CHAPTER 71A

FISCAL INCENTIVES

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"Enclave Enterprise" means an enterprise producing exclusively for export to countries outside the Common Market;

"enterprise" means any company registered in Barbados;

"established industry" means an industry which supplies more than 90 percent of the domestic market for any product;

"factory" means any premises in which, or within the close or curtilage or precincts of which, or any place where persons are or will be employed in any process for or incidental to any of the following purposes

(*a*) the production of an approved product;
(*b*) the adapting for sale of any approved product,

being premises or any place in which, or within the close or curtilage or precincts of which, the work is or will be carried on by way of trade or for purposes of gain and to or over which the approved enterprise which employs or will employ the persons employed or to be employed therein has access or control;

"Group I Enterprise" means an enterprise in respect of which the local value added is at least 50 percent of the amount realised from the sales of an approved product;

"Group II Enterprise" means an enterprise in respect of which the local value added is at least 25 percent but less than 50 percent of the amount realised from the sales of an approved product;

"Group III Enterprise" means an enterprise in respect of which the local value added is at least 10 percent but less than 25 percent of the amount realised from the sales of an approved product;

"industry" means a manufacturing or processing industry, and includes deep sea fishing and shrimping where they form part of an integrated processing operation, but does not include agriculture or tourism;

"local value added" means the amount (expressed as a percentage of the total sales of an approved product) by which the amount realised from the sales of an approved product over a continuous period of 12 months exceeds the aggregate amount of the following

(*a*) the value of imported raw materials, components and parts of components, fuels and services;

(*b*) wages and salaries paid during the period to persons who are not nationals of the Member States;

(*c*) profits distributed and remitted directly or indirectly to persons who are not resident in a Member State;

(*d*) interest, management charges and other income payments or any of them, accruing directly or indirectly to persons not resident in a Member State, other than a branch or agency of banks not resident in a Member State;

(*e*) depreciation of imports of plant, machinery and equipment;

" Minister " means the Minister responsible for Industry;

" national " means a person who is a citizen of a Member State, and includes a person whose connection with such a State entitles him to be regarded as belonging to, or being a native or resident of the State for the purposes of the law relating to immigration for the time being in force;

" sale " means the proceeds of sale *ex* factory of an approved product.

Computation of local value added.

3. (1) The local value added shall be weighted by the wages or salaries paid to nationals of a Member State expressed as a percentage of the total sales of the approved product and calculated in accordance with the formula $\frac{V\ (100 + W)}{100}$.

(2) For the purposes of subsection (1)—

(*a*) " V " represents the local value added expressed as a percentage of the total sales of the approved product; and

(*b*) " W " represents the wages and salaries paid to nationals of a Member State and expressed as a percentage of the total sales of the approved product.

Determination of value of content of component.

4. In determining the value of the content of a component produced by a Member State for the purposes of paragraph (*a*) of the definition of " local value added ", no account shall be

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taken of any element in the cost of that component, except the value of the imported raw material content.

Non-resident.

5. (1) For the purposes of paragraphs (*c*) and (*d*) of the definition of " local value added ", an enterprise shall be deemed not to be resident in a Member State if it is controlled directly or indirectly by a person who is not resident in a Member State (hereinafter referred to as a non-resident).

(2) A non-resident shall be deemed to have control of an enterprise if he owns or is entitled to purchase the greater part of the ordinary paid-up share capital (not including shares which carry no voting rights) of the enterprise.

Declaration of approved product.

6. (1) Subject to section 9, the Minister may by order declare that a product of manufacture shall be an approved product for the purposes of this Act if he is satisfied that the manufacture of the product would—

(*a*) be of benefit to Barbados, both economic and non-economic considerations being taken into account; and

(*b*) have a beneficial effect on employment in numbers and gross wages.

(2) An order may be made under subsection (1) in respect of a product which is being manufactured in Barbados at the date of the order.

(3) The Minister, before declaring under subsection (1) that a product of manufacture shall be an approved product for the purposes of this Act, shall also have regard to the following considerations—

(*a*) the effect which approval would have on existing industries;

(*b*) whether manufacture of the product would utilise raw materials or skills available in Barbados;

(*c*) whether the existing capacity for manufacture of the product is sufficient to meet the demand for the product; and

(*d*) the element of risk involved in establishing a successful manufacture of the product.

