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OIL AND GAS EXPORT FREE ZONE DECREE 1996



Decree No. 8

[29th March 1996] Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby
decrees as follows:-

**DESIGNATION AND ESTABLISHMENT OF THE OIL
AND GAS EXPORT FREE ZONE, ETC.**

1.-(1) The Head of State, Commander-in-Chief of the
Armed Forces hereby, designates the Onne/lkpokiri area of Rivers
State as an export free zone, (in this Decree referred to as "the
Export Free Zone").

Designation and
establishment of the
Oil and Gas Export
Free Zone.

(2) The Export Free Zone established pursuant to
subsection (1) of this section, shall be operated and managed by
the Oil and Gas Export Free Zone Authority established by
section 2 of this Decree.

2.-(1) There -is hereby established for the Oil and Gas
Export Free Zone, an authority to be known as the Oil and Gas
Export Free Zone Authority (in this Decree referred to as "the
Authority").

Establishment of the
Oil and Gas Export
Free Zone Authority.

(2) The Authority shall be a body corporate, with perpetual
succession and a common seal and may sue and be sued in its
corporate name and shall be capable of acquiring, holding or
disposing of any property movable or immovable for the purpose
of carrying out its functions.

3.-(1) There shall be for the Authority a governing board
(in this Decree referred to as "the Board") which shall consist of
the following members, that is -

Establishment and
membership of the
Governing Board, etc.

- (a) a Chairman, who shall be appointed by the Head of State, and Commander-in-Chief of the Armed Forces, being a person who by reason of his ability, experience or specialized knowledge of export and investment promotion, commercial or economic matters is capable of making outstanding contributions to the functions of the Authority;

- (b) one representative each of the following Ministries, that is -
 - (i) Finance,

 - (ii) Commerce and Tourism,

 - (iii) Industries,

 - (iv) Petroleum Resources,

 - (V) Justice;

- (c) the Managing, Director of the Nigerian Ports PLC or his representative not below the rank of a Director in the civil service of the Federation;

- (d) the Comptroller-General of Customs or his representative;

- (e) one representative each of the following bodies, that is -
 - (i) the Nigerian Chamber of Commerce, Industries, and Mine and Agriculture

 - (ii) the Corporate Affairs Commission,

 - (iii) the Manufacturers Association of Nigeria,

 - (iv) the Rivers State Government;

- (1) two eminent and knowledgeable Nigerians who shall not be employed in the public service and shall be persons with, vast practical experience in the field of industry, commerce, finance, export promotion and such other related fields to be appointed by the Minister; and

(g) the Managing Director of the Authority.

(2) A member of the Board other than *ex-officio* member shall hold office for a period of three years from the date of his appointment as a member and shall be eligible for re-appointment for one further period of two years and no more.

(3) Notwithstanding subsection (2) of this section, the Head of State, Commander-in-Chief of the Armed Forces may, on the recommendation of, the Minister, require any member of the Board to vacate his office if he is satisfied that it is not in the interest of the Authority or the interest of the public that the member should continue in office.

(4) A member of the Board other than an *ex-officio member* may, by notice in writing addressed to the Board, resign his appointment.

(5) The supplementary provisions contained in the Schedule to this Decree shall have effect with respect to the proceedings of the Board and other matters relating to the Board.

4.-(1) If it appears to the Board that a member of the Board should be removed from office on grounds of misconduct or inability to perform the functions of his office, the Board shall, after consultation with the interests, if any, represented by that member, make recommendations to that effect to the Minister and if the Minister approves the recommendation he may declare in writing, the office of that member vacant.

Removal from
office

(2) Without prejudice to subsection (1) of this section any member who is absent from two consecutive ordinary meetings of the Board shall file his explanation in writing with the Secretary for consideration by the Board and if the explanation is not accepted by the Board, the Board shall recommend to the Minister that the member be removed from office and the Minister may declare, in writing, the office of that member vacant.

5.-(1) In addition to any other functions conferred on the Authority by this Decree, the functions and responsibilities of the Authority shall include -

Functions of
the Authority

- (a) the administration of the Authority and management of the Export Free Zone;
- (b) the grant of all requisite permits and licences to conduct approved enterprises within the Export Free Zone;
- (c) the approval of development plans of the Authority and the Export Free Zone, the annual budgets in respect of infrastructures, administrative buildings, promotion of the Export Free Zone, the provision and maintenance of services and facilities;
- (d) the establishment of customs, police, immigration and similar posts in the Export Free Zone;
- (e) the supervision and co-ordination of the functions of various public and private sector organisations operating within the Export Free Zone and resolving any dispute which may arise amongst them; and
- (f) the resolution of trade disputes between employers and employees in the Export Free Zone in consultation with the Federal Ministry of Labour and Productivity.

