

REPUBLIQUE DE DJIBOUTI  
UNITE -EGALITE-PAIX

PRESIDENCE DE LA REPUBLIQUE

PROJET DE LOI N° 53/AN/04/5eme L  
PORTANT CODE DES ZONES FRANCHES

L'ASSEMBLEE NATIONALE A ADOPTE

LE PRESIDENT DE LA REPUBLIQUE PROMULGUE LA LOI  
DONT LA TENEUR SUIT

Vu la constitution du 15 Septembre 1992

Vu l'ordonnance N°80-097/PR du 30 juillet 1980 portant réglementation de la zone franche

Vu la loi N° 88/AN/84 1ère L du 13 Février 1984 portant code des investissements

Vu la loi N° 171/AN/31/2 ème L du 10 Octobre 1991 portant fixation et organisation du domaine public

Vu le Code général des impôts

Vu la loi sur l'OPS

Vu la loi N° portant code du travail

Vu la loi N°172/AN/91/2ème L du 10 Octobre 1991

Vu la loi N° 79-AN/84 1ER L du 13 Février 1984 portant code djiboutien de l'arbitrage international.

Vu le décret N° 2003/0093/PRE portant constitution du conseil d'Administration de l'Autorité de zone Franche de Djibouti

Vu le decret N° 2002-0098/PRE portant création de l'Autorité de la zone Franche de Djibouti

Vu le decret N°2003-0201/PRE modifiant le décret N° 2003-0093/PRE portant constitution du conseil d'Administration de l'Autorité de la zone Franche de Djibouti.

Vu le decret N°2003-0207/PRE modifiant certaines dispositions des ddécrets N°2002-0098/PRE, N° 2003 -0093 /PRE et N°2003-0201/PRE portant sur l'Autorité de la zone Franche de Djibouti.

Vu le décret N°2003-0202/PRE portant réglementation des activités économiques des zones Franches de Djibouti

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

# PLAN

SECTION I - GENERAL PROVISIONS

SECTION II - ADMINISTRATION AND CONTROL OF THE FREE ZONES

SECTION III - MANAGEMENT OF THE FREE ZONES

SECTION IV - ACTIVITIES IN FREE ZONES

SECTION V – EMPLOYMENT IN FREE ZONES

SECTION VI – FISCAL REGIME IN FREE ZONES

SECTION VII - SOCIAL SECURITY IN FREE ZONES

SECTION VIII - CUSTOMS AND FOREIGN TRADES

SECTION IX – SURVEILLANCE AND CONTROL OF FREE ZONES

SECTION X – RESOLUTION OF CONFLICTS IN FREE ZONES

SECTION XI – MISCELLANEOUS PROVISIONS

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

## SECTION I General Provisions

### Article 1:

This Act defines the legal regime applicable inside the free zones of the Republic of Djibouti as well as the principles of their operation.

### Article 2:

The conditions provided in this Act apply to the investments and to the activities carried out by the investors in the free zones.

### Article 3:

For the application of this Act, a free zone means part of the territory of the Republic of Djibouti within which goods are generally considered as being outside the customs territory, in particular with regards to tax at importation and are not subject to the usual customs control.

Moreover, any activity carried out in the free zone is governed by the provisions of this Act and benefit from the particular legal regime defined in this Act.

### Article 4:

The creation of free zones as well as the geographical limits of the free zones will be approved by a decree of the Council of Ministers.

### Article 5:

The free zones can include in their ‘territory’ an airport or a port area. The area allocated by the port and airport ‘authorities’ as well as the roads utilised for transport of goods between the free zones and the airport and port areas are considered as forming an integral part of the free zones, in particular with regards to the legal regime described in this Act.

### Article 6:

The ‘autonomous’/’independent’ production of electric power and the installation of a treatment unit of water are allowed in free zones under the direct or indirect management of the ‘Ports and Free Zones Authority’.

### Article 7:

Any commercial, financial or industrial activity, or any service approved by the ‘Ports and Free Zones Authority’ under the terms of this Act can be carried out in the free zones.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

Any activity considered to be potentially harmful to the national security or which can endanger the environment or public health and safety is prohibited.

## **Section II - Administration and Control of the Free Zones**

### **Article 8:**

The 'Ports and Free Zones Authority' of Djibouti is the sole authority in charge of the administration and the control of the free zones in accordance with the this Act and with respect to the regulations applicable to free zones in Republic of Djibouti.

### **Article 9:**

The 'Ports and Free Zones Authority' is has its registered address in the Free zone. As such, and similarly to the free zone operators, it benefits from the exemption of any tax, and customs duty for any equipment and material imported.

### **Article 10:**

The 'Ports and Free Zones Authority' is the 'one stop shop' for all companies and operators of the free zones.

It is the liaising authority through which all the public sector organizations and private companies will have to report to for all matters relating to the free zones and with respect to any economic activity in the free zones and relating to the companies in the free zones.

It is the only organization authorized to

- I. Consider and approve the applications of companies willing to carry out activities in the free zones.
- II. Register companies and issue the relevant memorandum and articles of association of the companies wishing to operate in the free zones.

