

Jamaica's Cannabis Industry: Policy Framework

Authors: Professor Anthony Clayton, Eleanor Hussey, Omar Chedda

March 2016

Policy Rationale

Markets

The market for cannabis is among the fastest-growing in the world. There is a surge of interest and investment capital now going into the sector, especially in the USA and Canada, and a number of countries in Europe and Central and South America are close behind.

However, the three major international drug control treaties are still in place, and have not yet been revised to allow the cultivation and export of cannabis, the issues concerning medical cannabis and cannabis products for therapeutic use are not yet clear, and terms and definitions are still undecided. These legal and regulatory uncertainties will have to be addressed, as otherwise these could discourage investment, inhibit the provision of finance and banking services to the sector, and derail the development of the industry. The UN General Assembly Special Session (UNGASS) which will meet in April 2016 to assess the 'achievements and challenges in countering the world drug problem' may clarify the way forward.

It is clear that the majority of countries in the world are moving to decriminalize cannabis, remove it from the control of organized crime, and put it on a par with the tobacco industry. Over the next few years, therefore, it appears likely that the cannabis industry will come to resemble the tobacco industry, in that it will be legal, regulated, taxed and traded. However, the timetable will be heavily influenced by political factors, and so is unpredictable.

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

There are still many opportunities. The market for medical applications, in particular, is already open in many countries, and Jamaica can also take the initiative for further relaxation of domestic sanctions to allow greater latitude for recreational and sacramental use.

The market for ancillary products, such as equipment and paraphernalia, also has significant growth potential. Ancillary businesses, which are further removed from the cannabis plant, have fewer legal and regulatory uncertainties, but have longer ROI horizons, and are still exposed to the risk of disruption resulting from legal uncertainties in the primary market.

The most critical regulatory and logistical challenge is to ensure that only cannabis grown under controlled conditions finds its way into the legal market, thereby providing a basis for certification for use by the general public, locally and abroad. The challenge is to find a way to do this while still allowing small producers an opportunity to become legitimate operators, with access to the market.

In general, capital is attracted to projects where the risks are minimal and the return on investment attractive. The legal framework must therefore be clearly defined to allow both local and foreign investment in the new industry, without contravening international agreements to which Jamaica is a party. As noted above, the situation is likely to change, as there is growing international pressure to modify the UN drug control treaties that relate to cannabis, but the timetable is unpredictable.

While it is expected that there will be investment opportunities in all components of the value chain, it is likely that most funding will be attracted to integrated, value-added projects to increase the return on investment, so that a project that comprises the production of the raw material, processing and product development, and the marketing of a range of products may be preferred by investors.

It is also likely that significant investment will be channeled into the reformulation of existing products to capitalize on the availability of cannabis extracts for the health and wellness sector, such as spa products, beverages, assorted skin care and other cosmetics.

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

The initial development of the industry should therefore focus on medical and health applications, but this should be done as part of a longer-term strategy to develop a larger nutraceutical industry linked to health tourism.

Interim options

Below are some of the areas which could probably be monetized relatively rapidly, and would also provide a bridge to the period when cannabis is fully legalized.

- **MEDICAL & THERAPEUTICS**
 - o Medical Tourism (MoH local permit required)
 - Overseas Patients
 - Diaspora Patients
 - Local Patients
 - o Therapeutic Wellness Centres
 - Spa treatment with nutraceuticals
 - Local & Overseas clientele
 - o Registration and Training of Local Medical Practitioners
 - Conventional Medical Doctors
 - Natural/ Herbal Health Practitioners
 - o Training Centres & Colleges: Local and Overseas clients
 - Pharmacists
 - Medical Technicians & Caregivers
- **SCIENTIFIC**
 - o Research
 - o Medical and Therapeutic Product Development
 - Human
 - Veterinarian
 - o Medical Clinical Trials

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

- o Product Development services

- **SACRAMENT/RELIGIOUS**
 - o Rastafarian religious rights
 - o Cultural/Spiritual Tourism
 - Events
 - Tours

 - Community Tourism (possibly on the 1960's kibbutz model)

Current product development in Jamaica

Recent events give a snapshot of the embryonic cannabis products industry in Jamaica. The following companies were involved in the 'Cannabiz Business and International Investors Conference' held by the Ganja Growers and Producers Association, supported by Cannabis Commercial & Medicinal Research Institute and the National Alliance for the Legalization of Ganja on 3rd and 4th February 2016.

