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## COUNCIL OF STATE

RAUL CASTRO RUZ, President of the Council of State of the Republic of Cuba

I HEREBY MAKE KNOWN TO ALL: That the Council of State has considered the following:

WHEREAS: As part of the process of updating the Cuban economic model it becomes necessary to create the Special Development Zone of Mariel for the aim of promoting the growth of infrastructures and activities that permit increased exports, replacing imports, carrying out high technology projects, generate new sources of employment and contribute to national progress.

WHEREAS: The Constitution of the Republic of Cuba, in its Articles 11 and 15 respectively, establishes that the State should exercise its sovereignty over national territory and endorse the partial or total transmission of goods belonging to the socialist state destined for purposes to uphold the development of the nation and not adversely affect the political, economic and social foundations of the State.

THEREFORE: The Council of State, in exercise of the duties bestowed upon it in Article 90 Section c) of the Constitution of the Republic of Cuba, resolves to pass the following:

## DECREE-LAW NUMBER 313 “ABOUT THE SPECIAL DEVELOPMENT ZONE OF MARIEL”

### CHAPTER 1

#### GENERAL PROVISIONS

ARTICLE 1. – The aim of this Decree-Law is to provide for the creation of the Special Development Zone of Mariel, hereinafter referred to as the Zone, and to regulate its functioning.

The description of the location and course of the Zone appears as appendix to this Decree-Law.

The Council of Ministers provides for the incorporation of other adjacent areas or not, as long as they should contribute to the best fulfillment of the Zone's objectives.

ARTICLE 2. – Provisions given in this Decree-Law will be applied in the Zone, its complementary standards and other legal provisions in force as long as they should not be contrary to provisions in the special provisions.

ARTICLE 3 – The objectives of the Zone are:

- a) to contribute to national development;
- b) to generate exports and promote the replacement of imports;
- c) to favor the transfer of cutting-edge technology and know-how and skills referring to business management;
- d) to attract foreign investment;
- e) to generate new sources of employment and long term financing;
- f) to favor environmental sustainability;
- g) to develop infrastructure necessary to contribute to economic progress;



- h) to create a logistical system that allows for high efficiency levels in importing, exporting and distributing processes;
- i) to stimulate the establishment of national or foreign enterprises; and
- j) to ensure its coordination with the rest of the economy.

ARTICLE 4. - The Zone is governed by the Plan for Territorial and Urban Planning approved by the Council of Ministers ensuring the necessary integration, relationship and compatibility with economic objectives, with the presence in the Zone of human settlements, facilities, natural means and resources, paying attention to social development and preservation and protection for the environment and sites of heritage importance.

The Zone is a location that promotes and protects enterprises, industrial, agricultural, metal-mechanical and tourism projects and all types of activities permitted by Cuban laws that use clean technologies and produce added value goods and services based on knowledge and innovation.

ARTICLE 5. - Investments required to be made in the Zone are executed by national entities or by any type of foreign investment foreseen by law, based on its establishment as concessionary or user.

## CHAPTER II ABOUT THE OFFICE

ARTICLE 6 - The Office of the Special Development Zone of Mariel is created, hereinafter referred to as the Office, to be in charge of administering the Zone, controlling its activities and drawing up and carrying out its Development and Business Plan, on the basis of the approved Plan for Territorial and Urban Planning.

The Office is considered to be a national entity for all purposes foreseen in legislation in force and is assigned to the Council of Ministers, the body approving its structure.

