



# Industrial and Commercial Free Zones



# Industrial and Commercial Free Zones Law

## Decree N<sup>o</sup> 405

### The Legislative Assembly of The Republic of El Salvador,

#### Whereas:

- I. According to the Constitution of the Republic, it is the function of the State to establish the necessary legal instruments to propitiate both national and international investment;
- II. As part of the efforts made by the present Administration, aiming at the insertion of our economy into the worldwide globalization process, it is necessary to modernize and update the legal and regulatory framework that promotes the establishment and development of free zones in our country;
- III. In accordance with the above, and in light of the strategic importance of the free zones regime to the national economy, the generation of productive jobs, and the generation of foreign currency, it is necessary to create optimal competitiveness conditions throughout all operations performed by the companies protected by such a regime;

#### Therefore:

in the exercise of their constitutional powers, and by initiative of the President of the Republic through the Minister of Economy, and representatives Juan Duch Martínez, Julio Antonio Gamero Quintanilla, Julio Eduardo Moreno Niños, Mariella Peña Pinto, José Mauricio Quinteros, Jorge Alberto Villacorta Muñoz, René Aguiluz Carranza, Donald Ricardo Calderón Lam, Kirio Waldo Salgado Mina, Alejandro Dagoberto Marroquín, Sonia Evelin Ponce, Ernesto Iraheta Escalante, Ronal Umaña, José Rafael Machuca Zelaya, Alfonso Arístides Alvarenga, Herber Mauricio Aguilar Zepeda, Alex René Aguirre, Walter René Araujo Morales, José Orlando Arévalo Pineda, Arturo Argumedo, Jorge Alberto Barrera, Isidro Antonio Caballero Caballero, Olme Remberto Contreras, Roberto José D'Aubuisson Munguía, Carlos Alberto Escobar, René Mario Figueroa Figueroa, Hermes Alcides Flores Molina, Nelson Funes, Elizardo González Lovo, Román Ernesto Guerra Romero, José Ismael Iraheta Troya, José Roberto Larios Rodríguez, Carlos Guillermo Magaña, Álvaro Gerardo Martín Escalón, Juan Ramón Medrano Guzmán, Sigifredo Ochoa Pérez, Salvador Horacio Orellana Álvarez, Rubén Orellana, Olga Elizabeth Ortiz Murillo, Sílfide Marixa Pleitez de Ramírez, Norman Noel Quijano González, René Oswaldo Rodríguez Velásco, José Ricardo Vega Hernández, Luis Hernández, Amado Aguiluz Aguiluz, Mario Ponce, and Gerardo Antonio Suvillaga García,

DECREES the following:

#### Law of Industrial Free Zones and Commerce

# Chapter I

## Definitions and general arrangements

**Art. 1.** The objective of the present law is to regulate the operation of Free Zones and “Warehouses for Inward Processing”, as well as the benefits and responsibilities of company holders who develop, administrate and use them.

**Art. 2.** For purposes of the application and interpretation of this Law, the following definitions are established:

- a) **Acceptance of the Goods Declaration:** It is the date of record in the information system of the Directorate-General for Customs, which may be referred to as DGA, when it is paid and signed electronically, as the case may be. In case that the Goods Declaration was not signed and paid electronically it shall be deemed as accepted at the time when it is filed with the customs authority and the customs officer records this action in the information system of the customs service;
- b) **Strategic Industrial Activities:** Are those operations that refer to the fabrication of vehicles, airplanes and maritime ships or for the production of industrial goods from the use of nano-technology; whose owners perform a new investment in the country, of no less than ten million dollars of the United States of America and that are declared as such in the Agreement issued by the Executive Branch in the area of the Economy;
- c) **Free Zone Administrator:** It is the natural or legal person directly responsible of the direction, administration and management of the Free Zone;
- d) **Metropolitan Area:** It is formed by the following municipalities: Antigua Cuscatlan, Santa Tecla, Apopa, Ayutuxtepeque, Cuscatancingo, Ciudad Delgado, Ilopango, Mejicanos, Nejapa, San Marcos, San Martin, Tonacatepeque, San Salvador y Soyapango;
- e) **Beneficiaries:** Are the developers, Administrators and Free Zone or Warehouse for Inward Processing users authorized through the Agreement issued by the Executive Branch through the Ministry of Economy, to perform the activities authorized under this Law, as well as those users or Warehouses for Inward Processing dedicated only to supply the totality of its production, through a subcontract with other users of a Free Zone or Warehouse for Inward Processing, with the objective to incorporate added value to the goods;
- f) **Product Marketer:** It is the beneficiary whose line of business is the transfer of goods to retailers or wholesalers or to final consumers and that has been authorized by the Ministry of Economy;
- g) **Discharging Schedule:** Document by which it is integrated and detailed the information relative to the imports subject to the free zone and temporal admission for inward processing regimes, with its respective discharges for the compensating product, where it is recorded that the goods or the compensating products have been re-exported or destined to any of the legally authorized treatments. It includes the balances of each Goods Declaration;
- h) **Warehouse for Inward Processing (herein it may also be referred to as “DPA”, its Spanish Acronym):** It is the area within the national territory subject to a special customs treatment, in which the goods may be admitted with the suspension of the payment of taxes related to imports, in order to be submitted to a transformation, elaboration, repair or any other legally permitted process, for its re-exportation and in which the capital goods may remain indefinitely; whose holder has been authorized by the Ministry of Economy to conduct operations in it and engage in any of the activities set forth under article 3 of this Law;
- i) **Wastes:** Are the residuals resulting after the goods that are subject to the Free Zone and DPA regime have been submitted to an inward processing process;
- j) **Developer:** Is the natural or legal person that is engaged in the establishment and development of Free Zones, providing to it the services and public and private infrastructure, as well as industrial ceiling needed for

its proper functioning, with the purpose to sell or lease the lots or industrial warehouses; with previous authorization from the Ministry of Economy and the compliance with the stages of prequalification and authorization and beginning of operations set forth under this Law;

- k) **Final importation or Clearance:** Is the admission of goods from outside of the country for its definitive use or consumption in the national customs territory, subject to the compliance of all customs formalities and to the payment of import Customs Duties and Taxes;
- l) **Producer:** Is the beneficiary that is dedicated to the legally permitted activities in the fabrication, assembling or maquila, manufacturing, processing or transformation of goods and that has been authorized by the Ministry of Economy, through the respective executive agreement;
- m) **Compensating Products:** Are the goods resultant from the operations of incorporation, transformation, elaboration, repair or any other inward processing activity inside a Free Zone or DPA;
- n) **Re-exportation:** Is the regime that allows the exit of the customs territory of the foreign goods arriving to the country and not definitively imported;
- o) **Final Transfers:** Is the remittance of goods with the transfer of ownership between beneficiaries of this Law;
- p) **Temporary Transfers:** Is the consignment of goods between a beneficiary of this Law and another which may or not be beneficiary to this Law, with the condition that such goods should go back to the consigner companies, within the period established by Law;
- q) **User:** Is the natural or legal person authorized by the Ministry of Economy, to enjoy the benefits of this Law, in order to establish a company inside a Free Zone and operate, working in any of the activities mentioned in article 3 of this Law;
- r) **Free Zone:** Is the area within the national territory in which it is permitted to admit goods that are deemed as not present in the national customs territory, with respect to the import and export taxes to be assigned according to its nature, to the operations or processes authorized by this Law. (3) (6) (8)

**Art. 2-A.** The Advisory Committee for Free Zones is hereby created, here onwards the Committee shall be composed by the Ministry of Economy, Ministry of Finance, Ministry of Labor and Social Security, a representative of the business sector and a representative of the labor sector; in the case of the first three mentioned members they will each appoint a representative.

The Committee will be chaired by the Minister of Economy, and it will have the responsibility to:

- a) Draft the norms for the election and appointment of the representatives of the business and labor sectors;
- b) Draft the norms for the functioning of this Committee;
- c) Perform the summons for the meetings of this Committee, at least five days in advance;

The Committee shall have the following attributions:

- a) Recommend those actions that facilitate the operations, processes and compliance with the requirements by the beneficiaries of this Law.
- b) Recommend to the Ministry of Economy those measures and actions that are needed or convenient for the establishment, fostering and development of Free Zones and DPAs.
- c) Recommend labor policies that promote harmony and the good development of worker- employer relations.  
(8)

**Art. 3.** Companies may be established and operate inside a Free Zone, if there owners are natural or legal persons that engage in:

- I. The production, assembling or maquila, manufacturing, processing, transformation or commercialization of industrial goods, under Chapter 3 and Chapters 25 onwards of the Central American Tariff System, "SAC" by its Spanish Acronym, with exception of those that are mentioned in article 6 of this Law;
- II. Fishing of maritime species to be subject to industrial transformation, such as preparations, preservations, derivatives or by-products; as well as its respective processing and commercialization;
- III. Cultivation, processing and commercialization of flora species produced under protective structures in greenhouses and laboratories, that have the authorization issued by the respective authority;
- IV. Breeding and commercialization of amphibious species and reptiles in captivity, that have the permit issued by the respective authority;
- V. Ethyl alcohol dehydration.

It will be understood as covered by the activities mentioned above, those that are necessary to the production, either for executing the activity or related activities, such as: design, painting, cutting, stamping, finishing, screen printing, embroidery, washing, ironing, quality control, recycling and repair.

These service activities may only be rendered between the beneficiaries of this Law.

When the goods produced in Free Zones or DPAs are sold in the national customs territory by a producer dully authorized for it, he shall admit the goods, paying the respective customs duties and taxes over their customs value, only for the non-domestic component incorporated to the final product. The sales in the domestic market of by-products shall have the same treatment.

The product marketers when performing sales to the national customs territory, shall admit the goods paying the respective customs duties and taxes to the importation over its customs value. In the case of goods acquired from a producer established in accordance with this Law, the customs duties and taxes to the importation shall be calculated over the customs value of the good, excluding of such base the value of domestic components incorporated to the final product, as long as the product marketer shows the value of such components.

In the case of admissions referred to in the two prior paragraphs, the applicable tariff will be the Most Favored Nation tariff (MFN). However, in case that the product marketers perform admissions of goods originating from third countries with which a Free Trade Agreement is in force, the preferential treatment may be applied, as long as it is demonstrated to the customs authority that the goods have not gone through any transformation within the country, that they have remained at all times under customs control and that they comply with all other requirements established to enjoy the tariff preferences.

