

## CHAPTER N107

## NIGERIA EXPORT PROCESSING ZONES ACT

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**CHAPTER N107****NIGERIA EXPORT PROCESSING ZONES ACT****An Act to provide for the establishment of the Nigeria Export Processing Zones and for matters connected therewith.**

[1992 No. 63.]

[19th November, 1992]

[Commencement.]

**1. Establishment of the Nigeria Export Processing Zones**

(1) The President may from time to time, by order, upon the recommendation of the Nigeria Export Processing Zones Authority established under this Act, designate such area as he thinks fit to be an export processing zone (in this Act referred to as "a Zone").

(2) The Zone established pursuant to subsection (1) of this section, may be operated and managed by a public, private or a combination of public and private entity under the supervision of and with the approval of the Nigeria Export Processing Zones Authority established by section 2 of this Act.

(3) Every order made pursuant to subsection (1) of this section, shall specify the limits of the area designated and ascribe a name to that Zone.

(4) The Nigeria Export Processing Zones Authority may from time to time, by order, amend, vary or add to the limits of a Zone or change the name of a Zone.

(5) An order made under subsection (3) of this section shall not affect an approved enterprise existing before the commencement of the order.

**2. Establishment, of the Nigeria Export Processing Zones Authority and its governing Board, etc.**

(1) There is hereby established for the Nigeria Export Processing Zones, an authority to be known as the Nigeria Export Processing Zones Authority (in this Act referred to as "the 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. Membership of the governing Board

(1) There shall be for the Authority a governing Board which shall consist of a chairman to be appointed by the President on the recommendation of the Minister and the following other members, that is to say—

- (a) a representative each from the following Federal Ministries, that is—  
[1993 No. 77.]
- (i) Commerce;
  - (ii) Culture and Tourism;
  - (iii) Industry; and
  - (iv) Science and Technology;
- (b) the Comptroller-General of Customs or his representative not below the rank of an assistant director;
- (c) the Managing Director of the Nigerian Ports Authority or his representative not below the rank of a deputy director;
- (d) one representative each from the following bodies, that is—
- (i) the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture;
  - (ii) the Manufacturers Association of Nigeria;
  - (iii) the Association of Nigerian Exporters;
- (e) two persons to be appointed by the Minister from the private sector who shall be persons possessing practical experience in industry, commerce, finance, export promotion and other related fields;
- (f) a representative of the Central Bank of Nigeria not below the rank of a Director; and
- (g) the managing director of the Authority.

(2) A member of the Board other than *ex-officio* member shall, subject to the provisions of this Act, hold office for a period of four years from the date of his appointment as a member and shall be eligible for reappointment for one further period of two years and thereafter he shall no longer be eligible for reappointment.

(3) Notwithstanding subsection (2) of this section, the President may on the recommendation of the Minister require any member to vacate his office if his continued membership will not be in the interest of the Authority.

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

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

[First Schedule.]

**4. Functions of the Authority**

In addition to any other functions conferred on the Authority by this Act, the functions and responsibilities of the Authority shall include—

- (a) the administration of the Authority and management of all the Export Processing Zones;
- (b) the approval of development plans of the Authority and the Zones' annual budgets in respect of infrastructures, administrative buildings, promotion of Zones, the provision and maintenance of services and facilities;
- (c) the establishment of customs, police, immigration and similar posts in the Zones;
- (d) the supervision and coordination of the functions of various public sector and private sector organisations operating within the Zones and resolving any dispute that may arise amongst them;
- (e) the resolution of trade disputes between employers and employees in the Zone, in consultation with the Federal Ministry of Employment, Labour and Productivity;
- (f) the adaptation of investment promotion strategies in the Zones, including the opening of investment promotion offices abroad;
- (g) the recommendation to the Federal Government of additional incentive measures for the Zones;
- (h) the establishment and supervision of zonal administrations for the purpose of managing the Zones and the grant of all requisite permits and licences to approved enterprises.

**5. Appointment of managing director, secretary and other employees**

(1) There shall be for the Authority a managing director who shall be the chief executive and shall be appointed by the President on the recommendation of the Minister.

(2) The managing director shall be responsible for—

- (a) the preparation of plans, annual programmes and budget;
- (b) the recommendation of bye-laws applicable in each Zone;
- (c) the development of strategies for the promotion of the Zones inside and outside the country;
- (d) the implementation of the approved plans, programmes and budgets;
- (e) 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 has 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.

#### **6. Approved activities, etc.**

(1) Subject to subsection (2) of this section, the activities specified in the Third Schedule to this Act shall be approved activities for the purposes of this Act.

[Third Schedule.]

(2) The Authority may, from time to time, prescribe the activities which may be carried on in a Zone, and for this purpose may, by order, amend the Second Schedule to this Act.

[Second Schedule.]

#### **7. Vesting of property in the Authority**

The President or Governor of a State respectively may, by order, transfer to the Authority, any property belonging to the Federal or State Governments respectively which appears to be necessary or expedient to the Authority in carrying out its functions under this Act and such property shall vest in the Authority by virtue of the order and without further assurance.