Declaration of approved enterprise.

7. (1) Subject to section 9, the Minister, on an application made by or on behalf of an enterprise for the purpose of establishing an industry in Barbados to manufacture an approved product, or in the case of an enterprise which at the commencement of this Act is manufacturing the product declared by order under section 6 to be an approved product, may by order declare the enterprise to be an approved enterprise if he is satisfied that the enterprise—

(*a*) is or will be adequately financed;

(*b*) has adequate trained personnel in its employ or is able to obtain the services of such personnel;

(*c*) has access to the necessary technical information;

(*d*) is able to obtain adequate raw materials;

(*e*) possesses, or will possess, the necessary factory.

(2) In an order made under subsection (1) a date shall be declared to be the date on which, for the purposes of this Act—

(*a*) construction is deemed to begin; and

(*b*) production is deemed to begin.

(3) Every order made under subsection (1)—

(*a*) shall specify the factory in respect of which the benefits under this Act may be enjoyed;

(*b*) may declare that in its application it shall be restricted to a part of a factory or to a particular grade, quality, description, type or classification of product;

(*c*) may provide for its revocation in any case of breach of or non-compliance with its requirements.

Applications for approval.

8. An application under section 7 shall specify—

(*a*) the locality or proposed locality of the factory in which the enterprise is manufacturing or intends to manufacture the approved product;

(*b*) the date of construction of the factory, which shall not be later than twelve months after the date of the application, except that where a factory is already in existence, the application shall contain all information that may enable the Minister to specify the date of construction;

(*c*) the date on which production is likely to begin, which shall not be later than eighteen months from the date of

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construction, except that where the production of an approved product has already commenced, the application shall contain all information that may enable the Minister to specify the date on which production is deemed to begin;

(*d*) the approved product already being manufactured or intended to be manufactured;

(*e*) all information, supported by documentary evidence, relevant to the determination of the local value added.

Objections to proposals to approve a product or enterprise.

9. (1) Before an order is made either under section 6 or 7, the Minister shall cause the fact that he is about to be asked to consider whether for the purposes of the Act a product for manufacture should be an approved product, or an enterprise an approved enterprise, to be advertised in Barbados, and if the Minister thinks it necessary, elsewhere.

(2) The advertisement referred to in subsection (1) shall contain such particulars as to the product or enterprise of which such approval is being sought as the Minister considers necessary.

(3) The notice shall state the period within which the objection to the approval of the product or the enterprise shall be made.

(4) Every objection received by the Minister within the time stipulated in the advertisement or within such extended time as the Minister allows shall be considered by the Minister before an order is made under section 6 or 7.

Minister to have absolute discretion in respect of approval.

10. The Minister shall have an absolute discretion to grant or refuse approval in respect of a product as an approved product or an enterprise as an approved enterprise.

Classification of enterprises.

Third Schedule.

11. (1) Subject to section 21 (4), an approved enterprise may be granted benefits under this Act for a period not exceeding the period applicable thereto specified in the Third Schedule (and hereinafter referred to as the period of the tax holiday) if it is classified into one of the following categories—

(*a*) Group I Enterprise;

(*b*) Group II Enterprise;

(*c*) Group III Enterprise;

(*d*) Enclave Enterprise;

(2) Prior to the classification of an approved enterprise as a Group I, Group II or Group III Enterprise, the local value added as calculated in accordance with section 3 shall be estimated.

PART II

Provisions relating to Income Tax

Exemption from income tax. Cap. 73

12. Notwithstanding the Income Tax Act, but subject to sections 24 and 27, an approved enterprise shall be entitled to relief from income tax from the date of production in respect of profits and gains accruing to it for the period of the tax holiday.

Benefits for enterprise engaged in highly capital intensive industry. Third Schedule.

13. (1) Where an approved enterprise is engaged in a highly capital intensive industry, the Minister may by order grant it any benefit under this Act for a period not exceeding that for which a benefit may be granted to an Enclave Enterprise in accordance with the Third Schedule.

(2) For the purposes of this section and section 27, " highly capital intensive industry " means an industry the capital investment in which is not less than fifty million dollars Barbados Currency.

