

DECREE NUMBER 50-2005

The President of the Republic of Nicaragua,

In use of the faculties conferred upon him
by the Constitution of the Republic,

HAS ISSUED

the following:

DECREE

Regulations for the Decree on Industrial Export Free Trade Zones

Chapter I General Provisions

- Art. 1** **Definitions.** For effects of this Decree, the following definitions will be employed:
1. **Customs Service:** The customs authority referred to in the Uniform Central American Customs Code (CAUCA).
 2. **National Commission on Free Trade Zones, or “Commission”:** The policy-making body for the Free Trade Zone System, created by Article 21 of Decree 46-91, published in *La Gaceta* No. 221 on November 22, 1991. This Commission will receive support from a Technical Secretary.
 3. **Free Trade Zone Corporation, or “Corporation”:** The exclusive administrative structure for the state-owned zones, created by Article 9 of Decree No. 46-91.
 4. **Customs Service Authority:** Head of Customs in the Zone, or in the land area it covers.
 5. **Company:** Operating company or tenant company authorized by the National Commission on Free Trade Zones to operate as part of the Free Trade System.

6. **Decree:** Decree No. 46-91 on “Industrial Export Free Trade Zones.”
7. **Operating Permit:** Agreement through which the National Commission on Free Trade Zones authorizes a company to operate as part of the Free Trade System, after it has fulfilled the requirements specified in the Decree and its Regulations.
8. **Free Trade Zone Customs Structure:** This is the system that allows merchandise that is destined for operations or processes defined in Decree No. 46-91 to be introduced into a defined area of the national territory as if it were not in the national territory and subject to customs regulations (import taxes and laws).
9. **Regulations:** This Decree.
10. **Free Trade Zone:** As defined in Article 1 of Decree No. 46-91, whether state owned, privately owned, or of mixed ownership.
11. **CAUCA:** Uniform Central American Customs Code.
12. **RECAUCA:** Regulations for the Uniform Central American Customs Code.
13. **Export:** For the exclusive purpose of accounting for direct and indirect exports originating in tenant companies inside Nicaragua’s free trade zones, exports will be understood as:
 1. The production of goods or services that are sold to a country other than Nicaragua.
 2. The supply of goods or services to other tenant companies within the free trade zones.
 3. The goods or services supplied to companies in the nation’s nonexempt zone (the national customs territory) that are used for producing goods and services for export.
14. **DGA:** General Directorate of Customs Services.

Chapter II

The National Commission on Free Trade Zones

- Art. 2** The National Commission on Free Trade Zones. This is the policy-making body for the Free Trade Zone System, which is responsible for the tasks delineated in this Decree.

Art. 3 Members of the National Commission on Free Trade Zones. As specified in Article 23 of Decree No. 46-91, members of the National Commission will include:

1. The Minister of Finance and Public Credit.
2. The Minister of Development, Industry and Commerce.
3. The Labor Minister.
4. The President of the Central Bank of Nicaragua.
5. A Representative from the Nicaraguan Chamber of Commerce.

In the case of absence, these members may only delegate their respective Vice-Ministers or General Secretaries to take their place. In the case of the President of the Central Bank of Nicaragua, the Bank's General Manager may be designated as substitute. The Board of Directors of the Nicaraguan Chamber of Commerce will freely select a member and substitute. These designations must be formally conveyed to the Commission's Technical Secretary.

Art. 4 The President of the Commission, or the acting president, will represent the National Commission on Free Trade Zones in legal or extralegal proceedings. He/she will act as General Administrative Representative, which does not preclude the designation of other special responsibilities when deemed necessary by the Commission.

Art. 5 The Commission may invite representatives of other institutions promoting investments and exports, the General Customs Director, and representatives of private business chambers and associations operating within Nicaragua's Free Trade Zone System to take part in its meetings, but they will not have the right to vote.

Art. 6 Given the Commission's functions, as defined in Article 22 of Decree No. 46-91, the Commission will have the following objectives:

1. To ensure that the Free Trade Zone System is favorably affected by any International Agreements signed by Nicaragua, especially with respect to the theme of rules of origin.
2. To conduct ongoing comparative analyses between Nicaragua's free trade zones and its main competitors, particularly in relation to incentives, costs, customs procedures, and legislation in general, in order to guarantee the System's overall competitiveness.
3. To stimulate logistical and service activities among operating companies and tenant companies in the free trade zones.
4. To define the parameters that should regulate the operations in state owned, privately owned or mixed ownership zones.

5. To ensure that Operating Companies and Tenant Companies in Free Trade Zone Systems oversee and control inflows and outflows in the zone, as specified by the National Commission on Free Trade Zones and other competent authorities.
6. To define the amount charged for processing requests for services and for the guarantee deposit that operating and tenant companies must make for the right to use the free trade zone system, as specified in Decree No.46-91 on “Industrial Export Free Trade Zones,” in Article 22, Number 4. The guarantee deposit will be solely and exclusively used to cover a company’s obligations to the National Commission on Free Trade Zones.

