MARITIME LEGISLATION DRAFTING PROJECT


OBJECT OF THE PROJECT : TO DRAFT A LEGISLATION THAT
WILL ESTABLISH AND
REGULATE THE OPERATIONS
OF A FREEPORT FOR SIERRA
LEONE

EXPLAINATORY NOTES ON

THE SIERRA LEONE FREEPORT ACT, 1997

The President of the Republic of Sierra Leone, His Excellency Alhaji Ahmed Tejan Kabbah, has, since assuming office in March, 1996, acknowledged the need for a Freeport for the country. In his electioneering campaigns, he promised the people that he will establish a Freeport if he is elected. Again, in his Official Opening Speech of Parliament in April, 1996, he reiterated the need for a Freeport which will help in the social and economic development of the country. In thanking the President for his speech, Parliament accepted this proposal, amongst others.

It is now left with the Ministry of Planning and Economic Development, which is charged not only with the responsibility for formulating and co-ordinating all development policies but is also the link between Government and International Development Agencies, to ensure that a Freeport for Sierra Leone is achieved within the Five Year Development Plan: 1996/97 - 2001/2002. In trying to achieve this objective, the Ministry will have to make formal requests to either UNDP, CFTC or IMO for the services of experts in Legislative Drafting and Maritime Law to draft a
legislation that will establish and regulate the operations of a Freeport for Sierra Leone. Since securing the services of such experts will not only take time as searches will have to be made to secure their services and the time of their availability will have to be negotiated but will also involve substantial expenditure from the Government of Sierra Leone, I have therefore decided, as a very senior member of Staff of the Ministry, to do my Legislation Drafting Exercise on "Freeport for Sierra Leone" and submit a copy to my Hon. Minister on my return in June, 1997.

Sierra Leone has a port in Freetown, the "Queen Elizabeth II Quay". This port is managed and controlled by the Sierra Leone Ports Authority, a Corporation established under the Ports Act (No. 56) of 1964. But the Sierra Leone Ports Authority has contracted the management and control of the port to a German company from Hamburg which has proved not only unpopular with the people but also with the Parliamentarians who, after a lengthy debate on the issue, have demanded the termination of the agreement.

My motive now is to do a Legislation Drafting Exercise that will establish and regulate the operations of a Freeport for Sierra Leone and, after approval by the Academic Committee of the Governing Board of IMLI, submit a copy to my Hon. Minister for the attention of Government.
I have examined the Ports Act (No. 56) of 1964 which established the Sierra Leone Ports Authority for the administration and control of the Queen Elizabeth II Quay in Freetown but found it inappropriate for a Freeport as it was never meant for that purpose. I have also looked at the legislations establishing the Freeports of Monrovia, Malta and Panama which, though helpful in some ways, could not be adopted wholesome as I have to take the special circumstances and needs of Sierra Leone into consideration.

I intend to achieve the following objectives in my Legislation Drafting Exercise:

1. To provide for an effective administrative machinery that will administer and regulate the operations of a Freeport for Sierra Leone.

To this end, the Act has provision for a Freeport Authority which will be responsible for the day-to-day running of the Freeport; this is the Management of the Freeport.

The Act also has provision for a Board of Directors which shall be the link between Government and the Freeport. It shall give directions of a general nature to the
Management of the Freeport.

For effective co-ordination between the Board of Directors of the Freeport and the Management of the Freeport, the Act makes provision for a Managing Director who will be the Chief Executive of the Freeport Authority to be a member of the Board. To prevent political interference in the management of the Freeport, the appointment and dismissal of members of the Board, though made by the Minister, will need the approval of parliament.

2 To make the Freeport a viable undertaking so as to be able to help in the social and economic development of Sierra Leone.

To realise this goal, the Act makes provision for the Freeport Authority to establish other companies that will take part in the development of the Freeport. To make these companies attractive to both indigenous and foreign investors, as the venture will require huge capital investment, the Act gives these companies concessions:

(a) exemption from custom and excise duties;
(b) exemption from exchange control.
3 To make the Freeport operative and functional.

In this regard, there is provision in the Act for the Freeport Authority to make regulations regarding the effective running of the affairs of the Freeport. There is also provision in the Act relating to the procedure of dispute settlements between the entities operating in the Freeport.

4 To regulate the operational and other behaviour of all entities in the Freeport.

To effect this, the Act makes provision for offenses and penalties.
THE SIERRA LEONE FREEPORT ACT, 1997

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AN ACT TO ESTABLISH AND REGULATE THE
OPERATION OF A FREEPORT IN SIERRA LEONE

PART I - PRELIMINARY

Short title 1 (1) This Act may be cited as the Sierra Leone

Commencement.

(2) The provisions of this Act shall come into
operation on such date as the Minister may by order appoint.

Interpretation. 2 (2) In this Act, unless a contrary intention appears:

"Authority" means the Sierra Leone Freeport Authority established under section 4 (1) of this Act;

"Board" means the Board of Directors of the Authority.

