

- Details of the due diligence report that will amongst other things cover financial projections; security checks performed; governance aspects of the enterprise;
- Employment projections for the first year of operations and for five years thereafter;
- The specific location within the IDZ where the IDZ enterprise will be located and the size of the operation within the overall IDZ;
- The industrial cluster that the IDZ enterprise will focus on as per the theme of the overall IDZ including target markets for export and percentage of exports envisaged; and
- Proof of compliance with all labour, health and safety, environmental and other applicable legislation.

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This information must be submitted timeously to **the dti** to ensure that **the dti** in collaboration with the National Intelligence Agency can perform and complete a background check on the IDZ Enterprise, if **the dti** or the IDZ operator so deem it necessary.

(b) An IDZ enterprise located in the CCA must register with the South African Revenue Services in terms of the Customs and Excise Act, 1964 (Act No.91 of 1964) and any rules made thereunder.

The IDZ operator must follow the same procedures as outlined for the IDZ enterprises for those enterprises located in a CCA. In addition to selecting the CCA enterprises, the IDZ operator must assist these enterprises in registering for import, export and manufacturing purposes with SARS.

F. ADMINISTRATIVE PROCEDURES

An IDZ Interdepartmental Committee comprising of the relevant departments, amongst others National Treasury, SARS, DPE, ACSA, NPA, NDOT and the DHA, will be appointed to advise and report to the MDB on all matters pertaining to the IDZ Programme. This Committee will report to the MDB on a regular basis and will be comprised of the Deputy Director-General (DDG) of TEO, as the Chairperson, one other MDB member and persons from the aforementioned departments.

G. APPEALS AND ADMINISTRATIVE JUSTICE

The dti subscribes to the principles of Administrative Justice. The Applicant / IDZ Operator will be afforded an opportunity to state its case, and where any decision is not favourable, the Applicant / IDZ Operator will be afforded one internal appeal against such decision. The Applicant / IDZ Operator is entitled to appeal against the decision within 30 days from the date on which the Applicant / IDZ Operator was informed and / or reasonable aware of such decision. Should the Applicant / IDZ operator still not be satisfied with the decision on appeal, the Applicant / IDZ operator may approach the High Court of South Africa to review the decision made.

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Information and/ or documents submitted by an applicant to **the dti** shall be regarded as confidential and shall only be disclosed by **the dti** to persons directly involved in the preparation, evaluation and determination of the application. Accordingly, in the event of a request for disclosure by a third party, **the dti** shall refuse access, unless the Applicant consents to the disclosure of such information and/ or documents. However, where the third party applies for an order of court in this regard, **the dti** shall notify the Applicant of such request and it shall be for the applicant to prove to the court why the documents should be regarded as confidential and accordingly refused.

Jan De Bruyn

Chairperson: Manufacturing Development Board

Date: / /

APPENDIX A

Checklist for Application for IDZ Designation and IDZ Operator Permit

A. Application for IDZ Designation		
	Yes	No
1. Business Plan		
1.1. Rationale behind application for IDZ designation & permit		
1.2. Broad economic analysis of the province		
1.3. Statutory documentation		
1.4. Physical master plan of the IDZ		
1.5. Infrastructure development plan with timeframes		
1.6. Construction plan with timeframes		
1.7. Financial analysis & projections for 5 years incl. budget for the first 3 years		
1.8. Estimated employment opportunities		
1.9. Outline of marketing plan		
1.10. Overall action plan for the IDZ		
B. Application for IDZ Operator Permit (in addition to the Business Plan)		
	Yes	No
1. Feasibility Study		
1.1. Completion of all geo-technical & environmental studies		
1.2. Credit report for each shareholder/member/ director of the applicant & the applicant		