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**COUNCIL OF MINISTERS**

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**Decree-Law No. 48/99**

**of 2 August**

**Free Commercial Zones**

Law No. 83/V/98 of 21 December, creates the Free Commercial Zones in Cape Verde.

As consecrated in its article 2, it behooves the Government to establish by Decree-Law the fiscal juridical regime applicable to goods, nature and territorial scope, characteristics of the commercial free zones and regulation of the commercial activity developed in them.

Under these terms and in the use of the faculty conferred by subparagraph c) of article 216 of the Constitution, the Government decrees the following:

**CHAPTER I**

**General provisions**

**Article 1º**

**Definitions**

- a) Commercial Free Zone (CFZ) is a part of the national territory unequivocally delimited, in which the goods introduced therein are considered, for the purpose of application of duties and any other impositions related to importation, and the application of commercial policy to importation, as not being in the national customs.
- b) Person – any singular or collective person;
- c) Cessionnaire – any person, national or foreign authorized to administer and manage a free commercial zone.
- d) Operator – any person installed in the Commercial Free Zone who executes goods warehousing, purchase and sale.

**Article 2º**

**Location**

1. The geographical limits of the Commercial Free Zone are determined by the Government, by Regulatory Decree..

2. The Commercial Free Zone will be conveniently isolated from the rest of the customs territory, with fixed access and exit.
3. The exterior zone contiguous to the delimited area must be conceived so as to permit custom oversight. All types of construction are prohibited within 20 meters, counting from the fence.
4. Building, transformation or amplification of buildings in the Commercial Free Zone, within less than ten meters from the fence, are subject to prior approval from the General Director of Customs, having heard the Commandant of the Fiscal Guard.
5. The General Director of Customs will give the approval referred to in the preceding number whenever doing so does not hinder the application of the customs regulations.

### **Artigo 3º** **Customs oversight**

1. The boundaries and the access and exit points of the Commercial Free Zone are subject to customs control.
2. Access to the Commercial Free Zone may be prohibited to persons that do not offer the necessary guarantee of compliance with the customs legislation.

## **CHAPTER II** **Operation**

### **Article 4º** **Accounting**

Any person who stores, buys or sells goods in the Commercial Free Zone must have an accounting system for the existences approved by the General Director of Customs.

### **Article 5º** **Duties of the operator**

1. The concessionaire shall notify the General Director of Customs of the name of the authorized operator and the type of activity to be developed.
2. The operator shall request, in writing, the approval of the accounting system for the existences referred to in article 4.
3. The operator will initiate his activities only after the General Director of Customs approves the accounting system for the existences.
4. The operator must show his accounting and present the goods that are in his possession whenever so solicited by the competent authorities.
5. The operator shall take all precautions for the persons that work for him in the exercise of his activities to observe the customs legislation.

**Article 6**  
**Approval of the accounting**

The approval of the accounting system for the existences shall be granted in writing, dated, signed and communicated to the requestor.

**Article 7**  
**Alteration or revocation of the accounting system**

1. The approval of the accounting system for the existences shall be altered or revoked by the General Director of Customs when the operator ceases to offer the necessary guarantees for the correct application of the provisions foresee in this law.
2. The approval shall be revoked by the General Director of Customs when repeated, unsatisfactorily justified disappearances of goods take place.
3. The activities of the operator whose accounting system for existences is in question cease to be exercised in the Commercial Free Zone, when the approval is revoked.

**Article 8**  
**Operating hours**

1. O Concessionaire shall inform the customs authorities of his operating hours with an advance notice of two work days.
2. Out of the Commercial Franc Zone's normal operating hours, the access and exit gate shall be closed. External oversight is done by the Fiscal Guard.

**Article 9**  
**Customs post**

1. A Customs Post will operate inside the Commercial Franc Zone No interior da Zona Franca Comercial. The cost of this operation shall be borne by the concessionaire.
2. A fiscal post will also operate inside the Commercial Franc Zone, with all the personnel deemed necessary for them to operate conveniently, in accordance with special customs instructions. All the expenses for the operation of this post are also borne by the concessionaire.
3. The personnel and the requisites for the installations referred to in the preceding number are fixed by dispatch of the Minister of Finance.

**Article 10**  
**Accounting records**

1. All the goods entering or exiting the Commercial Free Zone must be entered into the accounting of the existences referred to in article 4.
2. The accounting system referred to shall contain all the elements necessary to control the correct application of the regulations, namely:

- The information pertaining to the dates of entry and exit, marks, numbers, quantity and nature of the shipment, quantity and designation of the goods according to their usual commercial denomination, as well as, if such is the case, the container's identification signs;
  - The information necessary to track the merchandise, namely the location where they will be stored;
  - The reference of the document of the transport utilized at the entry and the exit of the goods;
  - The information pertaining to the usual handling.
3. The operator must report to the customs post at the Commercial Free Zone, within 48 hours, all the disappearance of merchandise that has taken place.

