

REGULATORY DECREE NR. 53/82 of August 23

Considering that Decree-Law nr. 500/80, October 20, authorized the creation of a free trade zone in the Autonomous Region of Madeira, it is now necessary to provide for the relevant regulation;

Considering that the tax regulatory legislation, object of the present decree, is guided by two main factors, as follows:

- the flexibility of the customs control at the service of a potential economic centre, at a regional level, specially in respect of international trade, which will imply new solutions for the treatment of the external taxation problems; and
- the anticipated harmonization in the perspective of the forthcoming admission of Portugal to the E.E.C..

Thus, according to the provisions of article 3 of Decree-Law Nr 500/80, October 20, and with the previous approval of the Regional Government of Madeira, the Government, under the provisions of Article 202 paragraph c) of the Constitution, decrees the following:

Article 1

- 1- The Free Trade Zone (the "zone") is a limited physical area where the goods located therein are considered as not being located in the national customs territory, being exempt from customs duties, import restrictions and other similar provisions and measures, without prejudice to special provisions that may be applied in exceptional cases.
- 2- The free trade zone shall be fenced according to Article 144 of the Customs Law Reform, approved by Decree-Law Nr 46 311, April 27, 1965, being the only access gate duly supervised in accordance with terms and conditions to be approved by the Customs General Administration.
- 3- In order to obtain a more effective supervision, the free trade zone shall be surrounded by an outside drive-way to be constructed before operations start.
- 4- The construction of buildings in the free trade zone must be previously authorised by the competent authorities referred to in Article 4 below.

Article 2

- 1- A customs-house will operate at the zone's entrance gate subject to the authority of the Customs of Funchal, being the relevant installation and maintenance expenses borne by the entity responsible for the management of the zone.

- 2- A border police post will also operate contiguously to the customs house, being provided with the necessary staff, and receiving the relevant instructions for the customs control. The expenses connected with the installation and maintenance of this post shall also be borne by the entity responsible for the management of the zone.
- 3- The above mentioned installation projects must be previously approved by the Customs General Administration and the General Command of the Border Police.

Article 3

- 1- All goods of any nature, regardless of their quantity, origin or destination country, shall be admitted in the zone, subject to the provisions of number 2 above.
- 2- The provisions of number 1 shall not prevent the zone's manager of interdicting or restricting the admission of goods in the zone for reasons of public morality and safety, protection of people or animals' life and health, preservation of species and plants, protection of national artistic, historical or architectural treasures, protection of commercial and industrial property, and also for technical reasons.
- 3- No clearance or documentation presentation is required for the admission of goods in the zone's area, however the admission of goods shall be performed through the presentation in the customs-house of a copy of the cargo list, specifying, if necessary, the goods destined to the zone.
- 4- National or nationalized goods may, if such is requested by an interested party, be admitted in the zone through the issue of a delivery bill including a complete description of the goods to enable their future identification in case of a possible reintroduction in the Republic customs territory.
- 5- The Customs of Funchal shall submit the form of the delivery bill mentioned in number 4 for prior approval by the General Customs Administration.
- 6- All vehicles with national registration necessary for the transportation of goods may freely enter or leave the zone. However, whenever necessary they may be submitted to the control of the customs officers when crossing the zone's gate.
- 7- Machinery, tools, devices and other working equipment not nationalized may be authorized to enter into the zone, for temporary use. In these cases, a special form and a complete verification and description of the equipment are required so that a future identification may be possible. Re-exportation should be made within six months, this period being extendable through the processing of a separate special form.
- 8- In principle the goods may stay in the zone for an unlimited period of time. However, for justified reasons, namely those related to the nature of the goods, the entity responsible for the management of the zone may establish a period of time during which the goods may remain in the zone.

- 9- Taking into consideration the specific economic nature of the free trade zone, specific procedures may, if necessary, be adopted concerning external trade in relation to the goods entering into the zone.

Article 4

- 1- All industrial, commercial or financial activities may be authorized in the free trade zone, being all relevant applications for the installation of economic units in the free trade zone submitted to the Regional Government, which evaluates and eventually accepts the same taking into consideration two main factors: (1) the aptitude of the applicant, and (2) the economic interest of the activity to be pursued. However, the authorizations granted may be revoked, if the applicant no longer fulfills the guarantees based on which the application was granted, or ceases to comply with the requirements of the present law.
- 2- Application for industrial activities, namely those involving transformation, repair or complementary fabrication operations, must include a full specification of the entire production process.
- 3- The application mentioned in number 2 above must be submitted for prior approval to the Customs of Funchal, which will issue an opinion regarding only the technical tax aspects, and being an indispensable element for the evaluation of the applications referred to in number one of the present article.
- 4- The establishment of stocking companies may be authorized, as well as the establishment of companies developing handling operations such as:
 - a) Inspection, inventory and assembly;
 - b) Simple repairs of damages occurred during transportation or storage;
 - c) Cleaning;
 - d) Elimination of damaged parts;
 - e) Selection, screening, bolting, mechanical clarification, filtration, conveyance or any other similar basic operations;
 - f) Labeling, sealing and marking of packages or merchandises (as long as these operations do not change the apparent origin of the goods);
 - g) Modification of marks and numbers on packages (as long as these operations do not change the apparent origin of the goods);
 - h) Packing, unpacking, repacking, pack repair, conditioning and reconditioning in other recipients;
 - i) Settling of merchandises in stands or racks for conditioning or display purposes;
 - j) Sorting and classification operations;
 - l) Basic operations of checking, testing and functioning of machinery, devices and vehicles;
 - m) Simple mixing of merchandises (excluding liquors, spirits, wines and brandies);
 - n) Mixing of liquids;
 - o) Blending of spirits;
 - p) Blending of wines and similar operations;
 - q) Dilution of spirits in water in order to attenuate their alcoholic grade;
 - r) Fur desalting, cleaning and treating operation;
 - s) Grinding of dried vegetables;
 - t) Simple merchandise separation operations;