1992 No. 63.

(2) The Authority shall have power to take over and perform such other functions being hitherto performed by the Nigeria Export Processing Zones Authority as they relate to the export of oil and gas from any of the Nigeria Export Processing Zones established by the Nigeria Export Processing Zone Decree 1992.

(3) The Authority may, from time to time, prescribe the activities which may be carried on in the Export Free Zone.

STAFF OF THE AUTHORITY

Appointment of the
Managing Director,
Secretary and other
employees, etc.

6.-(1) There shall be for the Authority, a Managing Director who shall –

- (a) be the chief executive; and

(b) be appointed by the Head of State, Commander-in-Chief of the Armed Forces on the recommendation of the Minister.

(2) The Managing Director shall be responsible for -

(a) the preparation of plans, annual programmes and budget of the Authority,

(b) the recommendation to the Minister, of such bye-laws which may be applicable in the Export Free Zone;

(c) the implementation of approved plans, programmes and budget of the Authority; and

(d) the day-to-day administration of the Authority

(3) Without prejudice to the generality of subsection (1) of this section, the Authority shall have power to

(a) appoint a Secretary who shall be qualified to practice as a legal practitioner in Nigeria and shall have been so qualified for not less than ten years:

(b) pay the employees such remuneration and allowances as it may, from time to time, determine;

(c) pay the employees such pensions and gratuities as are payable to persons of equivalent grades in the public service of the Federation.

(4) The Authority may make staff regulations relating generally to the conditions of service of the employees of the Authority and without prejudice, to the generality of the foregoing such regulations may provide

(a) the appointment, promotion and disciplinary control of all employees of the Authority; and

(b) appeal by such employees against dismissal or other disciplinary measures and until such regulations are the regulations relating to the conditions of service of the

officers in the civil service of the Federation and the provisions of the Pensions Act shall be applicable with such modifications as may be necessary to the staff of the Authority.

Cap. 346 LFN.

(5) Approved enterprises operating within the Export Free Zone shall make provisions for the pensions and gratuities for their employees.

Vesting of property in the Authority.

7. The Head of State, Commander-in-Chief of the Armed Forces or the Military Administrator of a State respectively may, by Order, transfer to the Authority, any property belonging to the Federal or State Government which appears to be necessary or expedient to the Authority in carrying out its functions under this Decree and such property shall vest in the Authority by virtue of that Order and without further assurance.

Exemption from taxes.

8. Approved enterprises operating within the Export Free Zone shall be exempt from all Federal, State and Local Government taxes, levies and rate.

Approval of enterprise to undertake approved activity.

9.-(1) Any enterprise which proposes to undertake and approved activity within the Export Free Zone, shall apply to the Authority in writing for permission to do so and shall submit such documents and information in support of the application, as the Authority may require from time to time.

(2) Subject to the provisions of this Decree, the Authority may grant, subject to such terms and conditions as it thinks fit, approval for an enterprise to undertake the approved activity specified in its application brought under subsection (1) of this section.

Power to grant licence.

10.-(1) The Authority may grant a licence for any approved activity in the Export Free Zone to an individual or business concern whether or not the business is incorporated in the customs territory.

(2) The grant of a license by the Authority shall constitute registration for the purposes of company registration within the Export Free Zone.

(3) A body corporate licensed to operate within the Export Free Zone and undertaking an approved activity shall notify the Authority of any purchase, assignment or transfer of shares in the body corporate, except where its shares are quoted and are freely transferable on any international Stock Exchange.

(4) The Authority shall by order, from time to time, prescribe the regulations governing the Export Free Zone.

11.-(1) Where an approved enterprise operating in the Export Free Zone supplies goods and services to customers within the customs territory, that enterprise shall be entitled to receive payment for such goods and services in foreign currency and for the purposes of such payment, the rules and regulations applicable to importation of goods and services into Nigeria and repatriation of [lie proceeds of sales or services shall apply. ,

Payments for
goods and
services.