#### **8. Exemption from taxes**

Approved enterprises operating within a Zone shall be exempted from all Federal, State and Government taxes, levies and rates.

#### **9. Approval of enterprise to undertake approved activity**

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

(2) Subject to the provisions of this Act, 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.

(3) For the purposes of this section, **“approved activity”** means any of the activities specified in the Third Schedule to this Act.

[Third Schedule.]

#### **10. Power to grant licence**

(1) The Authority may grant a licence for any approved activity in a 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 Zone.

(3) A licensed company operating within a Zone and undertaking an approved activity shall notify the Authority of any purchase, assignment or transfer of shares in the company, except where the company's 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 Zone.

### **11. Payment of goods and services**

(1) Where an approved enterprise operating in a 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 normal rules and regulations applicable to importation of goods and services into Nigeria and repatriation of the proceeds of sales or services shall apply.

(2) Where a person within the customs territory supplies goods and services to an approved enterprise established within a 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. Import of goods into the Zone**

(1) The Authority and any approved enterprise shall be entitled to import into a 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 a Zone or for equipping such premises.

(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) The Authority may by order, amend or vary the articles specified in the Fourth Schedule to this Act.

[Fourth Schedule.]

(4) All goods brought into a 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; or
- (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.

(5) The Authority may take such steps as it deems necessary to preserve goods within a 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.

(6) Subject to the provisions of this Act and any regulations made thereunder, goods brought into a Zone pursuant to this section may—

- (a) unless otherwise directed by the Authority, be stored, sold, exhibited, broken up, packed, graded, cleaned, marked, re-marked, loaded, unloaded, reloaded, divided, mixed, separated or otherwise manipulated; or
- (b) be worked, processed or reprocessed or otherwise manipulated or manufactured; or
- (c) be consumed if the goods are meant for consumption in the Zone, unless otherwise directed by the Authority; or
- (d) subject to subsection (7) of this section, be removed from a Zone or sent into the customs territory, whether as originally packed or otherwise; or
- (e) subject to any enactment pertaining thereto, be destroyed.

(7) Where any goods which are dutiable on entry into the customs territory are sent from a 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 Zone unless—

[Cap. C49.]

- (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.

(8) Samples of goods being taken into the customs territory shall be subject to the provisions of subsection (6) of this section, except in cases where the relevant customs authority is satisfied that such goods are of no commercial value.

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

(10) The Pre-Import Inspection Scheme shall not apply to imports of goods into the Zones for use by approved enterprises in the Zones.

### **13. Persons not to enter Zones without permission**

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

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

### **14. Prohibition of retail trade**

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

#### **15. Special provisions relating to articles imported with custom duty cessions**

(1) An approved enterprise which imports into a Zone an article with a benefit in respect of customs duty under the provisions of this Act 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.

#### **16. Prohibition of storage of ammunition and dangerous explosives**

(1) Notwithstanding any other provision of this Act, the following goods shall not be imported, taken into or stored in a Zone—

- (a) firearms and ammunition, other than by members of the Nigeria Police Force or the armed forces of the Federation or by security agencies employed to work in a 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 a Zone.

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

#### **17. Export of goods from a Zone**

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

**18. Incentives and related matters**

(1) Approved enterprises within the Zones shall be entitled to the following incentives—

- (a) legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations shall not apply within the Zones;
- (b) repatriation of foreign capital investment in the Zones at any time with capital appreciation of the investment;
- (c) remittance of profits and dividends earned by foreign investors in the Zones;
- (d) no import or export licences shall be required;
- (e) up to 25% 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% foreign ownership of business in the Zones allowable;
- (h) foreign managers and qualified personnel may be employed by companies operating in the Zones.

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

- (a) give all approvals; and
- (b) cancel all licences.

(3) The Authority shall simplify all procedure necessary for authorisation of investments in a Zone and state by order, from time to time, its requirements for the grant of authorisations for investments in a Zone.

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

(5) There shall be no strikes or lock-outs for a period of ten years following the commencement of operations within a Zone and any trade dispute arising within a Zone shall be resolved by the Authority.

**19. Enterprises to submit returns**

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.

**20. Work permits**

Where a person who is a non-Nigerian citizen is employed by the Authority or by an approved enterprise established in a Zone, upon application by the enterprise for a licence to establish itself within the Zone or at any time thereafter, the enterprise shall apply on behalf of the non-Nigerian citizen, direct to the Authority for the purpose of immigration and employment permits, in such manner as may be prescribed by the Authority.

**21. Staff regulations**

(1) 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 for—

- (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 made, 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. P4.]

(2) Approved enterprises operating within the Zones shall make provisions for the pensions and gratuities for their employees.

**22. Fund of the Authority**

(1) The Authority shall establish and maintain a fund which shall consist of—

- (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 President;
- (d) for the maintenance of any property vested in the Authority; and
- (e) for investment, maintenance of Zones, marketing, promotion, training, research and similar activities.

