DECREE NO. 405

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR

WHEREAS:

I. - The Constitution of the Republic established that is a function of the State to establish the necessary legal instruments to encourage both domestic and foreign investment;

II. - As part of the current Government's efforts to integrate our economy into the process of global globalization, it is necessary to modernize and update the legal and regulatory framework that fosters the establishment and development of free trade zones in our country;

III. - The strategic importance of the free trade zone regimes for the national economy, particularly in generating productive employment and foreign exchange, made essential to create optimal competitive conditions for all operations conducted by companies operating under this regime;

THEREFORE,

in exercise of its constitutional powers and at the initiative of the President of the Republic through the Minister of Economy, and of 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 Velasco, José Ricardo Vega Hernández, Luis Hernández, Amado Aguiluz Aguiluz, Mario Ponce and Gerardo Antonio Suvillaga García.

DECREES the following:

LAW ON INDUSTRIAL AND COMMERCIAL FREE ZONES

CHAPTER I
DEFINITIONS AND GENERAL PROVISIONS

Art. 1.- The purpose of this Law is to regulate the operation of Free Trade Zones and Active Improvement Warehouses, as well as the benefits and responsibilities of the owners of companies that develop, manage, or utilize them.

Art. 2.- For the purpose of the application and interpretation of this law, the following definitions are established:

a) **ACCEPTANCE OF THE GOODS DECLARATION**: It is the date of registration in the computer system of the General Directorate of Customs (DGA), when it has been paid and signed electronically, as applicable. If the goods declaration is not signed and paid electronically, it shall be considered accepted at the moment it is submitted to the customs authority and the customs official records the act in the customs service's electronic system. (8)

b) **STRATEGIC INDUSTRIAL ACTIVITIES**: These are operations related to the manufacturing of vehicles, aircraft, and maritime vessels, or the production of industrial goods utilizing nanotechnology. The owners of such operations must make a new investment in the country of no less than ten million United States dollars and have their activities declared as such through an agreement issued by the Executive Branch under the *Ministerio de Economía*. (8)

c) **FREE ZONE ADMINISTRATOR**: The natural or legal person directly responsible for the direction, administration and management of the free zone; (8)

d) **METROPOLITAN AREA:** The Following Municipalities: Antiguo Cuscatlán, Santa Tecla, Apopa, Ayutuxtepeque, Cuscatancingo, Ciudad Delgado, Ilopango, Mejicanos, Nejapa, San Marcos, San Martín, Tonacatepeque, San Salvador And Soyapango (8).

e) **BENEFICIARIES:** Refers to developers, administrators, and users of Free Trade Zones or Active Improvement Warehouses (DPA) authorized through an agreement issued by the Executive Branch under the *Ministerio de Economía*to carry out activities permitted under this Law. This also includes users or DPAs exclusively dedicated to supplying their entire production through subcontracting with other Free Trade Zone or DPA users, with the purpose of adding value to the products. (8)

f) **TRADER**: The beneficiary engaged in the trade of goods to retailers, wholesalers or final consumers and who has been authorized by the *Ministerio de Economía*; (8)

g) **DEMONSTRATIVE CLEARANCE CHART**: A document that consolidates and details the information on imports subject to the Free Trade Zone and Temporary Admission for Active Improvement regimes, along with the respective clearances for the compensating product. It verifies that the goods or compensating products have been re-exported or allocated to any other legally authorized treatments. It includes balances for each goods declaration. (3) (6) (8)

h) **ACTIVE IMPROVEMENT WAREHOUSE (DPA)**: An area within the national territory subject to a special customs regime, where goods can enter under suspension of import duties to undergo a process of transformation, elaboration, repair, or other legally authorized procedures for subsequent re-exportation. Capital goods may remain indefinitely within this area. The holder of the DPA must be authorized by the *Ministerio*

*de Economía*to operate in the warehouse and engage in any of the activities mentioned in Article 3 of this Law. (8)

i) **WASTES OR RESIDUES**: These are the residues resulting after goods subjected to the Free Trade Zone or Temporary Admission for Active Improvement regimes have undergone a process of improvement. This definition includes material remnants, substances, and objects that no longer have a direct use and are permanently discarded because they are no longer useful to the beneficiary in the development of their incentivized activity. For this purpose, waste and scraps include paper, obsolete or damaged office furniture, as well as materials that were part of the packaging or containers for the goods and/or that were used for transportation, handling, or storage. Additionally, this includes residues resulting from infrastructure improvements or general maintenance, such as doors, concrete, and other related materials. (8) (15)

j) **DEVELOPER:** A natural or legal person who, with prior authorization from the *Ministerio de Economía*and in compliance with the stages of prequalification, authorization, and commencement of operations, is engaged in the establishment and development of Free Trade Zones. The developer provides the zone with public and private services, infrastructure, and industrial facilities necessary for its proper functioning, with the purpose of selling or leasing lots or industrial buildings to beneficiaries under this Law. (8) (14)

k) **DEFINITIVE IMPORT OR NATIONALIZATION:** The entry of goods originating from abroad for their definitive use or consumption within the national customs territory, subject to compliance with all customs formalities and payment of the applicable import duties and taxes.

l) **PRODUCER:** The beneficiary engaged in activities permitted by law, including manufacturing, assembly or maquila, processing, or transformation of goods, and authorized by the *Ministerio de Economía*through the respective agreement. (8)

m) **COMPENSATING PRODUCTS:** Goods resulting from incorporation, transformation, elaboration, repair, or any other improvement activity carried out within a Free Trade Zone or Active Improvement Warehouse (DPA). (8)

n) **RE-EXPORTATION:** A regime allowing the exit of foreign goods from the customs territory that entered the country but were not definitively imported. (8)

o) **DEFINITIVE TRANSFERS:** The transfer of goods with a transfer of ownership between beneficiaries of this Law. (8)

p) **TEMPORARY TRANSFERS:** The transfer of goods between a beneficiary of this Law and another entity, whether a beneficiary or not, under the condition that such goods must be returned to the sending company within the timeframe established by law. (8)

q) USER: A natural or legal person authorized by the *Ministerio de Economía*to benefit from the provisions of this Law, establish a company within a Free Trade Zone, and engage in any of the activities mentioned in Article 3 of this Law. (8)

r) FREE TRADE ZONE: An area within the national territory where goods are allowed to enter and are considered as if they were outside the national customs territory concerning import and export duties, to be destined for operations or processes permitted under this Law. (8)

s) START OF OPERATIONS FOR USERS AND DPAS: The date of acceptance of the first goods import declaration for raw materials in the customs system in the case of producers, or inputs in the case of traders. (14)

t) START OF OPERATIONS FOR FREE TRADE ZONE DEVELOPERS: The date the *Ministerio de Economía*issues the resolution of opening and commencement of operations. (14)

u) FOOD: A natural or artificial product, processed, semi-processed, or unprocessed, intended for human consumption and providing the body with materials and energy for biological processes. For the purposes of this Law, food includes non-alcoholic beverages, chewing gum, and any other product or substance used in the preparation, treatment, or processing of food. Excluded are cosmetics, tobacco, and products used as medicines. (15)

v) ANIMAL FEED: Simple or composite material, semi-processed, processed, or unprocessed, directly used for animal nutrition, including balanced feed. (15)

w) VERTICAL FREE TRADE ZONE: A defined area within the national territory consisting of land and integrated buildings, without a resident population, where goods are allowed to enter and are considered as if they were outside the national customs territory concerning import and export duties, to be allocated according to their nature to operations or processes permitted under this Law, as established in the regulations. (15)

Art. 2-A.- The *Ministerio de Economía* shall propose the creation of spaces for the exchange of opinions between workers, beneficiaries of this law and government institutions, for the purpose of promoting economic measures and actions that are necessary or convenient to facilitate the establishment, operation and growth of free trade zones and DPA. (8) (14)

Art. 3.- Companies whose owners are natural or legal persons, dedicated to: (1) (2) (6) (8), may establish and operate in the free trade zone.

I. The production, assembly or maquila, manufacturing, processing, transformation, or commercialization of industrial goods covered in Chapter 3 and Chapters 25 onward of the Central American Tariff System (SAC), except for those included in Article 6 of this Law. (1) (2) (6) (8)

II. Fishing of marine species for industrial transformation, such as preparations, preserves, derivatives, or by-products, as well as their respective processing and commercialization. (1) (2) (6) (8)

III. Cultivation, processing, and commercialization of plant species or unprocessed foods produced under natural or artificial systems, such as greenhouses or laboratories, provided they have the corresponding permits issued by the competent authority. (1) (2) (6) (8) (15)

IV. Breeding and commercialization of amphibian and reptile species in captivity, provided they have the corresponding permits issued by the competent authority. (1) (2) (6) (8)

V. Dehydration of ethyl alcohol. (1) (2) (6) (8)

VI. The production, assembly or maquila, manufacturing, processing, transformation, or commercialization of compensating products that use alcohols as raw material or input, including those covered in heading 2207 and subheading 220890 of the Central American Tariff System (SAC), provided the final product is not liquor or alcoholic beverages, except for beverages intended for pharmaceutical or cosmetic use. (9)

VII. Aquaculture products, whether or not subjected to industrial transformation, such as preparations, preserves, derivatives, or by-products, as well as their respective processing and commercialization. (15)

VIII. Production, processing, transformation, or commercialization of food or animal feed, in accordance with Article 2 of this Law. (15)

The activities mentioned in the preceding paragraph shall include those necessary for production, whether directly related to the activity or connected to it, such as design, painting, cutting, stamping, finishing, screen printing, embroidery, washing, ironing, quality control, recycling, and repair. (1) (2) (6) (8)

These service activities may only be provided among the beneficiaries of this Law. (1) (2) (6) (8)

Goods introduced into the national market shall be subject to the customs procedures applicable to any definitive importation from abroad. (1) (2) (6) (8) (14)

When making sales to the national customs territory, traders must enter the goods by paying import duties and taxes on the customs value. In the case of goods acquired from a producer established in accordance with this law, the import duties and taxes shall be calculated on the customs value of the good, excluding from such base the value of the national component incorporated to the final product, provided that the trader demonstrates the value of such components. (1) (2) (6) (8)

In the case of the internments referred to in the two preceding paragraphs, the applicable tariff shall be that of the most favored nation (mfn). Nevertheless, in the event that traders carry out internments of goods originating in third countries with which there is a free trade agreement, they may apply the preferential treatment, provided that they demonstrate to the customs authority that the goods have not undergone any transformation in the country, that they have remained under customs control at all times and that they comply with the other requirements established for enjoying tariff preferences. (1) (2) (6) (8)

In no case may the declared value of the goods that enter the country be less than the value at which the goods entered the free zone or DPA, which in the case of raw materials and inputs, may not be less than the customs value established in the goods declaration. In the transactions carried out, the commercial, tax and accounting support documents must reflect the national added value for the transformation, elaboration and repair processes to which the goods were subjected. For those goods that have undergone transformation, the customs value shall contain the cost of raw materials and indirect manufacturing expenses. (1) (2) (6) (8)

Sales or purchases of goods necessary for the authorized activity, made between beneficiaries of the regime established in this law, shall not cause duties and taxes, including the tax on the transfer of personal property and the provision of services; the foregoing shall be applicable in the case of the DPA, provided that they are made within the legal term of the corresponding customs regime and in no case shall the transfer of goods under any title be considered as a reason to extend said term. (1) (2) (6) (8)

In order to carry out the sale of the goods, the beneficiaries of this law must also prove to the customs authority the solvency in the payment to the Instituto Salvadoreño del Seguro Social and to the different pension fund administrators, of the contributions and withholdings made to their workers, as well as the contributions made by the employer, corresponding to the next month prior to the one in which the sale is carried out. Such verification shall be made in accordance with section 9-a of this act. (1) (2) (6) (8)

Art. 3-A.- Natural or legal persons authorized under the present law to carry out trade activities in industrial goods must establish in free zones.

The goods to be marketed must be subject to each of the following conditions:

a) Directly enter the free trade zone

b) Not be subjected to any transformation or elaboration process by the marketer;

c) Be consigned or destined to the holder of the benefits, who must prove ownership through any of the following documents: accounting records, contracts and respective shipping documents.

AUTHENTIC INTERPRETATION

Decree No. 397

The Legislative Assembly of the Republic of El Salvador,

CONSIDERING:

I. - By means of Legislative Decree No. 405, dated September 3, 1998, published in the Official Journal No. 176, Volume 340, dated September 23 of the same month and year, the Law of Industrial and Commercialization Free Zones was issued.

II. - That by Legislative Decree No. 431, dated October 11, 2007, published in the Official Journal No. 199, Volume 377 of the 25th of the same month and year, the International Services Law was issued, which allows operations of the Direct Users of that Regime with the beneficiaries of the law mentioned in Consideration I.

III. - That through Legislative Decree No. 318, dated February 21, 2013, published in the Official Journal No. 41, Volume 398, of the 28th of the same month and year, amendments were issued to the Law of Industrial and Commercialization Free Zones modifying, among others, Articles 3-A and 17 of the referred law.

IV. - That through Legislative Decree No. 209, dated December 3, 2015, published in the Official Journal No. 236, Volume 409, of the 22nd of the same month and year, amendments were issued to the Law of Industrial Free Zones and Commercialization, among others, a new subsection was inserted between the first and second paragraphs of Article 21, in order to incorporate, an additional way to carry out those operations that had been developed under the International Services Law, between the beneficiaries of both laws.

V. - To achieve the dynamization of the economy it is indispensable to transform and reconvert the Industry and Services with export potential; to this effect, it is indispensable to promote the synergy between the different economic agents that operate under the aforementioned laws to foster the existing chains in the search for greater competitiveness in logistic operations, providing legal security in the application of the regulations that regulate them.