Art. 7 The Commission’s Technical Secretary. The Commission will elect a Technical Secretary, who will act as the General Administrative Representative with the following responsibilities:

1. Coordinate Commission sessions, which includes programming the agenda and convening meetings, and writing up minutes and signing them jointly with the President and other Commission members.
2. Maintaining the registry of minutes, and issuing certifications.
3. Designing and recommending to the Commission any necessary elements that guarantee fulfillment of the functions defined by the Decree and its Regulations.
4. Appointing and coordinating the work team, and formulating salary policies and any other policies required for insuring its good performance, all within the current legal framework.
5. Awarding the legal power to attend to the Commission’s legal and extralegal affairs.
6. Insuring that the Free Trade Zone System is favorably affected by International Agreements signed by the Republic of Nicaragua.
7. Serving as a channel of communication for the National Commission on Free Trade Zones.
8. Promoting inter-institutional coordination between different government institutions that have a relationship with the Free Trade Zone System, to make its operations more agile and effective.
9. Designing a proposed Development Plan for the Free Trade Zones, and promoting its implementation (which should be periodically reviewed).

10. Any other responsibilities assigned by the Commission.

Art. 8 Commission Sessions. The National Commission will meet regularly one time per month. If there is a need for extraordinary meetings, these will be convened by the Secretary, who may also invite other public functionaries or private sector representatives to attend when deemed necessary, although these will not have the right to vote.

Art. 9 Commission Budget. To guarantee the System's operations and administration, the National Commission on Free Trade Zones may determine the fees that operating and tenant companies will pay for services, guarantees, permits, and the use of the System.

Chapter III Creating New Free Trade Zones

Art. 10 Creation of New Free Trade Zones. The Free Trade Zones that will be established in the future, whether of state, private or mixed ownership, will be approved on the basis of criteria defined by the National Commission on Free Trade Zones.

The Technical Secretary will be responsible for studying the suitability of setting up new zones, whether private, state-owned or mixed, and will present his/her recommendations to the Commission. The Commission will rule on such requests within thirty days of having received them, once all legal, technical and administrative requirements defined by the Commission have been met. The Commission must notify the company and any public institutions of its decision within five working days of having reached one.

Once the Commission has approved a request, the Secretary will submit a copy of the Resolution to the Presidency of the Republic, so that the corresponding Executive Agreement approving creation of the zone may be issued. This Agreement should be published in *La Gaceta*.

The National Commission on Free Trade Zones will authorize projects to develop and construct new industrial parks on the basis of corresponding laws and norms.

Art. 11 Request to Create New Zones. Any commercial corporation constituted in conformity with Nicaraguan law that is interested in developing, operating, administering or promoting a Free Trade Zone should direct such a request in writing (original and three copies, and one electronic copy) to the Technical Secretary of the National Commission on Free Trade Zones, and should indicate the following:

1. Firm Name or Trade Name, and address.
2. Names of the partners and investors who are members of the Board of Directors.
3. Photocopy of the Corporate Constitution, duly notarized by a Notary Public.
4. The period for which the corporation has been constituted, which cannot be less than twenty-five years.
5. Capital Stock.
6. General description of the project, indicating the following aspects:
 - 6.1 A map of the property's location as well as a surveyor's map, specifying metes and dimensions, which should be consistent with the property's deed as registered in the respective Public Registry of Real Estate.
 - 6.2 The project's total area;
 - 6.3 The total industrial floor space to be constructed;
 - 6.4 Direct and indirect jobs that will be generated;
 - 6.5 Sources of financing for the project's construction;
 - 6.6 Mechanisms to be used to promote the project;
 - 6.7 The project's area of influence, specifying accessibility to direct sources of labor and the external infrastructure required for the project's optimum operation;
 - 6.8 A timeline for the project's implementation, and its overall investment plan;
 - 6.9 Soil use certification, issued by the corresponding Municipal Government;
 - 6.10 Any other information that could facilitate the National Commission's decision-making process.

Art. 12 Approval of a Free Trade Zone. The Commission reserves the right to approve requests or to reject requests that do not meet the requirements specified in these Regulations, or that are not consistent with the nation's economic and social plans.

Chapter IV **Free Trade Zone Operating Companies**

Art. 13 Functions and obligations of Operating Companies. Operating Companies will have the following functions and responsibilities:

1. To promote, direct, administer and operate the free trade zone.
2. To provide the necessary installations, furniture, equipment and basic services for exclusive use by the customs authority in the zone, to effectively carry out his/her labors.

3. To issue Internal Regulations that regulate the zone's operations, in accordance with the general parameters defined by the Commission. A copy of these should be submitted to the Commission's Technical Secretary.
4. To implement the project, based on the specified terms and time periods.
5. To acquire, lease, or dispose of any properties to be used for free trade zone activities.
6. To construct the free trade zone's infrastructure and buildings, either directly or through hiring third parties.
7. To observe the guidelines regarding administration, promotion and development in the zone issued by the National Commission and other competent authorities.
8. To present a statistical report about its activities to the Commission's Technical Secretary. This report should contain information indicated in the corresponding form designed for this purpose by the Secretary, within the first ten working days of each month. In addition, an annual management report should be submitted, in the form indicated by the same Secretary.
9. To guarantee the necessary basic services to Tenant Companies, to permit their efficient operation, and to collaborate with the provision of such services when appropriate.
10. To inform the Commission's Technical Secretary in writing about leasing contracts and any modifications and any services or other contracts that are established in the zone, on a monthly basis, for purposes of information and statistical oversight. Forms designed by the Technical Secretary for this purpose should be used.
11. To establish automatic oversight of the operations of tenant companies in the zone, according to the requirements of corresponding authorities.
12. To pay the amounts established by the Commission for use of the Free Trade Zone System, as specified in Article 6, Number 6 of this Decree.
13. To sign an Investment and Operation Contract with the Commission.
14. To pay for customs services received from the DGA as Free Trade Zone Operating Companies.