"Chairman" means the Chairman of the Board.

"Member" means a member of the Board.

"Managing Director" means the Managing Director of the Authority.

"Minister" means the Minister who from time to time is charged with the responsibility for the Ministry/Department of Transport and Communications and maritime affairs
"Government" means the Government of the Republic of Sierra Leone.

"Parliament" means the House of Representatives of the Republic of Sierra Leone.

"Comptroller" means the Comptroller of Customs and Excise Department and includes any person having an express or implied authority to act for the said comptroller in performing his duties.

"Certified Accountant and Auditor" means an individual qualified to practice the accountancy profession in the Republic of Sierra Leone or a partnership of such individuals duly registered under the laws of Sierra Leone.

"Company" means a limited liability company established under Cap. 249 of the laws of Sierra Leone.
"Custom duty" means duty charged or chargeable under the laws of Sierra Leone.

"Freeport" means any area in Sierra Leone so designated as the Freeport zone in accordance with Section 3 of this Act.

"Income Tax" means tax charged or chargeable in accordance with the Income Tax Act.

"Excise laws" means the existing excise laws in force in Sierra Leone;

"Licensed company" means any company licensed by the Authority to operate within a Freeport zone of Sierra Leone.

"Person" includes a body of persons;

"Body of persons" means any partnership, association, society or other group of persons whether vested with corporate
personality or not;

"Prescribed" means prescribed by regulation under this Act;

2 (2) Any reference in this Act and in any regulations made thereunder to any law or provisions thereof shall be construed to refer to that law or provision and shall include reference to any enactment replacing such law or provision and to any subsidiary legislation made thereunder.

(3) Words and expressions used in this Act with reference to another law shall have the same meaning as they have in the law with reference to which they are used in this Act.

PART II - FREEPORT
Declaration of 3

(1) The area now known as the Queen Elizabeth II Quay in Freetown in the Western Area of the Republic of Sierra Leone, as highlighted in red in the map attached to annex 1, shall constitute the Freeport zone.

(2) All lands of the Freeport zone shall vest in the Authority, without the need for any formality and under the same title as it was held by the Government.

(3) Where such land is in the process of acquisition, the said acquisition, shall be continued and upon completion of its acquisition by the Government it shall vest in the Authority without the need for any formal legal transfer of the said property.
Freeport 4 (1) The Sierra Leone Ports Authority, a Corporation established under the Ports Authority Act (No. 56) of 1964 for the administration and control of ports facilities in the Republic of Sierra Leone shall constitute the Sierra Leone Freeport Authority hereinafter referred to in this Act as "The Authority" which shall, after the coming into operation of this Act, be deemed to be constituted.

(2) All rights and obligations of whatever nature and all acts done by the said Sierra Leone Ports Authority shall, after the coming into operation for this Act, be deemed to be the rights and obligations of the Authority.

(3) All properties of whatever nature of the
said Sierra Leone Ports Authority shall, after the coming into operation of this Act, vest in the Authority.

PART IV - THE BOARD OF DIRECTORS

Board of Directors 5 The Authority shall have a Board of Directors. hereinafter referred to as "The Board".

Composition 6 The Board shall comprise a chairman, the Managing-Director of the Authority, five other members and a Board Secretary.

Appointment of the Board 7 Members of the Board, save the Managing Director of, and the Board Secretary, shall be appointed by the Minister with the approval of Parliament.

Term of office of the Board 8 Save for the Managing-Director and the Board Secretary, members of the Board shall be appointed for a term of three years and shall not serve for more than two terms.
Dismissal of the Board or its Member.

Save for the Managing-Director and the Board Secretary, the Minister with the approval of Parliament shall dismiss the Board or a member or members thereof.

Resignation

A member of the Board may resign his office at any time and the Minister, with the approval of Parliament, shall appoint a replacement to continue his term of office.

Remuneration

Members of the Board shall be entitled to a sitting fee and other fringe benefits which shall be determined by the Minister with the approval of Parliament.

Meetings of the Board, Quorum, etc.

The Board shall meet, at least, once every month at such a place and time as the Chairman may direct.

(2) Any five members shall constitute a quorum for every Board Meeting and the chairman of that Meeting shall have a casting
(3) The Chairman shall always preside at Board meetings but where the chairman is not present for any meeting, the members shall elect one of its members as chairman to preside over that meeting.

Deliberations at (4) The deliberations at each Board meeting shall be recorded and approved by members in the subsequent meeting.

Duty and 13 (1) The Board shall be the link between function. Government and the Authority.

(2) The Board shall give to the Authority directions of a general character not inconsistent with the provisions of this Act and the Authority shall give effect to any such directions.

(3) The Board shall be responsible for the appointment, termination or dismissal and suspension of senior personnel of the Authority.
PART V - THE MANAGING-DIRECTOR AND SECRETARY

Appointment of 14 (1) The Authority shall have a Managing-Director the Managing-Director who shall be its Chief Executive.

(2) He shall be a member of the Board.