(2) Where a person within the customs territory supplies goods and services to an approved enterprise established within the Export Free Zone, that person shall be entitled to receive payment for such goods or services in foreign currency and the rules and regulations applicable to export from Nigeria and the repatriation of proceeds from sales or services shall apply.

12.-(1) The Authority and any approved enterprise shall be entitled to import into the Export Free Zone, free of customs duty, any capital goods, consumer goods, raw materials, components or articles intended to be used for the purposes of and in connection with an approved activity, including any article for the construction, alteration, reconstruction, extension or repair of premises in the Export Free Zone or for equipping such premises.

Import of goods
into the Export
Free Zone.
1988 No. 1.

(2) For the purposes of this section, articles for equipping premises shall be deemed to include equipment for offices and other ancillary facilities necessary for the proper administration of the premises and for the health, safety, hygiene and welfare of the premises and of persons employed therein.

(3) All goods brought into the Export Free Zone shall be consigned -

(a) to the Authority or to an approved enterprise and the goods may, with the approval of the Authority, be transferred from one approved enterprise to another or from the Authority to an approved enterprise or from an approved enterprise to the Authority; and

(b) without prejudice to the provisions of subsection (2) of this section, to a bank acting on behalf of any party to a transaction involving the Authority or an approved enterprise.

(4) The Authority may take such steps as it deems necessary to preserve goods within the Export Free Zone, whether by moving the goods from one place to another or by storing the goods and where any expenses are incurred by the Authority in so doing, the owner or consignee of the goods shall reimburse the Authority for the expenses.

(5) Subject to the provisions of this Decree and any regulations made thereunder, goods brought into the Export Free Zone pursuant to this section may -

(a) unless otherwise directed by the Authority, be stored, sold, exhibited, broken up, packed, graded, cleaned, marked, remarked, loaded, unloaded, re-loaded, divided, mixed, separated or otherwise manipulated; or

(b) be worked, processed or re-processed or otherwise manipulated or manufactured; or

(c) be consumed if the goods are meant for consumption in the Export Free Zone, unless otherwise directed by the Authority-, or

(d) subject to subsection (6) of this section, be removed from the Export Free Zone or sent into the customs territory, whether as originally packed or otherwise; or

(e) subject to any enactment pertaining thereto, be destroyed.

(6) Where any goods which are dutiable on entry into the customs territory are sent from the Export Free Zone into the customs territory, the goods shall be subject to the provisions of the Customs, Excise Tariff, Etc. (Consolidation) Act and any regulations made thereunder, and if the goods are intended to be disposed of in the customs territory, shall not be removed from the Export Free Zone unless -

Cap.88 LFN.

(a) the consent of the Authority has been obtained; and

(b) the relevant customs authorities are satisfied that all import restrictions relevant thereto have been complied with and all duties payable in connection with the importation thereof into the customs territory have been paid.

(7) Samples of goods being taken into the customs territory shall be subject to the provisions of subsection (5) of this section, except in cases where the relevant customs authority is satisfied that such goods are of no commercial value.

(8) Where goods are brought from the customs territory into the Export Free Zone for the purposes of an approved activity, the goods shall be deemed to be exported.

(9) The Head of State, Commander-in-Chief of Armed Forces shall, appoint for the Export Free Zone, an inspecting agent who shall be charged with responsibility of inspecting goods imported from the Export Free Zone into Nigeria for use by an approved enterprise within the Export Free Zone.

13.-(1) No person shall, without the prior permission of the Authority, enter, remain in or reside in the Export Free Zone.

Persons not to enter the Export Free Zone without Permission.

(2) Any person who contravenes the provisions of subsection (1) of this section shall have his permit revoked by the Authority.

14.-(1) No retail trade shall be conducted within the Export Free Zone without the prior approval of the Authority and which

Prohibition of retail trade.

may be subject to such terms and conditions as may be imposed, from time to time, by the Authority.

(2) Any person who contravenes the provisions of subsection.(1) of this section or of a term or condition imposed pursuant to that subsection shall have his licence revoked by the Authority.

Special provisions
Relating to articles
imported with
Customs duty
cessions.

15.-(1) An approved enterprise which imports into the Export Free Zone an article with a benefit in respect of customs duty under the provisions of this Decree shall -

(a) keep such records of the articles so imported in such forms and containing such particulars as may be required by the Authority;

(b) cause the articles to be marked with such mark and in such manner as may be required by the Authority;

(c) permit the Authority or a person authorised by the Authority at all reasonable times -

(i) to inspect the records relating to those articles; and

(ii) to have access to any factory, warehouse, assembly plant or other premises under the control of the approved enterprise for the purpose of examining the article which the Authority believes to be therein and of satisfying itself of the accuracy of the particulars in relation to the article contained in such records.