- Citiva. This is an R&D company in a partnership with UWI (as well as Harvard and Buffalo Universities). They are committed to 'a well-designed drug development programme' and developing FDA-approvable clinical trials and medical products. Citiva has a permanent staff of 3 based in Kingston.
- Appollon Formularies Inc. This is an R&D company in partnership with local medical marijuana company JAMED, seeking to develop pharmaceuticals from various cannabinoids and gold nanoparticle treatment techniques. They have opened a treatment centre in Negril (Doc's Place Medical Cannabis Wellness Centre), and plan for other centres in Montego Bay, Ocho Rios and Kingston.
- Leaf of Life. This is a Jamaican company trading in Jamaica under Leaf of Life Investment & Credit Ltd proposing to offer 'a full comprehensive professional service covering the cultivation, research manufacturing and development of medical cannabis extracts, topical & nectars'.
- Orange Hill Industries Limited. The company is a Jamaican manufacturer of 'a broad spectrum of therapeutic-grade botanical oil extracts'.
- Mel's Treats. A Jamaican enterprise manufacturing edibles (ganja brownies and other edibles in simple clear cellophane packaging with a smiley face sticker).
- Sir Vincent Ganja Research Centre. This is based in Montego Bay, and co-owned by local and overseas investors. They had 2 products for sale: CBD Arnica Salve (for sore muscles) and CBD Argan Oil (for skin & hair).

A Jamaican company called Epican (with overseas partners), which exhibited at the Rebel Salute Reggae Show in January 2016, produces cannabis oil which is used in vape pens. This appears to be a well-established and funded company with several employees based in Kingston.

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

It is clear that there are a number of these fledgling enterprises around the country, as more of them attended the three Rastafarian ganja-exempt events held since November 2015.

Growth Prospects

On the 20th October a new government was elected in Canada, which pledged to fully legalize the cultivation, sale and recreational use of cannabis. As a result, the Canadian market for cannabis is now projected to reach US\$7 billion by 2020. The tax revenue from this new industry is going to be used to finance both tax cuts and government spending on infrastructure.

The imminent change in policy in Canada is likely to further accelerate reform in the USA, where almost half of the states have now implemented various forms of decriminalization, in Europe, and in other major world markets. Many countries have now licensed cannabis for medical purposes; Uruguay and four American states have already legalized recreational use.

The extraordinary rate of market growth in the regions that have already decriminalized indicates that there is enormous pent-up demand, which means that the market for cannabis products will be one of the fastest-growing sectors of the global economy in the years ahead. New Zealand has already experienced serious shortages of cannabis, as supply has failed to keep abreast of demandⁱ.

These developments have already impacted seriously on organized crime. The Mexican drug cartels, in particular, have lost substantial revenue, as consumers in the US market can now buy legal, higher-quality products from properly licensed suppliersⁱⁱⁱⁱ. The price for the illegal supplies has more than halved, and the volume of seizures at the Mexican-US border has fallen by two-thirds. So legalization has been a more effective weapon against organized crime than any other measure.

Key policy issues

Public Education

As with any other legal drug, it is vital to ensure that everyone can make informed decisions as to how cannabis is used. The Government should therefore implement public education initiatives, primarily through the National Council on Drug Use, to ensure that everyone understands the health, medical and other issues involved. There should be age restrictions for purchasers, appropriate health warnings and usage/dosage advice must be required (displayed at point of sale, on packets etc.), and child-proof packaging must be mandated for edibles.

International Law

At present, there are three major international drug control treaties, which are generally mutually supportive and complementary. An important purpose of the **1961 Single Convention on Narcotic Drugs** and the **1971 Convention on Psychotropic Substances** is to codify internationally applicable control measures in order to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes, and to prevent their diversion into illicit channels, so they both include general provisions on trafficking and drug use, while the **1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances** reinforced the obligation of countries to apply criminal sanctions to combat all the aspects of illicit production, possession and trafficking of drugs. The 1998 United Nations Convention requires signatories to 'establish as criminal offences under [their] domestic law' the growing, buying, selling or possessing of drugs including cannabis (which appears contrary to some of the provisions of the 1961 Convention). In general terms, these treaties clearly allow supply and use for any legitimate medical and scientific purpose, but they strongly discourage almost all other uses, and they oblige signatories to enact laws punishing participants in recreational cannabis markets.