In no case the value declared of the goods that are admitted to the country shall be less than the value under which the goods have been admitted to the Free Zone or DPA, who in the case of raw materials and inputs, shall not be less than the customs value established in the goods declaration. In the performed transactions, the documents of commercial, tax and accounting support shall reflect the domestic aggregated value by the processes of transformation, elaboration and repair to which such goods were submitted. For those goods that have undergone industrial transformation, the customs value shall contain the cost of raw materials and indirect manufacturing expenses.

The purchases or sales of goods needed for the authorized activity, performed between beneficiaries to the established regime in this Law, will not generate fees or taxes, including Value Agregated Tax (In Spanish "Impuesto a la Transferencia de Bienes Muebles y a la Prestación de Servicios"); the afore mentioned situation shall also be applicable in the case of DPAs, as long as it is performed within the legal time period of the respective customs regime and in any case the transfers of goods under any title will be deemed as a cause to extend such time period.

In order to execute the sales of goods, the beneficiaries of this Law shall also prove to the customs authority having paid its obligations under the Salvadoran Institute of Social Security ("Instituto Salvadoreño del Seguro Social" or "ISSS") and to the different Pension Fund Administrators, of the contributions and withholdings performed to its workers, as well as the contributions done by the employer, corresponding to the previous month to which the sale is executed. Such verification shall be made in accordance with article 9-A of this Law. (1) (2) (6) (8)

**Art. 3-A.** The natural and legal persons that are authorized in accordance with this Law to perform the commercialization activities of industrial goods shall establish themselves in Free Zones.

The goods to be commercialized shall be subject to each of the following conditions:

- a) Be admitted directly to a Free Zone;
- b) Not being subject to any transformation process or elaboration from the product marketer;
- c) Be consigned or destined to the holder of the benefits, who shall prove the ownership through any of the following documents: accounting records, contracts and the respective shipping documents.

The owners of product marketer companies that perform activities related to handcraft, textile industry, textile maquila or garment manufacturing, may be established and function under a DPA, only when the goods to be commercialized are to be destined to companies benefited under this Law and that such are incorporated or used in transformation processes, such as production, manufacturing, assembling and maquila, having to submit it to the lawfully established regime, admit them to the DPA installations and comply with what is established in letters b) and c) of this article. (6) (8)

**Art. 4.** The establishment, administration and operation of Free Zones shall be authorized by the Ministry of Economy. In accordance with this Law, its Regulations and other fiscal regulations, the monitoring and control of the fiscal regime of such Zones shall be the responsibility of the Ministry of Finance, through its Directorate General for Customs and Directorate General for Internal Revenue. (6)

**Art. 5.** Natural and legal persons may rely on this law, when they are owners of companies:

- a) That develop Free Zones named developers;
- b) That administer Free Zones named administrators;
- c) That are established in Free Zones named users;
- d) Which their facilities are declared as Warehouses for Inward Processing (8)\*

**Art. 6.** The natural and legal persons who have the following lines of business will not be able to rely on this Law:

- a) Exploration, exploitation, processing and commercialization of natural gas, petroleum and its derivative fuels, as well as oil, greases and lubricants;
- b) Production and commercialization of cement and clinker;
- c) Commercialization of scrap metal or wastes of steel, iron and other ferrous and non-ferrous metals;
- d) Metallic and non-metallic mineral products resulting from the exploitation of the Salvadoran subsoil;
- e) Those that imply processing and management of explosives and radioactive materials;

- f) The production and storage of goods that are qualified by the competent authorities as source of contamination, health damages or environmental damages;
- g) Production, assembling or maquila, manufacturing, processing, transformation or commercialization of sugar, its substitutes, derivatives and by-products; as well as any good that directly or indirectly incorporates sugar, its substitutes, derivatives or by-products.
- h) Production, assembling or maquila, manufacturing, processing, transformation or commercialization of alcohol of any origin, as well as any good that incorporate directly or indirectly alcohol from any origin, except as provided in Roman V of article 3 of this Law;
- i) Production, assembling or maquila, manufacturing, processing, transformation or commercialization of bags and sacks of synthetic or artificial fibers;
- j) Supply of foods either prepared or not, destined to employees and companies benefited by this Law and any other admission or suspension regime;
- k) Importation of machinery and equipment for lease.

Also the following may not rely on this Law:

The natural and legal persons whose benefits under this Law, have been suspended or revoked;

1. The firms which have Directors, Legal Representatives, Sole Administrators, Partners or Shareholders, that have performed those positions or had any kind of equity participation in other firms that were suspended or revoked in their benefits granted by this Law.
2. When the activities to be performed have an illicit purpose, or can be used for drug trafficking, or to cause damage to people or animal health, c) pollute the environment, pornography, gambling, production or commercialization of weapons, its accessories or explosive artifacts of any nature;
3. The natural and legal persons, or their partners or Shareholders, who based on the account statements provided by the Ministry of Finance, through the Directorate-General for Customs or Directorate-General for Internal Revenue, have outstanding customs or tax obligations, declared by the administration and which are pending to be complied with.

What has been established in 1) and 2) of the above paragraph will not apply when the suspension or revocation has been requested voluntarily by the benefited party to this Law and is not a consequence of infringements to this Law. (1) (3) (4) (6) (8)

**Art. 7.** The natural and legal persons that rely on what has been established under this Law, shall establish their company in a Free Zone or the facilities where they operate shall be declared as a DPA by competent authority (8).

**Art. 8.** When implementing and interpreting this Law, preference shall be given to its objective and nature. Nevertheless, as far as the customs regime is concerned, the arrangements of the customs regulations, especially those in the Central American Uniform Customs Code, (in Spanish "Código Aduanero Uniforme Centroamericano" or "CAUCA" for its Spanish acronym as is herein referred to), and its complementary regulations should be considered in the implementation of this Law. Only in the case of impossibility to define the exact meaning and limitations of the regulations, concepts and terms of the arrangements mentioned above, it is possible to resort to the regulations, concepts and terms of civil law.

**Art. 9.** The arrangements included in Chapter XIII of Title II, first book of the Code of Commerce, which refer to the necessary requirements Companies should comply with in order to be authorized to perform commercial activities in the country, shall not be applicable to foreign holding companies of the companies to which this Chapter refers to and who export all of their production., regarding the requirements, in no case shall the aforementioned companies be exempted from having proper accounting.

Any non-resident holder of one of the previously mentioned companies should appoint a legally empowered representative to act on his behalf in the country. (6)

**Art. 9-A.** The verification of the solvency of payment to the prevision and social security institutions, established for users of Free Zones and DPAs, will be performed through the use of electronic communication networks, the security specifications will be established by the Directorate-General for Customs. Such office will establish the online consulting mechanisms that ease the verification of the compliance of these provisions.

In case of force majeure or acts of God, the Directorate-General for Customs shall adopt the measures of contingency that guarantee the continuity of the operations, in coordination with such institutions. (5) (8)

## Chapter II

### On Free Zones Developers and Administrators

**Art. 10.** The Developers shall comply with stages of prequalification and authorization and beginning of operations, that include the development of the following buildings and areas:

#### 1. Common Buildings

- a) Administrative and Maintenance Offices
- b) Customs and Fiscal delegation offices: which will have to be duly equipped and located in conformity with the requirements established by the Directorate-General for Customs, through the Regulations for this Law and conforming with the reasonable required needs for the operation.
- c) Control and Surveillance Post: Duly equipped according to the requirements established by the Directorate-General for Customs and separated from the Customs and Fiscal Delegation Office, as well as from the private security of the industrial park, if so exists.

#### 2. Buildings for Each Industrial Warehouse

- a) Offices;
- b) Production or storage area;
- c) Raw materials and finished products storage room;
- d) Loading and unloading areas;
- e) Vehicle Parking area;



- f) The number of restrooms for men and women, according to what is established under the Prevention of Risks in Work Places General Law (In Spanish "Ley General de Prevención de Riesgos en los Lugares de Trabajo");
- g) The infrastructure and basic services to which this Law makes reference to, the Prevention of Risks in Work Places General Law, (In Spanish "Ley General de Prevención de Riesgos en los Lugares de Trabajo"), Equal opportunities for Handicapped People Law and the Labor Code (In Spanish "Código de Trábajo").

### 3. Urbanization

- a) A minimum extension of ten "manzanas" (equivalent to 69, 899m<sup>2</sup>) for those new projects in Free Zones.
- b) Green area: 30% of the total area, including ecological green area, sports area;
- c) Streets, pathways and sidewalks;
- d) Vehicle Parking Area
- e) Parking area for containers;
- f) Perimeter fence
- g) Having pedestrian and road entry and exit access. In case of requiring more than one access, the Ministry of Economy shall request opinion to the Directorate-General for Customs, before issuing its authorization, which must be rendered in no more than 20 days.

### 4. Optional Buildings

- a) Mail Office;
- b) Delegation Office from the Ministry of Labor and Social Security;
- c) Clinic;
- d) Bank;
- e) Industrial Cafeteria;

The designs of each of the elements mentioned are subject to the norms and specifications given by the Vice-ministry for Housing and Urban Development (VMVDU for its Spanish acronym), the Office of Planning for the Metropolitan Area of San Salvador (OPAMSS for its Spanish acronym) or any other institution with similar attributions, as appropriate.

The authorized developers may request an enlargement or reduction of the area of its respective Free Zone, as long as they comply with the following:

- a) The area that is added shall be adjacent or near in a radius of no more than five kilometers, which shall be measured from the perimeter of the area previously authorized as a Free Zone, it shall obtain the respective permits.
- b) In case that the real property or properties which intention is to be added, are not owned by the requesting party, it shall be filed along with the request, a document that verifies and assures the legal possession of the real property. In this case, the owner of the real property shall expressly consent that the real property or properties of its ownership are to be affected by the regime or obliging itself to comply with the pertinent legal provisions.

- c) No reductions will be authorized which may affect the infrastructure and minimum extensions required by this article.
- d) The resulting area from the extension or reduction shall have conditions that allow to subject the area to the required mechanisms to control the entry and exit of goods, such as perimeter fence, customs and fiscal delegation office, control and surveillance post.

Before authorizing the extension or reduction of the area, the Ministry of Economy shall have the opinion of the Directorate-General for Customs, which shall be issued within the next 20 business days from the date that has been requested by this Ministry. (6) (8)

**Art. 11.** The Developers duly authorized through the Agreement issued by the Executive Branch in the area of Economy, according to the provisions stated in article 10 of this Law, will have the following rights:

**a) Total Exemption of Income Tax:**

- 1. For a period of ten (10) years from the fiscal year on which it starts operations for the activity carried out in Free Zone, if it is located in the Metropolitan Area.
- 2. For a period of fifteen (15) years from the fiscal year on which it starts operations for the activity carried out in Free Zone, if it is located outside the Metropolitan Area.