ARTICLE 7 - The Office has the following functions:

- a) To reconcile with agencies, organisms of the Central State Administration and corresponding entities the policies for the development of its guiding activities in the Zone and to propose to the Council of Ministers its Territorial and Urban Planning Program;
- b) to evaluate requests received for setting up concessionaires and users, ensuring that

they correspond to the Development and Business Program as well as its technical, economic, environmental and legal feasibility, depending upon the nature of the proposal, its environmental and social impact;

c) to reconcile requests received for setting up concessionaires and users with the agencies, organisms of the Central State Administration and corresponding entities;

d) to implement necessary books and registries that allow it to fulfill its administrative and control functions, as well as to officially register authorized concessionaires and users in the corresponding Control Ledger;

e) to coordinate the overall development of investments, including analysis of the production chain and to instrument their control;

f) to regularly check that Zone concessionaires and users fulfill the activities and conditions that should be approved for them in their corresponding deeds, as well as the provisions in the Decree-Law, its complementary standards and all other legal provisions in force, in everything that should be pertinent;

g) to structure a one stop shop system that is efficient and efficacious for relationships among the various agencies, organisms of the Central State Administration and entities fulfilling functions associated with the Office for the processing of licenses, permits and authorizations required by concessionaires and users set up in the Zone;

h) to establish a system for promoting and attracting investments to the Zone and executing actions that allow for attaining the various objectives in the least amount of time as possible;

i) to promote investment projects in the infrastructure of the Zone and which are necessary for its good functioning;

j) to look out for the implementation of the results of the Strategic Environmental Evaluation carried out by the Ministry of Science, Technology and the Environment in projects that should be approved for the Zone;

k) to promote the creation of a favorable climate in the Zone based on differentiated attention to quality and diversity of basic common services, as well as educational, cultural and sports activities in the Zone;

- l) to request and contract consultants from organisms and international institutions whenever required;
- m) to carry out systematic control actions within the scope of its competency;
- n) to evaluate and propose to the Council of Ministers, together with the Physical Planning Institute, the incorporation of other adjacent areas or not in the course of the Zone;
- o) to coordinate the carrying out of control actions of various types carried out by the organisms of Central State Administration and entities within the scope of its competency in the Zone and to facilitate their being carried out; and
- p) any other matters that should be indicated to it by this Decree-Law, its Regulation and other legal provisions as long as they should not contravene provisions in the special standards.

ARTICLE 8. – The Office establishes relationships of cooperation and coordination with the bodies of the Central State Administration, national entities and corresponding agencies that in turn facilitate, within their competency, fulfillment of the functioning of the Office.

The relationships referred to in the foregoing paragraph are established in a stable and systematic manner.

### CHAPTER III ABOUT THE PRESENTATION, EVALUATION AND APPROVAL OR REJECTION OF REQUESTS FOR ESTABLISHING CONCESSIONAIRES AND USERS

ARTICLE 9 – The requests are made to the Office by presenting the following documents:

- a) Writs signed by authorized persons, laying down the foundations of the reasons for interest in requesting setting up as concessionaires or users;
- b) the applicant's constitutive documents, copy of financial status reports from the last period and banker's reference;
- c) certification of the Mercantile Registry or equivalent public registry accrediting the validity of the applicant registration, issued no more than six months prior to the presentation of the application;
- d) powers accrediting the representation of the applicant in cases that do so require;

- e) description of the project, including objectives, technology to be used if applicable, activities to be carried out, demands on the infrastructure, human resources and other foreseen services;
- f) the project's technical, financial and economic feasibility study and a study of foreseeable market possibilities;
- g) applications for required licenses, permits and authorizations; and
- h) any other documents considered to be necessary by the Office.

ARTICLE 10 – The Director General of the Office, assisted by a Commission made up of the Central State Administration and entities to be mentioned below, evaluates documents presented and after this process concludes, the foreign investment applications are taken to the Council of Ministers to be authorized by that body, or proceed to approve or reject applications which are to be resolved by it.

The Commission created, called the Commission for Evaluating Establishing Concessionaires and Users in the Special Development Zone of Mariel, hereinafter referred to as the Commission, is permanently made up of representatives of the Ministries of Economy and Planning, Finances and Prices, Labor and Social Security, Science, Technology and the Environment, Justice, Revolutionary Armed Forces, the Interior, Banco Central de Cuba, Institute for Physical Planning and Provincial Administration of Artemisa. The General Director of the Office may decide on incorporating other permanent members to the Commission if it should be necessary. The Commission has a Secretary appointed by the Director General of the Office, who may be replaced whenever and if it should be so required for any reason.