There is an argument that states may lawfully decriminalize the possession of cannabis for personal consumption, but there is no doubt that current treaty obligations prohibit the cultivation, preparation, and commercial sale of cannabis, which is listed as a controlled substance by the UNODC. It is important

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

to note, however, that items can be added or deleted from this schedule, via the World Health Organization (WHO). It is therefore possible for countries that now want to develop legal cannabis industries to argue that cannabis should now be removed from the list of controlled, dangerous drugs.

UNGASS

A UN General Assembly Special Session (UNGASS) has been convened for April 2016 to assess the 'achievements and challenges in countering the world drug problem'.

This meeting was brought forward from 2019 in response to the request from Mexico, Colombia and Guatemala in October 2012, and their forceful advocacy of the view that it is now essential to review and revise the international community's approach to narcotics.

At present, the United States explicitly opposes both the conclusion of any new drug treaty, and even the possibility of amending or revising the current treaty framework to account for changing domestic cannabis policy. However, this appears inconsistent with the fact that about half of the States have now decriminalized cannabis.

Jamaica should support the case for review and revision¹, for three reasons:

1) Harm reduction

The first reason is the need to reduce the social and economic costs being borne by this country, amongst others. Central America and the Caribbean have suffered disproportionately from the current illegal trade. Eight out of the ten most violent countries in the world are in Central America and the Caribbean, mainly because this is one of the world's busiest trans-shipment routes for illegal narcotics. With profit margins over 3,000 percent for cocaine (from field to consumer), the flows of cash have made drug cartels immensely rich and powerful, allowing them to diversify and extend their influence

¹ At the General Assembly thematic debate about UNGASS on May 7, 2015, Minister of Justice Mark Golding said: "Jamaica is in favour of the establishment of an expert advisory group to review the UN drug-policy control architecture, its system-wide coherence, treaty inconsistencies and the legal tension of cannabis regulation."

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

into almost every area of life, taking over legitimate businesses, importing illegal weapons and corrupting public officials. Countries such as Mexico, Colombia and Guatemala have suffered particular harm as a result of the illegal trade. Mexico had over 164,000 homicides between 2007 and 2014, with the majority of them related to the war on and between the drug cartels. Over the same period, just over 100,000 people were killed in Afghanistan and Iraq combined, illustrating the point that the 'war on drugs' results in far more casualties than any military conflict in the world today.

On a per capita basis, however, Jamaica has suffered far more than Mexico. Jamaica's per capita homicide rate (40 per 100,000) is twice as high as Mexico's (18.9 per 100,000).

It is clear that the current approach, based on prohibition, eradication and interception, has not reduced the flows of narcotics to consumers. Every successful eradication and interception has merely resulted in a temporary displacement of the routes, so that flows will switch from the Mexican land border to the Caribbean and back again, while the total tonnage being shipped continues unabated.

It is clear, therefore, that the current approach has not succeeded, but has resulted in appalling collateral damage. It appears likely that UNGASS is likely to result in a change in policy, as the draft UNODC briefing document for UNGASS suggests^{iv}. The UNODC briefing document notes, inter alia, that *de jure* or *de facto* decriminalization of drug use and possession for personal consumption is consistent with international drug control conventions, and may even be required to meet obligations under international human rights law. The UNODC document also notes that treating drug possession for personal consumption as a criminal offence has contributed to public health problems and negative consequences for safety, security, and human rights; that the heavy emphasis on criminalization has resulted in high levels of discrimination against people who use drugs, including exclusion from workplace, from education, from child custody and from health care; that, worldwide, millions of people are imprisoned for minor, non-violent drug-related offences (in spite of the international drug control conventions' provisions permitting to apply alternatives to conviction in cases of a 'minor nature'); that a disproportionate share of those incarcerated comes from the most marginalized groups; that current policies have led to prison overcrowding and related negative consequences, including pre-trial detention; and that incarceration has increased poverty and social exclusion, as

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

having a criminal record can negatively affect access to future employment, education, housing, and child custody and civil rights such as voting.