From the thirteenth fiscal year, computed from the time of publication in the Official Journal of the Agreement issued by the Ministry of Economy, the distributed profits or dividends, resulting from the benefited activity, will be subject to income tax.

During the twelve fiscal years, from the publication in the Official Journal of the qualification Agreement issued by the Ministry of Economy, the exemption in the case of firms will be applied to the firm owner of the Free Zone, as well as to the partners or shareholders individually considered, with relation to the profits and dividends resulting from the benefited activity.

In both cases, the exemption, in the case of firms will be applied to the company owner of the Free Zone, as well as to the partners or shareholders individually considered, with relation to the profits and dividends resulting from the benefited activity.

In case that one or more partners are legal persons, this right will be exclusive to them. This benefit may not be transferred successively to its partners.

**b) Total exemption in municipal taxes:**

- 1. For a period of ten (10) years from the fiscal year on which it starts operations for the activity carried out in Free Zone if it is located in the Metropolitan Area.
- 2. For a period of fifteen (15) years from the fiscal year on which it starts operations for the activity carried out in Free Zone if it is located outside the Metropolitan Area.

The municipal councils, within its legal powers, with the purpose of promoting the development of its own municipalities, may grant additional benefits to the ones established in this Law.

- c) **Total exemption on Real-Estate Transfer Tax**, for the acquisition of those real estate properties to be used in the benefited activity.

The developers will have right to a special exemption period of five additional years for the exemptions relative to the payment of income tax and municipal taxes, as long as within the period of total exemption they have invested in an enlargement of the free zone which complies with the following characteristics:

1. That the total area of enlargement is located in a radius of no more than five kilometers, measured from the perimeter of the area previously designated as Free Zone;
2. That the area of enlargement is of at least eight manzanas (equivalent to 55, 911m<sup>2</sup>)
3. That it complies with the minimum requirements of infrastructure established in article 10 of this Law. (8)

**Art. 12.** In the event of abandonment, revocation or any other event by which a vacancy is opened for a new Free Zone Developer or Administrator, the Executive Branch in the Area of the Economy may grant and authorize by Agreement such position, in favor of natural or legal persons, whether national or foreign, in accordance with the requirements and procedures of this Law and its General Regulations.

**Art. 13.** The free zones administrators shall give or provide directly to the companies that operate within its free zone, water distribution, electric energy and garbage recollection, coordinate the maintenance of all the common services of the Free Area, such as roads, fences, green areas, public lighting, promote the establishment of new investments in the Free Area, as well as monitor that the Users of the Free Zone comply with all legal and customs obligations, in coordination with the Fiscal and Customs Delegation Offices located in the Free Zone, having the obligation to issue the respective Internal Rules for Operation, subject to the approval of the Ministry of Economy. (8)

**Art. 14.** (7) REPEALED BY LEGISLATIVE DECREE NUMBER 318/2013

**Art. 15.** (7) REPEALED BY LEGISLATIVE DECREE NUMBER 318/2013

## Chapter III

### Free Zones Users

**Art. 16.** Before the Ministry of Economy may issue the Agreement of Authorization for a User of a Free Zone, it shall have the opinion of the Ministry of Finance, which shall be issued within the next twenty (20) days after the date it has been requested. If the Opinion is not issued in the aforementioned period, the Ministry of Economy shall issue the respective Agreement.

The Agreement which grants the authorization of the regime to a User, shall at least contain: name of the title-holder, the identification of the facilities on which the company will be located with its respective area; the productive activity and the market that is being authorized; initial investment amounts on fixed assets and period to comply with it or/and number of permanent job positions with which it will operate; when appropriate the qualification of strategic industrial activity; the rights and obligations that are granted and other requirements established under this Law. (8)

**Art. 17.** The owner of a company that is user of a Free Zone duly authorized in accordance with this Law, shall have the right to:

- a) Free admission to the Free Zone for the period of its business operations, of machinery, equipment, tools, spare parts and accessories, utensils and other equipment that are necessary for the execution of the authorized activity;
- b) Free admission to the Free Zone for the period of its business operations, of raw materials, parts, pieces, components or elements, semi-elaborated products, intermediary products, containers, labels, packaging, samples and patterns, necessary for the execution of the authorized activity. In the same way, machinery, appliances and equipments and any other good that has to be destined to repair by the beneficiaries, including the exported products that are re-imported as a returned products, will have the same treatment mentioned above.
- c) Free admission to the Free Zone for the period of business operations, of lubricants, catalyzers, reagents, fuels and any other substance or material, necessary for the productive activity;

Total exemption of income tax, over the authorized activity:

1. For a period of fifteen (15) years, from the publication in the Official Journal of the Agreement issued by the Ministry of Economy, if it is located in the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Sixty percent of exemption (60%) on the income tax rate, applicable during the following ten (10) years from the expiration of the original exemption period.

Forty percent of exemption (40%) on the income tax rate, applicable during the following ten (10) years from the expiration of the above mentioned partial exemption period.

2. For a period of twenty (20) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located outside the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Sixty percent of exemption (60%) on the income tax rate, applicable during the following ten (15) years from the expiration of the original time period established for the exemption.

Forty percent of exemption (40%) on the income tax rate, applicable during the following ten (10) years from the expiration of the above mentioned partial exemption period.

From the thirteenth fiscal year, computed from the time of publication in the Official Journal of the qualification Agreement issued by the Ministry of Economy, the distributed profits or dividends, resulting from the benefited activity, will be subject to income tax.

During the twelve fiscal years, from the publication in the Official Journal of the qualification Agreement issued by the Ministry of Economy, the exemption in the case of firms will be applied, to the firms that is a User, as well as to the partners or shareholders individually considered, with relation to the profits and dividends resulting from the benefited activity.

In case that one or more partners are legal persons, this right will be exclusive to them. This benefit may not be transferred successively to its partners.

a) Total exemption of municipal taxes:

1. For a period of fifteen (15) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located in the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Ninety percent of exemption (90%) on the applicable municipal taxes, during the following ten (10) years from the expiration of the original exemption period.

Seventy five percent of exemption (75%) on the applicable municipal taxes, from that moment onwards.

2. For a period of twenty (20) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located outside of the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Ninety percent of exemption (90%) on the applicable municipal taxes, during the following fifteen (15) years from the expiration of the original exemption period.

Seventy five percent of exemption (75%) on the applicable municipal taxes, from that moment onwards.

The municipal councils, within its legal powers, with the purpose of promoting the development of its own municipalities, may grant additional benefits to the ones established under this Law.

- f) Total exemption on Real-Estate Transfer Tax, for the acquisition of those real estate properties to be used in the authorized activity.

Upon expiration of the total exemptions, the users will have the right to an additional five (5) year exemption period, if it is proven that during the last five (5) years of the total exemption, they have increased its investment in 100% with relation to its initial investment. This increase in investment shall be performed in acquisition of real-estate property, in the construction of buildings and in the acquisition of machinery and equipment, related to the authorized activity.

The Ministry of Economy shall incorporate in the Agreement that issues in order to authorize a User, the list of those goods that are considered as not necessary for the execution of the authorized activity, with its respective tariff classification, in a specific or general manner, using sections, chapters, headings or subheadings, as it may be applicable.

The user may request to the Ministry of Economy modifications to the list of goods mentioned in the paragraph above, stating the cause for such modification. The Ministry will issue the respective Agreement, within twenty (20) business days, with prior opinion rendered by the Ministry of Finance, who shall render such opinion within fifteen (15) business days from the date that has been requested.

Once the request for modification to the list of goods that are considered as not necessary for the execution of the activity of the company has been filed, the owner of the company may import under the regime the goods for which the modification has been requested, with suspension in the payment of the customs duties and taxes during the period on which the request is being processed; if the resolution is accepted, it will be retroactive to the date of record of the respective Goods Declaration; if it is denied in its totality or in part, the user shall immediately pay the customs duties and taxes that correspond to the goods to which the modification has been denied.

The Directorate-General for Customs, will implement the electronic means that guarantee the mechanical operation of the application of the list of not needed goods, at the time of electronic dispatch of the goods declaration or any other equivalent method that may be determined by this Directorate-General and its respective payment of the customs duties and taxes over such goods.

The users of Free Zones shall prove to the customs authorities, the payment of its obligations under the Salvadoran Institute of Social Security ("Instituto Salvadoreño del Seguro Social" or "ISSS") and to the different Pension Fund Administrators, of the contributions and withholdings performed to its workers on the last month, as well as the contributions done by the employer, corresponding to the previous month to which the sale is executed. Such verification shall be made in accordance with article 9-A of this Law.

The benefits granted under letters a), b) and c) of this article will not apply to the acquisition of the following goods and services: food and beverage, except bottled water; products that contain tobacco, alcoholic beverages, leasing of houses, furniture and home appliances, luxury items, vehicles for the transport of goods or people either in an individual or collective manner, hotel services, in such case the admission to the Free Zone will be subject to the presentation of the Final Goods Declaration for payment, in the case of foreign goods or to the filing of the tax-credit invoice or final consumer invoice, in the case of acquisition of such goods in the domestic market, in which it is stated that the respective tax has been paid. Unless the benefited activity requires such goods or services for the production, assembling or maquila, manufacturing, processing, transformation or commercialization, in which case such circumstance must be informed to the Ministry of Economy at the time of filing the request to operate, the Ministry shall indicate this circumstance on the Agreement that is issued to the User. (2) (6) (8)

**Art. 17-A.** The natural or legal persons that request to be qualified as Free Zone Users, in accordance to this Law, shall comply at least with one of the following requirements:

- a) An initial investment in fixed assets of a value equal to or greater than five hundred thousand dollars of the United States of America (US \$500, 000.00), reachable within the first two years of operation.
- b) Operate with a number equal or greater than fifty (50) permanent job positions, from the first year of operations;
- c) In the case of Product marketers, operate with a number equal or greater than five (5) permanent job positions, from the first year of operations.

When the Ministry of Economy determines that non-compliance with the requirement established in letter a) of this article exists, the Agreement of Authorization will be revoked.

The revocation will be declared through resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In case of non-compliance with letters b) and c) of this Article, the benefits granted under article 17 of this Law will be suspended, until this requirement has been accomplished; consequently it will have to pay the applicable taxes and other related taxes for the imports performed during this period.

The suspension will be declared through Resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In both cases, the Ministry of Economy will notify this situation immediately to the Ministry of Finance, for the applicable effects.