15. To provide the facilities (locale, water, light, telephone, Internet, office furniture and equipment) that the DGA requires for conducting appropriate customs oversight in the zone. In addition, the company should provide scales for weighing containers and merchandise if so required by the DGA.
16. To supply the necessary information for liquidating the Free Trade System if so desired, or in case this right is revoked for any reason. A maximum period of three (3) months is awarded for liquidation purposes. If any remaining materials or merchandise are not liquidated, they will be considered abandoned.
17. In addition, to be classified as an operating company, a minimum of 10,000 square meters of constructed industrial floor space will be required, utilizing no more than 50% of the total ground area in the zone. The remaining 50% may only be used as vehicle parking lots, streets, walkways, and plots for constructing smaller buildings to provide services related to the company's operations. The different types of facilities should include the buildings described below:

17.1 Service Facilities:

- 17.1.1 Administrative and Maintenance Offices.
- 17.1.2 Customs and Tax Offices.
- 17.1.3 Security Control Stands.

17.2 Industrial Facilities:

- 17.2.1 Offices.
- 17.2.2 Production and storage areas.
- 17.2.3 Warehouses for raw materials and finished products.
- 17.2.4 Loading and unloading zones.
- 17.2.5 Vehicular parking lots.
- 17.2.6 Sufficient bathrooms for women and men, in quantities that reflect the size of the labor pool.
- 17.2.7 Cafeteria/eating areas.

To guarantee better environmental conditions within industrial facilities, roofs should be covered with reflective material.

17.3 Urbanizations: These should occupy a minimum of 30% of the total land area, and include the following environments:

- 17.3.1 Green Area: 30% of the total area, which includes ecological areas and sports zones.
- 17.3.2 Streets, walkways and sidewalks.
- 17.3.3 Parking lots for vehicles.
- 17.3.4 Parking areas for containers.
- 17.3.5 Pedestrian plazas.

- 17.4 Optional buildings for exclusive use of the park:
 - 17.4.1 Offices for the representative of the Ministry of Labor.
 - 17.4.2 Health clinics.
 - 17.4.3 Banks.
 - 17.4.4 Industrial cafeterias.

The designs of each of these structures are subject to the norms and specifications of the Building Code issued by the Ministry of Transport and Infrastructure (MTI).

- 18. To guarantee security throughout the operating company's premises, a perimeter fence and modern and certified vigilance service should be installed that insure present and future oversight.
- 19. Corporations that have not registered one hundred percent (100%) of their capital stock should notify the Commission of any new shareholders. In addition, all corporations should report the transmission or transfer of shares or partner's capital contribution, and any increases in capital. Also, any changes in the company's legal representation or general managers, or other changes resulting from these such as telephone numbers, electronic mail addresses, etc. should be notified.

Art. 14 Non-Compliance of Operating Companies. The Technical Secretary will report any non-compliance of obligations by operating companies, when it considers such notification appropriate as determined by related laws.

Chapter V

Free Trade Zone Corporation

Art. 15 The Corporation. The Corporation is the exclusive administrative structure for state-owned free trade zones. It was created through Article 9 of Decree No. 46-91. The Corporation will be administered by a Board of Directors, which should meet at least once every month, when convened by the Executive Secretary. When required, the Board may hold extraordinary sessions.

Art. 16 Administration and Assets of State-Owned Free Trade Zones. The Corporation will be responsible for the assets and administration of state-owned free trade zones.

Art. 17 Location of New State-Owned Free Trade Zones. State-owned free trade zones may be set up in any part of the Republic, on lands pertaining to the state, or those acquired through purchase.

- Art. 18** Publication of New State-Owned Free Trade Zones. Once an area has been designated a State-Owned Free Trade Zone, the respective Agreement should be published in *La Gaceta* and registered in the respective Public Registries for Real Estate and Commerce.
- Art. 19** Budget of New State-Owned Free Trade Zones. When a new state-owned zone is created, the Corporation should develop the budget for constructing the necessary infrastructure, as specified in the Decree and these Regulations.
- Art. 20** Quorum. To pass valid resolutions, at least three members of the Board of Directors must be present and vote. In the case of a tie vote, the President will cast the deciding vote. The President will also legally represent the Corporation and will be responsible for any special duties designated by the Board.
- Art. 21** Functions of the Executive Secretary. The Executive Secretary will be responsible for all General Administrative Representation of the Corporation, and will have the following specific functions:
1. Administer, operate, market and promote state-owned free trade zones, and promote improvements in the installations and services as required.
 2. Insure that order reigns within the zones, and in cases where order is endangered, request the presence of police authorities to restore it.
 3. Set and charge leasing fees for the locales occupied by tenant companies, applying agreed-upon rates. The sums received should be deposited in the Corporation's bank accounts, from which payments for services or other works benefiting the zone may be withdrawn.
 4. Enter into contracts with tenant companies and service providers, and carry out general tasks that do not go beyond the simple administration of the properties and/or assets of others.
 5. Grant the power to attend to the legal and extralegal affairs of the Corporation, when deemed necessary.

The Executive Secretary will attend but not vote in sessions of the Corporation.

Chapter VI Tenant Companies

Art. 22 Tenant Companies. On the basis of Article 18 of Decree No. 46-91, the Free Trade Zone companies that will be considered as

“Tenant Companies” are those that have been authorized by the Commission to operate in an industrial park, and meet the stipulations of Chapter VII of these Regulations (Administered Free Trade Zones) due to the nature of their productive processes and other technical considerations. Those companies whose activities are dedicated to industrializing agricultural and forestry products (of high aggregate value) that are destined for export will also be considered as tenant companies. The Commission will define the criteria for approving such companies.

