

REPUBLIQUE DE DJIBOUTI  
UNITE -EGALITE-PAIX

PRESIDENCE DE LA REPUBLIQUE

Act No: 103/AN/05/5eme L  
**ON FREE ZONE COMPANIES**

L'Assemblée nationale a adopté ;

Le président de la République 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 l'ordonnance N° 80/018/PR du 14 Février 1980 sur les Societes Anonymes de 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 N°172/AN/91/2ème L du 10 Octobre 1991

Vu le décret n°93-0010/PRE du 4 février 1993 remaniant le Gouvernement djiboutien et fixant ses attributions ;

Vu la loi n°65/AN/94/3e L portant création du régime de Zone franche industrielle.

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 décrets N°2002-0098/PRE, N° 2003 -0093 /PRE et N°2003-0201/PRE portant sur l'Autorité de la zone Franche de Djibouti.

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**English Version of Free Zone Company Law promulgated 10<sup>th</sup> April 2005**

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

Vu la loi No. 53/AN/04/5ème L portant code des zones franches de la République de Djibouti

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Le conseil des Ministres entendu en sa séance du-----

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## PRELIMINARY CHAPTER

### Article 1:

It is instituted two new types of free zone companies:

- An Establishment with limited responsibility and one shareholder for Free zone also called Free Zone Establishment and carrying English acronym FZE
- A free zone limited liability company also called Free Zone Company and carrying English acronym FZCO.

They are regulated by the free zone act, the regulations of the free zone, the provisions of this Law.

### Article 2:

Any company duly registered in Republic of Djibouti or abroad including "offshore" companies can operate in free zone by the constitution of a subsidiary company in Free zone by the mother company or by the setting up of a FZE or FZCO subject to being in conformity with the requirements of the free zone act and at the implementing regulations and this act.

### Article 3:

The branch companies, FZE and FZCO are commonly called free zone commercial companies.

The branch companies, FZE and FZCO must have their registered office located in the perimeter of the free zones of the Republic of Djibouti.

The transfer of the location of a free zone commercial company of a free zone to another does not carry creation of a new legal entity.

However, this transfer remains subject to the achievement of administrative formalities through the Djibouti Ports & Free Zones Authority, DPFZA.

### Article 4:

The duration of the free zone commercial companies cannot exceed ninety-nine years.

### Article 5:

The Authority of the Ports and the Free zones holds the registrar department of free zone.

For administrative management of the commercial companies, the Authority will establish a registrar department of free zone specific for Branch Company, FZE, and FZCO.

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## **Article 6:**

The free zone commercial companies enjoy their legal entity status from their registration, with DPFZA, thru the registrar department of free zone.

All inherent formalities with the constitution of the commercial companies of free zone, as well as the list of the acts to be achieved by the founders for the registration of the company given by the regulations by the Authority.

## **Article 7:**

Anybody who acted in the name of a commercial company of free zone, FZE or FZCO, in formation before it acquired the status of the legal entity, are held jointly accountable for the acts thus achieved unless the company, after being regularly constituted and being registered, does not waive the commitments subscribed as of the onset by the company.

## **TITLE 1: FREE ZONE COMPANY WITH LIMITED LIABILITY**

### **CHAPTER 1: FORMATION AND REGISTRATION**

## **Article 8:**

The Free Zone Company can be constituted by individuals or non individuals, private or public, Djiboutians or foreign.

The number of shareholders cannot be less than two.

The Authority can establish a regulation to fix the maximum number of shareholders

## **Article 9:**

The Free Zone Company with limited liability is constituted of shareholders who will bear losses only to the extent of their shareholding.

## **Article 10:**

The objects of a free zone company is to undertake any industrial, commercial and financial activity or service agreed by the Authority, under the conditions of the license delivered by the Authority, as well as all other real estate, industrial, commercial, financial, investment in other companies, creation of branch companies and subsidiaries linked directly or indirectly to the objects of the free zone company.

## **Article 11:**

The name of a Free Zone Company must end with the initials FZCO. A Free Zone Company shall not be registered in the FZCO Register with a name which is not approved by the Authority; approval which will be not be withheld for other than

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duplication. A Free Zone Company may change its name by Board Resolution subject to the proposed new name being approved by the Authority. The new name of the Free Zone Company shall be entered in the FZCO Register and a Certificate of Change of Name issued by the DPFZA Registration Department. Each Certificate of change of Name shall specify, among other things; the date of registration of the new name in the FZCO Register, being the date on which such new name shall take effect.