Depreciation allowance.

14. In computing the profits of an approved enterprise for the purposes of relief from income tax under section 12, allowance shall be made for any depreciation in value which would but for the exemption be claimable in that year.

Deduction for capital expenditure.

15. The provisions of the Income Tax Act shall apply to an approved enterprise from the first year of income following the year of income during which the period of the tax holiday ends, except that a deduction as an initial allowance for capital expenditure shall only be in respect of expenditure incurred after the expiration of the period of relief from income tax.

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Set-off.

16. Any loss incurred by an approved enterprise during the period of the tax holiday may be set off in accordance with section 17.

Losses carried forward for purpose of set-off. Cap. 73.

17. (1) Notwithstanding section 23 of the Income Tax Act, on the expiration of the period of the tax holiday, the net losses incurred during that period may be carried forward for the purpose of set-off in computing the profits of an approved enterprise for the five-year period following the period of the tax holiday.

(2) Where the order declaring an enterprise to be an approved enterprise is revoked under section 25, such enterprise shall, for the purposes of carrying forward net losses incurred prior to the revocation of the order, be deemed to be an approved enterprise.

(3) For the purposes of this section, " net losses " means the excess of all losses over all profits made during the period of the tax holiday.

Dividends.

18. (1) Subject to subsection (2), dividends and other distributions from profits accruing to an approved enterprise as a result of the manufacture of an approved product during the period of the tax holiday shall, when paid to shareholders or their nominees, be exempt from the payment of income tax.

(2) Where a shareholder is not resident in a Member State, the exemption referred to in subsection (1) shall apply to so much of the tax as exceeds the tax liability of the shareholder in his country of residence.

Interest.

19. Interest in whatever form, on loan capital and any other moneys borrowed by an approved enterprise, whether in the form of overdraft, debenture or otherwise when paid to the recipient, shall not be exempt from the payment of income tax.

PART III

Provisions relating to Interim Trader's Licence Fees and Trade Tax

Relief from trader's licence fees and from trade tax. Cap. 180. Cap. 107.

20. Notwithstanding anything contained in the Interim Traders Act, or in the Local Government Act, an approved

enterprise shall, from the date of production in respect of any business carried on by that enterprise in relation to an approved product, be exempt from any fee chargeable under the Interim Traders Act, for an interim trader's licence, and from any trade tax chargeable under the Local Government Act, during the period of the tax holiday.

PART IV

Provisions relating to Customs Duty

Licence to import.

21. (1) If the Minister is satisfied that any plant, equipment, machinery, spare parts, raw materials or components thereof are not available in the Common Market at prices and qualities and in adequate quantities for export comparable to those available from an area outside the Common Market, he may issue a licence to an approved enterprise to import such articles or any of them from an area outside the Common Market.

(2) On receipt of a licence issued under subsection (1), an approved enterprise may import plant, equipment, machinery, spare parts, raw materials or components thereof free from customs duty from an area outside the Common Market for the appropriate period of relief referred to in section 12 or section 27 (3) or (4), if the Comptroller is satisfied that the plant, equipment, machinery, spare parts, raw materials or components thereof are required—

(*a*) for constructing, altering, reconstructing or extending the approved enterprise; or

(*b*) for use by the enterprise in the manufacture of an approved product.

(3) Where subsequent to the issue of a licence under subsection (1) there is a change in the circumstances contemplated by that subsection, the Minister shall—

(*a*) revoke the licence; or

(*b*) alter the licence so as to exclude any of the articles in respect of which the change exists.

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(4) Notwithstanding subsections (1), (2) and (3) of this section, an Enclave Enterprise may, until such time as it ceases to be an Enclave Enterprise, import any article mentioned in those subsections without obtaining a licence under subsection (1).

Record and inspection of articles.

22. (1) An approved enterprise which—

(*a*) imports into Barbados from a country outside the Common Market; or

(*b*) purchases within the Common Market,

any article in respect of which it has been granted relief from customs duty under section 21 (2) shall—

(i) keep a record of the articles so imported or purchased in such form and containing such particulars as the Comptroller requires;

(ii) cause the articles to be marked in such manner as the Comptroller requires;

(iii) permit the Comptroller or a person authorised by him for the purpose, to inspect at reasonable times such record, and to have access to any factory or warehouse under its control for the purpose of examining any such article which the Comptroller has reason to believe to be therein, and of satisfying himself of the accuracy of the particulars contained in the record.

