

**FOR INTERNAL GOL PURPOSES**

**NOT FOR DISTRIBUTION EXTERNALLY**

**FOREIGN TRADE LAW**

**PREAMBLE**

WHEREAS it is in the best interests of Liberia to encourage free, open and fair trade with other nations;

RECOGNIZING that such trade is essential for the enhancement of the Liberian economy and for securing the competitiveness of and long-term sustainable development and growth for Liberia, and that the expansion of trade creates jobs for Liberians, achieves higher standards of living, offers greater choices for consumers and strengthens the Liberian economic union;

NOW THEREFORE it is hereby enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature assembled.

**Section 1: Short Title**

This Act shall be known as the *Foreign Trade Law*.

**PART I – INTERPRETATION AND APPLICATION**

**Section 2: Definitions**

In this Act, unless the context otherwise requires:

- 2.1 “Business organization” means any corporation, company, body corporate, partnership, joint venture, association, foundation, trust or other organization or entity, whether for profit or not for profit, incorporated, created, formed or established under the laws of any jurisdiction.
- 2.2 “Court” means the Commercial Court sitting in Montserrado County.
- 2.3 “Country” means any foreign state whether it is a member of the World Trade Organization or otherwise.
- 2.4 “Domestic person” means:
  - (a) any natural person who is ordinarily resident in Liberia;
  - (b) any business organization whose head or principal office is in Liberia and conducts or carries on business in Liberia; and
  - (c) any business organization whose head or principal office is outside Liberia but which maintains an office in Liberia from which it conducts or carries on business in Liberia.
- 2.5 “Foreign person” means:

- (a) any natural person who is ordinarily resident outside Liberia; and
  - (b) any business organization whose head or principal office is located outside Liberia and does not conduct or carry on business in Liberia.
- 2.6 “Foreign Trade” means any trade, commerce, agreement, arrangement, transaction or other activity involving the movement of goods and services between Liberia and other countries.
- 2.7 “Goods” means tangible property (other than real property) of every kind or description, including any rights thereto or interests therein.
- 2.8 “Minister” means the Minister of Commerce and Industry.
- 2.9 “Most Favoured Nation Treatment” or “MFN Treatment” means:
- (a) with respect to goods, treatment that, with respect to custom duties and any other charges or levies of any kind imposed on or in connection with the export or import of goods out of or into Liberia to or from any WTO member, and with respect to all rules and formalities in connection with such exports or imports, including internal taxes and other charges, laws, regulations, rules and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of goods, is no less favourable than similar treatment accorded to like goods imported from or exported to any other WTO member; and
  - (b) with respect to services, treatment accorded to services and suppliers of services of any WTO member that is no less favourable than treatment accorded to like services and suppliers of services of any other WTO member.
- 2.10 “National Treatment” means:
- (a) with respect to goods, that imported goods from any WTO member shall not be subject, directly or indirectly, to any internal taxes or other charges or levies of any kind in excess of or different than those imposed on like domestic goods, and that all laws, regulations, rules and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of goods shall be the same for imported goods from any WTO member as they are for like domestic goods, and that no internal taxes or other charges, laws, regulations, rules or requirements shall be imposed or applied on imported goods from any WTO member in order to afford protection to like domestic goods or domestic suppliers of like goods; and
  - (b) with respect to services, that foreign services and foreign service suppliers of any WTO member shall, in respect of all measures that affect the supply of services, be no less favourably treated than like domestic services and domestic suppliers of like services.
- 2.11 “Person” means any natural person or business organization.

- 2.12 “Quantitative Restriction” means the highest total value or maximum quantity of specified goods that may be exported from or imported into Liberia within a prescribed period of time, including a ban on the export or import of specified goods.
- 2.13 “Quota” means a share in the total value or maximum quantity of exported or imported goods which is allocated to a certain person or group of persons.
- 2.14 “Restrictive Measure” means any prohibition, quantitative restriction, quota, special charge, duty, levy, tax, condition, license, approval, permit or other requirement or measure imposed by Liberia that has a restrictive effect on Foreign Trade.
- 2.15 “Service” means a service of any kind whether industrial, trade, professional or otherwise.
- 2.16 “Tribunal” means the Foreign Trade Tribunal as constituted in accordance with the provisions of section 22 of this Act.
- 2.17 “WTO member” means any country that is a member of the World Trade Organization.