**Article 12:**

Each Free Zone Company shall at all times have an office in the Free Zone, in which it is registered, and to which all communications and notices may be addressed. Details of such office, which shall be its registered office, and of any change of address, shall be notified to the DPFZA Registration Department and details thereof promptly entered in the FZCO Register. Moreover, the FZCO can open a branch in another free zone in the Republic of Djibouti or outside the country.

**Article 13:**

In all its dealings, contracts, announcements, invoices, correspondence and printed materials there shall be mentioned next to the name of the Company.

- (a) That it is formed pursuant to this Law and that its liability is limited

and

- (b) That it is a “Free Zone Company” by means of adding the acronym for this expression namely FZCO.

**Article 14:**

The Company shall be a private Company and therefore no invitation shall be made to the public as such to subscribe for any shares, stock, debentures, or debenture stock of the Company.

**Article 15:**

The application for the creation of a free zone company must be accompanied by an application for a license to operate in the free zone and by all the documentation required for the creation of the company, as per the regulations of the Authority.

**Article 16:**

The Authority shall notify each applicant of the Authority’s decision as to whether or not permission is granted for the formation of any Free Zone Company and regards

what (if any) undertakings or guarantees it requires as condition to such permission being granted pursuant to article 18 above within 30 days of receipt by the DPFZA Registration Department of a valid application form from the applicant in question duly completed and executed by or on behalf of the applicant and together with all such other information and documentation as the Authority shall have required.

**Article 17:**

Upon permission being granted by the Authority for the formation of a Free Zone Company and the Authority being satisfied that the relevant share capital of the Free Zone Company to be formed has been fully contributed in accordance with articles 8 to 10. Below, the Authority shall cause all relevant details concerning such Free Zone Company to be entered in the FZCO Register and for a Certificate of Formation, duly executed by or on behalf of the Authority, to be issued.

**Article 18:**

Each Certificate of Formation shall specify, among other things, the date of registration of such Free Zone Company in the FZCO Register.

**Article 19:**

The capital of each Free Zone Company shall be denominated in US Dollars (US\$) or Djiboutian Francs. The minimum capital of a Free Zone Company shall be US\$70,000 or 12,500,000 FD or such other amount as the Authority may from time to time determine.

**Article 20:**

The capital of each Free Zone Company shall be divided into shares. Each share shall be numbered and shall be for US Dollars 14,000, or its equivalent in Djibouti Francs, or multiples thereof. A share certificate in such form shall represent each share as the Authority may prescribe.

**Article 21:**

The share capital of a Free Zone Company may only be paid in cash unless the Authority otherwise authorizes that the share capital be paid by way of contribution in kind or by a combination of cash and in kind contribution. Any such authorization shall be subject to such conditions as the Authority may require.

**Article 22:**

The share capital of a Free Zone Company may be altered by Board Resolution subject to the prior approval of the Authority. Details of each alteration in the share capital of a

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Free Zone Company shall be entered in the FZCO Register and shall take effect from the date of such registration.

## **B: SHARES**

### **Article 23:**

No share in a Free Zone Company may be issued unless the capital thereof is fully paid.

### **Article 24:**

All shares issued by a Free Zone Company shall be of the same class.

### **Article 25:**

No Free Zone Company may acquire its own shares. However any Free Zone Company may own all of the shares in any other Free Zone Company or shares in any company or other establishment subject to compliance with all applicable laws.

### **Article 26:**

Every Free Zone Company shall complete and issue a share certificate to the Shareholders in respect of all shares held by them of such Free Zone Company forthwith upon the share capital in respect of such share being duly contributed in accordance with this Law and its Implementing Regulations.

### **Article 27:**

The Authority shall enter in the Free Zone Company's share register details concerning the number, amount and owner of all shares issued by it. No shares shall be issued in bearer form.

### **Article 28:**

Any purported transfer of any share or shares in any Free Zone Company shall be invalid unless a duly executed instrument of transfer has been delivered to the Free Zone Company's secretary and details registered in the FZCO Register.