Tenant Companies are classified in the following manner:

1. Producers of Goods: those companies set up as part of the Free Trade Zone System to produce goods that may be destined for:
 - 1.1 Export;
 - 1.2 Other Free Trade Zone Tenant or Operating Companies;
 - 1.3 Companies located in the nation’s national customs territory (nonexempt zone) for use in their local activities, as long as these meet the requirements established in Chapter XII of these Regulations, and do not signify unfair competition to Nicaraguan production.

2. Service Providers: those companies that are located and operate within a free trade zone and provide services such as:
 - 2.1 Internationally Transacted Services, including:
 - 2.1.1 Client call centers, whose sole objective is exporting the service when requested by foreign companies under specific contracts.
 - 2.1.2 Data processing and computerization of texts and images, for export purposes.
 - 2.1.3 Outsourcing, as long as the service is being produced exclusively for export and development of software.
 - 2.1.4 Legal, scientific, and statistical research centers, with export purposes.
 - 2.1.5 Any other service related to exporting human/technological talent.
 - 2.1.6 Constructing, leasing, selling or financing buildings or infrastructure within industrial facilities, including infrastructure for support or services to the operations of companies that are part of the free trade zone system. This includes but is not limited to companies that generate or commercialize energy, water treatment services, training services, international transport, etc. The National Commission on Free Trade Zones will determine the eligibility of these companies that develop infrastructure or provide support services.

2.1.7 Logistical services, which include dry ports or domestic cargo terminals, and activities such as: transporting, handling, storing, labeling or redistributing merchandise nationally or internationally, when such activities are carried out within a free trade zone, or in support of tenant companies within different free trade zones, such as international and Nicaraguan companies and industries. In the latter case, the requisites defined in Chapter XII of these Regulations must be met, and such activities must not signify unfair competition to Nicaraguan production.

2.1.8 Supplying raw materials, intermediary goods, equipment, spare parts, accessories and inputs for companies that are either tenant companies located in free trade zones, or are located in the national territory or abroad. To supply the companies that are located in national territory, the requisites specified in Chapter XII of these Regulations must be met, and such activities must not signify unfair competition to Nicaraguan production.

Art. 23 Request for Authorization. If a commercial corporation constituted in conformity with Article 16 of Decree No. 46-91 is interested in becoming a Tenant Company in the Free Trade Zone System, it should direct such a request in writing (original and three copies, and one electronic copy) to the Technical Secretary of the National Commission on Free Trade Zones. This request should contain the following information:

1. Complete description of the industrial process or service provided;
2. Schedule for implementing the project, and the estimated date for initiating operations;
3. Facilities and training needs for the Nicaraguan personnel that work in the company;
4. The completed request form (designed by the Commission's Technical Secretary), along with other case documents;
5. Any other information that could facilitate the Commission's decision-making process.

Art. 24 Approval of Tenant Companies. Tenant companies that are established in the future will be approved on the basis of criteria defined by the National Commission on Free Trade Zones.

The Technical Secretary will be responsible for studying the viability of requests to set up new zones, and will present his/her recommendations to

the Commission. The Commission will rule on such requests within thirty calendar days of having received them, and must notify the company of its decision within five working days of having reached one.

Tenant companies that supply inputs to other companies in free trade zones may operate solely and exclusively within a free trade zone industrial park, in other words, they may not be classified as an administered free trade zone.

Art. 25 Operating Certificate. In addition to receiving an operating permit, all tenant companies will receive a certificate accrediting them as such. This certificate should contain the name of the company, the date of approval, the company's activity and its location. It should also contain the signatures of the Commission's President and Technical Secretary, and the Commission's official seal.

The Technical Secretary should also inform the Ministry of Finance and Public Credit (MHCP), the Ministry of the Environment and Natural Resources (MARENA), the Ministry of Labor, the General Directorate of Customs Services (DGA), the Immigration and Foreign Services Bureau, the Internal Revenue Service (DGI), and any other authority involved in the corresponding oversight of these institutions.

Art. 26 Obligations of Tenant Companies. In addition to the responsibilities described in the Decree, these Regulations, customs legislation, the operating permit, and the responsibilities defined by the Commission and any other applicable norms, all beneficiaries must:

1. Present a statistical report about their activities to the Commission's Technical Secretary. This report should contain the information indicated in the form, designed for this purpose by the Technical Secretary, and should be delivered within the first ten working days of each month. In addition, an annual management report should be submitted, in the form indicated by the Secretary.
2. Institute control mechanisms for the merchandise that enters, remains within, and exits the company. This should consist of adopting systematized inventory control instruments that allow competent authorities to determine stocks at any moment. Information about production coefficients and any additional information related to inventories should be submitted when requested by the DGA, to facilitate customs oversight.
3. Tenant companies that operate within the free trade zone system must provide the facilities required by the DGA for conducting appropriate customs oversight.