VI. - Articles 3-A and 17 of the Law of Free Industrial and Commercialization Zones are being interpreted in different ways, one of which affects the synergy between the operators that interact under the Law of Free Industrial and Commercialization Zones and the Law of Services.

It is therefore necessary to resort to the intention or spirit of the legislator, determining its true meaning and scope, through the authentic interpretation of the articles cited in the present recital, in a systematic manner with the regulatory framework applicable to such operations.

THEREFORE,

In use of their constitutional powers and on the initiative of Representatives Rodolfo Antonio Parker Soto, Margarita Escobar, Mario Antonio Ponce López, Francisco José Zablah

Safie and with the support of Representatives Norman Noel Quijano González, Alberto Armando Romero Rodríguez, Rodrigo Avila Avilés, Lucía del Carmen Ayala de León, Marta Evelyn Batres Araujo, Mariano Dagoberto Blanco Rodríguez, Manuel Orlando Cabrera Candray, Douglas Antonio Cardona Villatoro, Tomás Emilio Corea Fuentes, José Edgar Escolán Batarse, Julio César Fabián Pérez, José Andrés Hernández Ventura, Mayteé Gabriela Iraheta Escalante, Ana Mercedes Larrave de Ayala, Mario Andrés Martínez Gómez, Silvia Estela Ostorga de Escobar, José Javier Palomo Nieto, Carlos Armando Reyes Ramos, David Ernesto Reyes Molina, Rosa María Romero, Karla María Roque Carpio, Jorge Luis Rosales Ríos, Donato Eugenio Vaquerano Rivas, Mauricio Ernesto Vargas Valdez, Ricardo Andrés Velásquez Parker and Marcela Guadalupe Villatoro Alvarado.
DECREES the following:

AUTHENTIC INTERPRETATION OF ARTICLES 3-A AND 17 OF THE LAW ON EXPORT PROCESSING AND MARKETING ZONES, CONTAINED IN LEGISLATIVE DECREE NO. 405, DATED SEPTEMBER 3, 1998, PUBLISHED IN THE OFFICIAL GAZETTE NO. 176, VOLUME 340, DATED SEPTEMBER 23 OF THE SAME MONTH AND YEAR

Art. 1.- The second paragraph of article 3-A of the Law of Industrial Free Zones and Commercialization is authentically interpreted in the sense that the goods to be commercialized must enter directly to an area authorized as Free Zone, consigned to a Commercializer, or to a Logistic Operator authorized under the Law of International Services, contracted by him for such purpose, having to comply with such regulations; in any case the commercializer shall prove the ownership of the goods.

Art. 2.- Article 17 of the Industrial and Commercialization Free Zones Law shall be authentically interpreted in the sense that the authorized activity carried out by a Commercializer is fulfilled independently of the manner in which it formalizes its operations; either by destining the merchandise at the moment of its arrival to the country under the International Services Law as an indirect user, or under the Industrial and Commercialization Free Zones Law, enjoying in both cases the Income Tax exemption, within the authorized scopes in the respective benefit agreement issued by the Ministry of Economy.

Art. 3.- This decree shall enter into force eight days after its publication in the Official Journal.

GIVEN IN THE BLUE ROOM OF THE LEGISLATIVE PALACE. San Salvador, on the fifteenth day of August of the year two thousand nineteen.

D. O. No. 172, Volume 424, SEPTEMBER 16, 2019.

The owners of commercialization companies that carry out activities related to handicrafts, textile industry, textile maquila or clothing manufacturing, may establish and operate from a DPA, only when the merchandise object of the commercialization is destined to companies covered by this law and that the same are incorporated or used in the transformation processes, such as production, or clothing manufacturing, may establish and operate from a DPA, only when the merchandise object of the commercialization is destined to companies covered by this law and that the same are incorporated or used in the transformation processes, such as production, manufacturing, assembly

and machining, they must be subject to the legally established regime, enter them into the facilities of the DPA and comply with the provisions of paragraphs b) and c) of this article. (6) (8)

Art. 4.- The establishment, administration and operation of free zones shall be authorized by the *Ministerio de Economía*. The surveillance and control of the fiscal regime of such zones shall be the responsibility of the *Ministerio de Hacienda*, through the general directorates of customs and internal taxes, in accordance with the provisions of this law, its regulations and the applicable customs and tax regulations. (6)

Art. 5.- The following natural or legal persons, owners of companies, may be covered under this Law:

a) Those that develop Free Trade Zones, referred to as Developers.
b) Those that manage Free Trade Zones, referred to as Administrators.
c) Those that establish themselves in Free Trade Zones, referred to as Users.
d) Those whose establishments are declared Active Improvement Warehouses. (8)

Art. 6.- Natural or legal engaged in the following activities shall not be covered by the provisions of this law:

a) Exploration, exploitation, processing and commercialization of natural gas, petroleum and its fuel derivatives, as well as oil, greases and lubricants; (1) (3) (4) (6) (8)

b) Production and marketing of cement and clinker; (1) (3) (4) (6) (8)

c) Marketing of scrap or waste of steel, iron and other ferrous and non-ferrous metals; (1) (3) (4) (6) (8)

d) Metallic and non-metallic mineral products from the exploitation of the salvadoran subsoil; (1) (3) (4) (6) (8)

e) Those involving the processing and handling of explosives and radioactive materials; (1) (3) (4) (6) (8)

f) The production or storage of goods that are qualified by the competent authorities as causing pollution, damage to health or the environment; (1) (3) (4) (6) (8)

g) Production, assembly or maquila, manufacture, processing, transformation or commercialization of sugar, its substitutes, however, the incoporation of sugar, its substitutes, derivated and by-products as raw material shall be permitted for production of chemical, cosmetic or pharmaceutical goods, foodstuffs and animal feed; (1) (3) (4) (6) (8) (15)

h) Production, assembly, manufacture, processing, transformation or commercialization of alcohol of any origin. This prohibition shall not be applicable to the provisions of romanos v and vi of art. 3 of this law; (1) (3) (4) (6) (8) (9)

i) Production, assembly, manufacture, processing, transformation or commercialization of sacks or bags of synthetic or artificial fibers; (1) (3) (4) (6) (8)

j) Supply of food, prepared or not, destined to employees or companies benefiting from the present law and any other liberatory or suspensive regime; (1) (3) (4) (6) (8)

k) Importation of machinery and equipment for leasing purposes

The following shall also not be elegible for the provisions of this law:

1) Natural or legal persons whose benefits conferred by this law have been suspended or revoked; (1) (3) (4) (6) (8)

2) The companies in which they appear as directors, legal representatives, sole administrators, partners or shareholders of these, who held such positions or had equity participation in other companies whose benefits were suspended or revoked by the same; (1) (3) (4) (6) (8)

3) When the activities to be carried out involve an illicit object, or may give rise to drug trafficking, damage or harm to the health of people and animals, environmental pollution, pornography, gambling, manufacture or commercialization of weapons, their accessories or explosive devices of any nature; (1) (3) (4) (6) (8)

4) Natural or legal persons, partners or shareholders thereof, who, based on the account statements provided by the *Ministerio de Hacienda*, through the general directorates of customs and internal taxes, have firm customs and/or tax obligations pending to be complied with at the administrative office. (1) (3) (4) (6) (8)

The provisions of paragraphs 1) and 2) of the preceding paragraph shall not apply when the suspension or revocation has been requested voluntarily by the beneficiary of this law and is not a consequence of violations of this law. (1) (3) (4) (6) (8)

Art. 7.- Natural or legal persons covered under the provisions of this law must establish their businesses within a free trade zone or establishments where they operate must be declared DPA by the competent authority (8).

Art. 8.- For the application and interpretation of this Law, preference shall be given to its purpose and nature. However, with respect to the customs procedure, the provisions of the customs regulations, especially those of the Central American Uniform Customs Code, CAUCA, and its complementary rules, shall be considered for its application. Only when it is not possible to establish by the letter or by their spirit the meaning and scope of the rules, concepts and terms of the aforementioned provisions, the rules, concepts and terms of the common law may be used.

Art. 9.- The provisions of Chapter XIII, Title II, Book One of the Commercial Code, concerning the requirements for authorization to conduct commercial activities in the country, shall not apply to foreign companies owning businesses referred to in this chapter that export their entire production. However, such companies shall not be exempt from maintaining accounting records.

Any non-domiciled individual or entity owning a business referred to in the preceding paragraph must appoint a representative in the country with sufficient authority to act legally on their behalf. (6)

Art. 9-A.- Verification of compliance with payments to social security and welfare institutions, as established for users of Free Trade Zones and Active Improvement Warehouses, shall be carried out through electronic communication networks, with security specifications defined by the *Dirección General de Aduanas*. This office shall establish online consultation mechanisms to facilitate verification of compliance with these provisions.

In cases of force majeure or unforeseen events, the *Dirección General de Aduanas* shall adopt contingency measures to ensure the continuity of operations in coordination with the relevant institutions. (5) (8)

CHAPTER II
DEVELOPER AND ADMINISTRATOR OF FREE TRADE ZONES

Art. 10.- Developers shall comply with the stages of prequalification, authorization, and commencement of operations, which include the development of the following buildings and areas: (6) (8)

1. **COMMON BUILDINGS:** (6) (8)

    a) Administrative and maintenance offices; (6) (8)

    b) Customs and tax delegation office: which shall be duly equipped and located in accordance with the requirements established by the general customs directorate, through the regulations of the present law and taking into account the reasonable needs for the operation. (6) (8)

    c) control and surveillance booth: duly equipped in accordance with the requirements established by the general directorate of customs and separate from the customs and fiscal delegation office, as well as of the industrial park's private security, if any; (6) (8)

2. **BUILDINGS OF EACH INDUSTRIAL FACILITY:** (6) (8)

    a) Offices; (6) (8)

    b) Production or storage areas; (6) (8)

    c) Warehouses for raw materials and finished products; (6) (8)

    d) Loading and unloading zones; (6) (8)

    e) Vehicle parking areas; (6) (8)

f) The number of sanitary facilities as established in the General Law on Workplace Risk Prevention, for both men and women. (6) (8)

g) The infrastructure and basic services referred to in this Law, as well as those outlined in the General Law on Workplace Risk Prevention, the Law on Equal Opportunities for Persons with Disabilities, and the Labor Code. (6) (8)

3. URBANIZATION

a) A minimum area of thirty thousand square meters for new Free Trade Zone projects. In the case of Vertical Free Trade Zones, this area may be distributed between the land and buildings to be constructed, as indicated by the developer in their application. (6) (8) (11) (15)

b) Green Area: 30% of the total area, including ecological green spaces and sports zones. (6) (8)

c) Streets, walkways, and sidewalks. (6) (8)

d) Parking areas for vehicles. (6) (8)

e) Parking areas for containers. (6) (8)

f) Perimeter fencing. (6) (8)

g) A pedestrian and vehicular access for entry and exit. If more than one access is required, the *Ministerio de Economía*must seek an opinion from the General Directorate of Customs prior to authorization, which must be issued within a maximum of 20 business days. (6) (8)

4. OPTIONAL BUILDINGS:

a) Delegation office of the ministry of labor and social security; (6) (8)

b) Clinical

c) Bank; (6) (8)

d) Industrial cafeteria (6) (8)

The designs for each of the elements mentioned are subject to the standards and specifications established by the Viceministerio de Vivienda y Desarrollo Urbano (VMVDU), the Oficina de Planificación del Área Metropolitana de San Salvador (OPAMSS), or any other institution with similar authority, as applicable. (6) (8)

Authorized developers may request the expansion or reduction of their respective Free Trade Zone area, provided they meet the following requirements: (6) (8)

a) Possess the corresponding construction permits. (6) (8) (11) (15)

b) If the property or properties to be added are not owned by the applicant, a document proving and ensuring the legal possession of the property must be submitted with the respective application.

c) The owner must explicitly consent that the property or properties will be subject to the regime or commit to complying with the relevant legal regulations. (6) (8)

d) Reductions that affect the minimum required infrastructure and area specified in this article will not be authorized. (6) (8)

e) The resulting area from the expansion or reduction must have conditions that allow for the necessary mechanisms to control the entry and exit of goods, such as a perimeter fence, customs and fiscal delegation, and control and surveillance booths. (6) (8)

f) Prior to authorizing the extension or reduction of the area, the *Ministerio de Economía* must obtain the opinion of the *Dirección General de Aduanas*, which must be issued within 20 working days following the date on which it was requested by the said Ministry. (6) (8)

Art. 11.- Developers duly authorized through the agreement issued by the executive body in the economic field, pursuant to the provisions set forth in article 10 of this law, shall have the following rights: (8)

a) Total exemption from income tax: (8)

1) For a period of ten years (10) counted from the fiscal year in which operations begin for the activity dedicated to free trade zones, if located in the metropolitan area.