Any share transfer shall be effective as from the date of registration thereof in the FZCO Register.

### **Article 29:**

Every Free Zone Company shall keep a register in which details shall be entered as regards the Shareholders of the Free Zone Company and as regards the ultimate ownership of Shares of the Free Zone Company and details thereof (and of any changes

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therein) shall be notified to the DPFZA Registration Department and promptly entered in the FZCO Register.

**Article 30:**

The conditions under which contracts, commercial and financial transactions are signed on behalf of the free zone company by a director or a representative of the company holding the required authorisation to that effect, are determined by the regulations of the authority.

The M&As can contain conditions more restrictive than the regulations but which cannot be contested by third parties.

**CHAPTER IV: ACCOUNTS AND AUDIT OF COMPANIES**

**Article 31:**

The first “financial year” of each Free Zone Company shall commence on the date of its registration as disclosed in its Certificate of Formation. The Board of Director may determine the length of the financial year of its Free Zone Company by Board Resolution provided that no first financial year may exceed 18 months or be for less than 6 months.

**Article 32:**

The directors of every Free Zone Company shall prepare for each financial year of the Free Zone Company a balance sheet as at the last day of its financial year and a profit and loss account.

**Article 33:**

The annual accounts of each Free Zone Company shall be approved by its directors and signed by or on behalf of the directors. At least one director shall sign the balance sheet and profit and loss account of the Free Zone Company.

**Article 34:**

The free zone company must designate an auditor from the list of auditors accredited by the Authority to audit the annual accounts.

The shareholders, directors, employees or any other person paid by the company for activities other than those of auditor, as well as their spouses, parents, or acquaintance to the 2<sup>nd</sup> degree.

**Article 35:**

The auditor must certify the trueness and fairness of the balance sheet, the profit and loss accounts, consolidated balance sheet, as well as any other accounting document, as per the conditions of the regulations of the authority.

He must inform the board of directors and the shareholders any wrongdoings.

**Article 36:**

The free zone company must send a copy of the annual accounts and auditors report to the Registration Office upon their approval by the shareholders.

**Article 37:**

The auditor as well as his partners and experts have to respect confidentiality with respect to the facts and information which they have become aware of during the course of their function.

CHAPTER V: SECURITY

**Article 38:**

The shareholders can provide as guarantee/security the whole and not partially of their shares in the company to any creditor as guarantee of a reimbursement of an existing or future debt of the company.

The act of guarantee/security must be established in the form prescribed by the Authority and communicated to the Authority. It will have an effect to third parties only and from the day of its inscription at the Registry of the Register office.

**Article 39**

The company can consent to any guarantee, hypothecation, pledge or delegation of debt or private or public contracts provided for in the law of Djibouti to guarantee any creditor of the reimbursement of any debt or other obligation charged to the company or to any other person.

The deed of the guarantee must be established as per the prescribed form by the regulations of the Authority and communicated to the Registry Office and will take effect with respect to third parties as from the day of its inscription at the Registry of the Register office at the Registry of the Register office.

**Article 40**

The Board of Directors of a limited liability free zone company must keep at its registered office a register of all the guarantees/securities taken and all the details concerning these and the charges on the shares.\*\*

### **Article 41**

Any modification or removal of one of the guarantees in articles 38 and 39 must be communicated to the Registry Office and inscribed in the Registry.

## **CHAPTER V1: RIGHTS AND OBLIGATIONS OF SHAREHOLDERS**

### **Article 42**

The debts of the company are secured only by the share capital. The shareholders are liable only to the extent of their contribution.

### **Article 43**

Each shareholder is eligible to a proportional share of the net profits to be shared among the shareholder as per the M&A.

He is eligible, in the case of a liquidation, to a proportional share of the liquidation proceeds.

The repartition of the profits is calculated proportionally to the deposits to the share capital.

### **Article 44**

Each shareholder has the right to participate to all collective decisions.

### **Article 45**

The M&A can stipulate, to the benefit of shareholders, a preferential right in the case of increase of share capital.

### **Article 46**

The M&A stipulate the decisions which must be taken collectively by the shareholders. It also stipulate the conditions under which the shareholders can have representatives.

### **Article 47**

The annual accounts and the management of the Board of Directors must be compulsorily submitted once per year for approval by the shareholders.