4. Tenant companies that are part of the administered free trade zone modality must provide the facilities required by the DGA for conducting appropriate customs oversight. They should provide the zone's Customs Delegation with physical installations, furniture, office equipment and the necessary basic services to effectively carry out his/her labors.
5. Supply the necessary information for liquidating the Free Trade System if so desired, or in case this right is revoked. A maximum period of three (3) calendar months is awarded for liquidation. If any remaining materials or merchandise are not liquidated, they will be considered abandoned, and these may be disposed of by the DGA after fifteen working days following expiration of the period allotted for liquidation.
6. Establish automatic oversight of the Tenant Company's operations, as specified by the competent customs authority.
7. Pay the amounts specified by the Commission for use of the free trade zone system, according to Article 6, Number 6 of these Regulations.
8. Sign an Investment and Operation Contract with the Commission.
9. Pay the corresponding tariffs for services received from the DGA.
10. Implement the project according to the terms and time periods defined in the contract signed by the Commission and the Company. This should follow the timeline presented by the company when entry into the free trade system was requested.
11. Observe the guidelines issued by the Commission and other pertinent authorities.
12. Comply with the operating company's current Internal Regulations.
13. Corporations that have not registered one hundred percent (100%) of their capital stock should notify the Commission of any new shareholders. In addition, all corporations should report the transmission or transfer of shares or partner's capital contribution, and any increases in capital. Also, any changes in the company's legal representation or general managers, or other changes resulting from these such as telephone numbers, electronic mail addresses, etc. should be reported.

Chapter VII

Administered Free Trade Zones (ZOFAs)

Art. 27 Administered Free Trade Zones (ZOFAs). These are tenant companies that, due to the nature or their productive processes, the origin of their raw materials, or the characteristics of the company itself, are authorized by the National Commission on Free Trade Zones to set up and operate outside of industrial parks.

For companies providing internationally transacted services, as specified in Article 22, Number 2.1 of this Decree, their approval will be based on the general criteria issued by the Commission, key to which will be the supply of constructed industrial floor space available in the country, the geographical location and the nature of services to be provided.

Those companies which meet the criteria stipulated in this Article and wish to be classified as “administered free trade zones” must fulfill the requirements specified in Article 26 of these Regulations.

To build, develop or operate an administered free trade zone, the interested company must strictly comply with the following:

1. All installations must meet current industrial safety and labor codes, and environmental legislation.
2. It must provide the necessary installations, furniture, equipment and basic services to the zone’s customs authority, to effectively carry out his/her labors.
3. Implement the project according to the originally stipulated terms and timeline.
4. Acquire, lease or dispose of any property title associated with the ZOFA’s activities.
5. Construct the ZOFA’s infrastructure and buildings, either directly or via contracts with third parties.
6. Oversee compliance with the Free Trade Zone System in the country, observing guidelines related to the administration and development of ZOFAs issued by the National Commission and competent authorities.
7. Present a statistical report about its activities to the Commission’s Technical Secretary. This report should contain information indicated in the corresponding form, designed for this purpose by the Secretary, within the first ten working days of each month. In addition, an annual management report should be submitted, in the form indicated by the same Secretary.

8. Establish automatic oversight mechanisms for the operations of tenant companies, as specified by competent authorities. In addition, institute control mechanisms for the merchandise that enters, remains within, and exits the company. This should consist of adopting systematized inventory control instruments that allow competent authorities to determine stocks at any moment. Information about production coefficients and any additional information related to inventories should be submitted when requested by the DGA, to facilitate customs oversight.
9. Pay the amounts specified by the Commission for use of the free trade zone system and the provision of services, according to Article 6, Number 6 of these Regulations.
10. Sign an Investment and Operation Contract with the Commission.
11. Pay the corresponding tariffs for customs services received from the DGA as a ZOFA.
12. Provide the facilities (locale, water, light, telephone, Internet, office furniture and equipment) that the DGA requires for conducting appropriate customs oversight in the zone.
13. Supply the necessary information for liquidating the Free Trade System if so desired, or in case this right is revoked for any reason. A maximum period of three (3) calendar months is awarded for liquidation. If any remaining materials or merchandise are not liquidated, they will be considered abandoned.
14. Guarantee security throughout the ZOFA's premises through installing a modern and certified vigilance service that allows present and future oversight.
15. The minimum constructed industrial floor space for a ZOFA will be 2,500 square meters. "Constructed industrial floor space" will be understood as the area used for production, storage of raw materials and finished products, administration, industrial maintenance, and for loading and unloading.

In addition, the necessary buildings, infrastructure, and facilities for conducting customs and tax oversight for the mentioned commercial activities must also be provided (detailed below):

1. Areas for offices, industrial facilities and service centers:
 - 1.1 Administrative and maintenance offices;

- 1.2 Offices for the customs and tax representatives;
 - 1.3 Security Control Stands;
 - 1.4 Perimeter fence;
 - 1.6 Green zone: a minimum of 20% of the total area;
 - 1.7 Loading and unloading zones;
 - 1.8 Parking areas for vehicles and containers;
2. Industrial facilities: areas for the following should be available:
- 2.1 Production and storage areas;
 - 2.2 Warehouses for raw materials and finished products;
 - 2.3 Sufficient bathrooms for women and men, in quantities that reflect the size of the labor pool;
 - 2.4 Loading and unloading zones;
 - 2.5 To guarantee better environmental conditions within industrial facilities, roofs should be covered with reflective material.
16. Observe the guidelines issued by the Commission and competent authorities.
17. Corporations that have not registered one hundred percent (100%) of their capital stock should notify the Commission of any new shareholders. In addition, all corporations should report the transmission or transfer of shares or partner's capital contribution, and any increases in capital. Also, any changes in the company's legal representation or general managers, or other changes resulting from these such as telephone numbers, electronic mail addresses, etc. should be reported.