(3) He shall be appointed on such terms and conditions as the Board may direct.

The Secretary. 15 (1) The Authority shall have a secretary who shall be Head of Personnel.
(2) He shall serve as Secretary to the Board.

(3) He shall be appointed on such terms and conditions as the Board may direct.

(4) To be qualified for appointment as Secretary, the person shall have been admitted to the Bar of Sierra Leone.

PART VI - DUTY, FUNCTION AND POWERS OF THE AUTHORITY.

Duty and Function. 16 (1) The Authority shall administer the affairs of the Freeport with a view to fostering the economic and social development of Sierra Leone by encouraging the establishment of industrial and economic enterprises therein.

(2) The Authority shall advise Government on all matters relating to the Freeport.

(3) The Authority shall liaise with all
Ministries and Departments of Government and all bodies and authorities established by law in the application of the provisions of subsection (2) of Section 17 of this Act.

(4) It shall do such other acts as it may deem necessary or conducive for the attainment of any or all of the said objectives.

(5) Subject to the other provisions of this Act, the Authority shall continue to be regulated by its Memorandum and Articles of Association and by existing regulations, so however that:

(a) the Authority shall not be dissolved or merged with another company.

(b) the Authority shall not alter its Memorandum or Articles of Association, unless such alteration is first approved by resolution of Parliament; and

(c) no share in the Authority shall be
allotted except to the present members
and no change in ownership of shares in
the Authority carrying a right to vote
in general meeting or otherwise to
appoint Directors shall be affected
unless such allotment or such change
is authorised by a resolution of Parliament.

(6) The Authority shall each year publish in the Sierra Leone Gazette and in four national daily newspapers in Sierra Leone its Profit and Loss Account and Balance Sheet, audited by a certified public accountant and auditor, together with any notes thereto, by not later than three months after its accounting date. Such report shall, together with a copy of a report of the Board, be placed by the Minister on the Table of Parliament not later than one month after they are made, so however if Parliament is not in session on the lapse of the said one month, these shall be laid by the Minister on the Table of
Parliament not later than one week after it next convenes.

(7) The Authority shall afford the Minister, or any official from Government whom the Minister may so appoint, full facilities for obtaining information with respect to its properties and activities and shall furnish the Minister, or the said official, returns, accounts and other information with respect thereto, and afford the Minister, or the said official, facilities for the verification of the information so furnished in such manner and at such times as the Minister or the said official may request.

Powers of the Authority. Without prejudice to the generality of the powers conferred upon the Authority by this Act, the Authority may:

(a) exercise, perform, and discharge all such powers, duties and functions as are by
law or under this Act vested in or
assigned or delegated to the Authority;

(b) do all such acts as may be necessary or conducive for the attainment of the objectives, duties and obligations of the Authority;

(c) by notice in the Sierra Leone Gazette, make rules for the management and control of the Freeport and all activities carried on therein or connected therewith;

(d) enter into agreements with companies that seek to become licensed to operate in the Freeport;

(e) allocate areas, spaces, factories, wharves and any other facility or structure which may be available in the Freeport on such terms as it determines appropriate provided that the Authority may not by title of sale or any other similar title alienate any immovable property
situate within the Freeport;

(f) determine the rents, charges, dues and other levies to be paid in or in connection with any aspect of the Freeport or of the services and facilities made available thereunder;

(g) do all such other acts as are incidental to or consequently upon the exercise, performance and discharge of its powers, duties and functions under this Act.

(2) The Authority shall, notwithstanding any other law but subject to the provisions of this Act, be the centre and channel through which all Ministries and Departments of Government and all bodies or other authorities established by law shall act in all matters with respect to the Freeport and all activities related thereto, and with respect to companies which are licensed, or which seek to be licensed by the Authority,
and as the centre and channel through which any such company shall apply for and obtain any authorisation or any other thing it may require, and through which it shall communicate with any of the authorities aforesaid:

Provided that this subsection shall not be construed to mean that any investigation, inspection or other similar act which any such authority may deem expedient to have carried out and any information such authority may require, for the purpose of any of its functions under the law, with respect to a licensed company, shall be obtained by the Authority;

Provided further that this subsection shall not be construed to derogate from the powers and duties of any Ministry, Department of Government or any body or other authority established by law with respect to matters relating to defence, public order and health.
(3) It shall be the duty of the Authority to carry out the functions conferred on it by subsection (2) of this Section promptly and efficiently; and it shall be its particular duty to ensure that any act or thing to be done by virtue of the aforesaid subsection is done to the satisfaction of the Ministry, Department, body or other authority for which it is required to act.

Agreements 18 Every agreement entered into by the Authority under paragraph (d) of subsection 17 of this Act shall be reduced to writing, and every such agreement shall constitute a binding contract for the purposes of Section 35 hereof.