### **Section 3: Application**

This Act applies to all Foreign Trade except as otherwise specifically provided herein.

## **PART II – GENERAL PRINCIPLES**

### **Section 4: Right to Import and Export**

- 4.1 Subject to the provisions of this Act and to any other applicable laws of Liberia relating to Foreign Trade, any person, domestic or foreign, may import or export goods and services into or from Liberia, as the case may be.
- 4.2 The provisions of this Act and of any other applicable laws of Liberia shall be interpreted and administered in such a manner as to have the least restrictive effect on Foreign Trade and so as not to constitute or provide indirect protection to domestic persons who are suppliers of goods and services.

### **Section 5: Restrictive Measures**

- 5.1 The Minister may establish a Restrictive Measure under this Act provided that:
- (a) it is specifically authorized by this Act;
  - (b) it is necessary to achieve a particular purpose prescribed by this Act; and
  - (c) the type and scope of the Restrictive Measure are limited to the minimum extent necessary to achieve that purpose.

- 5.2 A Restrictive Measure established pursuant to section 5.1 shall be abolished or its scope shall be reduced to the extent that the reasons requiring its establishment have ceased to exist or have changed.

## **Section 6: Transparency**

- 6.1 The Minister shall publish in the Official Gazette or in such manner or by such means that will, in the Minister's opinion, bring the following lists to the attention of interested parties, and shall make available to any interested party a copy of any or all of the following lists at no charge:
- (a) a list of Restrictive Measures that are imposed from time to time pursuant to section 5.1;
  - (b) a list of all fees charged pursuant to section 7.1;
  - (c) a list of goods which may not be imported into Liberia pursuant to sections 11.1 and 11.2;
  - (d) a list of Quantitative Restrictions imposed on exports and imports pursuant to sections 15.1 and 15.2;
  - (e) a list of goods which are subject to quotas pursuant to section 16.2; and
  - (f) a list of import licenses and export licenses that must be obtained pursuant to section 17.
- 6.2 The Minister shall publish in the Official Gazette or in such manner or by such means that will, in the Minister's opinion, bring to the attention of interested parties any rules, regulations or guidelines prescribed by the Minister under this Act, such publication to be made at least 21 days before any such rules, regulations or guidelines come into force. During such 21-day period, interested parties may make submissions in writing to the Minister regarding such rules, regulations or guidelines.

## **Section 7: Fees**

- 7.1 No fees shall be imposed or levied under this Act or any other Act relating to Foreign Trade except as are related to, and are required to compensate for, the services actually rendered, and any fees or charges that are imposed in connection with Foreign Trade, including on or in respect of imports and exports of goods or services, shall be limited to the approximate cost of the services rendered, and shall not represent an indirect protection of domestic goods or services or a taxation of imports or exports of goods or services levied for the purposes of obtaining revenue for fiscal purposes.
- 7.2 For greater certainty, this section 7 does not apply to customs duties, excise taxes, tariffs and other similar charges and levies.

## **PART III – FOREIGN TRADE IN GOODS**

### **Section 8: National Treatment**

- 8.1 Notwithstanding any other Act of the Legislature, imported goods, other than those which are prohibited by law, shall be entitled to National Treatment as required by international agreements to which Liberia is a party and by which it is bound.
- 8.2 Foreign persons who are involved in the import or export of goods into or from Liberia shall, provided they comply with the provisions of this Act, be accorded treatment equivalent to that accorded to domestic persons.

### **Section 9: Importer of Record**

- 9.1 A foreign person shall be permitted to import goods into Liberia solely as the importer of record, provided that it does not engage in any further or other activities in respect of such goods, without having to comply with the internal laws of Liberia regarding licensing, registration or other similar requirements applicable to persons who conduct or carry on business in Liberia.
- 9.2 Notwithstanding section 9.1, foreign persons who are involved in the sale, offering for sale, purchase, transportation, storage, distribution or use of goods in Liberia must comply with the applicable laws of Liberia with respect to such activities in the same manner as domestic persons.