Approval: ZOFA companies will be approved by the National Commission on Free Trade Zones, as specified in Article 24 of these Regulations.

Operating Certificate: In addition to their operating permits, all ZOFAs will be issued a certificate that accredits them as such, according to the specifications of Article 25 of these Regulations.

Obligations: All ZOFAs must comply with the obligations stipulated in Article 14, Number 2, and the present Article.

In the case of non-compliance of obligations, the Technical Secretary will inform the competent authorities so that the corresponding sanctions may be applied, as specified in the applicable laws.

Chapter VIII Customs System

Art. 28 Customs Oversight. The customs authority in the zone, in coordination with the trade zone's administrators, will oversee the entry and exit of persons, vehicles, and merchandise in the free trade zones. Such controls should be carried out at specific points designated for this purpose.

Art. 29 Location of the Customs Authority. Each free trade zone is obligated to assign the necessary installations, furniture, equipment and basic services to the customs authority, to effectively carry out his/her labors.

The DGA will set the rates that must be paid by operating and tenant companies for the services received, and will designate the functionaries that will oversee each zone.

Art. 30 Creation of the Customs Committee. A Customs Committee for the Free Trade Zone System will be created, which will consist of the following members:

1. General Director of Customs Services, who will preside.
2. Technical Secretary of the National Commission on Free Trade Zones.
3. Executive Secretary of the Free Trade Zone Corporation.
4. A representative of Operating Companies.
5. A representative of Tenant Companies.

The General Director of Customs Services may delegate the Vice-Director as his/her representative, and a principal and substitute representative for both the operating and tenant companies will be selected by the Commission on Free Trade Zones from lists of candidates (3) presented by each of these.

Art. 31 The Customs Committee will meet at least once per quarter, and will have the following functions:

1. Verifying that customs procedures in Nicaragua's free trade zones adhere to the highest standards;
2. Overseeing the automation of the inventories of free trade zone tenant companies, and the connection of these to the Customs Information and Foreign Commerce System;
3. Guaranteeing the presence of customs authorities in all free trade zones throughout the national territory, as required by each zone; and
4. Other functions assigned by the National Commission on Free Trade Zones.

Art. 32 Infrastructure. For a free trade zone to initiate operations, it must first receive a favorable ruling from the DGA with respect to its requirements

for offices of the Customs Delegate in the zone, fences, walls or other barriers that enclose the perimeter of the zone, and the points of entry and exit for persons, transport and merchandise.

Art. 33 Interior Cargo Terminals. In the case of setting up a dry port in the City of Managua or any other location in the national territory for use with foreign trade cargo, the General Directorate of Customs Services will collaborate to fully synchronize such services with maritime ports, so that merchandise may be dispatched and received within the country and not only in coastal zones, and so that related customs procedures may be conducted there as well.

Art. 34 Customs Agents and Special Customs Proxies. The intervention of customs agents and special customs proxies in the procedures and operations of the free trade zone will be regulated by the General Directorate of Customs Services.

Art. 35 Forms. The forms to be used for procedures and operations of the Free Trade Zone System will be produced by the DGA and the Internal Revenue Service (DGI), in coordination with the Commission.

The transfer of raw materials and inputs from the customs entry point to the zone will require the use of forms that have been designed by the customs authority.

Art. 36 Customs Transport. The transfer of merchandise from the customs entry point to the free trade zones, and from these to the customs exit point of the country, or between companies benefiting from the free trade zone system, will be carried out according to the norms specified by the DGA.

Art. 37 Unloading Merchandise. Merchandise that enters the national customs territory and is consigned to tenant companies within the free trade zone may be unloaded directly in the zone when the total shipment is consigned to companies operating within the same free trade zone, and the Customs Authority will act as the customs destination point.

The transfer of merchandise between tenant companies in different free trade zones, especially transfers resulting from logistical operations or sub-contracts or co-production, will be conducted according to norms set by the DGA.

Art. 38 Merchandise in Free Trade Zones. Once merchandise has been unloaded, it will be available to the tenant consignee of the free trade zone. The customs dispatch for said merchandise should be conducted afterward, according to applicable norms. When considered pertinent, the DGA may conduct a physical inspection of goods deposited in the zone.

- Art. 39** When companies do not present accounting registries and other information for the purpose of customs controls, the corresponding administrative sanctions will be applied.
- Art. 40** Sanctions. When the commission of customs fraud or crimes can be proven, the appropriate legal procedures will be initiated.
- Art. 41** Abandonment. Merchandise found in free trade zones will only be considered abandoned and will thereby be considered assets of the public treasury when:
1. Its owners expressly waive any right to such merchandise. This should be communicated in writing to the Commission's Technical Secretary.
 2. The Commission believes it can clearly establish that the beneficiary-owner has abandoned such merchandise.
- In both cases, the Commission will inform the customs authority so that the corresponding legal steps may be taken.

Chapter IX **Importing Merchandise Needed in the Free Trade Zone from the National Customs Territory**

- Art. 42** Exporting from the National Customs Territory. For purposes of these Regulations, any importation of materials and merchandise and/or services from the national territory to free trade zones will be considered as "exports."
- Art. 43** Entry Form. For cases covered by the previous Article, the form indicated by the General Directorate of Customs Services and the Commission's Technical Secretary should be used, and must be accompanied by commercial invoices, transportation or shipping documents, and any other documents required so that the importation will actually be processed as the export of goods.