Provision of 19 (1) Where the Authority is satisfied that in the case of a company licensed to operate in the Freeport it would be consistent with the aims and objectives of the policy under which the Freeport was constituted, the Authority shall provide
for the company industrial buildings, structures and land in the Freeport including, on such terms and conditions as may be agreed, industrial buildings and structures constructed or altered according to the requirements of the relative company:

Provided that immovable property in the Freeport shall not be transferred to a licensed company under any title for a term beyond the term of the licence, original or extended, of the company to which it is so transferred and that the title under which any such immovable property is transferred immediately on the termination of the licence of the company to which it is so transferred.

(2) The industrial buildings and structures contemplated in subsection (1) of this section shall include especially factories, warehouses (whether refrigerated or not), storage areas,
sheds, tanks, pipelines and such commercial and industrial equipment as may be necessary.

(3) The Authority shall also make available such immovable property in the Freeport zone under such terms and conditions as may be appropriate for the purposes of section 20 of this Act.

Provision of 20 (1) Subject to the provisions of existing utilities in Freeports, applicable laws, if any, it shall be the duty of the Authority to ascertain that the Freeport shall be provided with the following utilities:

(a) Wharves, jetties and other similar structures;
(b) adequate road systems;
(c) telecommunications;
(d) electricity supply;
(e) water supply;
(f) postal services;
(g) banking and insurance services;
(h) fire fighting services;
(i) transport for goods and passengers to and from the Freeport;
(j) Security system including adequate public lighting.

(2) Nothing in this section shall be deemed to impede the Authority from procuring the provision of such other utilities as may be required for the proper operation of the Freeport, or to exonerate it from its duty of procuring the provision thereof.

Certificate of 21 (1) The Authority may, having regard to a substantial transformation in the identity of goods or articles and to the value added through any processing or other operation carried out in the Freeport, release a certificate indicating that Sierra Leone is the origin of any such goods or articles.

(2) The Authority may, where it is so satisfied, issue a certificate to the effect that any goods or articles which
have been transhipped through the Freeport have not suffered any manipulation in the Freeport so as to transform their identity.

(3) It shall not be lawful for any person unless a certificate has first been obtained from the Authority under the provisions of this section to indicate in any manner that:

(a) goods or articles which have been subjected to any process or other transformation in the Freeport have Sierra Leone as their origin;

(b) any goods or articles transhipped through the Freeport have not suffered any manipulation therein.
PART VII - LICENSED COMPANIES TO CARRY OUT BUSINESS IN
THE FREEPORT

Granting of licenses to companies to carry out a trade or business in the Freeport being principally:

(a) the labelling, packaging, sorting, warehousing, storage, exhibition or assembly of any goods, articles, materials, commodities, equipment, plant
or machinery; or

(b) any activity concerned solely with the conduct of the Freeport including, but not limited to, stevedoring, wharfage, operation of terminals and container handling; or

(c) the rendering of services analogous or complementary to the activities referred to in paragraph (a) of this subsection.

(2) The status as a licensed company shall be evidenced by the issue of a license for this purpose by the Authority.

(3) No company shall be granted a licence contemplated by this Act unless its activities are, in the opinion of the Authority, wholly or mainly carried on or exercised within the Freeport.

(4) For the purpose of subsection (3) of this Section, the following activities
carried on or exercised outside the Freeport by a licensed company shall not be deemed to infringe the rule therein set out:

(a) the management and administration of a company, its trade, business or property and the holding thereof;

(b) the execution of instruments, transactions, negotiations or agreements relative to a company's trade or business;

(c) the transit of goods or other commodities to and from the Freeport.

(5) The Authority shall have the exclusive right to issue licence to companies to operate in the Freeport.

(6) The Authority shall only grant licenses and the relative benefits to companies which engage in activities that advance the objectives of the Freeport,
Revocation of 23 (1) The Authority shall revoke the licence of licenses of any company which carries on any activity, companies for or has income accruing to it or derived by illegal it, which consists of or originates activities. from any transaction, operation or other activity which is a criminal offence against the laws of Sierra Leone, or would be such an offence if carried out in Sierra leone, or has received or has in its possession or control money or other property the receipt, ownership, possession or control of which is, or would be, such an offence as aforesaid.

(2) All income, money or other property as is referred to in subsection (1) of this section shall be liable to seizure and confiscation and shall be forfeited to the Authority and becomes its property absolutely:

Provided that any person wishing to challenge such seizure or forfeiture may bring an action in the High Court of
Sierra Leone against the Authority within one month of such seizure or forfeiture.

Goods in the Freeport. (1) In issuing licenses for operations in the Freeport, the Authority shall ensure that the Freeport shall be open to all goods, irrespective of their nature, country of origin, quantity, consignment or destination; nor shall there be any limit of time during which goods may be retained in the Freeport.

(2) Notwithstanding the provisions of subsection (1) of this section:

(a) the Government and the Authority shall have power to impose such prohibitions and restrictions as they may seem justified on grounds of public morality, public policy or public security, the protection of human, animal or plant health and life, the protection of national treasures of artistic, historic or archaeological value, or the protection
of industrial or commercial property;

(b) the Authority shall have power to require that goods which are dangerous or likely to spoil other goods or which, for any other reason whatsoever, require special facilities, be placed in premises specially equipped to receive them.