The natural or legal persons that request to be qualified as Free Zone Users in order to operate greenhouses and laboratories, shall comply with the following requirements:

- a) An initial investment in fixed assets of a value equal to or greater than one hundred thousand dollars of the United States of America (US \$100, 000.00), within the first year of operations.
- b) Operate with a number equal or greater than fifteen (15) permanent job positions.
- c) Have a minimum area of five thousand (5,000) square meters, in the case of greenhouses and of one thousand (1,000) square meters in the case of laboratories;

- d) Formal administrative and financial structure.

When the Ministry of Economy determines the non-compliance of the requirement established under letter a) of this article, the Authorization Agreement will be revoked to the User.

The revocation will be declared through Resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In case of non-compliance with letters b) c) and d) described above, the benefits granted under article 17 of this Law will be suspended, until this requirement has been accomplished; consequently it will have to pay the applicable taxes and other related taxes for the imports performed during this period.

The period of suspension does not interrupt the calculation of the total periods for the benefits.

The suspension will be declared through resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In both cases, the Ministry of Economy will notify this situation immediately to the Ministry of Finance, for the applicable effects. (8)

**Art. 17-B.** The owners of companies that manufacture microprocessors; integrated circuits; land, maritime or air vehicle parts; parts or computer equipments and medical devices; electric generation equipment, that establish themselves in a Free Zone, will have the right to an additional period of five years in the total exemption of the payment of income tax and municipal taxes.

Those owners of companies whose industrial activity has been declared as strategic, through Agreement issued by the Executive Branch in the Economy Area and that are authorized to operate under the free zone regime, will have right to an additional ten year exemption period over the payment of income and municipal taxes. (8)

## Chapter IV

### Warehouses for Inward Processing - DPA

**Art. 18.** The natural and legal persons, that are owners of companies whose main line of business are the activities mentioned in ii) and second paragraph of article 3 and final paragraph of article 3-A of this Law, may request to the Ministry of Economy that its facility be declared as Warehouse for Inward Processing - DPA, as long as they justify the technical reasons why they cannot locate themselves in a Free Zone; additionally they shall comply with the following requirements:

- a) Establish themselves in industrial vocation areas, which are qualified as such by the competent authorities;
- b) That its premises comply with the conditions of industrial, labor and environmental safety;
- c) Formal administrative and financial structure;
- d) Building and other areas:
  - 1) Administrative offices;
  - 2) Customs and Fiscal Delegation Office, dully equipped;
  - 3) Control and Surveillance Post;

- 4) Perimeter Fence;
  - 5) Green Area: At least 20% of the total area;
- e) Industrial Warehouse Buildings:
- 1) Offices;
  - 2) Production and storage areas;
  - 3) Raw material and finished products warehouse;
  - 4) Loading and Unloading Area;
  - 5) Needed restrooms for men and women;
  - 6) Vehicle and Container Parking area

The area for the buildings mentioned under numbers 1) to 5) of letter e) of this article, shall add up to a minimum total area of 800 square meters.

In the case of reptile and amphibious species in captivity, they shall comply only with letters b), c) and d) above, as well as operate in a minimum area of five (5) manzanas (equivalent to 34, 944.8 m<sup>2</sup>), qualified by the competent authority in the use of grounds.

The companies whose premises have been qualified as DPAs will be subject to what is stated under article 3 of this Law;

In order to grant the authorization, the Ministry of Economy shall have the opinion of the Ministry of Finance, this opinion shall be rendered in 20 business days after the date on which it has been requested; in case the opinion is not issued in the afore mentioned period, the Ministry of Economy shall issue the respective Agreement.

The Agreement which grants the qualification as DPA of a premise shall contain, as applicable, the requirements mentioned in article 16, second paragraph, of this Law. (6) (8)

**Art. 19.** The owner of a company, whose premises have been declared as DPA, will have right to the following benefits:

- a) Total exemption for the period of its operations, of the customs duties and taxes on the import of machinery, equipment, tools, spare parts and accessories, utensils and other equipment, necessary for production;
- b) Free admission, with suspension of customs duties and taxes to imports of raw materials, parts, pieces, components or elements, semi-elaborated products, intermediary products, containers, labels, packaging, samples and patterns, necessary for the execution of the authorized activity, for the period that they have business operations. In the same way, machinery, appliances and equipments and any other good that has to be destined to repair by the beneficiaries will have the same treatment mentioned above; including the exported products that are re-imported as returned products.
- c) Total exemption of taxes on imports, for the period of business operations, of lubricants, catalyzers, reagents, fuels and any other substance or material, necessary for the productive activity, even when it is not directly incorporated in the compensating product;
- d) Total exemption of income tax, over the authorized activity:

1. For a period of ten (10) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located in the Metropolitan Area.



Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Sixty percent of exemption (60%) on the income tax rate, applicable during the following five (5) years from the expiration of the original exemption period.

Forty percent of exemption (40%) on the income tax rate, applicable during the following ten (10) years from the expiration of the above mentioned partial exemption period.

2. For a period of fifteen (15) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located outside the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Sixty percent of exemption (60%) on the income tax rate, applicable during the following ten (10) years from the expiration of the original exemption period.

Forty percent of exemption (40%) on the income tax rate, applicable during the following ten (10) years from the expiration of the above mentioned partial exemption period.

From the thirteenth fiscal year, computed from the time of publication in the Official Journal of the qualification Agreement issued by the Ministry of Economy, the distributed profits or dividends, resulting from the benefited activity, will be subject to income tax.

During the twelve fiscal years, from the publication in the Official Journal of the qualification Agreement issued by the Ministry of Economy, the exemption in the case of firms will be applied, to the firm that is an owner, as well as to the partners or shareholders individually considered, with relation to the profits and dividends resulting from the benefited activity.

In case that one or more partners are legal persons, this right will be exclusive to them. This benefit may not be transferred successively to its partners.

e) Total exemption of municipal taxes:

1. For a period of ten (10) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located in the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Ninety percent of exemption (90%) on the applicable municipal taxes, during the following five (5) years from the expiration of the original exemption period.

Seventy five percent of exemption (75%) on the municipal taxes, applicable from that time onwards.

2. For a period of fifteen (15) years, from the publication in the Official Journal of the Agreement issued by the Executive Branch in the Area of Economy, if it is located outside of the Metropolitan Area.

Upon expiration of the granted exemption period, the user will have right to a partial exemption in the following way:

Ninety percent of exemption (90%) on the applicable municipal taxes, during the following ten (10) years from the expiration of the original exemption period.

Seventy five percent of exemption (75%) on the applicable municipal taxes, from that moment onwards.

The municipal councils, within its legal powers, with the purpose of promoting the development of its own municipalities, may grant additional benefits to the ones established under this Law.

- f) Total exemption on Real-Estate Transfer Tax, for the acquisition of those real estate properties to be used in the authorized activity.

For the importation of the goods that enjoy exemption in accordance with this Law, the companies qualified as Warehouse for Inward Processing, will not need to process the prior approval of the order form, nor the request and order of exemption from customs duties, consequently the operation will be authorized with the sole presentation, in legal manner, of the respective goods declaration.

The Ministry of Economy shall incorporate in the Agreement that issues to authorize a DPA, the list of those goods that are considered as not necessary for the execution of the authorized activity, with its respective tariff classification, in a specific or general manner, using sections, chapters, headings or subheadings, as it may apply.

The owner of a DPA, may request to the Ministry of Economy modifications to the goods mentioned in the above paragraph, expressing the cause for such modification. After making the due evaluation, the Ministry will issue the respective Agreement which amends the previous agreement, within twenty (20) business days, with prior opinion rendered by the Ministry of Finance, who shall render such opinion within fifteen (15) business days from the date that has been requested.

Once the request for modification to the list of goods that are considered as not necessary for the execution of the activity of the company has been filed, the owner of the company may import under the regime the goods for which the modification has been requested, with suspension in the payment of the customs duties and taxes during the period on which the request is being processed; if the resolution was accepted, it will be retroactive to the date of record of the respective Goods Declaration; if it was denied in its totality or in part, the user shall immediately pay the customs duties and taxes that correspond to the goods to which the modification has been denied for.

The Directorate-General for Customs, will implement the electronic means that guarantee the mechanical operation of the application of the list of not needed goods, at the time of electronic dispatch of the goods declaration or any other equivalent method that may be determined by this Directorate-General and its respective payment of the customs duties and taxes over such goods.

The owner of Companies whose establishments have been declared as DPA shall prove to the customs authorities, the payment of its obligations under the Salvadoran Institute of Social Security ("Instituto Salvadoreño del Seguro Social" or "ISSS") and to the different Pension Fund Administrators, of the contributions and withholdings performed to its workers, as well as the contributions done by the employer, corresponding to the previous month to which the sale is executed or the goods are imported. Such verification shall be made in accordance with article 9-A of this Law.

The benefits granted under letters a), b) and c) of this article will not apply to the acquisition of the following goods and services: food and beverage, except bottled water; products that contain tobacco, alcoholic beverages, leasing of houses, furniture and home appliances, luxury items, vehicles for the transport of goods or people either in an individual or collective manner, hotel services, in such case the admission to the Warehouse for Inward Processing will be subject to the presentation of the Final Goods Declaration for payment, in the case of foreign goods or to the filing of the tax-credit invoice or final consumer invoice, in the case of acquisition of such goods in the domestic market, in which it is stated that the respective tax has been paid. Unless the benefited activity requires such goods or services for the production, assembling or maquila, manufacturing, processing, transformation or commercialization, in which case such circumstance must be informed to the Ministry of Economy at the time of filing the request to operate, the Ministry of Economy will indicate this circumstance on the respective Agreement issued to the DPA. (5) (6) (8)

**Art. 19-A.** The natural or legal persons that request to be qualified as DPA, in accordance to this Law, shall comply at least with one of the following requirements:

- a) An initial investment in fixed assets of a value equal to or greater than eight hundred thousand dollars of the United States of America (US \$800, 000.00), reachable within the first two years of operation. It will not be taken as initial investment the acquisition of existent infrastructure.
- b) Operate with a number equal or greater than seventy five (75) permanent job positions, from the first year of operations;
- c) In the case of Product marketers, operate with a number equal or greater than fifteen (15) permanent job positions, from the first year of operations.

When the Ministry of Economy determines that non-compliance with the requirement established in letter a) exists, the Agreement of Authorization will be revoked.

The revocation will be declared through resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In case of non-compliance with letters b) and c) of this Article, the benefits granted under article 19 of this Law will be suspended for the DPA, until this requirement has been accomplished; consequently, it will have to pay the applicable taxes and other related taxes for the imports performed during this period.