The heads of Central State Administration bodies, agencies and entities members of the Commission communicate the appointment of their representative to the Director General of the Office.

Representatives of other agencies, bodies of the Central State Administration and entities may also participate as guests at the evaluation process, upon proposal by the Director General of the Office, pursuant to the application that should be being analyzed.

ARTICLE 11 – Authorization to effectuate foreign investments in the Zone is granted by

the Council of Ministers or by the Director General of the Office, as the case may be.

It is the exclusive power of the Council of Ministers to authorize foreign investment whenever it should be destined for the following activities or cases:

- a) exploration of a natural or non-renewable resource;
- b) exploitation of natural resources;
- c) whenever it should be associated with the use of renewable sources of energy;
- d) investments involving transmission of state property or other real rights over state goods;
- e) investments that should be made in order to provide public services such as transportation, communications, aqueducts, electricity or to construct and exploit public works;
- f) real estate development;
- g) whenever it should involve totally foreign capital enterprises;
- h) whenever a foreign enterprise should be involved with the participation of foreign State capital; and
- i) whenever they should be destined for the health, education and armed forces sectors management systems.

ARTICLE 12 – It corresponds to the duty of the Director General of the Office to authorize foreign investments not mentioned in the foregoing article, as well as for any other applications that should be presented.

ARTICLE 13 – The Council of Ministers, within a timeframe of up to thirty (30) calendar days, calculated from the date on which the proposal by the Director General of the Office has been received, passes the Agreement authorizing or refusing applications in the cases falling under its authority.

ARTICLE 14 – The Director General of the Office, within a timeframe of up to ten (10) calendar days, calculated from the conclusion of the evaluation process, passes the resolution that authorizes or refuses applications in the cases that fall under his authority.

ARTICLE 15 – Whenever national financial institutions operating under License from the Banco Central de Cuba are involved, authorization for their establishing as users is granted, via Resolution, its Minister-President, within a timeframe of up to ten (10) calendar days, calculated from the

date on which the proposal is received from the Director General of the Office.

ARTICLE 16 – The types of foreign investments, enterprises and entities having totally Cuban capital that are found located in the Zone and are interested in establishing themselves in the Zone as concessionaires or users, should fulfill the foreseen terms in this Chapter for presentation, evaluation and approval of their corresponding applications.

#### CHAPTER IV

##### **ABOUT ADMINISTRATIVE CONCESSION**

ARTICLE 17. – Foreign natural or juridical persons with legal domiciles abroad and foreign capital and national juridical persons may be authorized to be established as concessionaires.

ARTICLE 18. – Administrative concession is granted by the Council of Ministers.

ARTICLE 19. – For purposes of regulations in this Decree-Law, concession is the authorizing ownership by which certain persons are temporarily granted management of a public service, carrying out public works or exploiting a public domain property. The authorization document must have the following information:

- a) identification of the concessionary;
- b) location and limits of the zone being authorized;
- c) object of the concession;
- d) rights and duties of the concessionary;
- e) investments program;
- f) conditions to be fulfilled in the exercise of the activity;
- g) term for which the concession is being granted; and
- h) any others that may be specifically required.

ARTICLE 20. – The concession may be granted for a term of up to fifty (50) years and extended by the same authority that granted it for a term lesser or similar to the one initially granted. Application for extension must be presented by the concessionary for its evaluation by the competent authority at least six (6) months prior to the expiration of the initially granted term.

ARTICLE 21. – Administrative concession is extinguished upon expiration of the term for which it was granted, by mutual accord, by the concessionary renunciation after acceptance by the competent authority, by recall or by nullity.