- u) In general, all the handling operations to ensure preservation of goods during storage, such as airing, drying, artificial heating, cooling, freezing, conservant additioning, fumigation, sulphurizing (anti parasites treatment), lubrication, antirust and protective painting.
- 5- In addition to the activities mentioned in the previous numbers, other activities may be carried out such as loading, unloading and transshipment as well as catering for consumption on board of ships and aircrafts.
 - 6- The companies intending to be established in the free trade zone must elaborate their own operation rules which must be approved by the Regional Government.
 - 7- Inside the zone the goods may be transferred from one company to another.

Article 5

- 1- Outside the zone's area, customs control shall be carried out by:
 - a) a permanent surveillance of its boundaries and at the gate;
 - b) the patrolling of all access roads;
 - c) the control of every person entering or leaving the zone.
- 2- Any person(s) who has been found guilty of a smuggling crime and of any other customs offence(s) may be forbidden to enter the zone.

Article 6

- 1- The companies when authorized to operate in the zone, in accordance with article 4 number 1, shall be bound to:
 - a) Prepare a duly organized accounting system whereby the full identification of the goods is ascertainable as well as the movements and operations that the same have been subject to;
 - b) Exhibit their accounting books and produce all the goods in their possession whenever required by the competent authorities.
- 2- The Secretary of State for the Budget shall, upon a proposal by the General Customs Administration approve the necessary instructions for the control and certification of the elements referred to in paragraph b) above and to be carried out whenever necessary.
- 3- Without prejudice to articles 4 and 9 of the present decree, only national or nationalized goods can be used or consumed in the zone, otherwise being subject to the sanctions established in the national legislation.

Article 7

- 1- The companies established in the zone may destroy the goods subject to the customs economic regime foreseen in the present decree.
- 2- For tax purposes, the loss of goods due to accident or force majeure or also due to reasons related to the nature of the goods, are considered relevant as long as the company established in the zone provides sufficient evidence thereof.

Article 8

- 1- Foreign goods may exit the zone aboard aircrafts with destination to a foreign country without complying with any customs formalities.
- 2- No customs formalities are required for the shipment of foreign goods, however the course of the goods must be controlled by the customs officers.
- 3- In all cases not mentioned above, foreign goods leaving the free trade zone must comply with all customs formalities relating to their destination.
- 4- A clearance is required for national or nationalized goods leaving the zone destined to a foreign country except if the exportation formalities have been complied with before their entry into the zone, without prejudice to what is legally foreseen for catering for consumption on board of ships and aircrafts in accordance with the relevant legislation.
- 5- National or nationalized goods leaving the zone with destination to the Portuguese territory must be presented to the customs in view of complying with the applicable formalities.
- 6- The final importation of goods from the Free Trade Zone into the Portuguese territory shall be effective by means of compliance with the applicable formalities and payment of duties due:
 - a) in respect of foreign raw-materials used in the production of the final product inside the zone; or
 - b) in respect of goods that have only been stored or subject to the usual operations of handling as indicated in number 4 of article 4.
- 7- The taxes and duty charges applicable in respect of the goods mentioned in the preceding number shall be those in force on the date of payment.
- 8- National or nationalized goods that have entered into the zone in the conditions mentioned in article 3 number 4 are exempt from customs duties when leaving the zone, however, a special exit form is required in such terms as the General Customs Administration shall approve at the instance of the Customs of Funchal, being the interested company responsible for evidencing the national or nationalized origin of the goods through the delivery bill referred to in article 3 number 4, unless the customs authorities may otherwise confirm the national or nationalized origin of such goods.

- 9- The goods will be deemed to be foreign goods whenever the delivery bill is not produced or the customs authorities are not able to otherwise ensure the national or nationalized origin of goods.
- 10- Tares with no special inscription in the Customs Duties List, as well as tares with a special inscription referring that they have been made incapable of being used, having the customs-house been made aware thereof, are free of duties when leaving the zone.
- 11- Machinery, devices, tools and other working equipment requiring repair may temporarily leave the zone.
- 12- For the purposes of what is foreseen in the previous number, a special form shall be issued and a distinctive description shall be taken in order to allow a future identification.

Article 9

- 1- Until the date of admission of Portugal to the EEC, goods and materials for substructures and groundwork as well as equipment to be used exclusively in the free trade zone may be exempt from duties according to the legislation in force.
- 2- The zone's customs-house shall have full lists describing all existent equipment, including machinery tools and their utensils, including the indication of their national, nationalized or foreign origin.

Article 10

All matters that are not regulated in the present decree shall be ruled in accordance with the provisions of the Portuguese legislation in force, failing which they shall be settled by decision of the Secretary of State for the Budget, in customs matters, or by decision of the Regional Government of Madeira, in the remaining matters.

The Prime Minister, *Francisco José Pereira Pinto Balsemão*.

The Secretary of State for the Budget, *Alípio Barrosa Pereira Dias*.

Promulgated on July 29, 1982.

To be published.

The President of the Republic, **ANTÓNIO RAMALHO EANES**.