2) For a period of fifteen (15) years counted from the fiscal year in which it begins its operations for the activity dedicated to free trade zones, located outside the metropolitan area. (8)

As from the thirteenth fiscal year, counted from the publication in the official gazette of the qualification agreement issued by the *Ministerio de Economía*, the profits or dividends distributed from the favored activity will be taxed with income tax. (8)

During the twelve fiscal years, counted from the publication in the official gazette of the qualification agreement issued by the *Ministerio de Economía*, the exemption in the case of companies will be applied both to the company owning the free zone and to the partners or shareholders individually considered, with respect to the profits or dividends from the favored activity. (8)

In both cases, the exemption in the case of corporations shall apply both to the company owning the free zone and to the partners or shareholders individually considered, with respect to the profits or dividends from the favored activity. (8)

If one or more partners are legal persons, this right shall be exclusive to them. This benefit may not be transferred successively to their partners. (8)

b) Total exemption from municipal taxes: (8)

1) For a period of ten (10) years counted from the fiscal year in which it begins operations for the activity dedicated to free trade zones, if located in the metropolitan area. (8)

2) For a period of fifteen (15) years counted from the fiscal year in which it begins operations for the activity dedicated to free zones, if it is located outside the metropolitan area. (8)

The Municipal Councils, within their legal powers, for the purpose of promoting the development of their respective municipalities, may grant additional benefits beyond those established in this law.

c) Total exemption from real estate transfer tax for the acquisition of real estate to be used in the incentivized activity. (8)

Developers shall be entitled to an additional five-year period for exemptions from income tax and municipal taxes, provided that during the period of total exemption they have invested in an expansion of the free zone that meets the following characteristics: (8)

I. That the total area of the extension is located within a radius of not more than ten kilometers measured from any boundary of the area previously authorized as a free zone; (8) (11)

II. The surface area of the extension must be at least twenty-five thousand square meters; (8) (11)

III. That complies with the minimum infrastructure requirements set forth in article 10 of this law. (8)

Art. 12.- The *Ministerio de Economía* may, in case of abandonment, revocation or any other situation by means of which the title of free zone developer or administrator becomes available, grant and authorize by agreement said title to new natural or legal persons, national or foreign, who have requested it in accordance with the requirements and procedures of this law and its general regulations. (14)

Art. 13.- The administrators of the free zone shall provide or provide directly to the companies that operate in it the facilities for the supply of water, electric energy and sanitary train, coordinate the maintenance of all the common services of the zone, such as roads, fences, green areas and public lighting, to promote the establishment of new investments in the zone, as well as to see that the users of the zone comply with the legal and customs dispositions, in coordination with the fiscal and customs delegation established in the zone, and to issue the respective internal regulations of operations, subject to the approval of the *Ministerio de Economía*. (8)

Art. 14.- Revoked (7) (8)

Art. 15.- Revoked (8)

CHAPTER III
FREE ZONE USERS

Art. 16.- Before the *Ministerio de Economía* issues the authorization agreement to a free trade zone user, it must have the opinion of the *Ministerio de Hacienda*, which must be issued within twenty (20) business days following the date on which it was requested. If such opinion is not issued within the aforementioned term, the *Ministerio de Economía* shall proceed to extend the aforementioned agreement.

The agreement that grants the authorization to the regime of a user, must contain at least: the name of the holder, the determination of the establishment in which the company will be located with its respective surface extension; the productive activity and the market that is authorized; amount of initial investment in fixed assets and term to fulfill it and/or number of permanent jobs with which it will operate; in its case, the qualification of strategic industrial activity; the rights and obligations that are granted and other requirements established by the present law. (8)

Art. 17.- The owner of a business using a free trade zone, duly authorized in accordance with this law, shall have the right to:

a) Free internment to the free zone for the period that it carries out its 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 internment to the free trade zone for the period that they carry out their operations, of raw materials, parts, pieces, components or elements, semi-finished products, intermediate products, containers, labels, packaging, samples and patterns, necessary for the execution of the authorized activity. likewise, machinery, apparatus and equipment and any other goods to be repaired by the beneficiaries, including exported products that are reimported as returned goods, may enter under the aforementioned treatment;

c) Free internment of lubricants, catalysts, reagents, fuels and any other substance or material necessary for the productive activity;

d) Total income tax exemption on the authorized activity:

1. For a term of fifteen (15) years, counted from the publication in the official journal of the agreement issued by the *Ministerio de Economía*, if located in the metropolitan area.

Upon expiration of the period granted, the user shall be entitled to a partial exemption as follows:

A sixty percent exemption (60%) of the income tax rate, applicable during the ten (10) years following the expiration of the original term established for the exemption.

A forty percent exemption (40%) of the income tax rate, applicable during the ten (10) years following the expiration of the previous term.

2. For a term of twenty (20) years, counted as of the publication in the Official Gazette of the agreement issued by the executive body in the branch of economy, if located outside the metropolitan area.

Upon expiration of the period granted, the user shall be entitled to a partial exemption as follows:

A sixty percent exemption (60%) of the income tax rate, applicable during the fifteen (15) years following the expiration of the original term established for the exemption.

A forty percent exemption (40%) of income tax rate, during the ten (10) years following the expiration of the previous term.

As from the thirteenth fiscal year, counted from the publication in the official journal of the qualification agreement issued by the *Ministerio de Economía*, the profits or dividends distributed, coming from the favored activity, will be taxed with income tax.

During the twelve fiscal years counted from the publication in the official gazette of the qualification agreement issued by the *Ministerio de Economía*, the exemption, in the case of companies, shall apply both to the user company and to the individual shareholders or partners, with respect to the profits or dividends derived from the benefited activity.

In the case of corporations, it shall apply both to the user company and to the partners or shareholders individually considered, with respect to the profits or dividends from the favored activity.

In the event that one or more partners are legal persons, this right shall be exclusive to them. This benefit may not be transferred successively to their partners.

e) Total exemption from municipal taxes:

1. For a term of fifteen (15) years, as from the publication in the official journal of the agreement issued by the executive body in the branch of economy, if located in the metropolitan area.

Upon expiration of the period granted, the user shall be entitled to a partial exemption as follows:

Ninety percent (90%) exemption of the applicable municipal taxes, during the ten (10) years following the expiration of the original term established for the exemption.

Seventy-five percent (75%) exemption of the applicable municipal taxes, thereafter.

2. For a term of twenty (20) years, counted as of the publication in the official journal of the agreement issued by the executive body in the branch of economy, if it is located outside the metropolitan area.

Upon expiration of the period granted, the user shall be entitled to a partial exemption as follows:

Ninety percent (90%) exemption of the applicable municipal taxes during the fifteen (15) years following the expiration of the original term established for the exemption

Seventy-five percent (75%) exemption of the applicable municipal taxes, thereafter.

The municipal councils, within their legal powers, in order to promote the development of their respective municipalities, may grant additional benefits to those established in this law.

f) Total exemption from real estate transfer tax for the acquisition of real estate to be used in the authorized activity.

Upon expiration of the term of the total exemptions, the users will have the right to an additional term of five (5) years, if it is proven that during the last five (5) years of the total exemption, they have increased their investment by 100% in relation to their initial investment. This increase in the investment must be made in the purchase of land, in the construction of buildings and in the acquisition of machinery and equipment, linked to the authorized activity.

The *Ministerio de Economía* shall incorporate in the agreement issued on the occasion of the authorization of a user, the detail of those goods that are not considered necessary for the execution of the authorized activity, with their respective tariff nomenclature, in a particular or general manner, using sections, chapters, headings or subheadings, as the case may be.

The user may request the *Ministerio de Economía* to modify the list of goods listed in the preceding paragraph, stating the reason for such modification. The ministry shall issue the respective agreement, within a term of twenty (20) working days, subject to the opinion of the *Ministerio de Hacienda*, which shall render it within fifteen (15) working days.
(15) working days from the date on which it was requested.

Once the request for modification to the detail of goods considered not necessary for the execution of the activity of the company has been presented, the holder may import under the regime the goods whose modification has been requested, with suspension of the payment of duties and taxes during the period in which the request is processed; if the decision is accepted, it will be backdated to the date of registration of the respective goods declaration; if it is denied in whole or in part, the user must immediately pay the duties and taxes corresponding to the goods whose modification was denied.

The general directorate of customs will implement the electronic means that guarantee the mechanized operability of the application of the goods not required, at the time of the tele-dispatch of

the merchandise declarations or other equivalent means determined by said directorate and its consequent payment of the duties and taxes on said goods.

The users of free zones shall also prove to the customs authorities the solvency in the payment and to the different pension fund administrators, of the contributions and retentions made to their workers corresponding to the previous month, as well as the contributions made by the employer, to the one in which the importation of goods is carried out. Such verification must be made in accordance with article 9-a of this law.

The acquisition of the following goods and services are exempted from the benefits contained in paragraphs a), b) and c) of this article: food and beverages, except bottled water; products containing tobacco, alcoholic beverages, rental of housing, furniture and household goods, sumptuary or luxury items, vehicles for transporting people individually or collectively and merchandise, hotel services, in which case, their entry into the free trade zones shall be subject to the presentation of the definitive merchandise declaration for payment, in the case of foreign merchandise, or the presentation of the tax credit vouchers or final consumer invoice, in the case of purchases of said goods in the local market, in which it is evidenced that the corresponding tax has been paid; unless the benefited activity requires such goods or services for the production, assembly or maquila, manufacture, processing, transformation or commercialization, in which case the *Ministerio de Economía* must be informed at the time of requesting the necessary authorization to operate, and said ministry must include it in the respective agreement issued to the user. (2) (6) (8)

AUTHENTIC INTERPRETATION

Decree No. 397

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR,

WHEREAS:

I. - Legislative Decree No. 405, dated September 3, 1998, published in the Official Journal No. 176, Volume 340, dated September 23 of the same month and year, the Law of Industrial and Commercialization Free Zones was issued.

II. - Legislative Decree No. 431, dated October 11, 2007, published in the Official Journal No. 199, Volume 377 of the 25th of the same month and year, the International Services Law was issued, which allows operations of the Direct Users of that Regime with the beneficiaries of the law mentioned in Consideration I.

III. - Legislative Decree No. 318, dated February 21, 2013, published in the Official Journal No. 41, Volume 398, of the 28th of the same month and year, amendments were issued to the Law of Industrial and Commercialization Free Zones modifying, among others, Articles 3-A and 17 of the referred law.

IV. - Legislative Decree No. 209, dated December 3, 2015, published in the Official Journal No. 236, Volume 409, of the 22nd of the same month and year, amendments were issued to the Law of Industrial Free Zones and Commercialization, among others, a new subsection was inserted between the first and second paragraphs of Article 21,

in order to incorporate, an additional way to carry out those operations that had been developed under the International Services Law, between the beneficiaries of both laws.

V. - To achieve the dynamization of the economy it is indispensable to transform and reconvert the Industry and Services with export potential; to this effect, it is indispensable to promote the synergy between the different economic agents that operate under the aforementioned laws to foster the existing chains in the search for greater competitiveness in logistic operations, providing legal security in the application of the regulations that regulate them.

VI. - Articles 3-A and 17 of the Law of Industrial and Commercialization Free Zones, are being interpreted in different ways, one of which, affects the synergy between the operators that interact under the Law of Industrial and Commercialization Free Zones and the Law of International Services, who use both normative bodies to make their logistic operations more efficient, affecting the attractiveness of the country as a place for the rendering of high level logistic services, for which reason it is necessary to resort to the intention or spirit of the legislator, determining its true meaning and scope, through the authentic interpretation of the articles mentioned in the present recital, in a systematic manner with the normative framework applicable to such operations.

THEREFORE,

In use of their constitutional powers and on the initiative of Representatives Rodolfo Antonio Parker Soto, Margarita Escobar, Mario Antonio Ponce López, Francisco José Zablah Safie and with the support of Representatives Norman Noel Quijano González, Alberto Armando Romero Rodríguez, Rodrigo Avila Avilés, Lucía del Carmen Ayala de León, Marta Evelyn Batres Araujo, Mariano Dagoberto Blanco Rodríguez, Manuel Orlando Cabrera Candray, Douglas Antonio Cardona Villatoro, Tomás Emilio Corea Fuentes, José Edgar Escolán Batarse, Julio César Fabián Pérez, José Andrés Hernández Ventura, Maytee Gabriela Iraheta Escalante, Ana Mercedes Larrave de Ayala, Mario Andrés Martínez Gómez, Silvia Estela Ostorga de Escobar, José Javier Palomo Nieto, Carlos Armando Reyes Ramos, David Ernesto Reyes Molina, Rosa María Romero, Karla María Roque Carpio, Jorge Luis Rosales Ríos, Donato Eugenio Vaquerano Rivas, Mauricio Ernesto Vargas Valdez, Ricardo Andrés Velásquez Parker and Marcela Guadalupe Villatoro Alvarado.

DECREES the following:

AUTHENTIC INTERPRETATION OF ARTICLES 3-A AND 17 OF THE LAW ON EXPORT PROCESSING AND MARKETING ZONES, CONTAINED IN LEGISLATIVE DECREE NO. 405, DATED SEPTEMBER 3, 1998, PUBLISHED IN THE OFFICIAL GAZETTE NO. 176, VOLUME 340, DATED SEPTEMBER 23 OF THE SAME MONTH AND YEAR

Art. 1.- The second paragraph of article 3-A of the Law of Industrial Free Zones and Commercialization is authentically interpreted in the sense that the goods to be commercialized must enter directly to an area authorized as Free Zone, consigned to a Commercializer, or to a Logistic Operator authorized under the Law of International Services,

contracted by him for such purpose, having to comply with such regulations; in any case the commercializer shall prove the ownership of the goods.

Art. 2.- Article 17 of the Industrial and Commercialization Free Zones Law shall be authentically interpreted in the sense that the authorized activity carried out by a Commercializer is fulfilled independently of the manner in which it formalizes its operations; either by destining the merchandise at the moment of its arrival to the country under the International Services Law as an indirect user, or under the Industrial and Commercialization Free Zones Law, enjoying in both cases the Income Tax exemption, within the authorized scopes in the respective benefit agreement issued by the Ministry of Economy.

Art. 3.- This decree shall enter into force eight days after its publication in the Official Gazette.

GIVEN IN THE BLUE ROOM OF THE LEGISLATIVE PALACE. San Salvador, on the fifteenth day of August of the year two thousand nineteen.

D.O. No. 172, Volume 424, SEPTEMBER 16, 2019.

Art. 17-A.- Natural or legal persons applying to be qualified as free trade zone users, in accordance with the provisions of this law, must comply with at least one of the following requirements:

a) Initial investment in fixed assets for an amount equal to or greater than five hundred thousand dollars of the United States of America (us$500,000.00), attainable in the first two years of operations;

b) Operate with a number equal to or greater than fifty (50) permanent jobs, from the first year of operations;

c) Operate with a number equal to or greater than five (5) permanent jobs, from the first year of operations, in the case of marketers.