Reserved 25 (1) The Authority shall not issue a licence to operations in any company for the purpose of Section 22 of the Freeport. this Act if the company, in the opinion of the Authority, is engaged in any operations connected with alcoholic spirits, tobacco products or those other commodities as the Authority may from time to time determine by notice in the Sierra Leone Gazette, unless the relative operations are conducted by a recognised manufacturer of the commodities.

(2) The Authority shall not allow any part of the Freeport to be used as a bounded store for customs duty purposes in
relation to goods which are or which will be imported into Sierra Leone but outside the Freeport.

(3) The Authority shall not issue a licence to any company unless it is satisfied that the said company is occupying, under any title valid at law, or is being allowed by the Authority to make use of immovable property in the Freeport whether on its own or in conjunction with other licensed companies.

(4) The Authority may permit any person whomsoever, it may deem proper, to have access to and operate in the Freeport, even if such person cannot, for any reason whatsoever, be a licensed company for the purposes of Section 22 of this Act if, in the opinion of the Authority:

(a) it would be useful, necessary or conducive to the better development or functioning of the Freeport that such person be granted such access and be allowed to
operate in the Freeport; or

(b) permission and access as aforesaid are necessary pursuant to the provisions of Section 20 of this Act.

Certificates.  26 The Authority may from time to time release certificates as it may deem appropriate attesting that a company, or a company in the process of formation is, or will be, a licensed company pursuant to the provisions of this Act, and such certificate shall be conclusive evidence for the purpose of Section 32 and for all purposes of this Act, and for all related, corollary or ancillary matters, to the effect that the said company is, or will be, so licensed.

Licence fee.  27 A licensing fee US $ 5, 000 (Five Thousand US Dollars) or its equivalent in Leones shall be payable to the Authority by every company to whom a licence is issued pursuant to the provisions of this Act; and an annual fee
of like amount shall thereafter be payable upon each anniversary of the company being granted a licence:

Provided that no alteration to the licence fee shall have effect before the expiration of one year from the publication of such alteration in the Sierra Leone Gazette.

**PART VIII - FISCAL REGIME OF THE AUTHORITY**

Exemption 28 (1) Subject to the provisions of this Act, all from custom duty and the excise laws, goods imported into the Freeport by a licensed company or by the Authority shall be exempt from custom duty provided:

(a) such goods are imported exclusively for the construction, alteration, reconstruction or extension of an industrial building or structure within the Freeport or for any extension thereof, or for the purpose of effecting repairs to such an industrial
building or structure or the extension thereof, or constitute equipment, spare parts, machinery or plant, contained in any such industrial building or structure or extension thereof, or are intended to replace any equipment, machinery or plant in any such industrial building or structure or extension thereof, and in all cases for the purposes of the Authority or of the trade or business carried on or intended to be carried by the company; or

(b) such goods are raw materials, components, intermediate products, by-products, unfinished goods, or other goods imported for the purposes for which a company has been granted a license by the Authority under the provisions of this Act.

(2) Every company which imports into the Freeport any goods free of custom duty under subsection (1) of this section shall:
(a) keep proper and efficient records of the goods which it so imports; and

(b) permit the Authority at all reasonable times to inspect the said records and to have access to any premises of the company for the purpose of examining any such goods which it may believe to be therein and of satisfying itself of the accuracy of the said records.

(3) No goods imported into the Freeport by the Authority or by a licensed company free of customs duty under the provisions of subsection (1) of this section shall be sold, given away or otherwise disposed of other than to the Authority or another licensed company except:

(a) through re-export from Sierra Leone, whether in the same state as when imported, or otherwise, or, subject to such restriction as to importation as would be applicable had such goods been
imported from outside Sierra Leone, by transfer into Sierra Leone outside the Freeport on the payment of customs duty in accordance with the provisions of subsection (6) of this Section; or

(b) in the case of an industrial building or structure for the construction, alteration, reconstruction, extension or equipment of which such article was imported into the Freeport to the person for whom such industrial building or structure was constructed; or

(c) in the case of materials, components or accessories imported into the Freeport for any purpose referred in subsection (1) of Section 22 of this Act.

(i) if incorporated in the goods or commodities in respect of which they were imported; or

(ii) subject to such restrictions as to importation as would be applicable had
such goods been imported from outside Sierra Leone, by transfer into Sierra Leone outside the Freeport after payment of customs duty which would have been payable upon the importation of such materials or components but for subsection (1) hereof.

(4) When goods imported into the Freeport by the Authority or by a licensed company free of customs duty are sold, given away or otherwise disposed of to the Authority or a licensed company in terms of subsection (3) of this section, then such goods shall, for the purposes of this Act, be deemed to have been imported by the Authority or by the licensed company to which they are sold, given away or otherwise disposed.