The UNODC document also points out that the international drug control system, underpinned by three international drug control conventions, recognizes the ‘health and welfare of mankind’ as its overarching concern; that the purposes and principles of the United Nations, as set out in the UN Charter, are to ‘maintain international peace and security;’ to promote ‘solutions of international economic, social, health and related problems’ (which includes drug control) and to promote ‘universal respect for, and observance of, human rights and fundamental freedoms’; and that these three policy pillars of the UN (security, development, and human rights) set the framework for drug control policy. This means that the international drug control conventions should be read in context of these provisions, so there is now a clear obligation to take the negative effects of current drug control policies more fully into account.

This UNODC document therefore gives a number of clear indications that the relevant UN agencies are preparing for a change in both the policy framework and the operational emphasis in drug control.

2) The case for decriminalization

Cannabis accounts for nearly half the \$300 billion illegal narcotics market. It is the drug of choice for most of the world’s 250 million consumers of illegal drugs. The legalization of cannabis would deprive organized crime of its single largest source of income, as well as doing more than any other measure to reduce overcrowding in penitentiaries. The partial decriminalization of cannabis in Jamaica resulted in a 19% reduction in arrests, and helped to reduce the number in police lockups by 25%.

The medical and moral arguments are similar; that it is illogical and inconsistent to prohibit cannabis while tolerating tobacco and alcohol, as both tobacco and alcohol currently do more physiological and social harm than cannabis, which has no known lethal dose.

3) The emergence of a new market opportunity for Jamaica

The legalization of cannabis will open new market opportunities for Jamaica.

World Trade Organization (WTO) Obligations

Inter-governmental negotiations will also be essential in order to resolve the issues with regard to trade. Where cannabis products are defined as legal, such as pharmaceuticals, normal WTO rules would apply. However, where products fall into an international legal grey area, such as therapeutic products and services, countries could impose restrictions without any challenge under WTO rules. It is therefore essential that the products and services which form a part of the local cannabis industry are recognized as legally tradeable and meet health and safety requirements. International trade classification issues will also need to be resolved, as none currently exist for these products.

Standards

All global brands are based on rigorous quality control and the maintenance of consistent high standards. Standards are now the key prerequisite for accessing global markets. So certification and accreditation will be essential for the development of a globally competitive cannabis industry.

The Ministry should therefore implement a National Quality Infrastructure (NQI) for the new sector. This would involve creating a highly integrated network of people, systems and organizations, with the Bureau of Standards of Jamaica at the centre. The Bureau of Standards should be given the lead responsibility for implementing and monitoring the track-and-trace systems for the cannabis industry.

The BSJ is already engaging in strategic partnerships with international expertise for the track-and-trace system, and a track-and-trace pilot project for building the standards for the industry is now underway. The process involves a 'chain of custody' for each stage of the supply chain from seeds to retail, involving robust documentation and selection processes. This approach must be embedded in the regulatory framework.

The prevention of contamination and cross pollination of plants brought in for research and development (R&D) with local plants is a concern. It is necessary to consider imposing appropriate restrictions on imports for research and development purposes in order to prevent unwanted cross-breeding and genetic 'contamination' of local species.

Regulating the sector

Regulatory principles

- The governance and regulatory framework should be lean, affordable, evidence-based, and market-focused.
- The policy and regulatory framework should offer positive incentives for legitimate operators, in the form of access to markets and technical support, and strong negative sanctions for any who choose to remain outside the law.
- The regulations should ensure congruence with the country's international obligations in respect of the global narcotics and drug trade.
- The Government should take the rights of traditional and sacramental users and growers into consideration.

The approved regulations will govern the issue and regulation of licences, permits and authorizations for the handling of cannabis for medical, therapeutic or scientific purposes, the procedure for applications for licences, permits and other authorizations, the criteria for the grant of those licences, permits and authorizations and the grounds for the suspension and revocation of licences, permits and authorizations.