ARTICLE 22. – The following are causes for recall of the concession:

- a) Death or incapacity of a concessionary when it should be a natural person;
- b) extinction of the concessionary juridical personality;
- c) state of insolvency of the concessionary;
- d) noncompliance by the concessionary of his/her essential obligations, unless it could be demonstrated that this is due to a chance occurrence or case of Force Majeure;
- e) salvaging the concession when it should be decided that the activity continues under State direction;
- f) reasons of public law and order or national security;
- g) reasons of social interest or public utility; and
- h) any other cause that expressly should be foreseen within the framework of concession planning and in the act of concession.

#### CHAPTER V

##### **ABOUT AUTHORIZATION TO USERS**

ARTICLE 23. – Foreign natural or juridical persons domiciled abroad and with foreign capital may be authorized as users, as well as national juridical persons and natural persons with residency in national territory, those who in the exercise of granted authorization should execute activities that are productive, commercial or service-oriented.

ARTICLE 24. – The Council of Ministers may delegate the Director General of the Office with the power to approve foreign investments whenever this involves establishing users in the cases of projects making up the Business Opportunities Portfolio of the country and which have made a pre-feasibility study approved by the competent Cuban authority.

ARTICLE 25. – The authorization document to undertake and develop activities as users in the Zone must have the following information:

- a) user identification;
- b) corporate purpose and other incorporation information in the cases of juridical persons;
- c) authorization object;
- d) conditions to be fulfilled in the exercise of the activity;
- e) investments program;
- f) term for which the authorization is granted; and

g) any others that should be specifically required.

ARTICLE 26. – The competent authority to modify authorization is the same one which granted it. Admission, evaluation and authorization or denial is governed by provisions for approval procedures and terms foreseen in the Regulations in this Decree-Law.

ARTICLE 27. –The following are causes for recall of authorization:

- a) Death or incapacity of a user when it should be a natural person;
- b) extinction of the user juridical personality;
- c) state of insolvency of the user;
- d) noncompliance by the user of his essential obligations, unless it could be demonstrated that this is due to a chance occurrence or case of Force Majeure;
- e) reasons of public law and order or national security;
- f) reasons of social interest or public utility; and
- g) any other cause that expressly should be foreseen in the resolution of the authorization.

#### CHAPTER VI

##### **ABOUT THE SPECIAL REGIME**

###### FIRST SECTION

###### **Scope of the Special Regime**

ARTICLE 28. – A special regime made up of the different regimes foreseen in this Chapter is applied to concessionaires and users in the Zone; this regime begins when the concession is registered or authorization is granted in the Book provided by the Office for administrative control, depending on the case.

###### SECOND SECTION

###### **Special Customs Treatment**

ARTICLE 29. –General Customs of the Republic establishes a special procedure for the concessionaires and users of the Zone, with the aim of simplifying procedures and terms for registration, requests and the granting of customs regimes and which include the use of information technologies, so that incentive is provided for establishing same in the Zone

ARTICLE 30. – General Customs of the Republic determines control, formalities and terms that must be fulfilled for entry, storage and exit of merchandise and international transportation means.

## THIRD SECTION

**Special Labor Regime**

ARTICLE 31. – Employees working in the Zone must, as a general rule, be permanent residents in Cuba, whether they are Cubans or foreigners.

Hiring Cuban or foreign employees, permanent residents in Cuba, who provide their services to the concessionaires and users of the Zone, is effectuated by the Cuban entity designated for such purposes, by virtue of the contract signed for that purpose.

ARTICLE 32. – Concessionaires and users may directly hire foreign natural permanent non-residents for executive positions or for certain technical jobs, after approval by the competent authority.

Persons referred to in the foregoing paragraph may stay and work in the country, fulfilling all migratory, taxation and labor provisions in force.

ARTICLE 33. – Concessionaires and users in the Zone must fulfill established terms in labor and social security matters in the country.