When the *Ministerio de Economía* determines that there has been failure to comply with the requirement set forth in section a) of this article, the user's authorization agreement shall be revoked.

Revocation shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure established in article 48 of the present law.

In the case of failure to comply with paragraphs b) and c) of this article, the rights established in article 17 of this law shall be suspended until successfully remedies such failure; therefore, it must pay during such period the taxes applicable to the imports it makes and the other related taxes.

The suspension shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure set forth in article 48 of this law.

In both cases, the *Ministerio de Economía* shall immediately notify the *Ministerio de Hacienda*, for the corresponding effects.

Natural or legal persons requesting to be qualified as free trade zone users to operate in greenhouses and laboratories must comply with the following requirements:

a) Initial investment in fixed assets for an amount equal to or greater than one hundred thousand dollars of the United States of America (U.S. $100,000), in the first year of operations;

b) Operate with a number equal to or greater than fifteen (15) permanent jobs;

c) Have a minimum area of five thousand (5,000) square meters in the case of greenhouses and one thousand (1,000) square meters in the case of laboratories;

d) Formal administrative and financial structure.

When the *Ministerio de Economía* determines noncompliance with the requirement provided for in literal a) of this article, the authorization agreement shall be revoked to the user.

Revocation shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure established in article 48 of the present law.

In the case of failure to comply with the provisions of paragraphs b), c) and d) above, the rights established in article 17 of this law, until it remedies such noncompliance; therefore, it must pay during such period the taxes applicable to the imports it makes and the other related taxes. The term of the suspension does not interrupt the computation of the total term of the benefits.

The suspension shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure set forth in article 48 of this law.

In both cases, the *Ministerio de Economía* will immediately notify the *Ministerio de Hacienda*, for the corresponding effects (8).

Article 17-b. The owners of companies dedicated to the manufacture of microprocessors; integrated circuits; parts of land, air and maritime vehicles; computer parts or equipment and medical devices; equipment for the generation of energy, that are installed in a free zone, shall be entitled to an additional term of five years of total exemption from the payment of income tax and municipal taxes.

Those owners of companies whose industrial activity has been declared as strategic, by means of an agreement issued by the executive body in the area of economy and which are authorized to operate under the free trade zone regime, shall be entitled to a ten-year term in addition to that of the total exemption from payment of income tax and municipal taxes. (8)

CHAPTER IV
DEPOSITS FOR INWARD PROCESSING

Art. 18.- Natural or legal persons, owners of companies that are dedicated to the activities foreseen in the roman and second paragraph of article 3 and final paragraph of article 3-a of this law, may request to the *Ministerio de Economía* that their establishment be declared as an asset processing depot, DPA, as long as they justify the technical reasons for which it cannot be located in a free zone; in addition, they shall comply with the following requirements: (6) (8)

a) Location in zones of industrial vocation, qualified by the competent authority; (6) (8)

b) That its facilities comply with industrial, labor and environmental safety conditions; (6) (8)

c) Formal administrative and financial structure; (6) (8)

d) Buildings and other areas: (6) (8)

1) Administrative offices; (6) (8)

2) Customs and tax delegation office, duly equipped; (6) (8)

3) Control and surveillance booth; (6) (8)

4) Perimeter fence; (6) (8)

5) Green zone: at least 20% of the total area. (6) (8)

e) Buildings industrial buildings: (6) (8)

1) Offices; (6) (8)

2) Production or storage area; (6) (8)

3) Raw material and finished product warehouse; (6) (8)

4) Loading and unloading areas; (6) (8)

5) The necessary sanitary services for men and women; (6) (8)

6) Parking of vehicles and containers (6) (8) (8)

The area of the buildings referred to in numerals 1) to 5) of section e) of this article, shall total a minimum of eight hundred square meters. (6) (8)

In the case of species of reptiles and amphibians in cautiveries, they must only comply with paragraphs b), c) and d) above; as well as operate in a minimum area of fifteen thousand square meters, qualified by the competent authority in the use of the land. (6) (8) (12)

Companies whose establishments have been classified as DPA shall be subject to the provisions of article 3 of this law. (6) (8)

In order to grant the authorization, the *Ministerio de Economía* must have the opinion of the *Ministerio de Hacienda*, which must be issued within 20 working days of being requested; if such authorization is not issued within the aforementioned period, the *Ministerio de Economía* will proceed to issue the corresponding agreement. (6) (8)

The agreement granting the qualification of an establishment as a DPA shall include, as applicable, the requirements determined in article 16, second paragraph of this law. (6) (8)

Art. 19.- The owner of a business, whose establishment has been declared DPA, shall be entitled to enjoy:

a) Total exemption from duties and taxes on the importation of machinery, equipment, tools, spare parts and accessories, utensils and other equipment necessary for production, for the period of their operations;

b) Introduction, with suspension of duties and taxes levied on the importation of raw materials, parts, pieces, components or elements, semi-finished products, intermediate products, packaging, labels, packaging, samples and patterns, necessary for the execution of the authorized activity for the period in which they carry out their operations. Likewise, machinery, apparatus, equipment and any other goods that have to be repaired by the beneficiaries, including exported products that are re-entered as returned goods, may enter under the aforementioned treatment;

c) Total exemption from taxes levied on the importation, for the period of their operations, of lubricants, catalysts, reagents, fuels and any other substance or material necessary for the production process, even when not directly incorporated in the compensating product;

d) Total income tax exemption on the authorized activity:

1) For a term of ten (10) years, counted as of the publication in the official journal of the agreement issued by the executive body in the branch of economy, if it is located in the metropolitan area.

   Upon expiration of the period granted, the beneficiary shall be entitled to a partial exemption as follows:

   A sixty percent exemption (60%) of the income tax rate, applicable during the five (5) years following the expiration of the original term established for the exemption.

   A forty percent exemption (40%) of the income tax rate, applicable during the ten (10) years following the expiration of the previous term.

2) For a term of fifteen (15) years, counted from the publication in the official journal of the agreement issued by the executive body in the branch of economy, if it is located outside the metropolitan area.

Upon expiration of the period granted, the user shall be entitled to a partial exemption as follows:
A sixty percent exemption (60%) of the income tax rate, applicable during the ten (10) years following the expiration of the term originally established.

A forty percent (40%) exemption of income tax, during the ten (10) years following the expiration of the previous term.

As from the thirteenth fiscal year, counted from the publication in the official journal of the qualification agreement issued by the *Ministerio de Economía*, the profits or dividends distributed, coming from the favored activity, will be taxed with income tax.

During the twelve fiscal years, counted from the publication in the Official Gazette of the qualification agreement issued by the *Ministerio de Economía*, the exemption in the case of the companies will be applied, both to the owner company, as well as to the partners or shareholders individually considered, with respect to the profits or dividends coming from the favored activity.

In the event that one or more partners are legal persons, this benefit shall be exclusive to them, which may not be transferred successively to their partners.

e) Total exemption from municipal taxes:

1) For a term of ten (10) years, as from the publication in the official journal of the agreement issued by the executive body in the branch of economy, if it is located in the metropolitan area.

   Upon expiration of the period granted, the beneficiary shall be entitled to a partial exemption as follows:

   Ninety percent (90%) exemption of municipal taxes, applicable during the first five (5) years following the expiration of the term originally established.

   Seventy-five percent (75%) exemption of the applicable municipal taxes, thereafter.

2) For fifteen (15) years, as from the publication in the Official Gazette of the agreement issued by the executive body in the field of economy, if it is located outside the metropolitan area.

   Upon expiration of the period granted, the beneficiary shall be entitled to a partial exemption as follows:

   Ninety percent (90%) exemption of municipal taxes, applicable during the ten (10) years following the expiration of the term originally established.

   Seventy-five percent (75%) exemption of the applicable municipal taxes, thereafter.

The Municipal Councils, within their legal powers, for the purpose of promoting the development of their respective municipalities, may grant additional benefits beyond those established in this law.

f) Total exemption from real estate transfer tax, for the acquisition of those assets to be used for the authorized activity.

For the importation of goods that enjoy exemption, as established in this law, companies qualified as warehouses for inward processing will not need to previously process the approval of the purchase order, nor the request and order of import customs exemption, so the operation will be authorized with the sole presentation, in due form, of the respective merchandise declaration.

The *Ministerio de Economía* shall incorporate in the agreement issued on the occasion of the authorization of a DPA, the detail of those goods that are not considered necessary for the execution of the authorized activity, with their respective tariff nomenclature, in a particular or general manner, using sections, chapters, headings or subheadings, as the case may be.

The head of the DPA may request the *Ministerio de Economía* to modify the list of assets listed in the preceding paragraph, stating the reason for such modification. After the corresponding evaluation, the ministry shall issue the respective agreement modifying the previous one, within a term of twenty (20) working days, subject to the opinion of the *Ministerio de Hacienda*, which shall render it within a term of fifteen (15) working days.

Once the request for modification to the detail of goods considered not necessary for the execution of the activity of the company has been filed, the holder may import under the regime the goods whose modification has been requested, with suspension of the payment of duties and taxes during the period in which the request is processed; if the decision is accepted, it will be backdated to the date of registration of the respective goods declaration; if it is denied in whole or in part, the holder must immediately pay the duties and taxes corresponding to the goods whose modification was denied.

The *Dirección General de Aduanas* will implement the electronic means that guarantee the mechanized operability of the application of the detail of goods not required, at the time of the tele-dispatch of the merchandise declarations or other equivalent means determined by said directorate and the consequent payment of the duties and taxes on said goods.

The owners of companies whose establishments have been declared DPA, must prove to the customs authorities the solvency in the payment to the Instituto Salvadoreño de Seguro Social and to the different pension fund administrators, as well as the contributions made by the employer, of the contributions and retentions made to their workers corresponding to the month next previous to the one in which the sale or importation of goods takes place. Such verification must be made in accordance with the provisions of article 9-a of this law.

The acquisition of the following goods and services are exempted from the benefits contained in paragraphs a), b) and c) of this article: food and beverages, except bottled water; products containing tobacco, alcoholic beverages, rental of housing, furniture and household goods, sumptuary or luxury items, vehicles for transporting people individually or collectively and

merchandise, hotel services, in which case, their entry into the deposit for inward processing shall be subject to the presentation of the declaration of definitive goods upon payment, in the case of foreign goods, or the presentation of the tax credit vouchers or final consumer invoice, in the case of purchases of such goods in the local market, in which it is stated that the corresponding tax has been paid; unless the benefited activity requires such goods or services for the production, assembly or maquila, manufacture, processing, transformation or commercialization, in which case the *Ministerio de Economía* must be informed at the time of requesting the necessary authorization to operate, and the *Ministerio de Economía* must include it in the respective agreement granted to the DPA. (5) (6) (8)

Art. 19-A.- Natural or legal persons applying to be qualified as DPA, pursuant to the provisions of this law, must meet, at least one of the following requirements:

a) Initial investment in fixed assets for an amount equal to or greater than eight hundred thousand dollars of the United States of America (us $800,000), achievable in the first two years of operations. The acquisition of existing infrastructure will not be counted as an initial investment.

b) Operate with a number equal to or greater than seventy-five (75) permanent jobs, from the first year of operations;

c) Operate with a number of no less than fifteen (15) permanent jobs, from the first year of operations, in the case of marketers.

When the *Ministerio de Economía* determines noncompliance with the requirement set forth in section a) of this article, the authorization agreement to the DPA shall be revoked.

Revocation shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure established in article 48 of the present law.

In the case of failure to comply with paragraphs b) and c) above, the DPA shall be suspended the rights established in article 19 of this law, until sustained such failure; therefore, it shall be required to pay during such period the taxes applicable to the imports it makes and the other related taxes.

The suspension shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure set forth in article 48 of this law.

In both cases, the *Ministerio de Economía* shall immediately notify the *Ministerio de Hacienda*, for the corresponding effects (8).

Art. 19-B.- Legal persons applying to be qualified as DPA for activities related to species of anfibes and reptiles in cautiveries, must comply with the following requirements:

a) Initial investment in fixed assets for an amount not less than one hundred thousand dollars of the United States of America (us$100,000), in the first year of operations;

b) Operate with no less than fifteen (15) permanent jobs from the first year of operations;

c) Formal administrative and financial structure.

Natural or legal persons requesting to be qualified as DPA to carry out the activities set forth in roman iii) of the first paragraph of article 3 of this law, shall comply with the requirements set forth in the seventh paragraph of article 17-a of this law.

In both cases, when the *Ministerio de Economía* determines noncompliance with the requirement set forth in section a) of this article, the authorization agreement to the DPA shall be revoked.

Revocation shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure established in article 48 of the present law.

In the case of failure to comply with paragraphs b) and c), the DPA shall be suspended the rights established in article 19 of this law, until sustained such failure; therefore, it shall pay the applicable taxes during the period of suspension. The term of the suspension does not interrupt the computation of the total term of the benefits.

The suspension shall be declared by means of a resolution issued by the *Ministerio de Economía* and shall be processed in accordance with the procedure set forth in article 48 of this law.

In both cases, the *Ministerio de Economía* shall immediately notify the *Ministerio de Hacienda*, for the corresponding effects (8).

Art. 19-C.- the owners of companies engaged in the manufacture of microprocessors; integrated circuits; parts of land, air and maritime vehicles; computer parts or equipment and medical devices; equipment for the generation of energy that are installed in a DPA, shall be entitled to an additional term of five years of total exemption from the payment of income tax and municipal taxes.