#### **Article 11**

##### **List of equipments**

The customs post operating inside the Commercial Free Zone should have three lists discriminating all the equipment existing in the referred Free Zone, including the machinery, tools and their utensils, with the indications "national", "nationalized" or "foreign", respectively, as the case may be.

#### **Article 12**

##### **Banking agencies**

Banking institution agencies legally authorized to operate in the Country, may operate inside the Commercial Free Zone.

### **CHAPTER III**

#### **Entry of goods**

#### **Article 13**

##### **Admission of goods**

1. The entry of merchandise in the Commercial Free Zone is not subject to presentation to the customs authorities nor to the delivery of a customs declaration, save for the provisions of article 14.
2. All merchandise coming from the outside and from the free enterprises may be admitted in the Commercial Free Zone.
3. The merchandise destined for the Commercial Free Zone are not subject to the restrictions and prohibitions, except those based upon considerations of morality or of public order or public security, hygiene or public health or of work security, or over zoo-sanitary or phyto-sanitary considerations or yet, by reason of protection to the environment and to the artistic and cultural patrimony.

4. For temporary utilization, the entry of machinery, equipment, tools and work utensils are permitted in Free Zone, by means of a special authorization, with mandatory verification and taking of signs for future verifications, at the moment of their exit.

#### **Article 14** **Document control**

For control purpose, a copy of the document pertaining to the transportation must be delivered to the customs authorities on entry, namely transit authorization, delivery notice, invoices, manifestos, acknowledgement of embarkation letter of transport fee or remittance authorization, as long as they supply all the information necessary to identify the merchandise.

#### **Article 15** **Transit**

Without prejudice for the document pertaining to the transportation, whenever the merchandise destined for or belonging in the Commercial Franc Zone has to cross the customs territory, they must circulate under the cover of a national transit authorization registered in the respective customs post.

#### **Article 16** **Usual handling**

1. The goods deposited in the Commercial Free Zone can be subjected to the usual handling, destined to ensure their conservation, improve their appearance or commercial quality or prepare their distribution and resale.
2. For the purpose of this law, aside to the loading and unloading operations, the following operations are considered usual handling:
  - a) Ventilation, spreading, removal of dust, simple cleaning operations, repair of the packaging, elementary repair of damages occurred during transportation and storage, application or renewal of protective dressing for transportation;
  - b) Elaboration of inventories, extraction of samples, and weighting of merchandise;
  - c) Removal of damaged or contaminated elements;
  - d) Conservation through radiation or the addition of a conservation agent;
  - e) Antiparasite treatment;
  - f) Any treatment through the reduction of temperature;
  - g) Operations destined to improve appearance or the commercial quality of the goods;
  - h) Selection, filtering mechanics, classification and sifting;

- i) Adjustment, reconditioning and regulation;
  - j) Packaging, repackaging, depackaging, decantation or simple transfer to a container;
  - k) Apposition and modification of the marks, stamps, etikettes for price or of other similar distinctive signs;
  - l) Tests, adjustments and preparation for operation of machinery, equipment and vehicles, as long as these are simple operations;
  - m) Anticorrosion treatment;
  - n) Reconstitution of merchandise after transportation;
  - o) Other usual handlings with prior knowledge to the customs authorities.
3. The handling that may alter the identification or the quantity of the merchandise deposited in the Commercial Free Zone should be previously authorized by the customs authorities, who will attend the referred operations, whenever deemed necessary.

#### **Article 17**

##### **Stay deadline**

The stay deadline for merchandise in the Commercial Free Zone is unlimited.

#### **Article 18**

##### **Dangerous merchandise**

Dangerous goods that are susceptible of altering other goods, or that, for other reasons, need special installations, shall be placed in locations especially equipped to receive them, according to indication by the concessionaire.

### **CHAPTER IV**

#### **Exit of Merchandise**

#### **Article 19**

##### **Destination of the goods**

1. The goods deposited in the Commercial Free Zone may be reexported, introduced into consumption or placed under another customs regime, duly authorized.
2. The entry into consumption of the goods deposited in Commercial Free Zone requires the observance of the regulation applicable to the foreign trade of importation.

## **Article 20**

### **Reexportation**

1. Goods exported from the Commercial Free Zone are not required to be presented in customs nor to the delivery of a customs declaration.
2. For the purpose of control, on exit, a copy of the transportation document with all the information necessary to identify the goods must be delivered to the customs authorities.
3. Any time the goods have to cross the customs territory during reexportation, the provisions of article 15 shall be applied to them.

## **Article 21**

### **(Provisionment of aircraft and ships)**

For the purpose of provisionment, the goods deposited in the Commercial Free Zone may be reexported to aircraft and ships on international trips.