**23. Annual estimates, accounts, etc.**

(1) The Authority shall, not later than 31 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 for the Federation.

**24. Enactments applicable in customs territory to apply**

(1) Except as provided under this Act, an enactment applicable in a customs territory shall apply within the Zones.

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

**25. Omission and non-compliance**

(1) Every omission or neglect to comply with and every act done or attempted to be done contrary to the provisions of this Act 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 imprisonment for a term of three months or to both such fine and imprisonment.

(2) Whoever attempts to commit any offence punishable under this Act 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 Act, 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, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**26. Repeal**

(1) The governing board of the Nigeria Export Processing Zones Authority established by the Nigerian Export Processing Zones Act 1991 is hereby dissolved and the said Act is hereby replaced.

[1991 No. 34.]

(2) The transitional and savings provisions in the Second Schedule to this Act shall have effect in relation to the employees, assets and liabilities of the board dissolved under this section and the other matters mentioned therein notwithstanding anything to the contrary in this Act or any other enactment.

[Second Schedule.]

(3) Notwithstanding subsection (1) of this section, any order made, registration effected, licence or permit issued, notice or information given, return made or other thing done under the repealed enactment which, immediately before the commencement of this Act was in force or effect, shall continue in force and have effect as if made, effected, issued, given or done under the corresponding provisions of this Act.

**27. Regulations**

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

**28. Interpretation**

In this Act, unless the context otherwise requires—

“**approved activities**” means activities specified in the Third Schedule to this Act;  
[Third Schedule.]

“**approved enterprise**” means any enterprise established within a Zone approved by the Authority;

“**Authority**” means the Nigerian Export Processing Zones Authority established by section 2 of this Act;

“**member**” means a member of the Board and includes the chairman;

“**Minister**” means the Minister charged with responsibility for matters relating to trade.

**29. Short title**

This Act may be cited as the Nigeria Export Processing Zones Act.

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**SCHEDULES****FIRST SCHEDULE**

[Section 3 (5).]

*Supplementary provisions relating to the Authority**Proceedings of the Board*

1. (1) Subject to this Act and to section 27 of the Interpretation Act, the Board may make standing orders regulating the proceedings of the Authority or of any committee thereof.

[Cap. I23.]

(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, fees or allowances in accordance with such scales as may 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. (1) 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 sub-paragraph (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.

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 SECOND SCHEDULE

[Section 26 (2).]

*Transfer of assets and liabilities, etc.*

1. By virtue of this Act, there shall be vested in the Authority established under this Act (in this Schedule referred to as “the Authority”) all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in

the Authority established under the repealed enactment (in this Schedule referred to as “the former Authority”).

2. Subject to the provision of paragraph 1 of this Schedule—

- (a) the rights, interest, obligations and liabilities of the former Authority existing immediately before the commencement of this Act under any contract or instrument, or at law or in equity apart from any contract or instrument, shall by virtue of this Act be deemed to have been assigned to and vested in the Authority;
- (b) any such contract or instrument as is mentioned in sub-paragraph (a) of this paragraph shall be of the same force and effect against or in favour of the Authority and shall be enforceable as fully and effectively as if instead of the former Authority the Authority had been named therein or had been a party thereto; and
- (c) the Authority shall be subject to all the obligations and liabilities to which the former Authority was subject immediately before the commencement of this Act and all persons shall, as from the commencement of this Act have the same rights, powers and remedies against the Authority as they had against the former Authority immediately before the day.

3. Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the former Authority in respect of any rights, interest, obligation or liability of the former Authority may be continued, or as the case may require, commenced, and the determination of a court of law, tribunal or other authority or person may be enforced by or against the Authority to the same extent that such cause of action or determination might have been continued or commenced or enforced by or against the former Authority as if this Act had not been made.

4. Any person who immediately before the commencement of this Act held office under the former Authority shall, on the commencement of this Act be deemed to have been transferred to the Authority on terms and conditions not less favourable than those obtaining immediately before the commencement of this Act and service under the former Authority shall be deemed to be service under the Authority for pension purposes.

5. For the purposes of paragraph 4 of this Schedule, the terms and conditions comprised in any transferred appointment shall not be construed as being less favourable merely because they are not in all respects identical or superior to the terms and conditions enjoyed by any person concerned immediately before the commencement of this Act if the first-mentioned terms and conditions taken as a whole confer substantially equivalent or greater benefits.

6. Within the twelve months next after the making of this Act the Minister, if he thinks fit, may by order published in the Federal *Gazette* make additional transitional or savings provisions for better carrying out of the objectives of this Schedule.

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THIRD SCHEDULE  
[Sections 6 (2), 9 (3).]

*Approved activities*

1. Manufacturing of goods for export.
2. Warehousing, freight forwarding and customs clearance.
3. Handling of duty-free goods (transshipment, sorting, marketing, packaging, etc.).