## FOURTH SECTION

**Special Control Regime**

ARTICLE 34. – Concessionaires and users of the Zone are subject to a special control regime directed to looking after compliance with conditions established in the concession or authorizations, as the case may be, as well as of the legal provisions applied in the Zone.

## FIFTH SECTION

**Special Regime for Infractions and Measures to be Applied**

ARTICLE 35. – A special regime for infractions and measures is to be applied to concessionaires and users of the Zone, in accordance with stipulations foreseen in the Regulation of this Decree-Law.

## SIXTH SECTION

**Special Regime for Migratory Control and Domestic Law and Order**

ARTICLE 36. – The migratory and domestic law and order regime of the Zone is established according to the regulations that are issued for this purpose by the Ministry of the Interior.

## SEVENTH SECTION

**About the Special Tax Regime**

ARTICLE 37. – Concessionaires and users have a special tax regime, according to stipulations established in the Regulation of

this Decree-Law that stimulates participation and favors development of the Zone to benefit the country's progress, as well as encouraging the use of environmental technologies associated with activities that are undertaken there.

## EIGHTH SECTION

**About the Special Insurance Regime**

ARTICLE 38. – Concessionaires and users must make insurance policies for all types of goods and responsibilities.

ARTICLE 39. – Cuban Insurance Companies, under world-scale competitive conditions, shall have the right of first choice. Should this not be possible, the Insurance Superintendent Department authorizes insurance with foreign entities. Regulations for granting authorization to matters in this article are issued by the Ministry of Finances and Prices.

## NINTH SECTION

**About the Special Monetary and Banking Regime**

ARTICLE 40. – Transactions made by concessionaires and users amongst each other shall be effectuated in Convertible Pesos or in freely-convertible currency that they agree to or in Cuban pesos, only in cases foreseen in legislation in force in the country.

The monetary regime in force in the country will be applicable to transactions by concessionaires and users with those subject to the domestic economy.

ARTICLE 41. - Concessionaires and users open accounts in the banking institutions of their choice established in the Zone; through these banks they effectuate billing and payment operations related to their operations.

ARTICLE 42. – Foreign investors, whether they are concessionaires or users, once established in the Zone, have the right to free disposal of their funds and to transfer them abroad, in freely convertible currency, through the National Banking System, without paying any taxes or other fees related to said transfers, net profits or dividends they should receive from their activities, as well as repatriating invested capital.

Foreign citizens providing their services in the Zone, as long as they are not permanent residents in Cuba, may transfer abroad the salaries they earn, in the proportion and in accordance with



regulations established by the Banco Central de Cuba.

ARTICLE 43. – Users authorized to establish themselves in the Zone in order to provide financial intermediation services effectuate their activity after obtaining a License from the Banco Central de Cuba in which the scope and the type of operations they may make are set as well as any other provisions to which they must abide in the exercise of providing the service, under the supervision and regulation of the Banco Central de Cuba.

#### CHAPTER VII

##### ABOUT THE DEVELOPMENT FUND OF THE ZONE

ARTICLE 44. – Concessionaires and users established in the Zone contribute to the formation of a fund for maintenance of the Office and for maintaining the common areas of the Zone, with a percentage of their incomes and without any set fees, in accordance with what is established for that purpose by the Minister of Finances and Prices. The aforementioned fund is administered by the Office.

#### CHAPTER VIII

##### ABOUT THE REGIME FOR RESOLVING DISAGREEMENTS

ARTICLE 45. – Conflicts having an economic nature that should arise in relations between users and concessionaires, or between these and the domestic economy entities are heard and resolved by competent peoples' courts, notwithstanding the right attending the Parties to resolve such matters in a negotiated manner, or by any other alternative means foreseen and agreed to in the corresponding contracts, including submitting the matter to the Cuban Court for International Commercial Arbitration.

