



EXPORT PROCESSING ZONES

EXPORT PROCESSING ZONE ACT
(Decree No. 46-91, Gazette 221, November 22, 1991)

LA GACETA

OFFICIAL REGISTER

Value C\$ 4.00
Cordoba Oro

National Printing Office

P.O. Box No. 86 – Tel. 27917

Edition: 1,100 copies

YEAR XCIV

Managua, Friday, November 22, 1991

No. 221

OFFICE OF THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

Export Processing Zones

DECREE No. 46-91

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

Whereas:

I

It would serve national interest to establish an updated Export Processing Zone regime in Nicaragua, with the objective of generating productive employment opportunities, attracting foreign investment, fostering non-traditional exports, upgrading labor and management skills through acquisition of advanced technology and reactivating foreign trade.

II

Export Processing Zones are framed within national economic plans, specifically in export and investment policies.

Therefore:

By the authority vested by the Political Constitution and the laws of the Republic of Nicaragua

It is hereby enacted as follows:

EXPORT PROCESSING ZONES

SECTION I **ZONES**

Article 1. In this Decree, Export Processing Zone, hereinafter “EPZ”, means an unpopulated geographical area in Nicaragua, under special control by the Customs Administration and authorized to operate in such capacity by the Executive.

Art. 2. The primary objective of an EPZ is to foster investment and exports by establishing and operating companies that manufacture and export goods or services under special tax and customs regimes.

Art. 3. EPZs shall operate outside national customs territory, subject to exemptions set forth in this Decree and its Regulations. Raw materials or goods imported by EPZ Companies shall be duty-free as provided hereinafter.

Art. 4. EPZs may be located anywhere in the national territory. The respective Executive Order shall establish specific locations, dimensions and boundaries thereon.

Art. 5. Prior to operations start-up, EPZ perimeter shall be fully enclosed so that customs entry points shall be the only means of ingress. The remainder of the Zone shall be subject to the same controls and surveillance.

Art. 6. Privately owned EPZs shall be owned and managed by a corporation duly organized under the laws of Nicaragua for the sole purpose of administering an EPZ. In addition to managing the business and affairs of the EPZ, said corporation shall facilitate operations therein, as provided in this Decree and its Regulations.

Art. 7. The Export Processing Zone Corporation shall manage state-owned EPZs as provided under Section III.

SECTION II

EXPORT PROCESSING ZONE DEVELOPERS

Art. 8. Corporations established to manage privately owned EPZs, hereinafter "Export Processing Zone Developers", shall be qualified and approved by the EPZ Committee, as provided under Section V and, upon designation, shall be entitled to the following tax benefits:

- 1) Full exemption of income tax on EPZ operations during a fifteen-year period as of operations start-up.
- 2) Tax exemption on the importation of machinery, equipment, tools, spare parts and other articles required for EPZ operations.
- 3) Tax exemption on corporate formation, transformation, merger and amendments, including documentary tax stamps.
- 4) Full tax exemption on land and property transfers within the EPZ.
- 5) Full exemption of indirect, sales or excise taxes.
- 6) Full exemption of municipal taxes.

SECTION III

EXPORT PROCESSING ZONE CORPORATION

Art. 9. The Export Processing Zone Corporation, hereinafter “EPZC”, is hereby created for the sole purpose of administering state-owned EPZs established in the City of Managua, having its own assets and legal standing, an indefinite duration and the capacity to enter into agreements and to make commitments.

Art. 10. The EPZC shall be entitled to the same tax benefits as Export Processing Zone Developers.

Art. 11. The Board of Directors, empowered by a general power of attorney, shall act jointly and severally and manage the EPZC. The following four members shall comprise the Board of Directors:

Minister of Economy and Development, or his designee

Minister of Finance, or his designee

Central Bank President, or his designee

Minister of Construction and Transportation, or his designee

The Minister of Economy and Development and the Minister of Finance shall serve alternately as Chairman of the EPZC for two-year periods. The Minister of Economy and Development shall serve as Chairman during the first period, as of the effective date of this Decree. The Board Chairman shall be the legal representative of the EPZC.