(5) Subject to such conditions and the giving of such security as he may determine, the Comptroller shall:

(a) allow any goods destined for the Freeport to be landed in Sierra Leone free of
Provided that in all cases, the said goods shall (unless otherwise permitted by the Comptroller) be transferred into the Freeport within seven working days of having been landed;

(b) allow the transit of any goods destined for export from the Freeport to any port or airport in Sierra Leone without levying customs duty thereon:

Provided that the said goods shall (unless otherwise permitted by the Comptroller) be loaded on a ship or aircraft within seven working days of having exited from the Freeport.

(6) Whenever any goods which have entered the Freeport free of custom duty in accordance with the provisions of this section are transferred out of the Freeport and remain in Sierra Leone otherwise than for the purpose
contemplated at paragraph (b) of subsection (5) hereof or, if owned by the Authority, for use by the Authority in pursuance of its duties or functions hereunder outside the Freeport, such goods shall as soon as so transferred be deemed to have been imported into Sierra Leone and subject to customs duty under the relative provisions of existing laws where applicable:

Provided that in the case of any goods which have been processed in the Freeport and qualify for certification as having been made in Sierra Leone pursuant to the provisions of Section 21 of this Act, the nature of the goods, the value and the quantity to be taken into consideration in determining customs duty, shall at the request of the person liable to pay duty, be those which would be taken into account had the goods not been processed as aforesaid.

(7) Where customs duty has been paid in
respect of any goods upon their importation into Sierra Leone, no claim for refund of such customs duty shall be computed solely on the grounds that such goods are later transferred into the Freeport.

(8) The excise laws shall not apply to any goods produced in the Freeport unless such goods are entered for consumption in Sierra Leone outside the Freeports.

Safeguards 29 (1) The Authority shall:
for customs and excise duties. (a)ascertain that the Freeport is equipped with adequate control systems to prevent evasion of customs and excise duties that would be payable to the Government but for the provisions of this Act;

(b) ensure that every area designated as Freeport pursuant to the provisions of this Act is properly enclosed; and
(c) determine the entry and exit points thereof, and in every such matter the Authority shall conform with any requirement of the Comptroller in respect thereof, unless the Minister otherwise directs.

(2) Any person entering the Freeport from any place in Sierra Leone outside the Freeport zone or leaving the Freeport other than to a destination outside Sierra Leone with any goods shall answer such questions as the Comptroller may put to him with respect to the said goods and shall, if required by the said Comptroller, produce those goods for examination at such place as the Comptroller may direct.

(3) At the time when a vehicle is entering or leaving the Freeport, the Comptroller may board the vehicle and search any part of it.

(4) The Authority shall not permit any person to take up residence within the Freeport.
area.

(5) The Authority may refuse access to the Freeport to any person who does not provide such guarantees as it may deem necessary regarding the proper application of any rules, regulations or orders in respect thereof.

(6) Every licensed company shall make available to the Authority such records in writing relating to the goods it is importing or will be importing into the Freeport as may be necessary to identify their nature, quantity and country of origin, consignment or destination which records shall be available for inspection by the Comptroller.

(7) The Minister may, with the advice of the Board, by regulation published in the Sierra Leone Gazette, make provisions with respect to the movement of goods into, and the removal of goods from
the Freeport, and the keeping, securing and the treatment of goods which are within the Freeport.

(8) Without prejudice to the generality of subsection (7) of this section, regulations made thereunder may make provisions:

(a) permitting goods in the Freeport to be destroyed without payment of customs or exercise duties, in such circumstances and subject to such conditions as the Authority may determine;

(b) permitting goods in the Freeport to be sold for non-payment of custom or excise duties and proceeds of such sale shall vest in the Authority;

(c) requiring that specified operations within the Freeport are to be carried out in such manner and subject to such restrictions as may be imposed by or under the regulations;
(d) establishing the penalty which may be imposed by any court in the event of non-compliance with any conditions or restrictions imposed by virtue of paragraph (c) hereof:

Provided such penalty shall not exceed a fine of US $ 10,000 (Ten Thousand U.S. Dollars) or its equivalent in Leones together with the forfeiture of the goods to which the offence relates;

(e) specifying the information to be given to the Authority in respect of goods imported into the Freeport and the forms in which, persons by whom, and time within which, such information shall be given.

Exemption 30 (1) A licensed company shall be exempt from exchange control to the extent that such exemption shall ascertain:

(a) free and unrestricted foreign exchange
transfers by licensed companies;

(b) that no limits shall be set regarding the holding of shares in licensed companies by persons not resident in Sierra Leone;

(c) free transfer of shares in licensed companies;

(d) unrestricted repatriation of the proceeds of liquidation of licensed companies;

(e) right of free management by licensed companies of their foreign currency;

(f) the unrestricted repatriation of any sum due as wages or salaries to expatriate employees referred to in Section 31 of this Act:

Provided that such exemption shall not apply (except for normal banking transactions) in respect of transactions carried out with persons resident in Sierra Leone.
Expatriate 31 (1) The Authority may certify that an individual employees. who is not an exempt person under the Immigration Act of 1960 would, if granted a licence under the said Act to be employed with a licensed company, or with the Authority, contribute through his technical or managerial knowledge and experience towards the proper and fruitful establishment, development, maintenance, operation, control, management or conservation of the Freeport and of its operations.