Chapter X **Oversight of Tax Benefits**

- Art. 44** Oversight of tax benefits. To effectively oversee the tax benefits detailed in Decree No. 46-91, the Commission—through the Technical Secretary—should send a quarterly list of Free Trade Zone beneficiaries to the Internal Revenue Service (DGI) and the General Directorate of Customs Services (DGA), along with a report about each of their activities, in the format specified by these institutions.

The Internal Revenue Service (DGI) and the General Directorate of Customs Services (DGA) may inspect the installations of beneficiary companies at any time, in order to verify the information supplied.

The improper use of assets under the Free Trade Zone structure will be sufficient cause for the application of corresponding sanctions by competent authorities.

Art. 45 Tax Liquidation System. The Tenant and Operating Companies of Free Trade Zones will be exonerated from paying Value Added Tax, or “IVA” (Sales Tax), as specified in Decree No. 46-91, through the “self-adjusted” tax payments detailed in Article 55 of Decree No. 31-92.

Art. 46 Individuals or corporations that import or locally purchase articles exonerated from taxes through this Decree, and that sell, lease, transfer, dispose of or utilize these articles in any way other than the specified use for which they have been exonerated from import taxes or IVA will be subject to the sanctions of corresponding laws.

Chapter XI

Returning Goods Imported into the Zone back Outside of the Zone

Art. 47 Returning Goods Outside of the Zone. To return goods outside of the zone, the interested party will present the corresponding forms to the customs authority located inside the free trade zone.

Art. 48 The CAUCA and RECAUCA facilities. In the case of exports, the customs authority will apply the facilities defined in the CAUCA and its Regulations (RECAUCA).

Chapter XII

Importing Goods into the National Customs Territory

Art. 49 Importing Goods from the Free Trade Zone into the National Customs Territory. The company interested in introducing goods it has produced for consumption into the national customs territory should request a permit from the Ministry of Development, Industry and Commerce (MIFIC) via the Technical Secretary. The MIFIC may approve the request, either partially or completely, as long as it does not signify placing national production at disadvantage. Such a decision will consider whether or not the item is produced nationally, and if it is, the impact that importation of the quantity requested will have on said production and whether or not it contributes to import substitution.

Art. 50 Once authorized, this permit will be valid for six (6) months, and must contain a description and amount of the authorized product, which may be partial or total. The importer must comply with national laws, particularly the payment of respective taxes, prior to the delivery of any merchandise.

Art. 51 Requirements for Authorization. To receive authorization, the interested party should deliver a written request to the Ministry of Development, Industry and Commerce, and also provide the following information:

1. Name and characteristics of the beneficiary;
2. Detailed description of the goods or services to be imported into the national customs territory, indicating the amount and value to be invoiced, in Central American currency;
3. Any other additional information requested by the MIFIC.

Art. 52 Time period for Resolution of the Request. The MIFIC should issue its decision on requests to import goods or services within a maximum of eight working days after having received them.

Art. 53 Payment of Corresponding Taxes. After the corresponding taxes are paid, the importer should present the authorization issued by the MIFIC along with the import declaration.

In the case that a product either produced or transformed in a Free Trade Zone in Nicaragua is going to be imported into the national customs territory, the import taxes will be liquidated in the following manner:

1. Tax obligations:
 - 1.1 Taxes will be paid on the value of foreign components that are incorporated into the final product.
 - 1.2 The taxpayer may opt to pay taxes on the raw materials utilized, or on the final product.
 - 1.3 Those raw materials and inputs that come from countries with whom Nicaragua has Free Trade Agreements and that are completely tax-free and comply with rules of origin will be considered as national products.
 - 1.4 Value Added Tax (Sales Tax): The IVA will be paid on the total value of the good that is being imported.

Chapter XIII **Subcontracts**

Art. 54 Authorization to Subcontract. The tenant companies of free trade zones may subcontract their production to:

- a. Other tenant companies of free trade zones.

b. Any individual or corporation established within the National Customs Territory.

The following procedure will be followed:

1. The Free Trade Zone Tenant Company will request authorization for a period of up to one year from the Commission's Technical Secretary, identifying the number of units and providing an input-output table.
2. Once the request has been approved by the Secretary, the customs authority of the zone will be notified, who in turn will authorize the temporary exit of the tenant company's raw materials and inputs. The subcontracted raw materials and inputs may remain in the power of the subcontractor for up to three months.
3. In the case of "b" above, the procedure will include numbers one and two described above, as well as the following:
 - 3.1 Tenant companies may loan machinery to subcontracted individuals or corporations, after depositing a guarantee payment with the DGA. The loan period must be for a time period that is either less than or equal to the period for which the subcontract is authorized.
 - 3.2 Tax benefits awarded to free trade zone companies will not be extended to subcontracted individuals or corporations.

Art. 55 Tax Obligations. The free trade zone tenant company that requests and obtains authorization to subcontract will be responsible for paying corresponding taxes to the DGA on the subcontracted raw materials or inputs that have been sent to the National Customs Territory and that do not return to the zone within the authorized time period. This will in no way limit other applicable sanctions.

Art. 56 Reporting to the Technical Secretary. The tenant company that benefits from subcontracts must submit a biannual report to the Commission's Technical Secretary, detailing amounts, percentages and other conditions. If such a report is not submitted, the Technical Secretary may withdraw authorization for the subcontract, and will notify corresponding authorities and institutions of such a decision.

Chapter XIV **Defective Products, Byproducts and Remnants**

Art. 57 Defective Products. Defective products may be introduced into the national customs territory if import taxes are paid and the procedures defined in Chapter XII of these Regulations are followed. A defective product will be understood as one that does not meet the required quality control standards.