The free zone regulations define the conditions for obtaining a license to operate in the free zones.

### **Article 11:**

The 'Ports and Free Zones Authority' consists of an organizational and managerial structure, in addition to its Board of Directors.

The general organisation of the 'Ports and Free Zones Authority' will be approved by decree from the 'Council of Ministers'.

### **Article 12:**

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

The powers for the regulation of all the existing or future freezones in Djibouti are conferred upon the ‘Ports and Free Zones Authority’.

The ‘Ports and Free Zones Authority’ has the power to decree all the rules and regulations pertaining to the rates and fees for conducting business in the free zone as well as any penalty and fine applicable in the event of any breach of the free zone rules and regulations and to conditions attached to the free zone license.

The ‘Ports and Free Zones Authority’ also has the power to impose and charge all the above fees, penalties and fines and will make the necessary arrangements for the collect of all such fees, penalties and fines.

The ‘Ports and Free Zones Authority’ has the sole authority upon issues pertaining to the environment, health, safety, security and the rules and regulations for building, where international norms are required and stipulated in the free zone regulations.

**Article 13:**

Under the conditions provided for by the regulations of free zones, Free Zone Management Organisations can lease plots of land located in the free zones to companies holding a Free Zone License for conducting private industrial and commercial activities approved by the ‘Ports and Free Zones Authority’ .

**Article 14:**

The powers are conferred upon the ‘Ports and Free Zones Authority’ to ensure that the conditions of this Act are applied.

**Section III - Management Of The Free Zones**

**Article 15:**

The administration of this Act relating to free zones in the Republic of Djibouti is ensured by the ‘Ports and Free Zones Authority’ of Djibouti or on its behalf by Jebel Ali Free Zone International, its promoter. An agreement will be signed between the ‘Ports and Free Zones Authority’ and Jebel Ali Free Zone International to this effect.

**Article 16:**

Jebel Ali Free Zone International, promoter of the Free zones in Djibouti enjoys the benefits and the application of the legal statuses envisaged by the present law in all fields of management and administration.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

**Article 17:**

No company is allowed to operate in the free zone unless it is the holder of an appropriate and valid free zone license delivered by the 'Ports and Free Zones Authority', stipulating its activities and a valid lease agreement signed with an approved free zone management organization.

Any company operating in the free zone must do so in conformity with the Act and with the free zone rules and regulations.

**Article 18:**

In addition to its name, any company operating in the free zone must stipulate, in all its contracts, advertisements, invoices, correspondences, and publications that it holds a free zone license.

The 'Ports and Free Zones Authority' will define the manner in which the above must be stipulated.

**Section IV- Activities In Free Zone**

Neither nationalization nor any restrictive measures with respect to private property can affect the economic activities in the Free Zones. The right of private ownership of the individual operators as well of that of companies is guaranteed.

**Article 20:**

There is no obligation to have a local partner to operate in the freezone.

**Article 21:**

The free transfer of capital, profits or wages, in all currencies and any place outside the Free zone and outside the Republic of Djibouti on behalf of a company operating in the free zone and its employees, is guaranteed and cannot be the subject of any restriction for a period of up to fifty years as from the start of the initial license issue date. The extension of this deadline for a similar period will be the object of a resolution taken by the Authority.

**Article 22:**

The economic activities regularly validated by a license to operate in the Free zones are subject to the provisions of this Act and the free zone regulations, established in conformity of the present Act.

They are not subject to the 'normal' regime and do not fall within the scope of control of any other Act and regulation.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

**Article 23:**

Any type of goods, of all nature and from all origins can be brought into the free zones with the exception of prohibited goods, as defined by a decree of the 'Ports and Free Zones Authority', as long as all the rules and regulations concerning certain types of goods are respected.

It is authorized to bring goods in the Free zone for their use or consumption within the free zone, duty and tax free.

**Article 24:**

The duration of stay of the goods in free zone is unlimited as long as any regulation in force is respected.

**Article 25:**

Legislation in force concerning the protection of commercial, industrial, literary or artistic property is applicable in free zones.

**Article 26:**

Retail sale to individuals for the local market is not allowed. The conditions for such activities will be established by a resolution from the 'Ports and Free Zones Authority'.

**Article 27:**

It is forbidden to live in the Free zones.

**Article 28:**

All payments to the 'Ports and Free Zones Authority' must be effected either in American dollars or Djibouti Francs.

**Section V- Employment In Free Zone**

**Article 29:**

Companies operating in the free zone are free to employ anybody they wish to, under the following conditions:

No person from a country under sanction by Republic of Djibouti shall be employed;

The percentage of Djiboutian personnel must form at least 30% of the total personnel at the end of the first year of operation. This percentage must increase to at least 70% after five years of operation.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

**Article 30:**

The foreign employers and foreign personnel working in a free zone company benefit from a residence and employment permit.

In any case, all personnel and/or foreign operator holding a valid license to operate in free zone is under the sponsorship of the 'Ports and Free Zones Authority'

**Article 31:**

With the exception of the exemptions stipulated in the present Act, the Labor Acts of the Republic of Djibouti governs the employment of personnel in the Free zones.