(2) Any person who contravenes the provisions of subsection (1) of this section is guilty of an offence.

Prohibition of storage
of ammunition and
dangerous explosives.

16.-(1) Notwithstanding any other provision of this Decree, the following goods shall not be imported, taken into or stored in the Export Free Zone -

(a) firearms and ammunition, other than by members of the Nigeria Police Force, the Armed Forces of the Federation

or any of the Security Agencies employed to work in the Export Free Zone in the course of their duties or by such other persons as may be authorised by the Authority;

(b) dangerous explosives, without prior approval of the Authority;

(c) petrol, inflammable materials, hazardous cargoes or oil fuels, other than in such quantities and on such terms and conditions as may be prescribed by the Authority;

(d) goods which the Authority by Order has imposed specific or absolute prohibition on their importation into the Export Free Zone.

(2) Any person who contravenes the provisions of subsection(1) of this section is guilty of air offence.

17. Export of goods from the Export Free Zone to the customs territory shall, except as otherwise prescribed by or pursuant to this Decree, be subject to the same customs and licensing requirements as apply to goods imported from other countries.

Export of goods from the Export Free Zone.

18.-(1) Approved enterprises within the Export Free Zone shall be entitled to the following incentives -

Incentives and related matters.

(a) legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations shall not apply within the Export Free Zone;

(b) repatriation of foreign capital investment in the Export Free Zone at any time with capital appreciation of the investment;

(c) remittance of profits and dividends earned by foreign investors in the Export Free Zone;

(d) no import or export licences shall be required;

(e) up to a minimum of 25 *per-cent* of production may be

sold in the customs territory against a valid permit, and on payment of appropriate duties;

(f) rent free land at construction stage, thereafter rent shall be as determined by the Authority;

(g) up to *100 per-cent* foreign ownership of business in the Export Free Zone allowable;

(h) foreign managers and qualified personnel may be employed by companies operating in the Export Free Zone.

(2) The Authority shall be the only agency qualified to -

(a) give all approvals; and

(b) cancel all licenses.

(3) The Authority shall simplify all procedure necessary for authorization of investments in the Export Free Zone and state by Order from time to time its requirements for the grant of authorisations for investments in Export Free Zone.

(4) Operations within the Export Free Zone shall commence on the date when the construction of the perimeter fence and gate of the Export Free Zone have been completed and the Authority has assumed duties.

(5) There shall be no strikes or lockouts for a period of 10 years following the commencement of operations within the Export Free Zone and any trade dispute arising within the Export Free Zone shall be resolved by the Authority;

Enterprises to submit returns.

19. An approved enterprise shall submit to the Authority at such intervals as may be prescribed, such statistical data, and such information and returns as regards the sales and purchases and other operations of the enterprise as the Authority may require or as may be prescribed, from time to time.

Work permit.

20. Where a person who is a non-Nigerian citizen is employed by the Authority or by an approved enterprise

established in the Export Free Zone, upon application by the enterprise for a licence to establish itself within the Export Free Zone or at any time thereafter, the enterprise shall apply on behalf of the non-Nigerian citizens direct to the Authority for the purpose of immigration and employment permits, in such manner as may be prescribed by the Authority.

21.-(1) The Authority shall establish and maintain a fund which shall consist of -

Fund of the Authority.

- (a) all moneys received from the Federal Government;
- (b) proceeds from all activities, services and operations of the Authority;
- (c) grants, gifts and donations made to the Authority; and
- (d) such other sum as may accrue, from time to time, to the Authority.

(2) The Authority shall, from time to time, apply the proceeds of the fund established pursuant to subsection (1) of this section-

- (a) to the cost of administration of the Authority;
- (b) to the payment of the salaries, fees or other remuneration or allowances, pensions and gratuities payable to the officers and employees of the Authority;
- (c) for reimbursing members of the Board or of any committee set up by the Board for such expenses as may be expressly authorised by the Authority in accordance with the rates approved by the Federal Executive Council;
- (d) for the maintenance of any property vested in the Authority; and
- (e) for investment, maintenance of the Export Free Zone, marketing, promotion, training, research and similar activities.

Annual estimates,
accounts, etc.