(2) Where subject to the provisions of the Immigration Act, 1960 an individual who is not domiciled in Sierra Leone or who, if so domiciled, is not ordinarily resident therein, is employed with a licensed company or with the Authority, the income tax on the chargeable income of such an individual shall be charged at the rates contemplated by the Income tax Act, 1962.
(3) The used personal belongings, including one motor car suitable for family use, of any individual referred to in subsection (2) hereof, imported into Sierra Leone not later than one year after his taking up residence in Sierra Leone, shall be so imported free of custom duty:

Provided that duty shall be payable on anything imported free of duty under this subsection if and when such things is sold, assigned or otherwise transferred to a person in Sierra Leone.

General rule 32 The exemption contemplated by this Part regarding exemptions shall only apply to transactions and operations which are relevant to the purposes for which the Authority has been established pursuant to the provisions of subsection (1) of Section 4 of this Act, or been or will be licensed pursuant to the provisions of subsection (5) of
section 22 of this Act.

Information 33 Any licensed company or other person required by any the Authority. purporting or seeking to obtain or enjoy any exemption or other benefit under the provisions of this Act, or who has obtained from such an exemption or other benefit, shall:

(a) furnish to the Authority or any other authority of Government such information, accounts, statements, and other documents, which the Authority or that authority of Government may deem necessary for the purpose of this Act;

(b) attend or send representative to attend before the Authority or any other authority of Government and answer any question lawfully made in connection therewith;

(c) provide the Authority or any other
authority of Government with reasonable access to all premises, places, books and other documents, and allow copies to be made thereof.

Records and 34 (1) No exemption or other benefit which may be obtained or granted under this Act shall be so granted or obtained, and no entitlement thereof shall exist notwithstanding anything contained in this Act unless:

(a) proper and sufficient records and accounts, including appropriate supporting documentation, have been maintained for the relative period, by the relative licensed company;

(b) separate accounts have been kept as may be necessary to identify and quantify the exemption or benefit;

(c) such computation, returns, statements, particulars or documents as may be necessary to establish clearly the
entitlement to any exemption or benefit are submitted as appropriate, including submission to the Authority.

(2) No claim, statement, account or document whatsoever that is in any way connected with the entitlement or presumed entitlement to any exemption or benefit contemplated under the provisions of this Act shall be considered or taken into account unless certified by a certified accountant and auditor.

Guarantee of

35  (1) Where a licensed company or its officers are granted or become entitled to an exemption or other benefit under the provisions of this Act, there shall be deemed to have come into existence a contract between the said company and the Government or Authority, as the case may be, guaranteeing the grant of the relative licence, the grant and enjoyment of the relative exemption or other
benefit in accordance with the provisions of this Act.

(2) Where any exemption or other benefit is not due of right under the provisions of this Act to any beneficiary, but depends on the use of discretion vested in any official of the Authority or authority of Government, the use by such official of the discretion so vested in him in favour of the beneficiary shall constitute a contract between the beneficiary and the Government or Authority, as the case may be, guaranteeing the use of such discretion, the grant and enjoyment of the exemption or other benefit in accordance with the provisions of this Act.

(3) The provisions of this Act shall be without prejudice to the controlling and regulatory provisions laid down in this Act.
A licensed company or other beneficiary may, at any time, by notice in writing, elect not to be granted or to take any incentive or benefit otherwise due to it or him under the provisions of this Act, and such notice shall specify the date from which its election shall be operative, which date shall invariably be the first day of a year, or of a year of assessment or of any other financial period, and shall be irrevocable and indefinite in respect of the matters on account of which it has been made.

**PART IX - REGULATORY PROVISIONS**

Revocation of 36 (1) Where a licensed company fails to comply or licence for cause compliance with any of the conditions non-compliance. attached to the grant of any exemption or other benefit under the Act or engages in activities inconsistent with the objectives of the Freeport, the Authority may either revoke the grant of
the exemption or other benefit by notice in writing require such company twenty eight days of such notice:

(a) to comply or cause compliance with such conditions or to terminate any activity inconsistent with the Freeport; or

(b) to establish to the satisfaction of the Authority that failure to comply or cause compliance with such conditions was due to some cause beyond its control and that there are actual prospects of complying or causing compliance with such conditions, within such time as the Authority may consider reasonable.

(2) Where a company establishes to the satisfaction of the Authority that failure to comply or cause compliance with any conditions attached to the grant of any incentive or benefit under this Act was due to some cause beyond its control, and that there are
actual prospects of complying or causing compliance with such conditions within a reasonable time, the Authority may authorize such reasonable postponement for the purpose of compliance with such conditions as it thinks fit.