Those owners of companies whose industrial activity is declared as strategic, by means of an agreement issued by the executive body in the branch of economy and which are authorized to operate as DPA, shall be entitled to a ten-year term in addition to that of the total exemption from payment of income tax and municipal taxes (8).

Art. 20.- Machinery or equipment that is more than five years old and has been introduced under franchise or with gravage release by the beneficiaries of the law, may be transferred without payment of the corresponding gravages.

For such purposes, the beneficiary must present to the corresponding customs office, the declaration of goods of the definitive import regime, attaching the declaration of goods which the goods were initially introduced. If such documentation is not attached, the payment of duties and taxes will proceed in the case of being introduced into the national customs territory.

Notwithstanding the above, when the free zone users or inward processing warehouses do not have the goods declaration or documentation that proves the entry of the machinery or equipment to the free zone or duty-free regimes, as applicable, the beneficiary for the purpose of complying with

the provisions of this article, may choose one of the following options before the corresponding customs office:

a) If they do not possess the goods declaration with which the goods were initially introduced or the supporting documentation, but know the number of the goods declaration, they may request from the general customs directorate, a certified copy of the goods declaration with which the goods entered the applicable customs procedure, in order to comply with the provisions of this paragraph, the customs authority shall establish the amount of the cost of the certifications; and

b) If they do not have the goods declaration with which the goods were initially introduced or supporting documentation and do not know the number of the goods declaration with which they were destined to the regime, they may prove the entry and ownership of the goods, with a certification issued by an external auditor, of the accounting records showing the entry or permanence of the machinery within their fixed assets.

When the goods are disposed of to other treatments or customs regimes, the documentation supporting the entry of the machinery or equipment to the free zone or duty free regimes, as applicable, must be attached. (8) (16)

CHAPTER V
CUSTOMS REGIME

Art. 21 - The free trade zone regime shall be the customs regime that shall regulate the entry of all goods described in article 17 of this law, introduced by the free trade zone users and for an indefinite permanence period therein. The above-mentioned regime shall also be applicable for the introduction into the free zone of machines, equipment, tools, spare parts and accessories, even when they have been consigned under lease, bailment or any other form of delivery that does not imply transfer of ownership, for which the user companies shall file a declaration of free zone merchandise.

Goods covered by the customs regimes of free zones, temporary admission for inward processing and definitive duty-free import, may be sent to a logistics operator authorized under the law of international services, under the customs regime of temporary admission established therein.

Said goods or compensating products, shall continue being property of the holder and may be returned to the same free zone user, inward processing warehouse or trading company, re-exported within the terms of permanence, transferred definitively to other beneficiaries of the present law, or destined to other customs regimes or authorized legal treatments, according to the holder's indications.

The destination to an authorized logistic operator, may also be made directly by the user of free zones, inward processing warehouse or trading company, at the time of entry of the goods into the country, by means of the corresponding declaration of goods issued by the logistic operator.

The goods may be destined to the same user of free zones, inward processing warehouse or trading company, re-exported within the terms of permanence, transferred definitively to other beneficiaries of the present law, or destined to other customs regimes or authorized legal treatments.

In both cases, the detail of goods must be related to the authorized activity and must be included in the authorization agreements of the respective free zone user, inward processing warehouse or trading company.

About deposits for inward processing, the customs regime governing the admission of the goods mentioned in subsection (b) of Article 19 of this law shall be the Temporary Admission for Inward Processing regime.

The definitive importation of the goods specified in subsections (a) and (c) of Article 19 of this law shall be authorized through the submission of a Definitive Import Declaration under a duty-free regime, with the exception of goods entered under a leasing arrangement or any other modality that does not involve the transfer of ownership. Such goods must be declared under the Temporary Admission for Inward Processing regime.

In the case of samples, the entry and exit to the temporary admission customs regimes for inward processing and free zone, may be presented under the accumulated goods declaration format. This declaration shall detail the dispatches made and shall have as supporting documents those issued by the courier express delivery operators that provide their services, such as: courier air waybill and the documents of delivery at destination, among others. This declaration will be accepted for the legal effects of the respective charge and discharge of the tax inventory.

In case the number of monthly operations does not exceed twenty-five, the filing of the accumulated goods declaration must be made within the first five working days of the month immediately following its execution.

If such operations exceed twenty-five before the expiration of the calendar month, the referred return must be filed within five business days after such amount has been reached.

The user who does not comply with the presentation, within the terms set forth, shall not continue to enjoy the facility provided for a term of up to three months, subject to the completion of the respective administrative procedure, in accordance with the provisions of the special law for penalizing customs violations.

Samples of a non-commercial nature subject to non-tariff obligations may be included in this modality, provided they comply with the controls or permits prior to customs clearance. (9) (10) (12)

Art. 22 - The permanence period for goods entered for their perfection under the temporary admission regime for active perfection shall be up to twelve (12) months without extension, starting from the acceptance of the declaration of goods.

The term of the transfers is defined as follows:

a) **For definitive shipments:** Up to twelve (12) months counted from the date on which the goods first entered the temporary admission regime, by means of the acceptance of the goods declaration.

b) **For temporary transfers:** Up to six (6) months counted from the date of the transfer of the goods as stated in the document issued for such purpose; provided that such term does not exceed the total computation of the twelve-month term in the case of DPA.

c) **For the definitive transfers from a free zone to a DPA:** Up to twelve (12) months counted from the date of liquidation of the declaration of goods that cancels the free zone regime, for which the DPA must transmit the declaration of goods corresponding to the free zone delegation for the exit of the same.

The provisions of section b) of the preceding subparagraph also apply to transfers carried out by users of france zones.

Failure to comply with the above deadlines will result in the obligation to pay the corresponding taxes and the penalties applicable in accordance with the corresponding legislation.
Transfers shall be made using the formats and physical and electronic means established for this purpose by the general directorate of customs, through general administrative provisions. For those transfers that do not imply transfer of ownership, a remittance note shall also be issued.
Constitutes a special case in which there is no transfer of ownership, when the transfer to another beneficiary is made by order of the contractor, duly proven.

For those goods that have been temporarily admitted and that do not imply transfer of ownership, the respective contracts shall determine their permanence under the temporary admission regime for inward processing, which may not exceed twelve months.

The term to carry out the formalizations and/or confirmations to the beneficiaries of the law will be up to three working days after the entry of the goods, which must remain at the disposal of customs until the release is granted in accordance with the provisions of the central american uniform customs code, CAUCA and its regulations.

When the temporary transfers are generated from companies qualified as users of free zones or DPA, to companies located within the national customs territory, the term of permanence of these goods shall be of two months.

The general directorate of customs may previously authorize users of the same free zone to formalize their definitive transfers in an accumulated manner, when the nature and volume of operations justify it. (6) (8)

Art. 23.- The owner of a company qualified as a free trade zone user, may temporarily transfer goods to the national customs territory, for the purpose that third parties subcontracted by him, carry out processes that add value to the goods, complete the processes of transformation, manufacturing or repair of the goods.

Companies qualified as DPA may temporarily transfer machinery and equipment to the national customs territory to be repaired. Only companies qualified as DPA dedicated to activities related to handicrafts, textile industry, maquila or clothing manufacturing, may be authorized to carry out the other processes established in the previous paragraph.

In both cases, said holder will be responsible for the payment of the corresponding duties and taxes, if such goods do not return to the user or DPA that sent them.

Transfers shall not imply an extension of the term established in article 22 of the present law.

All shipments shall be carried out using the formats and physical and electronic means established for such purposes by the general directorate of customs.

To carry out the temporary transfers to the national customs territory referred to in this article, the user must notify the corresponding customs delegation and the DPA to the general customs directorate that it will carry out or cease to carry out this type of operation. (6) (8)

Art. 24.- Goods may be temporarily exported from the national customs territory to a free trade zone or DPA, for the purpose that they may be subject to operations of perfection, transformation, manufacturing, manufacturing, repair or any other service required. The maximum term for its reimportation to the national customs territory shall be of six months counted from the date of entry to the free zone or DPA.

Such goods, when reimported into the national customs territory, shall pay the duties and taxes that correspond only to the portion of the non-domestic value added incorporated in such a process. For the purposes of this operation, the most favored nation tariff (MFN) shall be applied.

The shipment of goods referred to in the above services shall be assimilated for tax purposes to temporary export for outward processing; however, such shipments shall be made under the protection of the form to be established for this purpose by the general customs directorate. (1) (8)

Art. 25.- Sales or transfers of goods and services necessary for the authorized activity, carried out by natural or legal persons established within the national customs territory, to a beneficiary of this law, shall be subject to a zero percent rate of the Tax on the Transfer of Movable Goods and the Provision of Services. Additionally, Articles 76 and 77 of the Law on the Tax on the Transfer of Movable Goods and the Provision of Services shall apply, and compliance with the requirements established in said law, the Tax Code, and other applicable tax regulations shall be mandatory.

Be it considered necessary for the incentivized activity the acquisitions of those goods and services that comply with the deductibility requirements established in article 65 of the law on the tax on the transfer of personal property and the rendering of services, as well as the acquisition of materials for the construction, improvement, remodeling or modification of the buildings owned by the beneficiaries or the acquisition of services for the same purpose. In no case shall the goods and services referred to in the last paragraphs of articles 17 and 19 of this law be considered as necessary for their authorized activity, except for the exception established in said provisions. Consequently, such goods or services shall be subject to the rate established in article 54 of the law on the tax on the transfer of personal property and rendering of services. (1) (6) (8) (13)

In transfers of goods and services or other operations carried out between a beneficiary of this law and natural or legal persons established in the national customs territory, market prices shall be applied. (1) (6) (8)

For such purpose, the *Ministerio de Hacienda*, through the general directorate of internal taxes, in the exercise of its inspection powers, may request the taxpayers mentioned in the preceding paragraph to submit detailed information on the operations carried out and, based thereon, make the pertinent adjustments to the costs, deductions, income, profits, losses and any other concept of the operations declared by the taxpayers, by means of the reliable determination of the price or value of the operations in which the taxpayer has acquired or disposed of goods or services, for which purpose the procedure established in the tax code shall be applied. (1) (6) (8)

Those operations carried out by the beneficiaries of this law, outside the scope authorized in the respective agreement, shall be subject to import duties and taxes, income tax, municipal taxes and the tax on the transfer of movable goods and the rendering of services. (1) (6) (8)

The transfer of domain to the national customs territory of goods carried out by a trader, shall cause the tax on the transfer of movable goods and the rendering of services and the incentives established in art. 17 literals d) and e) and art. 19 literals d) and e), both present law. Municipal taxes will be paid in proportion resulting from dividing its sales to the local market over its total sales, in relation to its assets.
(1) (6) (8)

Art. 25-A.- The *Ministerio de Hacienda*, through the general directions of internal taxes and customs, within their respective powers, may carry out checks on the tax declarations of the beneficiaries established in this law, without prejudice to the taxation powers of both directions.

For income tax payment purposes, individuals or legal persons that in accordance with the provisions of this law make transfers of ownership of goods to the national customs territory, in order to determine the net income, must comply with the requirements established in the income tax law, tax code and other applicable tax regulations.

The cost or expense represented by the acquisition of the goods or services regulated in the present regulation, will be deductible from the income obtained by the national acquirer of such goods or services, provided that, in addition to complying with the requirements established in the income tax law, tax code and other applicable tax regulations, the supplier has issued and delivered an invoice or tax credit voucher, as applicable. (6)

Art. 26.- The products introduced into the country in accordance with this law may be moved within the national customs territory, without the payment of the respective duties and taxes, when the transfer is between users of the free zones regime; DPA; users of the free zones regime and DPA or with third parties subcontracted for the operations referred to in article 23 of this law. In the case of transfers between DPA or from free zones to DPA and from DPA to free zones, they shall be made within the term established in article 22 of this law.

Such transfer, when its origin is in a free zone, shall be requested through the corresponding form, which shall validate the operation with the sole signature of the customs authority in charge.

In the case of DPA, the transfer shall be authorized by the special customs agent or customs broker involved in the operation or the legal representative.

In the case of temporary transfers, the owner of the authorized company that generates the transfer or its legal representative shall be responsible for the payment of import duties and taxes and other related charges, once the term established by law has expired.

Non-compliance shall be punished in accordance with the provisions of article 5, paragraph q) of the special law for the punishment of customs offenses.

In the event that the merchandise enters the country after the deadline or is not returned, the merchandise declaration must be presented for payment and the corresponding sanctioning process will be carried out. If at the time of the return of the merchandise, the receiving user has closed operations, the same shall be placed at the disposal of the general directorate of customs, for the corresponding effects, which shall consider the provisions of article 40 of this law.

For the purposes of this article, the general directorate of customs is empowered to develop pertinent control and facilitation tools. However, these computer tools may be developed by the beneficiaries and validated by the general directorate of customs. (6) (8)

Art. 27.- Subject to prior authorization from the *Ministerio de Economía*, raw materials and inputs may be destined for definitive consumption in the national customs territory, paying import duties and taxes on the invoiced value, which in the case of raw materials and inputs may not be less than the value of the proportional cost, insurance and freight (cif) stated in the goods declaration in which such goods were introduced. (8)

In the case of donations to the government of the republic and to public or private, non-profit, humanitarian, educational or other community service institutions, tax exemptions may be granted, subject to the approval of the *Ministerio de Economía* and the exemption approved by the legislative assembly (8).