Protecting the Brand

Local strains and varieties of cannabis should be identified, along with their unique properties, and documented. Internationally accredited laboratories in Jamaica have the capacity to make this

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

determination in terms of verifying features of the product and mapping toxicity, soil type, location and geo-spatial references.

The Jamaica Intellectual Property Office has initiated the process of amending the Trade Marks Act to explicitly protect the country name 'Jamaica' from further abuse and unauthorized exploitation. The proposed amendment to the Trade Marks Act will protect the country name 'Jamaica' against trademarks, business identifiers and domain names which use the country name 'Jamaica', but which in practice are not based here, and often have little or nothing to do with Jamaica. This move will provide essential protection to the new cannabis industry as it develops a global 'Jamaica' brand name. JIPO will also register geographical indicators.

The Trade Marks Act is also being amended to prepare for Jamaica's accession to the Madrid Protocol. This will allow for the registration of trademarks in multiple countries through one centralized application and registration procedure.

Situational Analysis

Steps taken to date

Three key steps have already been taken:

1. The necessary initial amendments have been made to the Dangerous Drugs Act.
2. The Cannabis Licensing Authority (CLA) has been established. This body is now overseeing the development of regulations for the cannabis industry, and the issuing of licences. The Dangerous Drug (Amendment) Act (DDA Act) 2015 gave the CLA the power to issue licences, permits and authorizations for the handling of cannabis for medical, therapeutic or scientific purposes.
3. The Cannabis Industry Advisory Council (CIAC) was appointed in June 2015 to undertake research, consult with stakeholders and advise the Ministry on relevant policy issues with regard to the development of a legal cannabis industry. To date, CIAC has held consultations with the following:
 - Ganja Growers (Future) and Producers Association

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

- Bureau of Standards
- National Commission on Science and Technology
- Scientific Research Council
- Ministry of Agriculture
- Ministry of Foreign Affairs and Foreign Trade
- JAMPRO
- Fair Trading Commission
- Attorney General's Office
- Bankers Association of Jamaica

Timeline

The relevant timeline is as follows

- DDA Act gazetted in April 2015
- CLA Board appointed in May 2015
- Consultants (BOTECH) contracted in June 2015
- Final report with recommendations from BOTECH received in September 2015
- Drafting of regulations began in November 2015
- Draft regulations submitted to Ministry of Justice in March 2016

Current position

The CLA will begin accepting applications for cannabis licences in April 2016. The regulations that will allow for the granting of licences have been drafted and are to be approved by the Ministry of Justice by the end of March 2016. These regulations will immediately allow for the publishing of application forms as well as the furnishing of information to potential licencees on eligibility criteria and the terms and conditions of licence.

Under the regulations, licences will be issued across five main categories: cultivator, transportation, processing, retailing, and R&D – ensuring coverage over the entire value chain for the therapeutic

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

cannabis industry. The regulations make special provisions for small farmers, cooperatives, and small-scale processors to participate in the industry with distinct requirements and licensing fee structures in place.

Residency requirements and local participation in companies have also been included as a critical component of participation in this nascent industry. Licences will also be available for importation for research under conditions stipulated by the CLA. As a special concession to ensure the participation of small growers in the new industry, the CLA will waive the up-front payment of licensing fees for this category of licensee for the first year of operations.

The CLA, through continuing consultations, will refine the licensing regime and build-out the full industry management framework that will underpin the emergence of Jamaica's new, legal cannabis industry. With this done, the CLA expects to be able to put forward an expanded and more comprehensive set of regulations by May 2016 that will seek to address all areas of the industry.

Current obstacles and policy responses

The process of legalization is still at an early stage, but some key issues have become clear.

- There are still major impediments to international trade in cannabis. This is because existing US Federal laws and international treaty commitments to control narcotics trafficking have not yet been amended to allow for the development of an international market for cannabis, which in turn is partly because there are serious concerns about the extent to which the market is currently controlled by organized crime. International markets are unlikely to open until exporting countries can guarantee that their supplies are entirely legal, with effective monitoring and control systems that can trace products from farm to consumer and ensure that there is no blending of illegal with legal supplies.
- There are still major impediments to investment in cannabis. The clearing banks for most of the commercial banks in Jamaica are located in the USA, primarily in New York, and are therefore governed by US Federal law which prohibits the financing of any illegal activities. This is unlikely to change until US Federal law and international law is amended to allow for a legal trade in

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

cannabis. There are similar issues with regard to insurance, as the major underwriters in Jamaica are covered largely by Swiss and German reinsurers, where cannabis is not yet legal or recognized as an area for coverage.