(2) An approved enterprise which contravenes any of the provisions of this section is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Restriction on disposal of articles.

23. (1) An article imported by an approved enterprise under section 21 (2) shall not be sold or otherwise disposed of by the enterprise except—

(*a*) to the transferee, in the case of a transfer of ownership of a factory belonging to the enterprise; or

(*b*) where the approved enterprise pays or gives security to the satisfaction of the Comptroller for the payment of an amount equivalent to the amount of customs duty which but for section 21 (2) would have been payable on importation of such article, and the article was so imported by the enterprise;

(*c*) after the expiration of five years from the date of purchase of the article.

(2) An approved enterprise which contravenes any of the provisions of this section is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

PART V

Miscellaneous

Delay of construction or manufacture.

24. (1) Where an approved enterprise fails or neglects—

(*a*) to commence construction of a factory on or before the date of construction; or

(*b*) to commence manufacture at the factory of an approved product in marketable quantities, on or before the date of production,

the Minister may issue a notice in writing requiring it within thirty days of the date of such notice either—

(i) to commence construction of the factory or the manufacture of the approved product in marketable quantities, as the case may be, or

(ii) to prove to the satisfaction of the Minister that the failure or neglect is attributable to a cause beyond its control and that there is a reasonable prospect of its commencing construction or manufacture, as the case may be, within such time as the Minister considers reasonable.

(2) Where an approved enterprise satisfies the requirements of sub-paragraph (ii) of subsection (1), the Minister shall by order substitute for the date of construction or the date of production, as the case may be, some other specified day, and thereupon the provisions of this Act shall take effect as if the day specified in such order was the date of construction or the date of production, as the case may be, specified in the order made under section 7.

Revocation of order.

25. (1) The Minister may, having regard to all the circumstances of the case, if he thinks it expedient so to do, by order

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revoke an order made under section 7, where an approved enterprise—

(*a*) contravenes any of the provisions of this Act or the regulations; or

(*b*) fails to comply with the requirements of a notice issued under section 24.

(2) Subject to section 17 (2), upon the revocation of an order made under section 7, the provisions of sections 12, 20 and 21 shall be deemed never to have applied to the enterprise, and such enterprise shall, notwithstanding anything contained in the Income Tax Act or the Customs Act, pay to the Commissioner and the Comptroller any sums which but for sections 12 and 21 (2) would have been payable as income tax and customs duty.

Cap. 73.
Cap. 66.

(3) Notwithstanding subsection (2), the Minister may, if he thinks that the payment of any such sums would cause undue hardship, or if for any other reason he deems it expedient to do so, remit the whole or part of any such sums payable by the enterprise.

(4) All sums payable under this section may be recovered as a civil debt before a magistrate for District A.

Restriction on use of factory.

26. (1) Subject to subsection (3), no factory belonging to an enterprise which is being used or is intended to be used for the manufacture of an approved product shall, during the period of the tax holiday, without the prior approval of the Minister, be used for purposes other than the manufacture of the approved product.

(2) An enterprise which contravenes the provisions of subsection (1) is guilty of an offence and liable on summary conviction to a fine of one thousand dollars, and in the case of a continuing offence to a further fine not exceeding two hundred dollars in respect of each day or part thereof during which the offence continues after conviction thereof.

(3) This section shall not apply to an enterprise which ceases to be an approved enterprise and in respect of which all sums payable to the Commissioner and the Comptroller in respect of income tax and customs duty have been paid.

Appraisal of performance of enterprise.

27. (1) The Minister shall—

(*a*) at the expiration of three years from the date of production; and

(*b*) thereafter at intervals of two years until the cessation of all benefits under this Act,

appraise the performance of an approved enterprise other than an Enclave Enterprise for the purpose of determining whether any change in its classification is necessary.