The suspension will be declared through resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In both cases, the Ministry of Economy will notify this situation immediately to the Ministry of Finance, for the applicable effects. (8)

**Art. 19-B.** The natural or legal persons that request to be qualified as DPA, whose main line of business will be activities related to amphibious and reptile species in captivity, shall comply with the following requirements:

- a) An initial investment in fixed assets of a value not less than one hundred thousand dollars of the United States of America (US \$100, 000.00), in the first year of operation.
- b) Operate with a number not less than fifteen (15) permanent job positions, from the first year of operations;
- c) Formal financial and administrative structure.

The natural or legal persons that request to be qualified as DPA to perform the activities established in Roman Number III) of the first paragraph of article 3 of this Law, shall comply with the requirements established under the seventh paragraph of 17-A of this Law.

In both cases, when the Ministry of Economy determines that non-compliance with the requirement established in letter a) exists, the Agreement of Authorization of DPA will be revoked.

The revocation will be declared through resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In case of non-compliance with letters b) and c) of this article, the benefits granted under article 19 of this Law will be suspended for the DPA, until this requirement has been accomplished; consequently, it will have to pay the applicable taxes and other related taxes during the period of suspension. The suspension period does not interrupt the calculation of the total period of the benefits.

The suspension will be declared through resolution issued by the Ministry of Economy and will be processed in accordance with the procedure established in article 48 of this Law.

In both cases, the Ministry of Economy will notify this situation immediately to the Ministry of Finance, for the applicable effects. (8)

**Art. 19-C.** The owners of companies that manufacture microprocessors; integrated circuits; land, maritime or air vehicle parts; parts or computer equipment and medical devices; electric generation equipment to be installed in a DPA, will have the right to an additional period of five years in the total exemption of the payment of income tax and municipal taxes.

Those owners of companies whose industrial activity has been declared as strategic, through Agreement issued by the Executive Branch in the Area of Economy and that are authorized to operate as a DPA, will have right to an additional ten year exemption period over the payment of income and municipal taxes. (8)

**Art. 20.** The machinery or equipment that has more than five years of having been admitted with exemption from custom duties or free of taxes by the beneficiaries of this Law, may be transferred without the payment of the respective liens.

For this purpose, the beneficiary shall present to the respective Customs Office, the Goods Declaration of the final importation regime, attaching the Goods Declaration with which the goods were initially admitted. In case this cannot be verified, the payment will be due for the respective customs duties and taxes, in case that the goods have been admitted to the national customs territory. (8)

## Chapter V

### Customs Regime

**Art. 21.** The Free Zone Regime shall be the customs regime governing the introduction of all goods stated in article 17 of this Law, introduced for an indefinite period into the Free Zone by Free Zones Users. The above mentioned regime also applies to the introduction of machinery, equipment, tools, spare parts and accessories into the Free Zone, even if consigned as leasing, loan, or any other form of delivery not implying ownership transfer, for which the user companies should present a free zone goods declaration.

As far as the "DPAs" are concerned, the customs regime governing the admittance of those goods stated in article 19, section b) of this Law, shall be that of Temporary Admission Regime for Inward Processing. Final importation of goods stated in article 19, letters a) and c) of this Law, shall be authorized prior filing of a Declaration for Final Import to Franchise, with exception of those goods that are introduced under the modality of lease or any other modality not implying transfer of ownership, in such case it must be declared under the Regime of Temporary Admission for Inward Processing.

**Art. 22.** The time of permanence of the goods admitted for its Inward Processing pursuant to the Temporary Admission Regime for Inward Processing, will be of up to twelve (12) months following the acceptance of the goods declaration, with no extension possible.

The time periods for transfers is determined in the following way:

- a) **For final transfers:** Up to twelve (12) months from the date on which the goods were admitted for the first time to temporary admission regime, through the acceptance of the Goods Declaration.
- b) **For temporary transfers:** Up to six (6) months from the date of transfer of goods that is stated in the document issued for that purpose; as long as such time period does not exceed the total calculation of the twelve months' time period in the case of DPAs.

- c) **For the final transfers from a Free Zone to a DPA:** Up to twelve (12) months from the date of the liquidation of the Goods Declaration that nullifies the Free Zone Regime, for that purpose the DPA shall transmit the respective Goods Declaration to the free zone delegation in order for them to exit.

What has been stated under letter b) above is also applicable to the transfers made by Users of Free Zones.

The non-compliance with the above stated time-periods will result in an obligation to pay the respective taxes as well as the penalties that according to the respective legislation may be applied.

The transfers will be performed using the formats and physical and electronic means that for that matter are established by the Directorate-General for Customs, through administrative provisions of general application. For those transfers that do not result in transfer of ownership, a Remission Note shall be issued as well.

It is deemed as a special case in which there is no transfer of ownership, when the transfer to another beneficiary is performed in virtue of a duly demonstrated order from the contractor.

For those goods that were temporary admitted and does not apply transfer of ownership, the respective contracts will determine their permanence under the Temporary Admission Regime for Inward Processing, which cannot be larger than twelve months.

The time period for performing the formalizations and/or confirmations to the beneficiaries of this Law will be of up to three business days after the admission of the goods, which shall remain under the control of Customs until the clearance order is issued in accordance with the CAUCA and its regulations.

When the temporary transfers are performed by companies qualified as users of a Free Zone or DPA, to companies located in the national customs territory, the time period for permanence of the goods will be of two months.

The General-Directorate for customs may previously authorize that the users of one Free Zone formalize their final transfers in a cumulative manner, when it is needed by the nature and volume of the operations. (6) (8)

**Art. 23.** The owner of a company qualified as User of a Free Zone, may temporarily transfer goods to the national customs territory, with the purpose that third persons by him contracted, perform processes that give add value, complete the transformation processes, manufacture or repair of the goods.

The companies qualified as DPA may perform temporary transfers of machinery and equipment to the national customs territory in order to be repaired. Only the companies qualified as DPA dedicated to the activities related to handcrafts, textile industry, maquila or garment production, may be authorized to perform the other processes established in the paragraph above.

In both cases, such owner will be the responsible for the payment of the customs duties and taxes, if such goods are not admitted back to the User of DPA who remitted them.

Such transfers will not imply an extension in the time-period established under article 22 of this Law.

All transfers shall be performed using the formats and physical and electronic means that for that purpose shall be established by the Directorate-General for Customs.

In order to perform temporary transfers into the national customs territory that are mentioned under this article, the User shall notify only once to the respective customs delegation office and the DPA, to the Directorate-General for Customs, that will conduct or quit to conduct these type of operations. (6) (8)

**Art 24.** Goods may be exported temporarily from the National Customs Territory into a Free Zone or a DPA, so that they can be submitted to inward processing operations, transformation, manufacturing, repair or any other type of service that may be required. The maximum time period for its re-import into national customs territory will be of six months from the date of admission into the Free Zone or DPA.

These goods when re-imported into national customs territory shall pay the customs duties and taxes that are due, only with respect to the part of the non-domestic aggregated value incorporated in such process. For purposes of this operation, the Most Favored Nation Tariff (MFN Tariff) will be applied.

The remission of goods in the afore mentioned services, will resemble for tax purposes to temporary export for the passive inward processing; however, these will be performed using the form that for that purpose is established by the Directorate-General for Customs. (1) (8)

**Art. 25.** The sales or transfers of goods and services that are needed for the authorized activity, executed by natural or legal persons established in the national customs territory, to a User of a Free Zone or a DPA, shall be taxed at 0 percent of the Value Added Tax (In Spanish "Impuesto a la Transferencia de Bienes Muebles y a la Prestación de Servicios") and will also be applicable articles 76 and 77 of the Value Added Tax Law. In no case it will be considered as needed for the performance of their activities, the goods and services mentioned in the last paragraph of articles 17 and 19 of this Law, taking into consideration the exception established under these provisions; consequently, such goods will be taxed at the rate established under article 54 of the Value Added Tax.

In the transfer of goods and services or other operations that are performed between a beneficiary of this Law and natural or legal persons established in the national customs territory, the market prices shall apply.

For this purpose, the Ministry of Finance, through the General-Directorate for Internal Revenue, in the exercise of its audit powers, may request to the taxpayers mentioned in the paragraph above, to present detailed information of the operations performed and with this information, execute any pertinent adjustments in costs, deductions, income, profits, loses and any other element of the operations declared by the taxpayers, through the faithful determination of the price or value of the operations in which the taxpayer has acquired or dispose goods or services, applying in these case the procedure established under the Tax Code.

Those operations that are performed by the beneficiaries of this Law, outside of the authorized scope of the respective agreement, will create the obligation to pay customs duties and taxes, income tax, municipal taxes and value added tax.

The operations of transfer of ownership of goods to the national customs territory performed by a Product Marketer, will generate the obligation to pay value added tax and the incentives mentioned in article 17 letters d) and e) and article 19 letters d) and e), both of this Law, will not apply. The municipal taxes will be paid in the proportion that results from dividing its sales in the local market over its total sales, in relation to its assets. (1) (6) (8)

**Art. 25-A** The Ministry of Finance, through the Directorate General of Internal Affairs and Directorate General for Customs, within its corresponding powers, may perform the verification of the tax declarations of the beneficiaries under this law, without prejudice to their audit powers.

With regards to the Income Tax payments, the natural or legal persons who, according to what is set forth in this law execute the transfer of domain of goods into the domestic customs territory, in order to determine net income shall comply with the requirements established under the Income Tax Law, Tax Code and other applicable tax laws.

The costs or expenditure as a result from the acquisition of goods or services regulated under this law, will be deductible from income obtained by the domestic acquirer of such goods or services, as long as, aside from complying with the requirements established under the Income Tax Law, Tax Code and other applicable tax laws, the supplier issues and delivers invoice or tax credit invoice, as it may apply. (6)

**Art. 26.** The products admitted to the country in accordance with this Law may be mobilized in the national customs territory, without the payment of the corresponding customs duties and taxes in the case of transfers between users of the free zones regime; between DPA users; between users of free zones regime and DPA users

or with subcontracted third parties for the operations mentioned in article 23 of this Law. In the case of transfers between DPAs or Free Zones to DPAs o DPAs to Free Zones, they shall be performed in the time period mentioned in article 22 of this Law.

Such transfer, when its origin is a free zone, it will be requested through the respective form, which will give validity to the operation with the sole signature of the established customs authority.

In the case of DPA, the transfer will be authorized by an agent with special proxy for customs or a Customs Agent who participates in the operation or through its Legal Representative.

In the case of temporary transfers, it will be the owner of the authorized company that performs the transfer or its legal representative, the responsible in the payment of import duties and taxes and other related fees, once the deadline established by virtue of law has been reached.