22.-(1) The Authority shall, not later than 31st October in each year, submit to the Minister an estimate of its expenditure and income (including payments into the fund of the Authority) during the next succeeding year.

(2) The Authority shall keep proper accounts in respect of each year (and proper records in relation thereto) and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

Enactments
applicable in
customs
territory to apply.

23.-(1) Except as provided under this Decree, an enactment applicable in a customs territory shall apply within the Export Free Zone.

(2) The Minister may, by Order published in the *Gazette* modify the application of any enactment which is made applicable in the Export Free Zone by subsection (1) of this section, where the enactment concerned restricts or interferes with the smooth running of the Export Free Zone or operation of licensees therein.

Omission and
non compliance.

24.-(1) Every omission or neglect to comply with and every act done or attempted to be done contrary to the provisions of this Decree or any regulations made thereunder shall be an offence and in respect of any such offence for which no penalty is expressly provided the offender shall be liable on conviction to a fine of ₦ 100,000 or to a term of imprisonment for three months or to both such fine and imprisonment.

(2) Whoever attempts to commit any offence punishable under this Decree or any regulations made thereunder or abets the commission of such offence shall be punished with the punishment provided for such an offence.

(3) Where a body corporate is guilty of an offence under this Decree, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity; he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

25. The Authority may, with the approval of the Minister make regulations for the proper implementation of this Decree. Regulations.

26. In this Decree, unless the context otherwise requires - Interpretation.

“approved activities” means activities specified and approved by the Authority;

“approved enterprise” means any enterprise established within the Export Free Zone approved by the Authority;

"Authority" means the Oil and Gas Export Free Zone Authority established by section 2 of this Decree;

“member” means a member of the Board and includes the Chairman;

"Minister" means the Minister charged with responsibility for matters relating to trade.

27. This Decree may be cited as the Oil and Gas Export Zone Decree 1996. Citation.

SCHEDULE

Section 3(5)

SUPPLEMENTARY PROVISIONS RELATING TO THE AUTHORITY

Proceedings of the Board

1.-(1) Subject to this Decree and to section 26 of the Interpretation Act, the Board may make standing orders regulating the proceedings of the Authority or of any committee thereof. Cap. 192 LFN.

(2) The quorum of the Board shall be eight and the quorum of any committee of the Board shall be as may be determined by the Board from time to time.

2.-(1) The Board shall meet not less than four times in each year and, subject thereto, the Board shall meet whenever it is summoned by the Chairman, and if the Chairman is required to do

so by notice given to him by not less than three other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Board, the Chairman shall preside, but if he is absent, the members present at the meeting shall appoint one of their number to preside at that meeting.

(3) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit:

Provided that a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.

Committees

3.-(1) The Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Authority may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Board) as may be determined by the Board; and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.

Miscellaneous

4. -(1) The fixing of the seal of the Authority shall be authenticated by the signature of the Chairman and of any other member authorised generally or specially by the Board to act for that purpose.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Board by the Chairman and the Managing Director or any person authorised generally or specially by the Authority to act for that purpose.

5. Members of the board shall be paid out of moneys at the disposal of the Board such remuneration, fee or allowances in accordance with such scales as i-nay be approved, from time to time, by the Minister.

6. The validity of any proceedings of the Board or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Board or of a committee or by the defect in the appointment of any member of the Board or committee or by reason that a person not entitled to do so took part in the proceedings.

7. - A member of the Board who is -

(a) directly or indirectly interested in any **company** or enterprise the affairs of which are being deliberated upon by the Authority; or

(b) is interested in any contract made or proposed to be made by the Authority;

Shall as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under subparagraph (1) of this paragraph, shall be recorded in the minutes of the meeting of the Board and the member shall -

(a) not take part after such disclosure in any deliberation or decision of the Board with regard to the subject matter in respect of which his interest is thus disclosed;

(b) be excluded for the purposes of constituting a quorum of the Board for any such deliberation or decision.

MADE at Abuja this 29th day of March 1996

**GENERAL SANI ABACHA, *Head
of State, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria.***

EXPLANATORY NOTE

*(This note does not form part of the above Decree but is
intended to explain its purport)*

The Decree empowers the Head of State, Commander-in-Chief of the Armed Forces, to designate the Onne Ikpokiri Areas of Rivers State as an Export Free Zone. The Decree also establishes the Oil and Gas Export Free Zone Authority to manage, control and co-ordinate. all activities within the Zone.