(2) Where on an appraisal under subsection (1) an approved enterprise—

(*a*) fails to maintain its classification and cannot be re-classified into any of the other Groups specified in the Third Schedule, the enterprise shall with effect from the date of the notice of the decision of the Minister under subsection (5) be no longer treated as an approved enterprise for the purposes of sections 12, 20 and 21 (2); Third Schedule.

(*b*) maintains its classification or is re-classified into any of the other Groups specified in the Third Schedule, the enterprise shall continue as an approved enterprise, and paragraph (*b*) of subsection (1) shall continue to apply.

(3) Where as a result of the re-classification of an approved enterprise into a lower Group, the period of the tax holiday exceeds the maximum period permitted in that Group, the Minister shall by order reduce the period so as not to exceed the maximum period permitted in the lower Group to which the approved enterprise has been re-classified.

(4) Where an approved enterprise is re-classified into a higher Group, the Minister may by order increase the period of the tax holiday so as not to exceed the maximum period permitted in the Group to which the approved enterprise has been re-classified.

(5) The Minister shall as soon as practicable after an appraisal under subsection (1) serve notice of his decision on the approved enterprise.

(6) This section shall not apply to a highly capital intensive industry.

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Transfer of status of approved enterprise.

28. (1) The Minister may by notice published in the *Official Gazette* transfer the status of an approved enterprise to another enterprise where—

(*a*) an approved enterprise merges with or is taken over by another enterprise, or forms part of an enterprise's reconstruction; or

(*b*) in his opinion it is equitable or in the public interest to do so.

(2) Prior to the issue of a notice under subsection (1), the Minister may require the enterprise to which the status of an approved enterprise is to be transferred to comply with such conditions and to give such undertakings and assurances and in such form as he considers desirable having regard to the public interest.

(3) On the issue of a notice under subsection (1), all rights, privileges, benefits, immunities, duties and obligations conferred or imposed by or under this Act on the former enterprise may be transferred to the latter enterprise.

Regulations.

29. The Minister may make such regulations as he thinks necessary for giving effect to the provisions of this Act.

Publication in *Official Gazette.*

30. All orders made by the Minister under this Act shall be published in the *Official Gazette.*

Savings.

31. (1) Subject to subsection (2), the Minister may not, after the commencement of this Act, declare—

(*a*) a product to be an approved product or an enterprise an approved enterprise for the purposes of the Industrial Incentives Act; or

Cap. 75.

(*b*) a product to be an approved export product or a company or statutory board to be an approved export producer for the purposes of the Industrial Development (Export Industries) Act.

Cap. 74.

(2) Where prior to the commencement of this Act an application for approved status was made under any Act referred to in subsection (1) and the application is at the commencement of this Act pending, the application shall be treated as if it were made under this Act, and the provisions of this Act shall apply accordingly.

FIRST SCHEDULE (Section 2)

Products excluded from Definition of Approved Products

Aerated waters
Automobile mufflers (not produced as part of an integrated automobile exhaust system)
Bakery products
Beer
Brushes and mops
Cardboard boxes
Cigarettes
Clocks
Coir products, mats and matting
Concrete blocks
Concrete pipes (non asbestos)
Concrete tiles
Copra
Corrugated cardboard containers
Drinking straws
Edible oils and fats from copra
Handicraft items
Hats and caps
Hollow ware (aluminium)
Mattresses
Nails (other than galvanised nails) 1982–38.
Paper bags
Phonograph records
Plastic film
Pop corn
Printery
Rum
Shirts and knitted underwear
Stationery (other than continuous business forms)
Syrups
Tissue paper products
Tubular furniture (aluminium)
Twine
Umbrellas
Window frames (aluminium)

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SECOND SCHEDULE (Section 2)

Member States

(*a*)

Antigua	Jamaica
Barbados	Montserrat
Belize	St. Kitts/Nevis/Anguilla
Dominica	St. Lucia
Grenada	St. Vincent
Guyana	Trinidad and Tobago

(*b*) Any other State of the Caribbean region which becomes a member of the Common Market.

THIRD SCHEDULE (Section 11)

Period of Tax Holiday

Classification of Approved Enterprise	Period of tax holiday
Groups	*Years*
Group I Enterprise	10
Group II Enterprise	8
Group III Enterprise	6
Enclave Enterprise	10