Its non-compliance will be penalized in accordance with what has been established under article 5, letter q) of the Special Law to Penalize Customs Infringements (In Spanish "Ley Especial para Sancionar Infracciones Aduaneras").

In the case that the goods are admitted after the deadline or that they are never returned, a Goods Declaration for Payment shall be filed and the penalizing procedure will be carried out when applicable. If at the time of return of the goods, the User which receives has closed operations, the goods shall be placed in control of the Directorate-General for Customs, for the applicable legal effects, who will take into consideration what is established under article 40 of this Law.

In relation to what is established under this article, the Directorate-General for Customs is hereby empowered to develop the tools for control and facilitation that are pertinent. However, these information tools may be developed by the beneficiaries and validated by the Directorate-General for Customs. (6) (8)

**Art. 27.** Pending authorization from the Ministry of Economy, the raw materials and inputs may be addressed for final consumption in the national customs territory, paying the import duties and taxes over the invoice value, which in the case of raw materials and inputs may not be less than the proportioned Value of Cost Insurance and Freight (CIF by its English acronym), which was consigned in the Goods Declaration with which the goods were admitted.

In the case of donations to the Government of the Republic and to public or private institutions, non-profit organizations, humanitarian, educational or other services to community institutions, the tax exemption may be granted, with the prior qualification of the Ministry of Economy and the approved exemption from the Legislative Assembly.

The beneficiary may sell in the domestic market, the scrap and wastes from the activity, paying the respective customs duties and taxes, over its customs value. The same treatment shall be applied to the by-products and defective products.

When the scrap and waste have been destined to authorized dumps of solid wastes or to a company dully accredited by the environmental authorities for its destruction, they will not pay any duty or tax. The Directorate-General for Customs will exercise due control.

In the case of goods that in light of their conditions or state, are not suitable for industrial or commercial enjoyment, such as by-products and defective products, may be destroyed with prior request from the interested party to the customs authority, in accordance to what is set-forth in CAUCA and its Regulations.

The destruction will be performed at the expense of the interested party, in presence of customs authorities, under the procedures established in CAUCA and its regulations. (8)

**Art. 27-A.** The Customs Service will grant the facilitation and simplification of the processes, to those beneficiaries of this Law that contribute to strengthen the controls and information systems and that have an online payment system for the regime. (8)

## Chapter VI

### Obligations and Sanctions

**Art. 28.** The Free Zones Users and "DPA" have the following obligations: (6)

- a) Depending on whether they are Users or "DPAs", to inform the Administrator of the Free Zone or the Ministry of Economy, of any changes to the plans and projects of their company, within a period of ten working days as from the day of the modification. (6)
- b) Keep an electronic record of the entries, exits and balances of the inventory and the discharging schedule for the online imports available to the Directorate-General for Customs. When the record does not take place online at the Directorate-General for Customs website, the beneficiary shall record in electronic and magnetic means or in any mean demanded by the Ministry of Finance, through the Directorate-General for Customs, in accordance with the applicable norms, the movement of inventories, discharging schedule for imports, imports movement, as well as all the information related to the import operations, exports, transits and transfers that are performed for the respective fiscal control, which shall be filed to the Directorate-General for Customs using the same means, within the next twenty business days to the end of the fiscal year, without precluding that filings shall be made whenever they are requested by the Directorate-General for Customs. (6) (8)
- c) To provide the Ministry of Economy every six months with a report of their operations, which must include, at least, the value and origin of the imports and exports, employment generation, sales on the national market and amount of investment made.(6)
- d) To allow delegates of the Ministry of Economy and the Ministry of Finance, through the Directorate General for Customs and the Directorate General for Internal Revenue in compliance with their functions; (6).
- e) To inform 30 days in advance to the Agency of the Ministry of Economy determined by the regulations of this Law, of any change of address or closing of operations. (6)
- f) Have well identified and adequate installations for the storage, custody and conservation of the goods, in accordance with the nature of the incentivized activity; (6)
- g) Own the means that assure the custody and conservation of the goods, in accordance with the nature of the incentivized activity and in accordance with the location and infrastructure conditions established under this law; (6)
- h) Provide inside the DPA, the necessary equipment and programs to perform the electronic transmission of the operations that it will conduct, as well other required information. (6)
- i) Assign and appropriate area within the DPA, for the functioning of the customs service personnel, when it is assigned or designated and provide with the required furniture to perform its customs and audit function; (6)
- j) Answer before Tax Authorities for the payment of tax and customs obligations related to lost goods or those that have been unduly destined or due to the lack of control to the domestic customs territory,



including those that are damaged or destroyed that have equally been destined for the domestic customs territory, unless act of God or force majeure exists and has been duly proved by the beneficiary to the General Directorate for Customs. (6)

- k) Perform the transfers mentioned in Arts. 23 and 26 of this Law, complying with all the requirements established in them and in the time-frames set in article 22 of this Law. (6) (8)
- l) Keep a record of the damaged, lost and destroyed goods, as well as other irregularities occurred during the time on which they remain in the DPA and allowing access to it to the Directorate General for Customs, whenever they so request; (6)
- m) Communicate through the established means to the Directorate General for Customs the differences that are found between the quantity of packages received and the manifested quantities and any other circumstance related to the goods, that might affect the exercise of the powers of the Directorate; (6)
- n) In the case of DPAs, maintain the facilities totally and completely defined and independent from any other company; in the case of sharing physical spaces with other companies, these shall have separate storage and operation areas and personnel of its own, in such manner as there is no possibility of confusion of raw materials, productive processes nor of national customs territory and extra customs territory, facilitating in such way the independence and control of the operations that make use of this regime. They shall keep in the storage room, dully separated, the suspensive customs regime goods, from those that have been admitted to national custom territory, when such goods are combined or mixed in the productive process and maintain an inventory control that allows to identify them in the compensating products, with the purpose of establishing the traceability of its use; (6) (8)
- o) Comply with what is established under article 9 of this Law. (6)
- p) Keep records of the costs for the goods that are sold to the domestic market, when it is dully authorized for that purpose and also comply with the payment of the respective taxes. (8)
- q) In the case of Free Zone Users, inform to the Customs Service, within twenty business days following the end of the fiscal year, about the goods pending to pay, being able to include this information in the record that is mentioned in letter b) of this article; (8)
- r) Comply with the authorized use for the goods; (8)
- s) Keep a detailed record of the inputs used in the productive process, in relation to the compensating products and show this record, when so requested by the Directorate-General for Customs, in the exercise of its audit powers, in relation to the operations subject to investigation. (8)

The following are considered infringements to this Law: (6) (8)

1. Minor infringements: The non-compliance with letters a), c), f), g), h), i) and q) of this article; (6) (8)
2. Serious infringements: The non-compliance with letters b), d), e), j), k), l), m), n), o), p), and s) of this article. (6) (8)
3. Very Serious infringements: The non-compliance with letter r) of this article. (6) (8)

**Art. 29.** The beneficiaries of the current Law, as well as the above mentioned obligations, must:

- a) Comply with labor and social security laws, regulations and other legal arrangements, favoring the employees, including:
  - 1) The right of association;
  - 2) The right to form labor unions;

- 3) The prohibition of forced labor or any form of compulsive work;
  - 4) Minimum age for working minors;
  - 5) Acceptable work conditions with respect to minimum wages, working hours, health and occupational safety and all conditions necessary for the employee to work efficiently while performing his tasks.
- b) Pay severance payment, year-end bonus and proportional vacation in the way and quantity established in the Code of Labor, and other labor benefits to all employees affected in the event of total or partial closure of the company or establishment.
  - c) In the extraordinary event of an unjustified total closure of operations of the company, the assets of the company shall be applied to cover liabilities and other labor obligations, without detriment of the corresponding administrative sanction.
  - d) Comply with the obligations and arrangements of this Law and its General Regulations, and other laws of the Republic.

The non-compliance with what is established under letters a) and b) of this article will be considered as serious infringement. Likewise the non-compliance with what is established under letter c) of this article shall be deemed as a very serious infringement. (6)

**Art. 30.** The Free Zone Administrators have the following obligations: (6)

- a) Inform to the Ministry of Economy the modifications carried out on the plans and projects of the holders of the companies established in their Free Zone, based on the reports presented by the users, within a time period of no more than 3 working days after reception of such communication by the users. Likewise ensure that they comply with the provisions of this law, its regulations and other laws of the Republic, informing on a semi-annual basis to the Ministry of Economy on the development of each company that is a user. (6)
- b) Adopt the needed measures for the compliance of this Law, and notify the Ministry of Economy and Finance, through the Directorate General of Customs and Directorate General of Internal Revenue, of any information in relation to the non-compliance of this law by the users, that may have available or is of its knowledge in its capacity as Free Zone Administrators; (6)
- c) Provide temporarily and update the computer and office equipment needed so that the Customs Delegation Office may provide service to the users of the respective free zone; as well as cover the expenses incurred in their maintenance, materials, supplies and keep the uninterrupted connectivity of the information and telecommunication technology services (internet service connection), a secondary and main link and electric generation plant, in accordance with the volume and nature of the operations and to the requirements that are established by the Directorate-General for Customs to facilitate its audit and customs powers. (6) (8)
- d) Allow the entrance to the Free Zone for the transportation means, prior verification of the condition and state of the corresponding seals and other security measures, when there is no customs authority present, which will not include the breaking of any seal, and communicate in a timely manner to the Directorate General for Customs of its entrance, as well as any other irregularity found, so that it performs the admission of the goods; likewise, not to allow the exit of the goods without the customs authority authorization, at the time and days allowed for it. (6)
- e) Inform the Directorate General for Customs of the damaged, lost, destroyed and abandoned goods, as well as other irregularities occurred during the time that the goods remain in the free zone, that may be of its knowledge in its capacity as Free Zone Administrator. (6)

The Administrators may request to the Directorate-General for Customs, when they deem necessary to do so, an expansion of customs staff as well as the expansion of the working hours of the customs service, in such case the interested user shall pay to this Directorate-General the required operation costs. For this purpose, the Ministry of Finance shall issue an Executive Agreement under which it will norm the payment of the extraordinary services. When the volume of the operations require the broadening of the service to night hours, the administrator shall build and adequate the needed facilities in the customs delegation office for the customs staff to rest. The requirements that are deemed as necessary for a better functioning, will be regulated through administrative dispositions of general application issued by the Directorate-General for Customs. (6) (8).