ARTICLE 46. – Conflicts of an administrative nature between users and concessionaires or domestic economy entities are resolved by the Director General of the Office. Against decision adopted, the administrative suit takes place within the timeframe of thirty (30) business days, calculated after the day following notification of the Resolution, before the corresponding chamber of the Peoples' Provincial Court of Artemisa.

##### SPECIAL PROVISION

ONLY ONE: On the basis of the responsibility assigned to the Office for

conducting the Development and Business Program of the Zone, the agencies, bodies of the Central State Administration and institutions involved in the granting of licenses, permits or authorizations for juridical or natural persons, whether for the carrying out of domain transfer actions, constructive actions, rehabilitative, division, enlarging or re-modeling actions for homes, for delivery of idle land and others of similar nature, the favorable opinion of the Office needs to be obtained prior to authorizing the procedure required.

##### FINAL PROVISIONS

FIRST: The Council of Ministers passes the regulation of this Decree-Law.

SECOND: The Director General of the Office passes the Regulation of the Commission for the Evaluation for Establishing Concessionaires and Users in the Special Development Zone of Mariel.

THIRD: The Director General of the Office, within a timeframe of thirty (30) days calculated from the entry into validity of this Decree-Law, presents to the Council of Ministers for their approval, the proposal for Organic Regulation of the Office.

FOURTH: The heads of agencies, bodies of the Central State Administration and corresponding entities are empowered to pass within the framework of their competencies the legal provisions that should be necessary for application of this Decree-Law.

FIFTH: Decree No. 224 of the Administrative Concession for Promoting and Exploiting the Free-Zone of Mariel of October 31 of 1997 is repealed, along with any and all legal and regulatory provisions that should be counter to this Decree-Law.

SIXTH: This Decree-Law enters into validity on November 1<sup>st</sup> of 2013.

TO BE PUBLISHED in the Official Gazette of the Republic of Cuba.

GIVEN in the Palacio de la Revolución in Havana, on September 19 of 2013.

**Raúl Castro Ruz**

President of the Council of State

##### ONLY ONE APPENDIX

The Zone location takes in 465.4 square kilometers and its course is:

From Point A of coordinates (X=338.670, Y=358.530) a southerly course is taken on the eastern shore of the Baracoa River,

advancing forward to the dike of the dam of the same name, to Point B of coordinates (X=338.957, Y=355.343). Continuing along the eastern side of the Baracoa Reservoir until the river is reached again, the location of Point C of coordinates (X=338.300, Y=353.754). From this point taking a southerly direction to the Havana-Pinar del Rio Highway Point D of coordinates (X=338.865, Y= 353.214). Turning towards the south-west along the south side of the highway for one kilometer, Point E of coordinates (X=337.985, Y=352.757). At that point turning south-southeast taking a farm road to Point F of coordinates (X=339.213, Y=351.816). From this point, heading south-west along a farm road to point G of coordinates (X=337.230, Y=350.139). Turning to the south to Point H of coordinates (X=337.263, Y=349.938), continuing along the road to the intersection with the El Salado highway to Point I of coordinates (X=335.849, Y=348.942). Continuing along the El Salado highway towards the south until the road meets an unimproved embankment at Point J of coordinates (X=335.898, Y=348.668). From this point, continuing along the unimproved embankment westward, on the edge of the Sierras de Anafe and Esperón cliffs to Point K of coordinates (X=326.490, Y=347.374). From this point continuing north along the Guanajay-Noroña highway to where it meets the Havana-Pinar del Rio Highway at Point L of coordinates (X=325.598, Y=348.467). Turning toward the south-west, taking the north side of the edge of the protecting strip of the Highway to Point M of coordinates (X=309.594, Y=337.811). At that point, turning northwest at the western edge of the town of Cayajabos until meeting the Old Cayajabos-Cabaña Highway at Point N of coordinates (X=307.057, Y=340.545) continuing along the western edge of the San Francisco Reservoir to Point O of coordinates (X=305.839, Y=345.503). From that point rejoin the Old Cayajabos-Cabaña Highway heading northwest to the town of El Martillo, Point P of coordinates (X=304.816, Y=348.045). Turn westward and advance along the south side of an existing farm road to Victoria, Point Q of coordinates (X=302.016, Y=347.876). Turning northward and advancing along the west side of a farm road until meeting the Cabaña-Bahia Hondo Highway, Point R of coordinates (X=301.944,