## **Artigo 22**

### **Abandonment, breakdowns, unserviceability**

1. Aside from the destinations foreseen in No. 1 of article 14, the goods deposited in the Commercial Free Zone may also be rendered unserviceable or abandoned to the Public Patrimony, when this possibility is foreseen in the national legislation.
2. The customs post in the Commercial Free Zone must be previously notified of the reexportation or the destruction of goods, for the purpose of oversight.
3. The abandonment is carried out in accordance with the national legislation.
4. The concessionaire or the public coffers should bear any of the cost of rendering goods unserviceable or abandoned.
5. One of the customs destinations foreseen in the applicable legislation must be attributed to the waste or residue eventually resulting from rendering goods unserviceable.
6. For fiscal purposes, loss of goods by accident or by reason of forces beyond human control, or yet for reasons pertaining to the nature of the goods, as long as sufficiently proven by the operator.

## **Article 23**

### **Internal movement**

Exit of goods from the locations utilized for the exercise of the activity must be immediately entered in the accounting of existences.

**Article 24**  
**Ceding of goods**

1. Goods may be ceded by one operator to another, within the Commercial Free Zone.
3. The ceding foreseen in the preceding number implies immediate entry into the respective accounting of existences.

**Article 25**  
**Temporary exit of equipment**

1. Machinery, equipment, tools and utensils are permitted to exit the Commercial Free Zone, temporarily, for repair.
2. The exit will be authorized by the customs post in the Commercial Free Zone and is done by means of a special processing authorization, which will indicate the location where the work will be executed, the identification signs for verification by Customs, on exit and upon return to the Commercial Free Zone, as well as the deadline established for the return of the equipment.
3. The authorization referred to in No. 2 of this article shall be registered at the customs post and shall be conferred when the merchandise return to the Commercial Free Zone.

**Article 26**  
**Retail sale**

1. Retail sale is allowed of the following portable artifacts, free of tax and dispensed from having to present a customs declaration:
  - Photographic equipment;
  - Binoculars and telescopes;
  - Pens, mechanical pencils and their accessories, of marks and models to be defined by dispatch of the member of the Government responsible for trade;
  - Video-camera
  - Walk-man and sound recorders;
  - Watch-man – (televisions of small dimensions);
  - Radio-receivers;
  - Calculators;
  - Portable computers;
  - Jewelry and gold artifacts, precious metals artifacts, precious and semiprecious stones artifacts;



- Silk fabrics;
  - Swiss knives;
  - Perfumes and toilet waters;
  - Lips makeup products;
  - Eye makeup products;
  - Preparations for manicure and pedicure including the compacts;
  - Unspecified beauty products;
  - Hairspray;
  - Unspecified capillary preparations;
  - Dental floss;
  - Unspecified preparations for oral hygiene;
  - Unspecified shaving preparations;
  - Unspecified cosmetics;
  - Cellular phones;
  - Silk neckties and kerchiefs;
2. The artifacts referred to in this article shall be sold in appropriate establishments and separate from the area reserved exclusively for operations and storage of merchandise.
  3. The operator shall send to the customs post and to the Fiscal Post a copy of each retail sale invoice, for the purpose of control.

## **CHAPTER V**

### **Customs incentives**

#### **Article 27**

#### **Customs exemptions**

The importations of the following merchandise, when destined for the operation of the Commercial Free Zone, are exempt from duties, general customs emoluments, consumption tax and other customs impositions, current and future:

- a) Construction materials, including metallic structures for installation, expansion or renovation;

- b) Machinery, utensils, mobile instruments, as well as the respective accessories and individual parts;
- c) Cargo material and transportation of goods for the exclusive use of the concessionaire or the operator, that is necessary for the development of his activities.

**Article 28**  
**Customs exemptions**

1. Foreign goods imported to be consumed within the Commercial Free Zone in common handling, are entitled to customs exemption.
2. Whenever nationalized merchandise is used for the same purpose, the operator may benefit from the restitution of the duties, general emoluments and consumption tax, as long as it is requested within 120 days, counting from the purchase date.

**CHAPTER VI**  
**Diverse**

**Article 29**  
**Customs infractions**

The deviation or disappearance of goods in national transit to or from the Commercial Free Zone constitutes deviation of duties, under the terms of the law.

**Article 30**  
**Subsidiary responsibility**

The operator incurs civil and subsidiary responsibility for the payment of the amounts for which his employees are sentenced in a fiscal process.

**Article 31**  
**Suppression of the Free Zone**

In the event of suppression of the Free Commercial Zone, the interested persons shall be granted a sufficient deadline to give a new destiny to their goods.

**Article 32**  
**Effective date**

This law goes into effect immediately.

Reviewed and approved in the Council of Ministers

*Carlos Veiga – José Ulisses Correia Silva – Alexandre Dias Monteiro*

Promulgated on 16 July 1999

Publish it.

The President of the Republic, ANTONIO MANUEL MASCARENHAS GOMES  
MONTEIRO

Referended on 19 July 1999

*Carlos Veiga.*