They have the right to review once per year the accounts and other documents of the company.

## **Article 48**

Unless said otherwise by the M&A, the ordinary decisions of the shareholders are taken by majority votes to the shares.

However, a collective decision requiring a two thirds majority of the shares is required for:

- Change in M&A
- Change in Capital
- Merge, demerge or dissolution of the company
- Changing the company into another form

## **Article 49**

The M&A of the Free Zone Company or by default, the regulations, stipulate the condition for the transfer/sale of shares. Such transfer/sale must be accompanied by a document for the sale of shares or a transfer document.

Any transfer or sale of shares must have beforehand the approval of the authority.

They can request that any transfer of share require the prior agreement of the company

They can , as per the conditions that they stipulate, declare that a shareholder may be made to sell his shares. They can also provide that the voting rights of the shareholder are suspended until the shares are sold.

## **Article 50**

Any transfer of shares must be communicated to the Authority Registration Office.

The transfer of shares becomes effective as from the date of its registration in the Authority's register.

Any transfer of shares conducted against the regulations will be considered void.

## **CHAPTER VII: BOARD OF DIRECTORS AND MEETINGS**

### **A: DIRECTORS AND SECRETARY**

#### **Article 51:**

The free zone company is managed by a Board of Directors consisting of at least two members, among whom a director and secretary can be nominated.

The functions of director and secretary can be held by one of the Directors who must be an individual.

The directors can be chosen between the shareholders or from outside.

#### **Article 52:**

The directors are nominated either by the M&As or by a decision of the shareholders.

The M&As stipulate the conditions for the nomination, resignation, renewal or dismissal of the Directors as well as the rules for the functioning of the board of directors.

#### **Article 53**

The decisions to nominate, revoke or change in Directors or secretary must be notified to the registry office as per the conditions of the free zone regulations so that they can be registered with the authority registry.

#### **Article 54**

Every Free Zone Company shall keep at its registered office a register of directors and secretary and the register shall contain details as to the identity and address of the directors and secretary of the Free Zone Company, and of any changes thereto. Every Free Zone Company shall keep at its registered office a register of directors and secretary and the register shall contain details as to the identity and address of the directors and secretary of the Free Zone Company, and of any changes thereto.

#### **Article 55**

The regulations of the Authority may impose conditions of residence to the directors of the company.

#### **Article 56**

The Board of Directors is given the necessary powers to act in the name of the company. It manages the company within the context of the objects of the company and under the conditions prescribed by law to the shareholders.

In its dealings with third parties, the company is liable to actions taken by the Board of Directors which are outside the latter's capacity, unless it proves that the third party is aware or could not ignore the facts.

The limits to the powers conferred to the Board of Directors are inopposable to third parties.\*\*

## **Article 57**

The Board of Directors nominate a Chairman with the necessary powers to represent the company.

## **B: DIRECTORS MEETING**

### **Article 58**

Any director may call a board of directors meeting. The deliberations of the board are valid only if half of the members are present.

The decisions shall be decided by majority of votes, each director having one vote.

The Chairman has a casting vote.\*

Any director may appoint any other director as his representative who shall be entitled to vote in accordance with the appointing director's instructions (if any) separately from his own vote.

### **Article 59:**

The decisions of the board of directors can result in a minutes of meeting or any other document signed by the directors according to the conditions of the M&As or regulations.

### **Article 60**

The secretary has the responsibility to keep the minutes or deliberations of the Board of Directors or shareholders meetings and maintain a register for same.

## **C: MINUTES OF MEETINGS**

### **Article 61:**

A copy of the minutes or deliberations of the Board of Directors meetings shall be provided to the DPFZA Registration Department and details thereof shall promptly be entered in the FZCO Register.

### **Article 62:**

Any company of the free zone can convert itself into another form of company without necessarily creating a new legal entity.

The conversion is decided by an extraordinary decision of the shareholders based on the report of the auditor that the assets is at least equal to the share capital.

The Articles of Association can request that the conversion is submitted to the unanimous agreement of all shareholders.

### **Article 63**

The dissolution of the company may result from:

- An extraordinary decision of the shareholders
- The duration of the company having come to an end
- Bankruptcy or judiciary liquidation
- A decision of the authority in the conditions of article 67

Bankruptcy and death of one shareholder does not entail the dissolution of the company.