**Section VI- Fiscal Regime In Free Zone**

**Article 32:**

The employees in the free zones are exempted of the income tax and any other direct taxation.

Any individual and company operating in Free zone is exempt of any direct or indirect taxation including income tax.

This tax exemption is granted for a period of up to fifty years as from the start of the initial license issue date.

The extension of this deadline for a similar period will be the object of a resolution taken by the Authority.

**Article 33:**

The tax and customs provisions will be integrated for amendment, with the General Tax Code.

**Section VII - Social Security In Free Zone**

**Article 34:**

All the employees working in the Free zone must benefit from a medical and social cover. However, only the Djiboutian employees are subscribed to the 'Organisme de Protection Sociale'. The conditions of this subscription as well as the conditions of a medical and social cover of the foreign employees will be the subject of a resolution by the 'Ports and Free Zones Authority'.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

## **Section VIII- Customs And Foreign Trade**

### **Article 35 :**

Goods imported or manufactured in the Free zone are exempted from any customs duty and other taxes, unless they enter the Republic of Djibouti customs territory.

The Free zone is exempted from any customs duty and taxes imposed as per the national legislation.

### **Article 36:**

Subject to customs regulations, as defined by international agreements pertaining to certificates of origin, especially with respect to that of the COMESA, products having undergone transformation or having required manpower, can have the label “Made in Djibouti” when leaving the free zone.

The ‘Ports and Free Zones Authority’ is the responsible authority for the issue of certificates of origin of the companies in the free zones.

The Chairman of the Board of Directors of the ‘Ports and Free Zones Authority’, or his designee, is the person designated to sign the certificates of origin.

### **Article 37:**

Goods leaving or entering the free zones for or from the port or airport are under customs responsibility throughout.

The conditions for accompaniment from and to the free zones will be agreed upon with customs and will be subject to a resolution by the ‘Ports and Free Zones Authority’.

### **Article 38:**

Sale of goods on the local market is subject the payment of all applicable customs duties and taxes.

## **Section IX- Surveillance And Control Of Free Zones**

### **Article 39:**

The surveillance and the control of the Free zones are placed under the responsibility of the security services of the ‘Ports and Free Zones Authority’.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

The national gendarmerie and/or police force must guard the areas surrounding the Free zones and can on request of the security services of the 'Ports and Free Zones Authority' and/or for purposes of any useful investigation enter the free zones.

**Article 40:**

Control by the 'Service des Contributions Indirectes' will be carried out as per the customs procedures for free zones.

However while inspections can be carried out without prior notice, it must not disrupt the activities of the free zones.

**Article 41:**

The 'Ports and Free Zones Authority' will agree with the relevant Djiboutian authorities on the conditions for cooperation and for exercising control by the police services, the 'Gendarmerie Nationale' and the 'Services des Contributions Indirectes'.

It will decree, for that purpose, procedures for control, accompaniment of goods from the port, airport, train stations to free zones or destined for exports through the above mentioned points or by road.

**Article 42:**

The Free zones are open without interruption, including the public holidays, 24 hours a day. The opening hours of the offices and the conditions governing the operations activities in Free zone are stipulated in the Free zone regulations.

**Section X- Resolution of Conflicts In Free Zones**

**Article 43:**

Any conflict in the Free zones will be resolved by International Arbitration, in conformity with the Laws in Djibouti pertaining to International Arbitration.

**Article 44:**

However, the breach of any law not governed by the Free Zone Act, fall within the competence of the Djibouti jurisdictions.

**Section XI- Miscellaneous Provisions**

**Article 45:**

The present Act is applicable in all its conditions and provisions for all existing and future free zones.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

As such, all the existing and future approved Free Zone Management Companies, their existing and future free zones and the existing and future free zones companies do and will benefit from the conditions and provisions of the present Act.

Any additional incentives from agreements set prior to this Act, will be applied. Specific incentives can be envisaged upon recommendation of the Authority.

**Article 46:**

Legislations with regards the price, quality and norms applicable on the local market by the local public authorities, are not applicable in the free zones.

Only the legislations pertaining to the protection of the environment and to the national security are applicable, in addition to those set forth by the 'Ports and Free Zones Authority'.

**Article 47:**

The application of this Act and in particular the Free zone regulations will be determined and established by a resolution of the Board of Directors of the 'Ports and Free Zones Authority'.

**Article 48:**

Any lease and/or commercial agreement executed by Jebel Ali Free Zone International in its capacity as promoter of the free zones in Djibouti before the promulgation of this Act, remains valid under this Act after its promulgation.

**Article 49:**

This Act repeals any Act or provisions of law, ordinance or provisions of ordinance, Decree or provisions of Decrees, which are contrary to its applicability, and these repeals will be published and executed by each relevant Ministry.

**Article 50:**

This Act will be proclaimed as per the procedures in place for urgent matters.

It will be registered and published in the Official Journal as soon as it is promulgated.

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***

Fait à Djibouti le -----

Par le Président de la République  
ISMAEL OMAR GUELLEH

April 25th 2004

***This english translation of the FZ Act 53 is for information purposes only. Only the original french version of the Act holds can be legally used.***