- About half of the US states, and a number of other countries have now partially or fully decriminalized cannabis, however, so the direction is clear. It is likely that the remaining impediments to international trade will eventually be removed, but it is also likely that there will still be strong measures to prevent criminal involvement in the new, legal market.

Potential issues

There are several potentially sensitive issues:

- Some people are lobbying to open up the industry immediately, with little or no regulation. In some cases, this pressure appears to come from people with connections to organized crime. It is very important, however, to ensure that the industry is properly regulated from the outset, as otherwise Jamaica is unlikely to obtain legal access to the major export markets.
- There are some unrealistic expectations as to the revenue that will flow from the industry, mainly because people base their projections on the current illegal market price. However, the current relatively high price for cannabis is largely the result of the fact that it is illegal. Legalization will allow large-scale production in many countries, which means that the price will fall significantly.
- The Bankers Association of Jamaica (BAJ) has suggested that Government intervention may be needed to ensure that financial and banking services are made available to the cannabis industry. One option is that a dedicated local entity could be formed to provide alternative financing for the sector, along the lines of the PC banks in Jamaica. This could not, under the current rules, clear funds through US or other clearing banks. However, it would be very difficult to establish a legitimate cannabis industry unless financial and banking services can be accessed.
- The sacramental use of cannabis is seen as a human rights issue by the members of the Rastafarian faith. The Government should also see this as an opportunity to develop the brand and the industry through linkages with creative industries and community tourism.

Vision for the future

Vision for the Cannabis Industry

- The industry should be market-driven, focused on quality, underpinned by rigorous standards, and closely monitored with robust track-and-trace systems.
- All farmers – large and small – must accept a range of obligations that will accompany their licences. This will include rigorous controls, and the use of best practices to grow various cultivars (preferably indigenous, for branding reasons) of cannabis for specific target markets.
- The industry must be policed with inspections, audits, product sampling, surveillance, testing; and certification of products and management systems.
- It is likely that the industry will resolve into farming, processing, distributing and retailing operations, although there may also be some vertically-integrated firms. If so, there will be room for both large and small farmers to supply different varieties to processors, who can then supply various types of retail outlets (such as tea houses and therapeutic centres).
- There are opportunities for a range of varied cannabis-related products and services.
- There is potentially high intellectual property value related to different varieties of indigenous cannabis (the bulk market is likely to be supplied by cultivars and genetically-engineered crops).
- Every farmer should be encouraged to focus on producing for a specific market niche in order to maximize the revenue from the crop.
- The cannabis industry can add significant value to Jamaica's tourism product, with tea houses and therapeutic centres utilizing cannabis and community experiences.

Policy goals

The countries that will be able to export cannabis are those that can guarantee the safety, reliability, quality and legality of their supplies.

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

So the main goal of policy at this stage is to build the regulatory framework in Jamaica, with track-and-trace monitoring and control systems, in order to be able to rapidly increase exports as and when the remaining barriers to market access are removed.

This can be done by focusing, in the first instance, on the controlled medical market. This could be followed by the further relaxation of the laws relating to cannabis (with regard to e.g. permitted quantities), and possibly the licensing of ‘tea houses’ where smoking cannabis is legal for both locals and tourists.

It is also important to take all necessary steps to register and protect the Jamaican brand. Jamaica is already well-placed to play a major role in this emerging market, with a strong brand name, image and reputation.

For both reasons, the essential task now is to put the core systems in place to regulate the industry, protect the brand, maintain a consistent, high-quality product, and ensure that all necessary steps are taken to protect children (which might include, for example, tamper-proof packaging and strict rules on the availability of edibles).

It is essential that regulations are effectively enforced, and that any grower or distributor that attempts to break the rules is rapidly and severely sanctioned. The goal is to build a modern, respectable and legitimate industry, so it is very important to adopt a zero-tolerance policy towards any behaviour that could damage the national brand or bring the sector into disrepute.