### **Section 10: Most Favoured Nation Treatment**

- 10.1 Notwithstanding any other Act of the Legislature, imported and exported goods shall be accorded Most Favoured Nation Treatment as required by international agreements to which Liberia is a party and by which it is bound.

### **Section 11: Prohibited Imports**

- 11.1 Goods shall not be imported into Liberia for any purpose if it is prohibited to do so under this Act or any other Act.
- 11.2 Without limiting the generality of section 11.1, the Minister may prohibit the import of goods if the export, transportation or delivery of such goods is prohibited under the laws of the country of export or the country of origin of such goods or by the laws of the country to which the goods are destined prior to being imported into Liberia.

### **Section 12: International Trade Sanctions**

- 12.1 The Minister may, for the purpose of implementing a decision, resolution or recommendation of an international organization of states or association of states, of which Liberia is a member, that calls on its members to take measures against a foreign state, or where the Minister is of the opinion that a grave breach of international peace

and security has occurred that has resulted or is likely to result in a serious international crisis,

- (a) recommend to the President that he or she issue such Executive Orders with respect to any of the activities referred to in section 12.2 in relation to a foreign state as the Minister considers necessary; and
- (b) recommend to the President that he or she by Executive Order cause to be seized, frozen or sequestered in the manner set out in the Executive Order any property situated in Liberia that is held by or on behalf of (i) a foreign state, (ii) any person in that foreign state, or (iii) a national of that foreign state who does not ordinarily reside in Liberia.

12.2 Executive Orders may be made pursuant to section 12.1(a) with respect to the restriction or prohibition of any of the following activities, whether carried out in or outside Liberia, in relation to a foreign state:

- (a) any dealing by any person in Liberia or by a Liberian citizen outside Liberia in any property wherever situated held by or on behalf of that foreign state, any person in that foreign state, or a national of that foreign state who does not ordinarily reside in Liberia;
- (b) the exportation, sale, supply or shipment by any person in Liberia or by a Liberian citizen outside Liberia of any goods or services wherever situated to that foreign state, or any other dealing by any person in Liberia or by a Liberian citizen outside Liberia in any goods or services wherever situated destined for that foreign state or any person in that foreign state; and
- (c) the importation, purchase, acquisition or shipment by any person in Liberia or by any Liberian citizen outside Liberia of any goods or services that are exported, supplied or shipped from that foreign state after a date specified in the Executive Order, or any other dealing by any person in Liberia or by a Liberian citizen outside Liberia in any such goods or services.

## **PART IV – FOREIGN TRADE IN SERVICES**

### **Section 13: National Treatment**

13.1 Notwithstanding any other Act of the Legislature, foreign services and foreign persons supplying services in Liberia shall be accorded National Treatment as required by international agreements to which Liberia is a party and by which it is bound.

### **Section 14: Most Favoured Nation Treatment**

14.1 Foreign services and foreign persons supplying services in Liberia shall be accorded Most Favoured Nation Treatment as required by international agreements to which Liberia is a party and by which it is bound.

## PART V – QUANTITATIVE RESTRICTIONS AND QUOTAS

### Section 15: Quantitative Restrictions

- 15.1 The Minister may impose Quantitative Restrictions on exports:
- (a) in the case of critical shortages of goods essential to Liberia and its citizens, or for the relief of the consequences of such shortages; or
  - (b) in order to protect the long-term supply and sustainability of exhaustible natural resources.
- 15.2 The Minister may impose Quantitative Restrictions on imports of goods if:
- (a) the Minister determines that the particular goods are being imported into Liberia at such prices, in such quantities and under such conditions as may cause or are likely to cause material injury to domestic persons who produce like or directly competitive goods; or
  - (b) the Minister determines that such Quantitative Restrictions are necessary to protect the national security of Liberia, or human, animal or plant life, health or safety in Liberia.
- 15.3 Any Quantitative Restrictions imposed pursuant to this section 15 shall remain in effect only for so long and to such an extent as is necessary to achieve the purpose or purposes for which they were imposed.