In order to be valid, Board resolutions must be approved by at least three directors. Provisions regarding frequency of meetings, quorum and Board resolutions shall be set forth in the Regulations.

Art. 12. The Board of Directors shall appoint an Executive Secretary to manage the business and affairs of the Corporation, who shall be empowered by a general power of attorney and shall report to the Board of Directors. The special powers of the Executive Secretary shall be set forth in the Regulations.

Art. 13. The EPZC shall be primarily responsible for the organization, development and management of state-owned EPZs. Toward this end, the Corporation shall:

- a) Carry out studies in relation to the establishment of new state-owned EPZs and submit the same to the consideration of the EPZC.
- b) Purchase all kinds of goods to be furnished to EPZs.
- c) Provide facilities and equipment required by EPZ operations.

- d) Lease or assign space to companies setting up operations in the EPZs, as well as services required by EPZ Tenants to operate therein.
- e) Provide and install utility services and other amenities in the EPZs as required by EPZ Tenants.
- f) Enter into and execute any other act or agreement as may be necessary or convenient to achieve its purpose.

Art. 14. The EPZC may subcontract management of state-owned EPZs to private or partially state-owned corporations by executing the respective agreement, subsequent to approval by the EPZC.

Art. 15. The Office of the Comptroller General of the Republic shall oversee corporate operations as appropriate. The Board of Directors may create an Audit Office whenever it deems convenient.

SECTION IV EXPORT PROCESSING ZONE TENANTS

Art. 16. EPZ Tenant means any business, industrial or service facility authorized by the EPZC to do business within an EPZ. EPZ Tenants shall be organized as a corporation under Nicaraguan law for the sole purpose of doing business within an EPZ. Foreign corporations may operate through subsidiaries or branches duly registered in the country, which shall be subject to the same restrictions.

Art. 17. Companies that wish to set up operations within an EPZ shall submit an application to the EPZC, which shall review and decide each case. The EPZC shall issue a decision, at its sole discretion, taking into account national economic policy and the suitability of the project proposal, all in accordance with provisions set forth under this Decree and its Regulations.

Art. 18. Only domestic or foreign companies engaged in manufacturing and export of goods or services shall be deemed admissible.

Art. 19. EPZ Tenants may carry on any activity related to the production, storage and export of goods or services, in accordance with the respective Operating Permit.

Art. 20. EPZ Tenants shall be entitled to the following tax benefits:

1. Each EPZ Tenant shall be tax-exempt during the first ten years of operation and thereafter shall pay 60%. This exemption shall not include income tax on salaries, wages or fees paid by EPZ Tenants to domestic or foreign workers. EPZ Tenants shall not be required to withhold taxes on payments to non-resident aliens in Nicaragua or abroad on account of loan interest, commissions, fees and remittances for legal, promotional, marketing, advisory and like services.

2. All real property within an EPZ shall be exempt from any property or land tax, including capital gains tax, if any, provided that the Company is closing operations in the EPZ and the real property is still subject to the Export Processing Zone regime.
3. Tax exemption on corporate formation, transformation, merger and amendments, including documentary tax stamps.
4. Full exemption of import duties and excise taxes on raw materials, supplies, equipment, machinery, matrices, spare parts, samples, dies and accessories earmarked for Company operations within an EPZ, as well as all applicable taxes on equipment required to install and operate mess halls, health posts, medical services, childcare centers, recreational facilities and any other goods intended to satisfy the needs of EPZ staff.
5. Import duty and tax exemption on transportation equipment, including freight, passenger and service vehicles earmarked for normal use in EPZ. In the event said vehicles are sold to buyers outside the EPZ, customs duties shall be assessed, including all applicable customs rebates for usage, such as those applied for sales by diplomatic missions or international organizations.
6. Full exemption of indirect, sales and excise taxes.
7. Municipal tax exemption.
8. Export tax exemption on products manufactured within EPZs.