### **Article 64**

If from losses of the company, the net assets of the company become less than half of the share capital of the company, the board of directors must within fifteen days of the approval of the accounts having shown this loss, inform the Registrstion Office and the shareholders will have a delay of four months to decide upon either the dissolution, or the continuation of the company by taking the necessary decision to remedy the situation and to reinstate a net assets equal to half the share capital in a reasonable amount of time.

### **Article 65**

The ownership of all shares by one shareholder does not entail a dissolution of the company, but it must be communicated to the Registry Office within seven days by the remaining shareholder.

The latter will have a delay of one year to regularise the situation.

## **CHAPTER IX LIQUIDATION**

### **Article 66**

The company is in liquidation as from the date of its dissolution for whatever reason that may be.

The name must be followed by the term ‘ Company in Liquidation’

The company legally continues to exist for the purpose of the liquidation until its closure.

The liquidation of a company is considered as such for third parties as from the date at which it is published at the Registry Office.

### **Article 67**

The M&As or the shareholders decide upon the nomination of receivers, their powers and duration of their functions, under the conditions Article 72 are respected.

### **Article 68**

The shareholders agree at the end of the liquidation on the final accounts.

The liquidation accounts and the decision of the shareholders pertaining to the dissolution or to the liquidation must be addressed to the Registry Office upon approval and published on the register of the Registry Office.

### **Article 69**

The transfer of all or part of the assets of the company in liquidation to the liquidator, its employees, spouses, parents and relatives is forbidden.

## **CHAPTER X: BANKRUPTCY, JUDICIAL LIQUIDATION, RADIATION BY THE AUTHORITY**

### **Article 70**

In case the company ceases to make payments bringing on a procedure for bankruptcy and liquidation of its goods, the company must be struck off the register of free zone companies in execution of the judgement of bankruptcy decided by the competent tribunal in Djibouti.

Bankruptcy orders cannot be suspended.

### **Article 71**

The company can also be struck off the register of the authority in case where after the report of the inspector as mentioned in article 91 is submitted, an order by the Authority to regularise the situation has not been attended to in a delay of one month, the Authority will therefore consider that the company exercises an illegal activity or contrary to public order.



## **Article 72**

In the cases enlisted in Articles 66,70, 71, all the commercial, economic and other operations and activities of the company must cease.

In the cases of articles 66 and 71, the shareholders or the authority must ensure that the company is liquidated under the supervision of a qualified accountant, certified by the Authority, and named as the liquidator, who must:

Ensure that the liquidation is planned and organised within a reasonable period of time

Consider and evaluate the assets of the company, prepare a statement of the assets and liabilities of the company, pay the employees and creditors and be paid by all the debtors.

Effect a provision for the payment of any claim, debt and free the company from any responsibility and obligations considering the limited liability of the shareholders of the FZCO.

Distribute to the shareholders all the surplus of the assets and capital

Prepare a report to describe all the work and transactions carried out.

The liquidator must submit a report of the actions and transactions and send a copy to the Registry Office.

All the details must be included in the free zone company registry.

## **CHAPTER X1: FEES**

Free Zone Companies are required to pay to the Authority, all the fees for the registration of the company with the Registry.

The Authority will annually or periodically prepare the tariffs for the registration of companies, as well as the fees pertaining to any modification to be included in the registry.

## **Article 74**

In addition to the fees above-mentioned, the authority has the power to inflinge the payment of a fee, fixed by the regulations of the authority, in the case of non respect by the company of the conditions of this current Act, the regulations of the free zone and the conditions to operate under the license issued.

This fee will be applicable during the whole period when the infringement, after the request by the Authority to regularise the situation within a period of one month, which has remained unattended to during that period.

#### **Article 75**

Free Zone Companies must abide by all the conditions of the regulations pertaining to the constitution of free zone companies and by the conditions applicable to their license.

### **CHAPTER X11: DISTRIBUTIONS**

#### **Article 76**

Free Zone Company shall not make a distribution, whether in cash or otherwise, to its Shareholders except out of profits available for that purpose or where the share capital of the Free Zone Company is reduced or dissolution in accordance with the provisions of this Law and its Implementing Regulations and the M&As.