For the same reason, the CLA is specifically mandated to ensure that regulations do not contravene Jamaica’s international legal obligations.

Proposed Licences

- 1) Cultivator Licences
 - Under 1 acre
 - 1-5 acre

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

- Over 5 acres
- 2) Transportation Licences
 - 3) Retail Licences
 - Pharmacy/Dispenser
 - Tea-House
 - Therapeutic
 - 4) Manufacturing/Processing
 - Tier 1 –under 2,000 sq. ft.
 - Tier 2 –over 2,000 sq. ft.
 - 5) Research and Development
 - Experimental
 - Analytical
 - Import
 - Export

The Ministry of Energy, Science, Technology and Telecommunications in 2015 issued Ministerial Orders to allow a number of research institutions to conduct research activities utilizing cannabis, but not for commercial activity.

Proposed Fees

Licence Application Fee:

- Individual –US\$300
- Company/Cooperative –US\$500

Security Bond:

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

- Cultivation: under 1 acre –US\$1,000 and over 1 acre –US\$2,000 per acre
- Processing; Research and Development and Retail –US\$3,000

Medical Permits (Port of Entry):

- 7 days or less –US\$50
- More than 7 days –US\$100

Tax Structure (Proposed):

- Stamp Tax (cultivator level)
- Special Consumption Tax (production/retail level)

Policy Options

Industry Structure

- All five types of licences could be issued to one firm wishing to integrate vertically.
- Licencees should be held directly responsible for diversion of product to unapproved uses. In such cases, licenses should be immediately forfeit, and the former licensee be designated ineligible to reapply for an extended period.
- Some licences should be issued by means of auctions in order to ensure that the Government can assess the market value.
- Licences should be issued to cooperatives or other clusters of cannabis businesses provided that they can demonstrate proper procedures, capability, and financing. This is partly in order to reduce the number of licences to be issued by the CLA.
- Licences for small cultivators should be allocated by parish, and restricted to these geographical areas. This is to ensure that there remains room for small cultivators.
- Consideration will be given for the resale of existing licences. Purchasers of a resold license must, however, be able to meet all the necessary requirements.
- If there is strong demand for cultivation licences, it may be necessary to consider the immediate introduction of a market-wide cap, taking into consideration both the number of cultivation licences to be issued and the amount of product that each is allowed to produce, in order to

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

avoid a rush to get into the new industry that is then likely to be followed by a collapse in prices (and possibly standards).

Retail and Access

- Different categories of retail outlets should be allowed; these can be differentiated on the basis of the different ways of consuming the products.
- Medical conditions for which cannabis is an allowed treatment should be formally prescribed, as well as reasonable guidelines for use.
- No marketing or promotion by retail outlets should be allowed, as this would undermine the policy of informed, responsible use.
- Products should be regulated based on potency and intended effects, based on standard doses.
- Only a limited range of products should be allowed for retail initially, with a possible temporary ban on edibles (as these are particularly likely to be consumed by children).
- Reasonable, differentiated, quality control and safety rules for cannabis and cannabis products should be established.
- Rigorous standards in combination with health and safety requirements must be enforced at all times.
- The Government should mandate clear health and warning labels for all end-user products, and should consider mandating nondescript packaging (as is now the case for cigarettes).
- Mechanisms should be established for product tracing, lot number and issuance of recalls.
- Reasonable purchasing limits for processed cannabis products should be established for individual users.
- Laboratories will be certified, according to set international standards.
- Proper procedures and facilities must be in place for the disposal of below-standard materials and waste products.

Taxation and Revenues

- The Government should use taxes based on potency, and regular monitoring and reporting to ensure that licit product is not diverted to the illegal trade.
- Tax revenues should be used to finance the CLA, in addition to the cost of monitoring and enforcement activities related to standards and regulations.

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

- Mandatory periodic reports on sales and tax revenues with other production statistics must be required as part of the monitoring system.

The business model for the industry

The recommended approach is the ‘health and wellness model’, with both medicinal and therapeutic uses. The average development cost for a new pharmaceutical now averages over US\$1 billion, but nutraceuticals and traditional use markets are much more accessible.