### Section 16: Quotas

- 16.1 If the Minister determines to impose Quantitative Restrictions on exports or imports of certain goods pursuant to sections 15.1 or 15.2, the Minister shall give public notice of any such determination, which notice shall specify the period of time during which the Quantitative Restrictions shall apply. Any such public notice shall be given in the same manner as is provided for in section 6.
- 16.2 If the Minister makes a determination under section **Error! Reference source not found.**, the Minister may, subject to section 16.2, require that quotas be obtained in order to import or export any goods which are the subject of such determination. In that event, the Minister shall invite the public to submit applications therefor, which invitation shall set out what is required to be contained in an application, the criteria for granting an application and the terms and conditions on which an application may be granted.
- 16.3 The Minister shall grant quotas on the basis of objective and commercially reasonable criteria, as set out in the invitation to the public, and in accordance with principles of fairness, impartiality and transparency. Without limiting the generality of the foregoing, any criteria adopted by the Minister for the purpose of granting quotas shall not be for the purpose of protecting domestic persons and shall not have a distorting effect on trade.

- 16.4 In the case of Quantitative Restrictions imposed on imports of goods pursuant to section 15.2, quotas may be granted under this section in such manner as to approximate as closely as possible the respective shares which WTO members had in respect of the importation of such goods prior to the Quantitative Restriction being imposed, such shares to be determined based on a reasonable and representative period of time taking into account any special factors which may have affected trade in those goods during such period.
- 16.5 A decision to grant a quota to a particular person shall specify the terms and conditions upon which it is made and the time period during which the quota may be utilized.
- 16.6 The Minister may revoke a quota granted to a particular person at any time and may grant the quota to another person, if the person to whom the quota was originally granted did not adhere to the terms and conditions to which it was subject or if such person did not utilize the quota.
- 16.7 Except as provided in section 16.6, a quota granted to one person may not be transferred or assigned to, or used by, any other person.

## **PART VI – LICENSES**

### **Section 17: License Requirements**

- 17.1 The Minister may, in accordance with the provisions of this Part VI, require that licenses be obtained for the import or export of certain goods. Any licenses shall be issued on the basis of objective and commercially reasonable criteria, conditions and procedures and in accordance with the principle of National Treatment.
- 17.2 Except as otherwise provided in this or any other Act, no goods for which a license is required under this section 17 shall be released from customs except upon presentation of a valid license that has been duly issued in accordance with the provisions of this Act.
- 17.3 The Minister may require that licenses be obtained for certain goods if in his or her opinion it is necessary to achieve any of the purposes prescribed in sections 18.1 and 18.2.
- 17.4 In addition to the authority contained in section 17.3, the Minister may require that licenses be obtained for the import or export of certain goods for informational and statistical purposes or for the purpose of monitoring the level of trade in those goods.
- 17.5 Prior to requiring that a license be obtained under section 17.3, the Minister shall determine that licensing will not have any restrictive or distortive effects on trade in such goods, other than those caused by the requirement to obtain a license.
- 17.6 Prior to requiring that a license be obtained under section 17.4, the Minister shall determine that the required information is not otherwise available or cannot reasonably be obtained by other means that are less burdensome to the license holders.



- 17.7 The Minister shall review at least annually the lists of goods requiring a license under sections 17.3 and 17.4, respectively, and shall remove from such lists any goods which the Minister determines no longer need to be licensed because the purposes for which the licensing requirement was initially imposed no longer exist or have changed or because those purposes can be achieved by other, less burdensome means. The Minister shall give public notice of such review in the manner provided in section 6 above and shall allow any interested persons a reasonable opportunity to make representations regarding the goods on those lists, either in writing or in person.
- 17.8 The Minister may prescribe by regulation from time to time those circumstances in which a license will not be required in respect of goods which are specified pursuant to sections 17.3 and 17.4.
- 17.9 Any import or export permit, license, approval or other similar document that was issued under an Act that was in force prior to the coming into force of this Act shall remain valid until it expires in accordance with its terms.