In order to qualify for the tax benefits stipulated in this Article, or any other benefit granted herein, EPZ Tenants shall hire a reasonable number of workers and shall pay salaries and fringe benefits as stipulated in their application. In any case, EPZ Tenants shall be subject to the laws of the Republic of Nicaragua.

SECTION V EXPORT PROCESSING ZONE COMMITTEE

Art. 21. The Export Processing Zone Committee, hereinafter “the EPZC”, is hereby established to regulate the Export Processing Zones regime.

Art. 22. The EPZC shall have the following duties:

1. Consider, analyze and decide whether to establish new EPZs or reactivate existing EPZs that have ceased to operate, as well as applications to establish private or state-owned EPZs, and shall submit its recommendations to the Office of the President of the Republic.
2. Consider and approve the establishment of companies in existing EPZs by issuing the respective Operating Permit.
3. Participate in the negotiation of international agreements on products manufactured in EPZs and keep adequate controls in order to comply with provisions set forth therein.

4. Consider and establish duties and penalties of EPZ Tenants as provided under the Regulations of this Decree.
5. Promote the establishment and operation of expeditious and simplified customs and money exchange regimes for EPZ Tenants and Operators.

Art. 23. The Export Processing Zone Committee shall be comprised by:

- a) The Minister of Finance.
- b) The Minister of Economy
- c) The Minister of Labor.
- d) The President of the Central Bank.
- e) One designated representative from the Nicaraguan Chamber of Industry.

The Minister of Finance and the Minister of Economy and Development shall chair the Committee, alternatively, for two-year periods. The Minister of Finance shall serve as Chairman during the first period, commencing on the effective date of this Decree.

Alternates may substitute EPZC members at the meetings. The EPZC shall appoint a Secretary, who shall act as the spokesperson and shall take the minutes of the meetings.

EPZC decisions shall require the affirmative vote of at least four members present at the respective meeting. In case of a tie, the Chairman shall have a casting vote.

Art. 24. The frequency of the meetings, the specific duties of the Secretary and other aspects related to the EPZC shall be set forth in the Regulations of this Decree.

SECTION VI FINAL PROVISIONS

Art. 25. The management and assets of Las Mercedes Export Processing Zone, Phase I and II, under the Export Processing Zone Authority shall fall under the EPZ Corporation as of the date this Decree has force and effect. For all intents and purposes, it shall be understood that the Export Processing Zone Corporation is the uninterrupted legitimate successor of the Export Processing Zone Authority.

Art. 26. Presidential Decrees No. 22, dated March 23, 1976, creating the Export Processing Zones, published in *La Gaceta* No. 76 on March 30th of that same year, and No. 256, dated March 20, 1987, published in *La Gaceta* No. 79 on April 6th of that same year, assigning land management at Las Mercedes Export Processing Zone, Phases I and II, to *Corporación Industrial del Pueblo* (COIP), are hereby repealed. Presidential Decree No. 48 dated October 13, 1976, published in *La Gaceta* No. 239 on October 21, 1976, is hereby fully reinstated, with an amendment to Article 3 as set forth hereunder:

“Art. 3. Las Mercedes Export Processing Zone, Phases I and II, shall be managed by the Export Processing Zone Corporation and shall be subject to all provisions under Decree 46-91 and its Regulations.”

Art. 27. The Office of the President of the Republic shall draft and publish the Regulations of this Decree.

Art. 28. This Decree shall enter into force and effect as of its publication in any mass media, without prejudice to its subsequent publication in *La Gaceta*.

Given in the City of Managua, Office of the President, on the thirteenth day of November nineteen ninety-one. Violeta Barrios de Chamorro, President of the Republic of Nicaragua.