The beneficiary may sell to the national market the waste and scrap resulting from its activity, paying the corresponding duties and taxes on the customs value. The same treatment will be applied to by-products and defective products. (8)

When the waste is handled by managers authorized by the *Ministerio de Medio Ambiente y Recursos Naturales* for its destruction or to companies dedicated to recycling, even if they are not beneficiaries of the present law, they shall not pay any duties and taxes. The customs authority shall verify the exit of such wastes or residues. When the transfer of waste is made for valuable consideration, import duties and taxes shall be paid on the invoiced value. (8) (15)

In the case of raw materials, inputs, compensating products or finished products that due to their condition or state are not susceptible to industrial or commercial use, including those that are not suitable for use or consumption, they may be destroyed at the request of the interested party, in accordance with the provisions of the CAUCA and its regulations. (8) (12) (8) (12)

In the request, the interested party must include the general information of the applicant and his legal representative, the merchandise to be destroyed, the place of destruction, and must only prove that the merchandise is not susceptible of industrial or commercial use for whatever reason, among others, expiration of the merchandise, loss of essential qualities, commercial restrictions, damaged or damaged, as well as add the corresponding tables of discharge. This may be accredited by the applicant, at its option, by means of a letter explaining why the goods have no commercial use or exploitation, an affidavit issued by an expert that accredits such condition, or by means of official documentation issued by the competent authority that demonstrates that the goods have no commercial use or exploitation. They must also add the documentation evidencing that the destruction will be carried out in a place duly authorized by the *Ministerio de Medio Ambiente y Recursos Naturales*. (8) (12)

Free zone users shall submit the respective request to the customs administrator of the free zone; in the case of DPA, they shall submit the request to the administrator of the customs office where they formalize their operations. In the case of those goods that for duly proven technical reasons must be subject to processes prior to their destruction, such as rendering them inert or other similar cases, and such process must be carried out in facilities other than those of the beneficiary, at the request of the interested party, justifying the reasons for the treatment, the customs authority shall authorize the exit of the goods for a maximum period of six months, prior to their destruction. Once the corresponding treatment has been carried out, the customs authority that issued the corresponding resolution shall be notified to proceed with the destruction of the goods in the presence of the customs authority in a place duly authorized by the *Ministerio de Medio Ambiente y Recursos Naturales*, and at the cost and expense of the beneficiary. The customs authority shall issue the resolution regarding the requests it receives pursuant to the provisions of this article within a maximum term of five working days, counted as of its receipt. (12)

The act of destruction will prove the corresponding discharge, extinguishing the customs tax obligation and canceling the respective regime totally or partially, being the obligation of the customs officer to record the amount of the quantities and values object of the destruction, and to settle the corresponding goods declaration within a maximum period of twenty-four hours after the destruction has been carried out. (12)

In no case shall the entry into the country of goods or raw materials be allowed for the sole purpose of their subsequent destruction or for the performance of activities not provided for in article 3 of this law. (12)

Art. 27-A.- The customs service shall grant the facilitation and simplification of processes to those beneficiaries of this law that contribute to strengthen their controls and computer systems and that have an online system for cancellation of the regime. (8)

CHAPTER VI
OBLIGATIONS AND PENALTIES

Art. 28.- Free trade zone and deposit users for active training shall have the following obligations: (6)

a) Communicate to the administrator of the free zone, in the case of users, or to the *Ministerio de Economía*, in the case of deposits for inward processing, the modifications made in the plans and projects of the company, within ten working days as from the day of the modification; (6)

b) Maintain an electronic register of entries, exits and balances of inventories and a chart showing the discharge of imports on line at the disposal of the general directorate of customs. When the registry is not kept online with the general customs directorate, the beneficiary must register in electronic and magnetic media or in any other media required by the *Ministerio de Hacienda*, through the general customs directorate, in accordance with the applicable regulations, the movement of inventories, the table demonstrating the clearance of imports, the movement of imports, as well as all information related to the import, export and export operations, as well as all the information related to the import operations, exports, transits and transfers carried out for the respective fiscal control, which must be sent using the same means, within twenty working days following the expiration of the fiscal year to the general directorate of customs, without prejudice that it must be sent when required by the latter; (6) (8)

c) Provide the *Ministerio de Economía* with a semiannual report related to its operations, which shall contain value and origin of imports, value and destination of exports, generation of employment, sales to the national market and amount of investments made; (6)

d) To allow delegates from the *Ministerio de Economía* and the *Ministerio de Hacienda*, through the *Dirección General de Aduanas* and the *Dirección General de Impuestos Internos*, to enter the facilities of the beneficiary company in the performance of their duties; (6)

e) To inform the *Ministerio de Economía* office determined by the regulations of this law, and the general directorate of customs, 30 days in advance, of the change of domicile or closing of operations; (6)

f) To have identified and adequate facilities for the storage, custody and conservation of the goods, according to the nature of the incentivized activity; (6)

g) To have the means to ensure 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 in this law; (6)

h) Have the necessary equipment and programs to carry out the electronic transmission of the operations to be carried out, as well as the other information required, in the inward processing warehouse; (6)

i) Designate an appropriate area within the warehouse for inward processing, for the operation of the personnel of the customs service, when assigned or designated, and provide the furniture necessary to perform its customs and fiscal function; (6)

j) Be liable to the treasury for the payment of tax and customs obligations related to the lost goods or those that have been unduly destined or for the lack of controls in the national customs territory, including damaged or destroyed goods that have also been destined for the national market, unless there is a fortuitous cause or force majeure duly proven by the beneficiary before the general customs directorate; (6)

k) Generate the transfers ruled in articles 23 and 26 of this law, complying with the requirements established therein and within the terms set forth in article 22 of this law; (6) (8)

l) Keep a record of damaged, lost, destroyed goods and other irregularities occurring during the time they remain in the warehouse for inward processing and make it available to the general directorate of customs, when required by the latter; (6)

m) To communicate by the established means to the general directorate of customs, the differences found between the quantity of packages received and the quantities declared and any other circumstance related to the goods, which could affect the exercise of the directorate's powers; (6)

n) In the case of DPA, maintain its facilities totally and completely delimited and independent from any other company; in case of sharing physical spaces with others, these must have separate storage and operation areas and independent personnel, in such a way that there is no possibility of confusion of raw materials, production processes, or national and extra-customs customs territory, thus facilitating the independence and control of operations covered under the this regime. Must keep in the warehouse, duly separated, the goods of the suspensive regime from the nationalized goods when such goods are combined or mixed in the production process and keep an inventory control that allows identifying them in the compensated product, in order to establish the traceability of their destination; (6) (8)

o) Comply with the provisions of art. 9 of the present law; (6)

p) To keep cost records for the goods sold to the national market, when duly authorized for such purpose and in addition, complying with the payment of the corresponding taxes; (8)

q) In the case of free trade zone users, inform the customs service within twenty business days following the expiry of the fiscal period about the goods pending cancellation, and include this information in the register referred to in section b) of this article; (8)

r) Comply with the authorized destination of the assets; (8)

s) To keep a detailed record of the inputs used in the production process, in relation to the compensating products, and to exhibit such record, at the request of the general customs directorate, in the exercise of its inspection powers, in relation to the operations subject to investigation. (8)

The following are considered violations of this law: (6) (8)

1. Single infringements: non compliance with the provisions of sections a), c), f), g), h), i) and q); of this article. (6) (8)

2. Serious infringements: non compliance with the provisions of paragraphs b), d), e), j), k), l), m), n) o), p) and (s) of this article; (6) (8)

3. Very serious infringements: non-compliance with section (r) of this article. (6) (8)

Art. 29.- The beneficiaries of the present law, in addition to the obligations mentioned above must comply with: (6)

a) With the laws, regulations and other legal provisions of a labor and social security nature, in favor of workers, including: (6)

1. The right of association; (6)

2. The right to unionize; (6)

3. Prohibition of forced labor or any form of compulsory labor; (6)

4. Minimum age for child labor; (6)

5. Acceptable working conditions with respect to minimum wage, working hours, occupational health and safety and all those necessary for the good performance of the worker in the development of his work; (6)

b) Pay compensation, christmas bonus and proportional vacation in the form and amount established in the labor code and labor benefits to all workers affected in case of total or partial closure of the enterprise or establishment; (6)

c) In the extraordinary case of total closure without any justification of the company's operations, the assets of the company will be used preferentially to cancel the liabilities and other labor obligations, without prejudice to the corresponding administrative sanction (6).

d) With the obligations and provisions of this law and its general regulations and other laws of the republic (6).

Non-compliance with the provisions of paragraphs a) and b) of this article shall be considered a serious infraction. Freedom of compliance with the provisions of section c) of this article shall be considered a very serious infringement. (6)

The ministry of labor and social welfare may develop, in the corresponding labor regulations, provisions to facilitate relations between the beneficiaries of this law and their employees, and may provide solutions related to working hours, working days, among other matters. (14)

Art. 30.- The free trade zone administrators shall have the following obligations: (6)

a) Inform the *Ministerio de Economía*, based on the reports presented by the users, about the modifications made in the plans and projects by the owners of the companies established in its free trade zone, in a term no longer than 3 working days after receiving the corresponding communication from the users. Likewise, ensure that they comply with the provisions of the law, its regulations and other laws of the republic, informing the *Ministerio de Economía* every six months about the performance of each user company; (6)

b) To adopt the necessary measures for compliance with this law, and to inform the ministries of economy and finance, through the general directorates of customs and internal taxes, of any information on non-compliance with this law on those users, which it has at its disposal or is aware of in its function as administrator of the free trade zone; (6)

c) To temporarily equip and update the computer and office equipment necessary for the customs delegation to provide service to the customs officers of the country.

d) Users of the respective free zone; as well as to cover the expenses involved in the maintenance of the same, materials, supplies and maintaining continuous connectivity of information and communication technology services (internet connectivity), a secondary and main link and electrical plant, according to the volume and nature of operations, in accordance with the requirements established by the general directorate of customs to facilitate the exercise of its fiscal and customs function; (6) (8)

e) Allow the entry into the free zone of the means of transport, after verifying the conditions and state of the corresponding marking and other security measures, when there is no customs presence, which shall not include the breaking of the marking, and communicate in a timely manner to the general directorate of customs of their entry, as well as any irregularities found, so that it can carry out the process of entry of the goods; also, not to allow the exit of the goods without the authorization of the customs authority, at the times and days authorized for such purpose; (6)

Inform the general directorate of customs of damaged, lost, destroyed, abandoned or abandoned merchandise and other irregularities occurring during the permanence of the merchandise in its free zone, which come to its knowledge in its function as administrator of the free zone. (6)

The administrators may request the general directorate of customs, when they deem it necessary, to increase the number of customs personnel, as well as the extension of customs service hours, in which case the interested user shall pay the required operating costs to said directorate. For these purposes, the *Ministerio de Hacienda* will issue the executive agreement by which it will regulate the charge for the extraordinary services. When the volume of operations requires the extension of the service to night hours, the administrator shall build and adapt the necessary facilities in the customs delegation for the rest of the customs personnel. The requirements deemed necessary

for a better operation shall be regulated by means of general administrative provisions issued by the *Dirección General de Aduanas*. (6) (8)

Non-compliance with the provisions of paragraphs b), c) and d) of this article shall be considered a minor infraction. In the same way, non-compliance with paragraphs a) and e) of this article, shall be considered serious infringements. (6)

Art. 31.- The owners of companies authorized to operate in accordance with the present law, who fail to comply with its contents, shall be administratively sanctioned by the *Ministerio de Economía*, without prejudice of the tax penalties to which they may be entitled. (2) (6) (8)

When the obligation to pay the employer's pension or social security contributions of the workers is infringed, as well as the obligation to transfer the amounts deducted from them for such concepts, the respective final and definitive resolutions issued by the officials of the ministry of labor and social security or the corresponding authority of the salvadoran social security institute, or the superintendency of pensions, as the case may be, must be notified to the minister of economy, so that the latter may decide whether to temporarily suspend the benefits for a period of three months, and in the event of a repeat offence, the minister shall decree the definitive suspension of the benefits. (2) (6)

In the event that tax or customs obligations other than those established in this law are infringed, the competent authorities shall proceed to sanction in accordance with their respective legislation; if the infringements are repeated and result in the omission of payment of duties or taxes directly or indirectly, or if the amounts not paid correspond to those established for the constitution of an offense in the corresponding legislation, the customs or tax authority shall send the final resolution to the *Ministerio de Economía*, in order to proceed as provided in the preceding paragraph. (2) (6)

Art. 32.- The infringements for non-compliance with the provisions of this Law and its Regulations are the following: minor, serious and very serious.

Art. 33.- REVOKED (6)

Art. 34.- REVOKED (6)

Art. 35.- REVOKED (6)

Art. 36.- The infringements mentioned in the preceding articles shall be administratively sanctioned by the *Ministerio de Economía*, as follows:

a) A minor infraction will be sanctioned with a written warning to the offender in which a term must be established for compliance with the obligation in question. Repeated infringement of a minor infraction will be sanctioned with a fine equivalent to three minimum monthly salaries of the highest amount;

b) Serious infringement shall be sanctioned with a fine equivalent to five minimum monthly salaries of the highest amount;

c) A very serious infraction shall be sanctioned with temporary suspension for a maximum of 3 months.

A repeat offence of a very serious infringement will result in the definitive suspension of benefits. (2) (6)

Art. 36-A. If the *Ministerio de Hacienda*, through the general directorates of customs and internal taxes, finds serious infringements, as provided for in article 28 of this law, or sales made to the local market without the corresponding payment of duties and taxes, it shall notify the *Ministerio de Economía* Of such situation.

Likewise, the general directorate of customs shall grant the user of the free trade zone or DPA a period of 30 calendar days to regularize the detected situation. This period shall be counted from the day following the respective notification, which shall state that if the situation is not resolved within the aforementioned period, the general directorate of customs shall, as a precautionary measure, suspend access to its computer systems for customs operations.

The free zone or DPA user will be reinstated in his access to the computer systems until he regularizes the situation detected (8).

Art. 37.- The final and definitive resolutions pursuant to this chapter which impose a fine penalty must be enforced within thirty days after the sanction has been notified.