#### **Section 18: Criteria for Licenses**

- 18.1 For the purposes of section 17.3, the Minister may require that import licenses be obtained when it is necessary to:
- (a) protect human, animal or plant life, health or safety;
  - (b) protect the national security of Liberia;
  - (c) protect the security and safety of food supply in Liberia;
  - (d) protect the environment or exhaustible natural resources;
  - (e) restrict or prohibit trade in controlled or restricted drugs and pharmaceutical products;
  - (f) implement sanitary or phytosanitary measures;
  - (g) protect public morals;
  - (h) protect intellectual property rights; or
  - (i) enforce any special rules relating to trade in timber or diamonds.
- 18.2 For the purposes of section 17.3, the Minister may require that export licenses be obtained when it is necessary to:
- (a) protect national treasures of artistic, cultural, historic or archeological value;
  - (b) protect endangered species or plants;
  - (c) protect the security of food supply in Liberia;

- (d) protect human, animal or plant life, health or safety;
- (e) protect the national security of Liberia;
- (f) protect the environment or exhaustible natural resources;
- (g) protect intellectual property rights; or
- (h) enforce any special rules relating to trade in timber and diamonds.

## **Section 19: Issuance, Renewal and Cancellation of Licenses**

- 19.1 The Minister shall have the sole authority to issue licenses pursuant to this section 19 to any person who is otherwise eligible to obtain a license under this or any other Act.
- 19.2 In making any determination to issue licenses pursuant to this section 19, the Minister may consult with such other ministries, bodies or agencies as he or she considers necessary or advisable.
- 19.3 The Minister shall prescribe by regulation the form of application for a license, any supporting documents that are required to be filed with an application, and the fees, if any, that are payable upon submission of an application.
- 19.4 An application for a license under section 17.3 or for the renewal of such a license shall be considered as expeditiously as possible and shall be issued, if the Minister deems it appropriate to do so, no later than 30 days after the date on which an application was submitted. If the Minister determines not to issue any particular license, the Minister shall give notice of such determination to the applicant together with the reason or reasons therefor.
- 19.5 A license pursuant to section 17.4 shall be issued automatically by the Minister, upon receipt of a duly completed application form, to each and every applicant within five (5) business days of receiving an application therefor. Such license shall expire on the first anniversary of its issuance and shall be automatically renewed within five (5) business days of the holder filing a duly completed application for renewal. No fee shall be payable for the issuance or renewal of such a license.
- 19.6 The Minister shall not refuse to issue a license by reason only that the application therefor contains minor documentation errors which do not affect the remainder of the information set out in the application.
- 19.7 The Minister shall prescribe by regulation the terms and conditions on which licenses may be issued, including whether they may be issued for more than one type or kind of good, for a single consignment of goods or for multiple consignments of goods over a period of time specified in the license.

- 19.8 The Minister may cancel any license on one or more of the following grounds:
- (a) the goods to which the license applies have subsequently been prohibited from being imported or exported in accordance with the provisions of this Act;
  - (b) the holder of the license has contravened one or more of the terms or conditions of the license;
  - (c) the license was issued in error or in contravention of this Act or any applicable law; or
  - (d) the application for the license contained incorrect, inaccurate, false or misleading information.
- 19.9 Any license issued pursuant to section 17.3 for a period of time shall be valid only for the period specified in the license. Any such license may be renewed for further periods, from time to time, upon the submission of a duly completed renewal application by the license holder.
- 19.10 Goods imported into Liberia pursuant to a license issued under this section 19 shall not be refused entry for minor variations in value, quantity or weight from the amount (if any) designated in the license due to differences occurring during shipment, differences incidental to bulk loading or other minor differences consistent with normal commercial practices.
- 19.11 Any license which is issued pursuant to this section 19 may only be used by the person to whom it was issued and, for greater certainty, may not be transferred or assigned to, or used by, any other person.

## **PART VII – ADMINISTRATION, APPEALS AND ENFORCEMENT**

### **Section 20: Delegation**

- 20.1 The Minister may, at any time and from time to time, delegate any of his or her powers, duties or responsibilities under this Act to any person or persons in, or any department, bureau or division of, the Ministry of Commerce and Industry designated by the Minister, and any reference to the Minister in this Act shall, and shall be deemed to, include a reference to his or her delegate or delegates designated under this section 20.1.