Art. 58 Remnants and Byproducts. Remnants will be understood as the remnants of raw materials and inputs that cannot be used to fabricate the final product. Byproducts will be understood as those products that are not raw materials or inputs, but serve as packaging or supports for machinery, equipment, raw materials or inputs.

The corresponding taxes must be paid prior to removing remnants or byproducts from the zone, unless these are:

1. Abandoned and left to the public treasury.
2. Destroyed under the supervision of the customs authority.

Chapter XV Exoneration of Automotive Vehicles

Art. 59 Exoneration. The exoneration for Operating and Tenant Companies of Free Trade Zones established in Article 8, Number 2, and Article 20, Number 5 of Decree No. 46-91 will proceed according to Articles 81, 82, 83, and 85 of Decree No. 31-92.

The CIF value of exonerated vehicles will be established in corresponding Laws.

Art. 60 Authorization to Import Vehicles. With the endorsement of the Technical Secretary of the National Commission on Free Trade Zones, the Ministry of Finance and Public Credit will authorize the importation of cargo, passenger or administrative vehicles, in accordance with the previous Article.

Art. 61 Registration of the Purchase of Transportation Equipment. The Commission's Technical Secretary should maintain a registry of the transportation equipment purchased by each company.

Chapter XVI Environmental Regulations

Art. 62 All companies approved by the National Commission on Free Trade Zones to operate as part of the free trade zone system, whether an operating or tenant company, and whether these are state owned, privately owned or of mixed ownership, must obtain an Environmental Permit or Administrative Authorization from the Ministry of the Environment and Natural Resources (MARENA) prior to initiating production.

Art. 63 Environmental Permit. In conformity with national legislation, all companies must conduct an Environmental Impact Assessment in order to

obtain the Environmental Permit. They must request this permit prior to constructing any works or beginning productive operations. In the case that construction or production is undertaken without an Environmental Permit, the Ministry of the Environment and Natural Resources will apply the corresponding sanctions.

- Art. 64** Administrative Authorizations. In the case of companies that do not need to conduct an Environmental Impact Assessment given the nature of their productive processes, they must obtain an Administrative Authorization from MARENA's Environmental Quality Directorate prior to initiating construction or productive operations. The Authorization will be issued after verifying Nicaragua's Obligatory Technical Norms that regulate the type of activity.
- Art. 65** In the case that a tenant or operating company, whether publicly owned, privately owned or of mixed ownership, wishes to change its location or expand its operations to another geographical location, it must first request the corresponding environmental permit or administrative authorization.
- Art. 66** In the case that a company operating within the Free Trade Zone System is going to definitively close down operations or dissolve, it must notify the Ministry of the Environment and Natural Resources at least 30 days in advance, in order to verify that the environmental conditions in the project's area of influence are consistent with those required in the corresponding environmental permit or administrative authorization, and to cancel the permit. The National Commission on Free Trade Zones will request cancellation of the environmental permit or administrative authorization by companies in such a situation, and these companies will in turn be withdrawn from the Free Trade Zone System.
- Art. 67** The Environmental Permits or Administrative Authorizations that are issued will in no way prejudice or influence other permits or authorizations issued by other institutions. With respect to the location of these companies, whether tenant or operating, or public, private or mixed, they must comply with the provisions of Municipal Territorial Organization Plans.

Chapter XVII Labor Regulations

- Art. 68** Labor Regulations. Labor relations in the Free Trade Zone System will be regulated by the current Labor Code, without prejudicing the provisions of the Civil Service and Administrative Career Law, when applicable.

Chapter XVIII

Cancellation and Revocation of the Operating Permit

Art. 69 A company operating within the Free Trade Zone System may cancel its permit, or the National Commission on Free Trade Zones may revoke its operating permit.

Such cases will proceed in the following manner:

Cancellation: When a company decides to withdraw from the Free Trade Zone System, it must notify the Commission's Technical Secretary, and provide the following documentation: tax clearance certification, clearance from the General Directorate of Customs Services, clearance from the Ministry of the Environment and Natural Resources, and clearance from the National Commission on Free Trade Zones. The Technical Secretary will formally present the company's decision to withdraw from the System at the next regular session of the Commission, which will pass the corresponding resolution.

Revocation: In the case that a company does not comply with Decree No. 46-91, these Regulations or any other pertinent laws, the Commission may revoke the Operating Permit.

Chapter XIX Sanctions

Art.70 Sanctions. When a company that benefits from the Free Trade Zone System violates any legislation related to its labor obligations, the environment, social security, customs or tax obligations, the corresponding legal sanctions will be applied, and the National Commission on Free Trade Zones will be notified.

Chapter XX Final Provisions

Art. 71 Annulments. Decree No. 31-92, published in *La Gaceta* No. 112 on June 12, 1992, is hereby annulled, except for Articles 22, 55, 80, 81, 82, 83 and 85, and Decree No. 18-98, published in *La Gaceta* No. 63 on April 1, 1998 is hereby annulled, and Decree No. 21-2003, published in *La Gaceta* on February 27, 2003, is hereby annulled, except for the addition of paragraph "d" to Article 22 of Decree No. 31-92.

Art. 72 Period In Force: This Decree will enter into force following publication in *La Gaceta*.

Given in the City of Managua, on the eighth day of the month of August of the year two thousand and five.

Enrique Bolaños Geyer
President of the Republic of Nicaragua