The development of the cannabis industry in Jamaica requires the eventual opening of export markets on reasonable terms (i.e. without impossibly exacting requirements for international sales). In the interim, the regulatory framework should facilitate ease of entry and exit for investors, with a business environment that allows efficient global connectivity. This would encourage investors to set up operations in Jamaica, including legitimate and profitable research and development, production and manufacturing ventures and joint ventures in the cannabis industry.

Cannabis-related companies incorporated in Jamaica engaged in production, equipment manufacture and biotechnology could be ideally located within industrial clusters within the Special Economic Zones, while retail business would operate within tourist resorts, towns and attractions.

International companies and laboratories that can drive research and development should be targeted for the development of the local industry. These companies and laboratories should be encouraged to conduct clinical trials and cannabinoid extraction, and act as a driver for the local medical cannabis industry to supply patients globally with affordable medicinal cannabis products.

Cannabis has a range of important medical applications. Cannabinoids lower intraocular pressure and have neuro-protective effects, so they may have a role in the treatment of glaucoma. The cannabinoids also have a role in the treatment of nausea, loss of appetite, pain, depression and insomnia, which means that they can be very helpful to patients undergoing chemotherapy. As the world’s population is becoming increasingly elderly, the degenerative diseases are starting to

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

dominate health care budgets, so there is likely to be sustained growth in the market for medical applications of cannabis.

There could also be an increasingly important linkage between the development of the cannabis industry and the medical tourism industry in terms of treatments and the demography of clients. However, for this to happen the therapeutic use of cannabis would have to be clearly defined, and production focused on clearly defined therapeutic uses. Further work will be needed to clarify the issues concerning the permissible levels of tetrahydrocannabinol (THC) and the level of cannabidiol (CDB) required for medicinal applications.

The way forward

The remaining task is to map out the various activities involved, and build the systems necessary to support the orderly organization, structure, function and operation of the industry.

There are a number of key activities, as follows:

- Establishing the regulatory regime, which will involve a number of Ministries
- Seedlings to cultivation
- Clustering
- Seedlings to grower
- Growing
- Harvesting
- Seed reclaim
- Bud to distribution
- Packaging centre
- Distribution
- Research and testing
- Production
- Retail

Research and Development

Like every other modern industry, the new cannabis business will rely on continuous research and development to ensure that it remains competitive and abreast of changes in the market. This should be driven by the private sector, and supported by the Scientific Research Council, the University of the West Indies, the University of Technology and other research institutes.

MSME Development

One of the key priorities of the government is to transform MSMEs into competitive enterprises. It is likely that much of the development of Jamaica's new cannabis industry will be led by companies that are currently MSMEs, and that from this group will emerge some of the new firms that can operate on the scale and with the consistency required.

The Ministry has already started to strengthen key agencies, including the Jamaica Business Development Corporation (JBDC), the Self Start Fund (SSF), and the Micro Investment Development Agency (MIDA) to identify and resolve the impediments to the growth of MSMEs. The Small Business Development Centre Model (SBDC) initiative strengthens the JBDC's capacity to provide business development and advisory services. The SBDC model provides an electronic platform to 'track and trace' enterprise performance, and facilitates the cross-border networking of MSMEs.

Conclusion

It is now clear that the majority of countries in the world are moving to decriminalize cannabis, remove it from the control of organized crime, and put it on a par with the tobacco industry.

The task for the Ministry is to build a modern, respectable and legitimate cannabis industry in Jamaica, to act vigorously to protect the Jamaican brand, and to ensure that the new industry is properly managed and operates to the highest standards.

Cannabis Industry Advisory Council

Ministry of Industry, Commerce, Agriculture and Fisheries, Kingston,
JAMAICA

References

ⁱ <http://www.theguardian.com/world/2016/mar/17/new-zealands-cannabis-crisis-smokers-confirm-budding-shortage>

ⁱⁱ <http://www.npr.org/sections/parallels/2014/12/01/367802425/legal-pot-in-the-u-s-may-be-undercutting-mexican-marijuana>

ⁱⁱⁱ <https://www.cbp.gov/sites/default/files/documents/USBP%20Stats%20FY2015%20sector%20profile.pdf>

^{iv} http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/19_10_11_unodcbriefing.pdf