The non-compliance to what is established under letters b) c) and d) of this article, shall be deemed as minor infringements. Likewise the non-compliance of letters a) and e) of this article, shall be deemed as serious infringements. (6)

**Art. 31.** The owners of companies authorized to operate in accordance with this Law, that do not comply with what is set forth in it, will be administratively sanctioned by the Ministry of Economy, without affecting the tax penalties that may apply. (2) (6) (8)

When the obligation to pay employers' social security or pension contributions is infringed, as well as the obligation to transfer the discounted amounts in relation to this contributions, the corresponding unappealable and final decision issued by the officers from the Ministry of Labor and social security or to the competent authority of the Salvadoran Institute of Social Security ("Instituto Salvadoreño del Seguro Social" or "ISSS"), or of the Superintendence for Pensions, as the case may be, shall be notified to the Ministry of Economy, so that it decides if the temporary suspension of the benefits for three months applies, and in case of a recurrent infraction, the Minister of Economy will issue the definitive suspension of the benefits. (2) (6)

In case that tax or customs obligations not contained under this law are infringed, the corresponding competent authority will proceed to sanction such infringement according to its corresponding legislation; in the case of recurrent infringements and they had as a consequence the direct or indirect omission of the payment of fees or taxes, or the amounts that were not paid are equal or above the amounts established by the law to constitute a crime, the customs or tax authority shall send its final decision to the Ministry of Economy, so that it may proceed according to the previous paragraph. (2) (6)

**Art. 32.** Infringements due to non-compliance with the arrangements of this Law and its Regulations are as follows: mild, severe and very severe.

**Art. 33.** REPEALED (6)

**Art. 34.** REPEALED (6)

**Art. 35.** REPEALED (6)

**Art. 36.** The above mentioned sanctions shall be sanctioned administratively by the Ministry of Economy, as follows:

- a. Minor infringements, shall be sanctioned with written prevention to the offender, on which a time period will be established for him to comply with the corresponding obligation. The recurrence of a minor infringement will be penalized with a fine equivalent to three minimum wages of the highest amount;
- b. Serious infringements shall be sanctioned with a fine equivalent to three minimum wages of the highest amount;
- c. Very Serious infringements shall be sanctioned with temporary suspension for a maximum period of 3 months.

Recurrence of a very serious infringement will be result in a definitive suspension of benefits (2) (6)

**Art. 36-A** In the case of the Ministry of Finance, through the Directorate-General for Customs and Directorate-General for Internal Revenue, verifies the commitment of serious infringements in accordance with article 28 of this Law or sales made in the domestic market, without the due payment of customs duties and taxes, it will notify such circumstance to the Ministry of Economy.

Likewise, the Directorate-General for Customs will grant to the user of the Free Zone or DPA a 30 business day time period to regularize the detected situation, this time period will be calculated from the next day on which the respective notification is made, in which it shall be stated that in case the situation is not resolved in the afore mentioned time period, the Directorate-General for Customs will as a precautionary measure suspend the access to its information systems for customs operations.

The Free Zone or DPA User will have its access to the information systems reestablished until the detected situation is regularized.

**Art. 37.** Those final and unappealable resolutions which according to this Chapter impose a fine, should be made effective within THIRTY DAYS after the sanction has been notified.

The fine shall be paid at the Directorate General of Treasury or at those institutions authorized by it. (6)

**Art. 37-A** In the cases where the Directorate General for Customs and Directorate General for Internal Revenue in use of its audit powers determine the existence of recidivist tax infringements to the customs legislation or have had knowledge of the existence of a final and unappealable criminal sentence for violation of such legislation, the Ministries of Finance and Economy may demand from the beneficiary to render a bail bond to guarantee the compliance of the obligations that result from the received benefits. (6)

**Art. 38.** Should any of the infringements assessed turn out to be crimes or misdemeanors, the Ministry of Economy shall certify so to the General Attorney's Office, so that the corresponding actions may be initiated and executed.

**Art. 39** The natural or legal person benefited by this law that quits operation of its company, for causes that are imputable to him, during a period of twelve continuous months, shall lose the quality of user of a free zone or DPA; the interested party will have five business days to present the discharge evidence that he may deem convenient.

The Ministry of Economy will be the competent authority to decide on the definitive suspension of such benefits.

The operations mentioned in the paragraph above, refer to those within the scope of the incentivized activity, particularly imports and exports under the regime of this law.

The Directorate General for Customs shall keep track through its information system, and shall remove from the list of benefited companies those companies that fall into such situation, submitting the corresponding report to the Ministry of Economy. (6)

**Art. 40.** In the event of final closure of operations or abandonment of a company designated as Free Zone User or DPA, judicial processes shall begin for payment of pending liabilities, and for emptying the unit even when not in arrears, without detriment that the Ministry of Finance, in order to protect both fiscal and social interest and after taking inventory of the assets, may order their transfer to the Ministry's own precincts or to others available, or make use of the modes of goods disposal granted by Law to the Directorate-General for Customs.

A company may be declared in abandonment at the request of an interested party or at request of Attorney General's office, by requesting it to a competent judge, who upon verification of the facts of the case, shall declare the company in abandonment within a period of no more than five working days.

The actions to redeem fiscal, equity or labor rights shall be initiated before the respective justice, who must decide in a summary way within a ninety-day period.

The judicial declaration of abandonment shall give rise to the preventive freezing of goods and their delivery in deposit, prior judicial decision.

In the event of liquidation of the frozen goods and to protect the interests of the employees, the Legislative Assembly may grant exoneration of payment of the corresponding taxes.

In the event of breach of the periods established in this article, the parties or the Office of the General Attorney of the Republic may appeal before the corresponding legal instances to deduce administrative or criminal responsibilities from the offenders.

**Art. 40-A.** When a beneficiary to this Law notifies the final closure of its operations to the Directorate-General for Customs, he shall present the information and documentation that shows the payment of the Goods Declaration of Imports under the free zone or temporal admission for inward processing regime and the payment of the customs duties and taxes, for the goods covered for which no demonstration of its payment or discharge has been made.

The closing or abandoning without notifying the Directorate-General for Customs and without performing the payments that the customs regime imposes to him, constitute the crime of Fraud in Prejudice of the Customs Authority's Income (In Spanish "Defraudación de la Renta de Aduanas"), sanctioned in accordance with article 22 of the Special Law to Sanction Customs Infringements (In Spanish "Ley Especial para Sancionar Infracciones Aduaneras"), without prejudice to the civil and criminal responsibilities that may apply.

The aforementioned, without altering the power of the Ministry of Economy to execute a revocation of benefits.(8)

**Art. 41.** Any natural or legal person, Holder of a company, who after obtaining the benefits of this Law has had them suspended or revoked, cannot request them for another company nor be a Shareholder or Director of a company requesting them.

**Art. 42.** Those companies whose Directors or Shareholders were Directors or Shareholders of other companies that were sanctioned with suspension or revocation of the benefits granted by this Law, are not entitled to those benefits.

## Chapter VII

### Procedures and Recourses

**Art. 43.** Those persons interested in obtaining the benefits granted by this Law should present before the Ministry of Economy, the corresponding application through their Legal Representative or Attorney. (6)

**Art. 44.** In the request, the interested party shall indicate the activity that will perform, the Customs Regime to which it wishes to adhere, general characteristics of the company, as well as its legal documentation and any other information that is established under the regulations for this Law.

Hereby, the Ministry of Economy is granted authority to issue general application resolutions, in order to determine the authorized activities and markets, for the producers and product marketers to which this Law refers to. (8)

**Art. 45** The Ministry of Economy shall resolve in a 25 business days' time period the request for qualification as user of a Free Zone and in a 35 business days' time period the request to operate as DPA. It is understood that these time periods include the time period under which the Ministry of Finance must render its opinion.

In the case of Users that do not modify its authorized activity, that are free of debts with prevision and social security institutions and, that require performing temporary or definitive enlargements or reductions in its facilities or a change of location within the same Free Zone in which they operate, they shall file to the Ministry of Economy, a note signed by the Legal Representative or Agent; this signature shall be filed certified by notary public and the note shall mention at least the location of the plant and the area to enlarge or reduce, attaching the localization map within the Free Zone and its premises and the leasing contract or purchase agreement of the real property, as it may apply. The respective agreement shall be issued in a time period of no more than ten (10) business days from the date of filing of the request.

The requests for DPA, in the cases to which the paragraph below refers to, shall be transmitted in accordance to this Law and its Regulations.

All the Agreements that are issued by the Ministry of Economy in the framework of this Law shall be notified by transcription of the Agreement, to the Ministry of Finance and to the interested Party.

**Art. 45-A** In those cases where the Ministry of Finance is required to render an opinion and the opinion is not so rendered, the Ministry of Economy will resolve as it may deem convenient. (8)

**Art. 46.** The General Regulation of this Law will establish the procedures for any other petitions the beneficiaries of this Law may submit.

**Art. 47.** The Ministry of Economy will be in charge of ensuring the compliance of this Law and the Ministry of Finance, through the Directorate General for Customs and Directorate General for Internal Revenue, for the surveillance and customs and fiscal control. (6)

**Art. 48.** When having knowledge of the commitment of any of the infringements established under this law, the Ministry of Economy will set a time period of five business days after the corresponding notification, so that the infringer may answer the charges made against him and file any discharge evidence. The final decision shall be pronounced within a period of ten days. (6)

**Art. 49.** Against the decisions or agreements issued by the Ministry, the recourse of appeal may be lodged, which will be resolved by the same official who issued the decision being appealed, such recourse shall be filed in written form within a three business days period from the time of notification of the decision, giving detail of the arguments of fact and law that substantiate its claim.

Having filed the plead for recourse, with the mere analysis of it and the respective file, a decision shall be reached within fifteen business days, which could either confirm, modify or revoke the administrative act being recoured. (6)

**Art. 50.** Once the Resolution of the Ministry of Economy that suspends or revokes the benefits is Final, the corresponding Agreement will be issued and it will be notified to the interested parties, as well as to the relevant authorities and it will be sent for publication in the Official Journal. (8)

**Art. 51.** The Executive Branch shall present the General Regulations of this Law, within a period of no more than 90 days from the date on which the latter becomes effective.

## Chapter VIII

### Transient Arrangements

**Art. 52.** The companies qualified according to the Free Zones and Fiscal Precincts Regime Law repealed by the present Decree, shall be fully entitled to enjoy the incentives in accordance with the arrangements of this Law.

Likewise, all those companies beneficiaries of this Law, which as a consequence of the arrangements of this law, experienced changes in their operations, shall apply for authorization before the Ministry of Economy or the Free Zone Administrator, respectively. In the event of the latter, the Administrator should notify the Ministry of Economy according to the procedure established in article 30 of this Law.

**Art. 53.** The goods covered by the Goods Declarations accepted by Customs prior to the date on which this Law entered in force, shall continue to be regulated by the arrangements valid at the date of acceptance, until such declarations are cancelled.