The profits of a Free Zone Company available for distribution are its profits less its losses.

Any distribution must be authorized by the shareholders.

### **CHAPTER X11: MISCELLANEOUS**

#### **Article 77**

Free Zone Companies can have M&As but are not required to have same.

The free zone company which does not have any M&As is submitted to this Act and to the authority's regulations.

### **TITLE II: FREE ZONE ESTABLISHMENTS**

#### **Article 78**

The articles 4 to 77 of the present Act concerning free zone companies with limited liability are applicable to free zone enterprises, with the exception of articles 8 and 19 and taking into consideration the notes below:

In addition all the following terms in the above mentioned articles must be read as follows:

- Board of Directors: Unique director
- Shareholders: Unique shareholder
- Resolution of the Board of Directors: Decision of the unique director
- Decision of the shareholders: Decision of the unique shareholder
- FZCO registry: FZE Registry

#### **Article 79**

The Free Zone Enterprise with limited liability can only be formed by a single shareholder. It can be an individual or a non individual called the unique shareholder.

The FZE consists of an independent moral personality and of financial autonomy.\*\*

The liability limits itself to the capital paid.\*\*

#### **Article 80**

The minimum capital of the Free Zone Establishment is fixed at 140,000 USD or its equivalent in Djiboutian Francs.

#### **Article 81**

The capital of each Free Zone Establishment shall be divided into shares of equal value and numbered. The value of each share is fixed by the authority regulations in dollars or its Djiboutian Francs equivalent.

Each share is represented by a share certificate as per the forms prescribed by the Authority.

#### **Article 82**

The Free Zone Enterprise with limited liability is designated by a name which must be followed by the initials FZE.

The name of the company must be approved by the Authority before its registration.

The unique shareholder of the FZE can change the name of the company as long as it is approved by the Authority.

Any change to the name must be registered in the FZ register and the new name will take effect as from the date of the registration.

A certificate for the change of name will be delivered by the registration office of the authority.

#### **Article 83**

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The FZE is managed by at least one director known as the unique director and who can carry out the function of director and secretary.

The director must be an individual

### **TITLE III: BRANCH COMPANIES**

#### **Article 84**

Any company, Djiboutian or foreign, can establish a branch company in the free zones in Djibouti under the condition that it holds a license, has a lease agreement, meets the conditions of the registration Dept, respects the conditions of the present law and regulations of the authority.

#### **Article 85**

Articles 2 to 5, 14 to 18, 30 to 41, 70 to 75 of the current Act are applicable to branch, taking into consideration the following conditions.

#### **Article 86**

The formalities for the constitution of the branch must be accomplished at the registration department of the authority, by submitting the following:

Certificate of formation of the mother company

A certified copy of the M&As of the company valid as at the date of the application

Resolution from the mother company to form a branch

Nomination of the branch Manager with all the details requested in the Free Zone Regulations

#### **Article 87**

The manager of the branch company must be an individual and must reside in Djibouti. He has, with regards to third parties, the necessary powers to act in the name of the company. The limitation to these powers given through the power of attorney or delegation of powers are inopposable to third parties.

#### **Article 88**

The Branch Manager must advise, in addition to the documents mentioned in Article 90,

- Any modification to the mother company's M&As
- Any modification to the name and address of the shareholders and their shareholding

- Any modification to the name and address of the legal representatives of the company
- Any modification to the name and address of the Branch Manager

## **TITLE IV: POWERS OF THE DJIBOUTI PORTS AND FREE ZONES AUTHORITY**

### **CHAPTER XIV**

#### **Article 89**

The Registration Office of the Djibouti Ports and Free Zones Authority is the service in charge of the registration of all the free zone companies (FZCO, FZE, Branch), in conformity with the current Act, the implementing regulations and any other regulation.

The registration office has to responsibility to maintain the company registry both in hard copy and in computerised form.

### **CHAPTER XV**

#### **Article 90**

The Djibouti Ports and Free Zones Authority is the only body responsible for the formation and registration of free zone private companies in accordance with the current Act. It holds the authority for the regulation of all matters pertaining to free zone companies and is responsible for the application of the current Act.

The Djibouti Ports and Free Zones Authority will prepare all the regulations pertaining to the application of the current Act and will fix all the rates for the management, control and liquidation of free zone companies.