Payment of the fine shall be made at the general treasury department or at the institutions authorized by it. (6)

Art. 37-A.- In cases where the general directorates of customs and internal taxes in use of their inspection powers determine the existence of repeated tax violations to the customs legislation or have learned of the existence of a final criminal sentence for violation of said legislation, the *Ministerio de Economía* and Hacienda may require the beneficiary to provide a bond to respond for the compliance of the obligations derived from the benefits received. (6)

Art. 38.- If the infractions committed result in crimes or misdemeanors, the *Ministerio de Economía* shall certify the appropriate to the Office of the Attorney General of the Republic so that it may promote and exercise the corresponding actions.

Art. 39.- Natural or legal persons benefited by this law who ceases to operate the company of which they are the holder, for reasons attributable to them, during a period of twelve consecutive months, shall lose their status as a user of a free trade zone or a deposit for inward processing, after a hearing granted to the interested party for a term of five business days, during which they may present any evidence in their defense that they deem necessary. The final resolution must be issued within ten days following the end of the aforementioned term.

The competent authority to decide on the definitive suspension of benefits shall be the *Ministerio de Economía*.

The operations referred to in the first paragraph include those inherent to the authorized activity, particularly imports and exports under the regimes authorized by this law and the law of international services.

The *Dirección General de Aduanas* shall monitor this through its computer system and shall deactivate those companies that incur such a situation, sending the respective report to the *Ministerio de Economía*.

Art. 40.- In cases that the owner of a business qualified as a free trade zone user or deposit for active drilling, abandons the authorized activity or definitely terminates its operations, the judicial procedure shall be to request the declaration of the abandonment of the activity.

For the purposes of this article, abandonment of activity shall be presumed after ten working days from the date on which the company has ceased its operations without just cause, without having proceeded to request the revocation of benefits from the *Ministerio de Economía*, and in the case of having requested it, if it has not settled the payment of salaries and other benefits to its employees.

The action to request the declaration of abandonment of activities may be filed by the attorney general's office of the republic or by any interested party, in an abbreviated process, before the competent civil and commercial judge of the territorial circumscription of the location of the beneficiary's facilities; if there are several, any one of them as a preventive measure. If initiated by an interested party, the judge must summon the office of the attorney general of the republic for the interests of the state.

Once the request for abandonment of the activity is admitted, as a precautionary measure, the seizure of the goods located in the facilities of the company shall be decreed, prior physical inventory of the same, which once made, shall be compared against the goods registered in the computerized system of the general directorate of customs for such purpose. The delegation of the free zone or the customs office in which the DPA formalizes his declarations shall send the corresponding report at the request of the judge. In the same way, a report shall be requested to the *Ministerio de Economía* in relation to the provisions of the second paragraph. The seizure shall be carried out by an executor of seizure appointed by the judge.

The seized goods shall be delivered by the judge as a deposit to the *Dirección General de Aduanas* and may remain safeguarded in warehouses or containers within the facilities of the free zone or in the property in which the DPA operated, as determined by the customs service. If the facilities are totally vacated, the owner may dispose of them at will. In the event that a natural or legal person wishes to operate in the vacated facilities, the owner or manager must request the *Ministerio de Economía* the disqualification of the authorized area, and must present the documentation that proves the beginning of the corresponding process of abandonment of activity. The *Ministerio de Economía* shall initiate the process of disqualification of the authorized area, pursuant to the provisions of article 48 of this law. The disqualification of the area does not imply the revocation of the benefit agreement for the free zone or DPA user who is being prosecuted for abandonment of activity. In case the judge does not declare the abandonment of activity, the free zone or DPA user who still has his benefit agreement in force, may request the qualification of a new area.

If the domicile of the person to be summoned is unknown, or if it is verified through the report of the *Dirección General de Migración y Extranjería* that they have left the territory of the Republic without returning, or if said person could not be located after conducting searches at their place of residence, in any of these cases, it shall be ordered in a reasoned resolution that the summons be made by edict. The edict shall contain the same summoning details and shall be published once on the judicial notice board and in a printed newspaper with national daily.

After the publications have been made, if the defendant or his attorney-in-fact with special power of attorney to be summoned does not appear within ten business days from the publication of the edict in the newspaper with the largest circulation, the court will proceed to appoint a guardian ad litem to represent the defendant in the proceeding. The court may extend the powers of the appointed guardian ad litem, in order to represent the defendant in other civil, commercial, labor or administrative proceedings related to the defendant's obligations.

Based on the merits of the evidence, the judge will pronounce a judgment declaring or not the abandonment and cessation of the activity. If the claim is accepted, the judge will order the return of those goods that have been proven in the process to have been in the possession of the owner of the company, as a deposit, lease, financial lease, temporary transfer or other similar legal causes; he will order the vacating of the property, in case of lease or other titles of possession; he will order the seizure of the seized goods by means of an official order. The *Ministerio de Economía* will be ordered to proceed to the revocation of benefits and the disqualification of the authorized area, in case it has not been disqualified yet, and will order the publication in a printed newspaper of national daily circulation of an edict communicating the declaration of abandonment of activities, so that the creditors of the holder may exercise their actions in accordance with their rights.

If the existence of economic obligations payable by the titleholder has been proven in the process and once the judgment declaring the abandonment has become final, an appraisal of the assets shall be ordered by an expert appointed for such purpose, who must prove technical knowledge of such assets. The term to carry out the appraisal may not exceed seven working days counted from the acceptance and swearing in of the expert.
In the appraisal of the goods made by the appraiser, the value of the taxes applicable to the goods that have entered the national territory with suspension or liberation of import duties and taxes must be included.

Once the assets have been appraised, they shall be sold at public auction, prior appointment of place, day and time, the auction shall be announced by means of edicts, which shall be posted on the board of the court, at the entrances of the company's facilities and one that shall be published in an extract in a newspaper of national circulation, without the need to describe the assets. The notice shall be issued at least ten working days prior to the date on which the auction is to be held.

Once the auction has been approved, the purchaser must pay the cash price within five working days and, once paid, the auctioneer may remove the goods from the place where they are stored without presenting any proof of solvency in the name of said owner.

The proceeds of the sale will be remitted to the general treasury department, said authority will deposit the amount corresponding to the import taxes in the general fund of the state and the rest in the foreign funds in custody account, for the purpose of liquidating other obligations of the holder.

Creditor actions relating to obligations owed by the holder must be brought before the competent judge, who must process them in an abbreviated proceeding regardless of their amount and subject matter.

After six months from the publication of the edict announcing the declaration of abandonment, the judge shall pay the creditors that have been declared as having been (a) wages and other welfare benefits in favor of the employees of the company (a) wages and other social benefits in favor of the employees of the company; (b) taxes, duties, fees, fees, contributions and fines in favor of the fisco; c) the procedural costs of the process of abandonment and termination of activity; d) other debts shall be paid in advance, in accordance with the prelation of credits established by common law, by resolution.

If no bidder is present at the auction, the assets will remain in the custody of the depositary, the judge will award to the creditors for the appraised value of the seized assets in the order established in the preceding paragraph and without presenting any proof of solvency in their name. If there are several creditors in the same degree of preference, the adjudication will be made by drawing lots and pro rata.

In matters not provided for in this article, with respect to the abbreviated process, regarding the sale at public auction or adjudication, the provisions of the civil and mercantile procedural code shall apply. (14)

Art. 40-A.- When a beneficiary of this law notifies the General Directorate of Customs of the definitive closing of operations, it shall submit the information and documentation that demonstrates the cancellations of the goods declarations for imports under the free zone regime or temporary admission for inward processing and the payment of the duties and taxes for the goods covered in those that have not demonstrated their cancellation or discharge. The definitive closing of operations shall be carried out in accordance with the provisions of the regulations of this law. (15)

The closing or abandonment without notifying the general directorate of customs and without making the cancellations imposed by the customs regime, constitutes the crime of fraudulent evasion of customs revenue, punishable under article 22 of the special law to punish customs infractions, without prejudice to the civil and criminal liability to which it may give rise.

The foregoing, without prejudice to the revocation of the benefits that corresponds to the *Ministerio de Economía* (8).

Art. 41.- If a natural or legal person, owner of a company, after having obtained the benefits of this Law, has had them suspended or revoked, he/she may not request them for another company or appear as a shareholder or director of companies requesting them.

Art. 42.- The companies in which persons who were Directors or Shareholders of other companies whose benefits conferred by this Law were suspended or revoked shall not be entitled to the benefits granted by this Law.

CHAPTER VII
PROCEDURES AND APPEALS

Art. 43.- Those interested in obtaining the benefits granted by this law shall submit the respective application to the *Ministerio de Economía*, through the legal representative or attorney entitled to do so (6).

Art. 44.- In the application, the interested party must indicate the activity to which it will be dedicated, the customs regime to which it wishes to apply, the general characteristics of the company, as well as its legal documentation and any other information established by the regulations of this law.

The *Ministerio de Economía* is empowered to issue resolutions of general application to determine the authorized activities and markets for the producers and marketers referred to in this law. (8)

Art. 45.- The *Ministerio de Economía* shall resolve within 25 business days the application for qualification as a free trade zone user and within 35 business days the application to operate as a DPA. It shall be understood that the term established for the opinion to be issued by the *Ministerio de Hacienda* shall be included within the aforementioned terms. (6) (8)

In the case of users that do not modify their authorized activity, that are solvent before the social security and social security institutions and that require to make temporary or permanent expansions or reductions of their facilities or change of location, in both cases in the same free trade zone where they operate, they must present to the *Ministerio de Economía*, a note signed by the legal representative or legal proxy; such signature must be notarized and the note must detail at least the location of the plant and the area to be expanded or reduced, attaching the location plan within the free zone and its facilities and the lease or purchase agreement of the real estate, if applicable. The respective agreement shall be issued within a term not greater than ten (10) working days counted from the date of presentation of the request. (6) (8)

DPA requests related to expansions, reductions or relocation of facilities must be processed in accordance with the provisions of this law and its regulations. Extensions shall be authorized provided that the new facilities are used for the execution of the authorized activity, and the facilities may be used totally or partially for: production, assembly, assembly, maquila, manufacturing, processing, transformation, commercialization, storage or for the service activities necessary for the production or related to it, as referred to in the second paragraph of Article 3.

Of any agreement issued by the *Ministerio de Economía* within the framework of the present law, it shall notify the *Ministerio de Hacienda* and the interested party, by means of a transcription thereof. (6) (8)

Art. 45-A.- In those cases in which the *Ministerio de Hacienda* must issue an opinion and does not express its opinion, the *Ministerio de Economía* shall resolve as it deems appropriate (8).

The General Regulations of this Law shall establish the procedures for any other request to be made by the beneficiaries of this Law.

Art. 47.- The *Ministerio de Economía* shall be responsible for enforcing compliance with this law and the *Ministerio de Hacienda*, through the Direcciones Generales de Aduanas and Impuestos Internos, for customs and tax surveillance and control (6).

Art. 48.- Upon becoming aware of the commission of any of the offenses established by the present law, the Minister of the Economy shall give a hearing to the alleged offender. The final resolution must be pronounced within ten days. (6)

Art. 49.- Against the resolutions or agreements issued by the ministry, an appeal for revocation shall be heard by the same official who pronounced the challenged resolution, which must be filed in writing within three working days from the respective notification, stating the reasons of fact and law that support the same.

The administrative authority, upon receipt of the appeal, with the sole analysis of the same and the respective file, will decide within fifteen working days, and may confirm, modify or revoke the administrative act appealed. (6)

Art. 50.- Once the resolution of the *Ministerio de Economía* suspending or revoking the benefits has been signed, the respective agreement shall be issued, which shall be notified to the interested parties and to the corresponding authorities and shall be published in the official newspaper. (8)

Art. 51.- The Executive Branch shall issue the General Regulations of this Law within a term not to exceed ninety days as of the effective date thereof.

CHAPTER VIII
TRANSITIONAL PROVISIONS

Art. 52.- The companies qualified in accordance with the Law of the Regime of Free Zones and Fiscal Precincts that is Revoked in the present Decree, shall have full right to enjoy the incentives in accordance with the provisions of the present Law.

Art. 53.- Likewise, all those companies benefiting from the present Law, which as a consequence of the provisions of the present Law, have changes in their operations, shall request such authorization before the *Ministerio de Economía* or the Free Zone Administrator respectively, and in the latter case, the Free Zone Administrator shall notify the *Ministerio de Economía*, according to the procedure established in Art. 30 of this Law.

Goods covered by Goods Declarations which, on the date of entry into force of this Law, have already been accepted by Customs, shall continue to be governed, until the cancellation of such declarations, by the provisions in force on the date of such acceptance.

Art. 54.- The applications for benefits which, at the time this Decree enters into force, are being processed by the *Ministerio de Economía*, shall be adapted by said Ministry to the provisions contained in this Law within a term not to exceed thirty days.

Art. 54-A.- The owners of companies referred to in art. 2 of the present decree which replaces art. 6 of the law, and that at the date of the entry into force of the same, are enjoying the benefits and fiscal incentives granted by the law of industrial free zones and of commercialization may continue enjoying the same until December 31, 2005. (3)

Art. 54-B.- Natural or legal persons who prior to the entry into force of the present decree have operated in the national customs territory and taxed income tax, shall not be eligible to take the benefits of the present law.

In the same way, the same will be done in the case of those applicants that are the result of a merger or transformation of companies that previously paid the mentioned tax, to enjoy the rights of the present law.

When in the exercise of their supervisory powers, the general directorates of internal taxes and customs, acting jointly or separately, find that a beneficiary of the law, on the occasion of obtaining the qualification of access to the regime, carried out any of the situations provided for in the preceding paragraphs, they shall notify the *Ministerio de Economía* so that it may initiate the revocation procedure. In the event of revocation of the benefits, the payment of the taxes and other corresponding charges, if any, shall be made from the moment in which the beneficiary was authorized to operate under the protection of the present law.