**Art. 54.** The applications for benefits that were underway at the Ministry of Economy at the moment the present Decree entered in force, should be adapted by the Ministry to the arrangements contained in this Law within a period of no more than thirty days.

**Art. 54 A** The holders of companies to which article 2 of this decree makes reference, on which article 6 of this Law is substituted, and which at the moment of entry into force of it, are still exercising the benefits and tax incentives that are granted by the Industrial and Commercial Free Zones Law may continue to exercise such benefits until December 31<sup>st</sup> 2005. (3)

**Art. 54-B.** Those natural and legal persons which before the entry into force of this Decree have conducted operations in the national customs territory and paid income tax, will not be able to enjoy the benefits of this Law.

The same will apply in the case of those petitioners that are the result of a merger or a transformation of firms that used to pay the aforementioned tax, with the purpose of enjoying the benefits of this Law.

When in the exercise of the audit powers, the Directorate-General for Internal Revenue and Directorate-General for Customs, acting jointly or separately, verify that a beneficiary of the Law, with the purpose of obtaining the qualification of access to the regime, performed any of the actions mentioned in the paragraphs above, they will notify to the Ministry of Economy, so that that it can initiate the procedure for revocation. If the benefits are revoked, the payment of taxes and other applicable duties will be collectible from the moment on which it was authorized to operate under the framework of this Law.

The Ministry of Economy will initiate the procedure of revocation within fifteen (15) business days following the reception of the respective notification, which will be processed in conformity with what is established under articles 48 and 50 of this Law.

If it is determined that in the cases established in the above paragraphs has existed abuse in the exercise of such benefits, there will be no expiration of the power to audit and liquidate taxes and accessories. (8)

**Art. 54-C.** The Developers and Free Zones Administrators that are operating at the time of entry into force of this Decree, will continue with the total exemptions until December 31<sup>st</sup> 2015 or until the expiration of the time period



established in its respective Agreement, if it expires after such date. When such time periods have expired, developers as well as administrators, and its partners or shareholders in the case of distributed profits and dividends, will enjoy an additional five years of benefits in the same conditions and scope as established under letters a) and b) of article 11 of this Law.

In the case that the same person performs the activities of Developer and Administrator of a Free Zone, he will enjoy both benefits.

The Developers and Administrators to which this article makes reference to, will have the right to an additional time period of exemption of five years, as long as in the time period for exemption they have participated in an expansion of a Free Zone, which complies with the characteristics established in the last paragraph of Article 11 of this Law. (8)

**Art. 54-D.** The owners of companies qualified as Users of Free Zones or DPAs that at the time of entry into force of this Decree are operating and whose activities fall under article 3 of this Law, and its partners or shareholders when profits or dividends have been distributed, will enjoy the total and partial exemptions in the payment of income tax and municipal taxes, in the time periods, percentages, terms, and established scope, as applicable, in numbers 2 letter d) and e) of article 17 of this Law and shall comply only with one of the following requirements:

- a) Have or maintain job positions in the company in a number not less than the one established, as applicable, under articles 17-A and 19-A of this Law; or
- b) Having carried out from the date of the act that authorized them, investments in fixed assets for an amount of no less than (US \$100, 000) dollars of the United States of America, having to keep a number of job positions equivalent to the average of the job positions of the last three calendar years, or equivalent to the average of job positions since the time of authorization, if the latter was of less amount.

For the verification of the compliance of these requirements, the owner of the company will have a time period of six (6) months from the entry into force of this Decree, time in which it will keep the benefits consigned in its respective Authorization Agreement of the regime.

For purposes of this article, the owner of the company will file with the Ministry of Economy a notarized sworn statement attaching the following documentation: payrolls from the Salvadoran Institute for Social Security or certification issued by this institution, in the case of letters a) and b) of this article; and the certifications issued by certified public accountant or external auditor of the accounting records in the case of letter b). The owner of the company will continue to enjoy the benefits established in its respective Agreement of Authorization, until the Ministry of Economy resolves as corresponds, without prejudice to the powers of the mentioned Ministry to suspend the benefits in the case of non-compliance with the minimum number of job positions requirement, until such infringement is brought to an end; or revoke the benefits under the grounds of infringement to the requirement of investment. The time period of the suspension does not interrupt the calculation of the total time period of the benefits. (8)

**Art. 54-E.** The Users and DPA, that at the time of entry into force of this Decree are operating and whose production activities fall under Article 3 of this Law, will have a time period of ninety (90) days from the time of entry into force, to request qualification to perform commercialization activities.

When being qualified, they may locate themselves next to the facilities of the producer, independently of the type of goods that they are commercializing, complying with what is established under letters a), b) and c) and number 1) of letter d) of article 18 of this Law. In such case, they will enjoy the total and partial exemptions on the payment of income tax and municipal taxes, in the time periods, percentages, terms and established scope, as applicable, in number 2, of letters d) and e) of article 17 of this Law and shall comply only with one of the following requirements:

- i) Have or maintain job positions in the company, in a number not less than five (5) permanent job positions, from the first year of operations; or
- ii) Have carried out investments in fixed assets for an amount reachable in the first year of operations, of no less than (US \$100, 000) dollars of the United States of America.

For those who have been authorized to perform commercialization activities in accordance with what is set forth by this article, it will not apply what is established under article 3-A, letter a), 17-A, 18, with exception of the requirements that are mentioned in the second paragraph of this article and 19-A. (8)

**Art. 54-F.** The owners of companies users of free zones or DPAs who at the time of entry into force of this Decree do not have as their line of business any of the activities mentioned under article 3 of this Law, as well as those that do not comply any of the requirements established or that do not file the petition in time, mentioned by article 54-D of this Law, may continue until December 31st 2015, to conduct business operations and enjoy the benefits and incentives that were granted. After such date, they will not enjoy the benefits.

In such case, the users that are located in free zones, once such time period of exemption has expired, may continue to operate in the free zone in which they are located, without enjoying any of the benefits established under this Law, until their inventories are exhausted, or for a maximum period of 2 years, whatever occurs first. Such users shall comply with the tax and customs obligations applicable to the companies that operate under the regime of this Law, the Ministry of Finance through its Directorates-Generals, shall establish through administrative norms, the controls that are going to be applicable. In the same condition, may remain in the free zone those users who voluntarily resign to their benefits.

After complying with any of the conditions mentioned in the above paragraph, they will not be able to operate in the free zone and they shall be dismissed. (8)

**Art. 54-G.** The users of free zones and DPAs that are operating at the moment of entry into force of this Decree, will have a time period of six (6) months to request to the Ministry of Economy the adjustment of its Agreement with respect to the inclusion of the tariff items, that are not considered as needed for the authorized activity and other requirements established under the second paragraph of article 16 of this Law.

The Ministry of Economy shall send a copy of the list of tariff items to the Directorate-General for Customs so that it may render opinion in a time period of no more than twenty business days, from the date on which this has been requested.

For those companies authorized that require changes in the tariff headings after the adjustment of the Agreement, they will follow the procedure established under the fourth paragraphs of articles 17 and 19 of this Law.

The list of goods that are not needed for the authorized activity will be implemented on a eighteen (18) month period from the date of entry into force of this Decree, as long as the Directorate-General for Customs, has implemented information means that guarantee:

- 1) The mechanical application of electronic dispatch of the Goods Declaration or other method that is so determined by this Directorate-General;
- 2) The payment of the Customs Duties and Taxes;
- 3) Agility in the operations

For the Users and DPA that do not comply with the obligation to request readjustment of its Agreements, the Directorate-General for Customs will initiate the suspension of the information systems in accordance to what is set forth under article 36-A of this Law.

Until the Agreement of authorization of User or DPA is adjusted, these will continue to operate according to what is established in its respective Agreement issued by the Ministry of Economy, or when applicable, in the document issued by the Administrator of the Free Zone. (8)

**Art. 54-H.** All the requests that are still pending resolution at the time of entry into force of this Decree, will be resolved in accordance with the current legislation at the time of filing of the request. (8)

## Chapter IX

### Repeal and Operation

**Art. 55.** The Legislative Decree No. 461, dated 27 March 1990, published in the Official Gazette No.88, Volume No. 307, dated 18 April 1990, which contains the Free Zones and Fiscal Precincts Regime Law, as well as later Reforms to it, and any other arrangements opposed to this Law, is hereby repealed.

**Art. 56.** The present decree shall enter in force eight days after publication thereof in the Official Gazette.

ISSUED IN THE BLUE ROOM OF THE LEGISLATIVE PALACE, San Salvador, on this third day of September, nineteen ninety-eight.

JUAN DUCH MARTINEZ  
**President**

GERSON MARTINEZ  
**First Vice President**

RONAL UMAÑA  
**Third Vice President**

JULIO ANTONIO GAMERO QUINTANILLA  
**First Secretary**

ALFONSO ARISTIDES ALVARENGA  
**Third Secretary**

ELVIA VIOLETA MENJIVAR  
**Fifth Secretary**

CIRO CRUZ ZEPEDA PEÑA  
**Second Vice President**

NORMA FIDELIA GUEVARA DE RAMIROS  
**Fourth Vice President**

JOSE RAFAEL MACHUCA ZELAYA  
**Second Secretary**

GERARDO ANTONIO SUVILLAGA GARCÍA  
**Fourth Secretary**

JOSE ALBERTO VILLACORTA MUÑOZ  
**Sixth Secretary**

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**AMMENDMENTS:**

(1) Legislative Decree Number 464, October 22<sup>nd</sup> 1998  
Official Gazette Number 2015, V. 341, November 18<sup>th</sup> 1998

(2) Legislative Decree Number 130, September 18<sup>th</sup> 2003  
Official Gazette Number 15, V. 362, January 23<sup>rd</sup> 2004

(3) Legislative Decree Number 616, February 16<sup>th</sup> 2005 (Call Center)  
Official Gazette Number 53, V.366, March 16<sup>th</sup> 2005

(4) Legislative Decree Number 858, November 4<sup>th</sup> 2005  
Official Gazette Number 230, V.369, December 9 2005

(5) Legislative Decree Number 943, January 27<sup>th</sup> 2006  
Official Gazette Number 39, V. 370, February 2006

(6) Legislative Decree Number 483, November 22<sup>nd</sup> 2007  
Official Gazette Number 238, V.377, December 20<sup>th</sup> 2007

(7) Legislative Decree Number 16, May 20th 2009  
Official Gazette Number 94, V.383, May 25th 2009

(8) Legislative Decree Number 318, February 21<sup>st</sup> 2013  
Official Gazette Number 41, V.398, February 28<sup>th</sup> 2013