The Authority has the power to amend, add to or cancel any of the free zone regulations

#### **Article 91**

The Authority can designate inspectors to enquire on Free Zone Companies and submit a report to the authority

This can be done at the request of the shareholders, the company or the authority or by any other person provided the Authority estimates that the enquiry is justified.

The nomination of the inspector will specify the objective of the enquiry, the power conferred upon him and the time limit within which the enquiry should be completed.

#### **Article 92**

The responsibility of the Authority can only be held by third parties on account of the responsibility of shareholders, the directors of free zone companies.\*\*

## **TITLE V: TRANSITIONARY PERIOD FOR SAZF AND ENTERPRISES FRANCHES**

### **Article 93**

All SAZF Companies as well as Entreprises Franches (EF) created prior to this current Act, and who wish to pursue their activities in the free Zones in Djibouti, are required to conform to this current Act and to register as a free zone company within a time period of twelve months as from the date of promulgation of this law.

SAZF and EF must within this time period, make themselves registered with the registration office of the authority.

Only free zone companies governed by this current act can operate in free zones. However, during this transitional period, SAZF can carry out their activities in the port free zone.

The Entreprises Franches formed under the Act 65/AN/94/3e L of 7<sup>th</sup> December 1994 can continue their activities during the said period.

The transformation of a SAZF to a FZCO or FZE does not entail the creation of a new legal entity.

### **Article 94**

Within the time period of one year, the existing SAZFs, Entreprises Franches can pronounce their dissolution or transform themselves into a company of another form by transferring their registered office outside the free zones as per the conditions of this current Act and the Act of 1986 pertaining to commercial companies in Djibouti.

### **Article 95**

The SAZF and the Free Zone Enterprises which are not in conformity with the conditions of this law will be dissolved at the expiration of the date limit provided.

### **Article 96**

The Act No 65/AN/94/3 L of 7<sup>th</sup> December 1994 on the creation of the Industrial Free Zone Regime, the ordinance No 80/018/PR of 14<sup>th</sup> February 1980 creating SAZFs, the ordinance 82-071/PR of 14<sup>th</sup> February 1980 to modify and complete same, the decree No. 81-0284/PR of 10<sup>th</sup> March 1981 fixing the function of the consulates of the company registrar and decree No 86-1322/PR of 10 November 1986 fixing the tax/fee due by the SAZF are rescinded, under reservation of their application during the transition period as mentioned in articles 93 and 94.

## **TITLE VI: VARIOUS AND FINAL PROVISIONS**

### **Article 97: DISPUTES**

All disputes which can rise between the shareholders or the company and the shareholders or the company and the single shareholder or between the called ones and the Authority of the Ports and the Free zones, during the course of the company or of its liquidation will be subjected to an arbitration, under the conditions envisaged by the free zone law act.

The disputes which oppose free zone companies and their shareholders to the authority or to *'moral' persons* are governed by the Djiboutian administrative jurisdiction. They can nonetheless be submitted to arbitration if the parties so decide, either by a *'compromissory clause'*, or by an arbitration compromise.

### **Article 98**

Any *'action en nullite'* of a free zone company or a decision of the board of directors or the shareholders, any action concerning the management, the control, the dissolution or the liquidation of the company is prescribed by three years as from the date that the action was caused or if it has been concealed, from the date it was revealed.

Any recourse against the decision of the authority must be submitted within three months as from the date of the notification or publication.

### **Article 99**

The Free Zone Companies benefit from the legal and fiscal regime applicable in free zones.

The Free Zone Act govern, in all its applications, free zone companies.

### **Article 100**

Free Zone companies which were authorized to operate before the promulgation of this current Act, under application of the Free Zone Act are recognized as legally constituted by this current Act: Their registration does not need to be undertaken again.

They are governed by the current act as of the day of its promulgation.

### **Article 101**

The Current Act repeals all previous contradictory clauses

### **Article 102**

The regulations of the Authority will be prepared for the implementation of this current Act

### **Article 103**

The Act will be registered and implemented following the ‘Procedure Urgence’

It will be published in the Official Journal of the Republic of Djibouti.

The President of the Republic of Djibouti

Head of the Government

Ismail Omar Guelleh

ISMAÏL OMAR GUELLEH