The *Ministerio de Economía* shall initiate the revocation procedure within fifteen (15) working days following the receipt of the respective notification, which shall be processed in accordance with the provisions of articles 48 to 50 of this law. If it is determined that in the cases established in the preceding paragraphs there has been an abuse of the enjoyment of such benefit, the power to audit and liquidate the tax and its accessories shall not expire (8).

Art. 54-C.- The developers and managers of free zones that are operating at the time of the entry into force of this decree, shall continue with the total exemptions until December 31, 2015, or until the expiration of the term established in their respective agreement, if post current after such date. Upon the expiration of such term, both developers and managers, and their partners or shareholders, if any, of distributed profits or dividends, shall benefit from five additional years under the same conditions and scope set forth in paragraphs a) and b) of article 11 of this law.

In the event that the same person performs the functions of developer and free zone administrator, they shall enjoy both benefits.

The developers and administrators referred to in this article shall be entitled to an additional exemption period of five years, provided that during the period of the exemption they have invested in an expansion of the free zone that 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 DPA that at the date of entry into force of the present decree are operating and whose activities are included in Article 3 of this law, and their partners or shareholders in the case of distributed profits or dividends, shall enjoy total and partial exemptions from paying income tax and municipal tax, in the terms, percentages,

terms and scopes established, where applicable, in numerals 2, of paragraphs d) and e) of article 17 of this law and must only comply with any of the following requirements:

a) To have and maintain jobs in the company in a number not less than that established, as the case may be, in articles 17-a and 19-a of this law; or,

b) Have made investments in fixed assets for an amount not less than one hundred thousand (us$100,000) dollars of the United States of America, since the date of the act that authorized them, and must maintain a number of jobs equivalent to the average number of jobs of the last three calendar years, or equivalent to the average number of jobs of the time elapsed since the date of authorization, whichever is less.

For the verification of compliance with these requirements, the owner of the company shall have a term of six (6) months as from the effective date of this decree, period in which it shall maintain the benefits consigned with its respective authorization agreement to the regime.

For the effects of the present article, the holder of the company will present to the *Ministerio de Economía* a sworn declaration in notarial act, attaching the following documentation: letters from the salvadorean institute of social security or constance issued by such institution, for the case of paragraphs a) and b) of this article; and the certifications issued by certified public accountant or external auditor of the accounting records, for the case of paragraph b). The owner of the company will continue to enjoy the benefits established in its respective authorization agreement, until the *Ministerio de Economía* resolves what corresponds, without prejudice to the faculties of the mentioned ministry to suspend the benefits in case of noncompliance with the requirement of jobs until said noncompliance is remedied; or to revoke the same for infraction of the investment requirement. The term of the suspension does not interrupt the computation of the total term of the benefits. (8)

Art. 54-E.- Users and DPA, which at the time of the effect of this decree are operating and whose production activities are included in article 3 of this law, shall have a period of ninety (90) days from the effect of this law, to request to be qualified to carry out commercialization activities.

When qualified, they may be located contiguous to the producer's facilities, independently of the type of merchandise they trade, complying with the provisions of section a), b) and c) and numeral 1) of section d) of article 18 of this law. In such case, they shall enjoy total and partial exemptions from the payment of income tax and municipal tax, in the terms, percentages, terms and scope established in the number 2, of sections d) and e) of article 17 of this law, provided that they comply with any of the following requirements:

i. To have and maintain jobs in the company for a number equal to or greater than five (5) permanent jobs, from the first year of operations; or,

ii. That have made an investment in fixed assets for an attainable amount in the first year of operations of not less than one hundred thousand (us$100,000) dollars of the United States of America.

Those who have been authorized to carry out commercialization activities pursuant to the provisions of this article shall not be applicable the provisions of article 3-a, paragraph a), 17-a, 18, except for the requirements of the second subsections of this article and 19-a. (8).

Art. 54-F.- The owners of businesses using free trade zones or DPAs that at the entry into force of this decree are not dedicated to any of the activities included in article 3 of this law, as well as those who do not comply with any of the requirements established or who do not submit the application referred to in article 54-d of this law in a timely manner. 54-D of this law may continue to operate and enjoy the benefits and incentives that were granted until December 31, 2015. After that date, they will not enjoy the benefits.

In such case, the users that are located in free zones, once the term of exemption has expired, may continue operating in the free zone in which they are located, without enjoying any of the benefits established in the present law, until exhausting the inventories that they maintain, or a maximum term of 2 years, whichever occurs first. Such users shall comply with all the tax and customs obligations applicable to the companies operating under the regime of this law, and the *Ministerio de Hacienda*, through its directorates, shall establish by means of administrative norms, the controls that shall be applicable to them. In the same condition, they will be able to remain in the free zone those users who voluntarily renounce to the benefits.

Once any of the conditions referred to in the preceding paragraph are fulfilled, they may not operate in the free zone and must withdraw. (8)

Art. 54-G. The users of free zones and DPA that are operating at the moment of the entry into force of the present decree, shall have a term of six (6) months to request to the *Ministerio de Economía* the adjustment of their agreement regarding the inclusion of the tariff items that are not considered necessary of the authorized activity and other requirements established in the second paragraph of Article 16 of the present law.

The *Ministerio de Economía* shall send a copy of the list of tariff items to the general directorate of customs so that it may issue an opinion within a term not to exceed twenty working days, counted from the date on which such opinion was requested.

For those authorized companies that require changes in tariff items after the adjustment of the agreement, they shall follow the procedure established in the fourth paragraphs of articles 17 and 19 of this law.

The detail of goods not necessary for the authorized activity shall be implemented within a term of up to eighteen (18) months as from the effective date of this decree, provided that the general directorate of customs has implemented the computerized means to guarantee it:

1) The mechanized application in the remote dispatch of the goods declarations or other means determined by said directorate;

2) Payment of duties and taxes;

3) Agility in operations.

To those users and DPA that fail to comply with the obligation to request the readjustment of their agreements, the general directorate of customs shall proceed to the suspension of the computer systems in accordance with the provisions of article 36-A of the present law.

As long as the authorization agreement has not been adapted to the user or DPA regime, they will continue to operate according to the provisions of the corresponding agreement issued by the *Ministerio de Economía*, or, if applicable, in the document duly issued for such purpose by the free zone administrator. (8)

Art. 54-H.- All applications under process at the entry into force of this decree, shall be resolved in accordance with the law in force at the time of submission of the application. (8)

CHAPTER IX
REPEAL AND VALIDITY

Art. 55.- Legislative Decree No. 461 dated March 27, 1990, published in the Official Gazette No. 88, Volume No. 307 dated April 18, 1990, which contains the Law on the Regime of Free Zones and Fiscal Precincts, as well as its subsequent amendments, and any other provision that contradicts the present Law, are hereby Revoked.

This Decree shall enter into force eight days after its publication in the National Official Gazette.

GIVEN IN THE BLUE ROOM OF THE LEGISLATIVE PALACE: San Salvador, on the third day of September of the year nineteen and ninety eight.

JUAN DUCH MARTÍNEZ,
PRESIDENT.

GERSON MARTÍNEZ,
FIRST VICEPRESIDENT.

CIRO CRUZ ZEPEDA PEÑA,
SECOND VICEPRESIDENT.

RONAL UMAÑA,
THIRD VICEPRESIDENT.

NORMA FIDELIA GUEVARA DE RAMIRIOS,
FOURTH VICEPRESIDENT.

JULIO ANOTNIO GAMERO QUINTANILLA,
FIRST SECRETARY.

JOSE RAFAEL MACHUCA ZELAYA,
SECOND SECRETARY.

ALFONSO ARISTIDES ALVARENGA,
THIRD SECRETARY.

GERARDO ANTONIO SUVILLAGA,
FORTH SECRETARY.

ELVIA VIOLETA MENJIVAR,
FIFTH SECRETARY.

JORGE ALBERTO VILLACORTA MUÑOZ,
SIXTH SECRETARY.

PRESIDENTIAL HOUSE: San Salvador, on the seventeenth day of September, nineteen hundred and ninety-eight.

PUBLISH,

ARMANDO CALDERÓN SOL,
President of the Republic.

MANUEL ENRIQUE HINDS CABRERA,
Minister of Finance.

EDUARDO ZABLAH TOUCHÉ-H
Minister of Economy

D. O. N° 176
Volume No. 340
Date: September 23, 1998

SV/mc
05-10-2021

AMENDMENTS:

(1) D. L. No 464, OCTOBER 22, 1998;
D. O. No 215, T. 341, NOVEMBER 18, 1998.

(2) D. L. No 130, SEPTEMBER 18, 2003;
D. O. No 15, T. 362, JANUARY 23, 2004.

(3) D. L. No 616, FEBRUARY 16, 2005;
D. O. No 53, T. 366, MARCH 16, 2005.

(4) D. L. No 858, NOVEMBER 4, 2005;
D. O. No 230, T. 369, DECEMBER 9, 2005.

(5) D. L. No 943, JANUARY 27, 2006;
D. O. No 39, T. 370, FEBRUARY 24, 2006.

(6) D. L. No 483, NOVEMBER 22, 2007;
D. O. No 238, T. 377, DECEMBER 20, 2007.

(7) D. L. No 16, MAY 20, 2009;
D. O. No 94, T. 383, MAY 25, 2009.

(8) D. L. No 318, FEBRUARY 21, 2013;
D. O. No 41, T. 398, FEBRUARY 28, 2013.

(9) D. L. No 209, DECEMBER 3, 2015;
D. O. No 236, T. 409, DECEMBER 22, 2015.

(10) D. L. No 876, JANUARY 3, 2018;

D. O. No 11, T. 418, JANUARY 17, 2018.

(11) D. L. No 332, MAY 16, 2019;
D. O. No 96, T. 423, MAY 28, 2018.

(12) D. L. No 398, AUGUST 15, 2019;
D. O. No 212, T. 425, NOVEMBER 11, 2019.

(13) D. L. No 791, DECEMBER 10, 2020;
D. O. No 20, T. 430, JANUARY 28, 2021.

(14) D. L. N° 586, NOVEMBER 30, 2022;
D. O. N° 239, T. 437, DECEMBER 19, 2022.

(15) D. L. N° 817, AUGUST 15, 2023;
D. O. N° 157, T. 440, AUGUST 25, 2023.

(16) D. L. NO. 59, JULY 31, 2024;
D. O. N° 148, T. 444, AUGUST 8, 2024.

AUTHENTIC INTERPRETATION:

D. L. No 397, AUGUST 15, 2019;
D. O. No 172, T. 424, SEPTEMBER 16, 2019. (Art. 3-A, paragraph 2° and Art. 17).

VETOED DECREES:

- D. L. N° 404, AUGUST 29, 2019.

- D. L. N° 752, OCTOBER 15, 2020.

TRANSITIONAL PROVISIONS:

- **TRANSITORY PROVISION TO D. L. No. 318/13, CONCEDING A NEW TERM TO THE PROVISIONS OF THE SECOND INCIMENT OF SECTION 54-D AND THE FIRST INCIMENT OF SECTION 54-E; INCORPORATED INTO THE INDUSTRIAL AND COMMERCIALIZATION FREE ZONES LAW, FOR COMPANIES INTERESTED IN CONTINUING TO BENEFIT FROM THE TAX INCENTIVES AND TO DEDICATE TO COMMERCIALIZATION ACTIVITIES.**
  D. L. N° 210, DECEMBER 3, 2015;
  D. O. N° 236, T. 409, DECEMBER 22, 2015.

- **TRANSITORY PROVISION THAT DECLARES EXEMPT FROM THE PAYMENT OF IMPORT DUTIES, TAX ON THE TRANSFER OF PERSONAL PROPERTY AND THE RENDERING OF SERVICES AND ANY OTHER TYPE OF FISCAL OR MUNICIPAL TAXES, THE GOODS INTERNED UNDER THE PROTECTION OF THE LAW OF INDUSTRIAL FREE ZONES AND COMMERCIALIZATION, TO BE DONATED TO THE GOVERNMENT, MUNICIPAL COUNCILS AND PUBLIC AND PRIVATE, NON-PROFIT, HUMANITARIAN, EDUCATIONAL AND OTHER**

COMMUNITY SERVICE INSTITUTIONS, FOR THE BENEFIT OF THE PEOPLE AFFECTED BY THE NATIONAL EMERGENCY OF COVID-19.
D. L. N° 603, MARCH 20, 2020;
D. O. N° 58, T. 426, MARCH 20, 2020.

- **TRANSITIONAL PROVISIONS RELATING TO THE EXTENSION OF THE TERMS ESTABLISHED IN ARTICLE 22 OF THE LAW ON EXPORT PROCESSING AND MARKETING ZONES.**
  D. L. N° 850, MARCH 25, 2021;
  D. O. N° 87, T. 431, MAY 7, 2021.

- **TRANSITIONAL PROVISIONS RELATING TO THE EXTENSION OF THE TERMS ESTABLISHED IN ARTICLE 22 OF THE LAW ON EXPORT PROCESSING AND MARKETING ZONES.**
  D. L. N° 915, DECEMBER 20, 2023;
  D. O. N° 241, T. 441, DECEMBER 22, 2023.

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GLOSARY

1) **Dirección General de Aduanas:** General Directorate of Customs

2) **Dirección General de Impuestos Internos:** General Directorate of Internal Taxes

3) **Ministerio de Economía:** Ministry of Economy

4) **Ministerio de Hacienda:** Ministry of Finance

5) **Oficina de Planificación del Área Metropolitana de San Salvador (OPAMSS):** Planning Office of the Metropolitan Area of San Salvador

6) **Viceministerio de Vivienda y Desarrollo Urbano (VMVDU):** Vice Ministry of Housing and Urban Development