### **Section 21: Rules and Guidelines**

- 21.1 To assist in the administration of this Act, the Minister may, at any time and from time to time, prescribe rules, regulations and guidelines for any purpose of the Act, including, without limitation, describing the steps that parties may take with regard to compliance with the provisions of this Act, the manner in which the Minister may exercise his or her discretion under any provision of this Act, the criteria, conditions and procedures upon the basis of which licenses may be issued under this Act and the terms and conditions

which may be imposed in respect of any licenses, or regarding any other matter pertaining to the administration of this Act.

## **Section 22: Tribunal**

- 22.1 The Tribunal shall be composed of five (5) persons who shall be appointed by the Minister from time to time. Appointees to the Tribunal may be representatives of the Ministry of Commerce and Industry and of such other ministries, departments or agencies of the Government of Liberia, or of the private sector, as the Minister in his or her discretion determines.
- 22.2 Members of the Tribunal shall serve for a term of five (5) years but their appointments may be renewed for a further term or terms at the discretion of the Minister.

## **Section 23: Appeals**

- 23.1 A person whose right to engage in Foreign Trade is affected by any determination or decision made by the Minister pursuant to this Act has a right to appeal in accordance with this section 23.
- 23.2 Without limiting the generality of section 23.1, a right of appeal exists in respect of a decision to establish a Restrictive Measure under section 5.1, a decision to impose or levy fees under section 7.1, a decision to impose Quantitative Restrictions under sections 15.1 or 15.2, a decision to grant quotas in respect of the import or export of certain goods pursuant to section 16.2, a decision to revoke a quota under section 16.6, a decision to require a license to import or export certain goods under section 17.1, a decision not to issue a particular license under section 19.4, and a decision to cancel any license pursuant to section 19.8.
- 23.3 A person may appeal to the Tribunal any decision or determination made by the Minister under this Act that affects his or her right to engage in Foreign Trade. To do so, an affected person must file a notice of appeal in a form prescribed by the Tribunal within 30 days of the date of the decision or determination in question.
- 23.4 Upon receipt of a valid notice of appeal, the Tribunal shall fix a date for a hearing of the appeal. At the hearing, the affected person and his or her counsel may attend in person and may make oral or written submissions to the Tribunal, may examine and cross-examine witnesses under oath, and may produce documents.
- 23.5 The Tribunal shall prescribe its own rules of procedure, provided however that such rules shall ensure that the affected person is guaranteed due process and a fair hearing, including the right to be represented by counsel. The rules of procedure shall be published in accordance with the provisions of section 6.
- 23.6 The Tribunal shall render its decision within a reasonable time after a hearing is held and shall provide written reasons for its decision.

- 23.7 Both the Minister and the affected person have the right to appeal any decision of the Tribunal to the Court. Any such appeal shall be instituted by filing a notice of appeal with the Court within 30 days of a decision of the Tribunal.
- 23.8 Upon the hearing of such an appeal, the Court may order any form of relief it considers necessary or appropriate in the circumstances, including, without limitation, specific performance or injunctive relief, on such terms and for such time periods as the Court considers necessary or advisable.

#### **Section 24: Enforcement**

- 24.1 Any person who contravenes or fails to comply with any provision of this Act, any decision or determination made by the Minister under this Act, the terms and conditions of any quota or license granted or issued under this Act, or the terms and conditions of any Executive Order made under this Act is guilty of an offence and, upon conviction, is liable to a fine not exceeding US\$■ or to imprisonment for a term not exceeding ■ years, or to both.

#### **Section 25: Confidential Information**

- 25.1 All information that is provided to the Minister, or any officer, employee or agent thereof, pursuant to any provision of this Act on a confidential basis shall be treated as such and shall not be disclosed to any other person without the express consent of the person who provided the confidential information, except where disclosure is required by applicable law.

#### **Section 26: Electronic Filing and Issuance**

- 26.1 Any application, notification, license, quota or other document the submission or issuance of which is required or provided for under this Act may be submitted or issued in the form of an electronic record, subject to such terms and conditions as the Minister may prescribe by regulation.