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COUNTRY : SIERRA LEONE

MARITIME LEGISLATION DRAFTING PROJECT

ON : THE SIERRA LEONE FREEPORT ACT 1997.

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

LEONE

EXPLANATORY 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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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

generally.

"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.

Declaration of 3 (1) The area now known as the Queen Elizabeth
II the Freeport Quay in Freetown in the Western Area
of the areas. 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.

PART III - THE SIERRA LEONE FREEPORT AUTHORITY

Freeport Authority. 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 and acts done by 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 5 The Authority shall have a Board of
Directors. Directors.

hereinafter referred to as "The Board".

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

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

Term of office 8 Save for the Managing-Director
of the Board. 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 9 Save for the Managing-Director
the Board or and the Board Secretary, the
its Member. Minister with the approval of Parliament
shall dismiss the Board or a member or
members thereof.

Resignation 10 A member of the Board may resign his office
at any time and the Minister, with the
placement. approval of Parliament, shall
appoint a replacement to continue his
term of office.

Remuneration 11 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 12 (1) The Board shall meet, at least, once every
the Board, month at such a place and time as the
Quorum, etc. 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

vote.

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

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

economic
- 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 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 17 (1) Without prejudice to the generality of the
Authority. 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 carried out or
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 industrial case of a company licensed to operate buildings, in the Freeport it would be consistent with the aims and objectives of structures, etc. 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 shall terminate 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 applicable laws, if any, it shall be the duty of the Authority to ascertain that Freeports. 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 origin and of substantial transformation in the identity non-mani- of goods or articles and to the value added pulation. 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 whatsoever 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. 22 (1) The Authority may grant 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 24 (1) In issuing licenses for operations in the
Freeport. 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 goods imported into the Freeport by a
duty and the licensed company or by the Authority
shall excise laws. 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

customs

duty :

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. 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 and operations 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 shall only apply to transactions and exemptions. 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 for which a company has 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 purporting or seeking to obtain or enjoy
any
the Authority. 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 certification. 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 Authority or authority of Government 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.

(4) 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

conditions,

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 :
regarding

disputes. (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 or having an interest in any 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 other-wise in its possession or control, and originating from any transaction, operation 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 the warrant or other act may be issued under this section.

Powers to 38

The Minister may from time to time make regulations generally, and the Authority from time to time make rules specifically, for carrying out or putting into effect the provisions of this Act which may prescribe for any such matters as are authorised by this Act to be prescribed.

PART X - OFFENSES AND PENALTIES

Penalty for 39 Any person who without reasonable excuse preparing or prepares any incorrect statement or gives giving incorrect 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
of or 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 for each such offence, 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
establishing offences and punishments in respect thereof
offences and shall not effect the operation of any other
punishment 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 for any other offences under existing laws
proceedings. 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.