(3) Where a licensed company:

(a) having been required so to do by notice under subsection (1) of this section, fails to establish to the satisfaction of the Authority that its failure to comply or cause compliance with any conditions attached to the grant of any exemption or other benefit was due to some cause beyond its control and that there are actual prospects of complying or causing compliance with such conditions within a reasonable time; or

(b) having been allowed a postponement under subsection (2) of this section, fails within the period of such postponement to comply or cause compliance with such
the Authority may revoke any exemption or other benefit granted to the said company under this Act, and such revocation shall be operative from such date as may be determined by the Authority.

(4) Where the grant of any exemption or other benefit to a licensed company under this Act is revoked in accordance with the provisions of this section such company shall pay to the Government or the Authority, as the case may be, any sums which it would have paid to the Government or the Authority save for the provisions of this Act.

Procedure 37 (1) The Authority shall not:

(a) revoke any licence granted under section 22 of this Act; or
(b) revoke any grant or exemption or other benefit under this Act, unless the said company has:

(i) been notified in writing of the action the Authority proposes to take; and

(ii) has had an opportunity for a hearing before the Authority.

(2) Any dispute relating to the interpretation of the provisions of any agreement under this Act or the right of any party under this Act or the exercise by the Authority of any powers vested in it by this Act (except for the matters contemplated in sections 19, 20, 21, 22 and 25) shall, unless the parties agree otherwise, be referred for arbitration and settlement to the High Court sitting as an Arbitration Board.

(3) Except for the purpose or in execution of a judgment given in pursuance of any action mentioned in subsection (5) of this section, no property of any kind belonging
to a licensed company shall be subject to any precautionary or executive act or warrant.

(4) No director or other officer of any licensed company, and no person being a member of such company, shall be subject to any precautionary or executive act or warrant as aforesaid in respect of any obligation or other liability of the company.

(5) Any action referred to in subsection (3) of this section is either:

(a) an action for the enforcement of an obligation or other liability of the company; or

(b) an action for the recovery of any property acquired or held by the company, or otherwise in its possession or control, originating from any transaction, or activity referred to in
subsection (2) of section 23 of this Act.

(6) Notwithstanding the foregoing provisions of this section, no warrant or other act shall be issued by the court unless the applicant first satisfies the court that or other act may be issued under this section.

Powers to make regulations generally, and the Authority may regulations. specifically, into effect the which may prescribe as are authorised by prescribed.
PART X - OFFENSES AND PENALTIES

Penalty for 39 Any person who without reasonable excuse prepares any incorrect statement or gives any incorrect information in relation to any statements, etc. matter or thing falling under this Act, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than US $ 2,000 (Two Thousand US Dollars) and not exceeding US $ Dollars 5,000 (Five Thousand US Dollars) or its equivalent in Leones or to imprisonment for a term of not exceeding three years and not less than one year or to both fine and imprisonment.

Penalty for 40 Any person who wilfully with intent to fraud, etc. obtain any incentive or benefit under this Act or to assist any other person to do
so:

(a) omits from a return or any other document or statement made, prepared or submitted for the purposes under this Act, any matter which should be included therein; or

(b) makes any false statement or entry in any return or other document or statement prepared or submitted for the purposes under this Act; or

(c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act; or

(d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of accounts of records; or
(e) makes use of any fraud, art or contrivance whatever or authorises the use of any such fraud, art or contrivance, shall be guilty of any offence, and shall for each such offence be liable, upon conviction, to a fine of not less than US $ 4,000 (Four Thousand US Dollars) and not exceeding US $ 8,000 (Eight Thousand US Dollars) or its equivalent in Leones or to imprisonment for a term not exceeding five years and not less than three years or to both fine and imprisonment.

General 41 Any person who contravenes or fails to comply with any of the requirements of this Act or of any regulations or any rules made thereunder, in respect of which no special punishment is provided, shall be guilty of an offence and shall be liable, on
conviction, to a fine of not less than US $ 1,000 (One Thousand US Dollars) and not exceeding US $ 2,000 (Two Thousand US Dollars) or its equivalent in Leones or to imprisonment for a term not exceeding three years and not less than two years or to both fine and imprisonment.

Other laws 42 The provisions of this Act establishing offences and punishments in respect thereof shall not effect the operation of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of the laws of Sierra Leone.

Limitation 43 Proceedings for offences under this Act or for any other offences under existing laws of Sierra Leone in relation to offences pertaining to the Freeport shall be commenced at any time within six years from the date of the commission of offence.
PART XI - MISCELLANEOUS

Repeal and 44 (1) Part V of the Ports Authority Act (No. 56)
saving. of 1964, establishing the Sierra Leone Ports Authority, is hereby repealed.

(2) Article 44 notwithstanding, every statutory instrument made or deemed to be made thereunder or in force immediately before the commencement of this Act and all other enactments in relation thereto shall, until altered, revoked or modified by regulations, rules or subsequent enactment under this Act, continue in force as if made under the provisions of this Act, with such modifications as may be necessary having regard to the provisions of this Act.