Y=350.352). From this point advancing along the south side of the aforementioned highway to San Agustin, Point S of coordinates (X=294.085, Y=346.061). Turning northward and advancing along the western side of the San Agustin-Pablo de la Torriente Brau Highway, Point T of coordinates (X=291.792, Y=349.165). Continuing along the edge of the surveyed limits of the aforementioned town to Point U of coordinates (X=291.848, Y=349.985). Turning towards the northeast and advancing along the western side of the Pablo de la Torriente Brau-Fria Highway reaching the town of Fria, Point V of coordinates (X=292.282, Y=353.817). Turning eastward following the coastline until reaching Point A, the starting point.

## COUNCIL OF MINISTERS

### DECREE No. 316

WHEREAS: Decree-Law No. 313 "About the Special Development Zone of Mariel" of September 19 of 2013, provides in its Final First Provision that the Council of Ministers passes its Regulation.

THEREFORE: The Executive Committee of the Council of Ministers in the exercise of the powers conferred on it by Article 97 and section k) of Article 98 of the Constitution of the Republic of Cuba, decrees the following:

### REGULATION OF THE DECREE-LAW OF THE SPECIAL DEVELOPMENT ZONE OF MARIEL CHAPTER I

#### GENERAL PROVISIONS

ARTICLE 1. – Concessionaires and users, in accordance with the activity for which they are authorized, may enjoy a differentiated regime of benefits and incentives, according to terms established for that purpose.

ARTICLE 2. – Formalities regarding the agencies, bodies of the Central State Administration and entities required by the concessionaires and users of the Special Development Zone of Mariel, hereinafter referred to as the Zone, or those who are interested in establishing themselves in it, are to be done through the Office of the Special Development Zone of Mariel,

hereinafter referred to as the Office, using its one stop shop system structure.

ARTICLE 3. – In accordance with stipulations in the foregoing article the Office establishes Cooperation agreements with the agencies, bodies of the Central State Administration and corresponding entities.

#### CHAPTER II

### ABOUT THE OFFICE OF THE SPECIAL DEVELOPMENT ZONE OF MARIEL

#### FIRST SECTION

#### About the Responsibilities and Obligations of the Director General of the Office

ARTICLE 4. – The following are responsibilities and obligations of the Director General of the Office:

- a) to represent the Office;
- b) to look out for compliance with functions assigned to the Office by Decree-Law No. 313 “About the Special Development Zone of Mariel” of September 19, 2013, hereinafter referred to as the Decree-Law, this Regulation and other pertinent legal provisions;
- c) to direct drawing up and conducting the Zone Development and Business Program in the short, middle and long terms;
- d) to preside over the Evaluation Commission for Establishing Concessionaires and Users in the Special Development Zone of Mariel, hereinafter referred to as the Commission;
- e) to approve or reject presented business proposals that should fall under their area of competency, depending upon the results of corresponding evaluations;
- f) to present the business file, the judgment with the opinions of the Commission members and the draft Agreement whenever it is pertinent, about business proposals that fall under the competency of the Council of Ministers or the Minister-President of the Banco Central de Cuba, as the case may be;
- g) to be accountable to the Council of Ministers for the actions undertaken by the Office;
- h) to impose disciplinary measures under its competency as established in law on executives and their subordinated employees;
- i) to make the corresponding evaluations about executives and their subordinated employees;
- j) to pass resolutions, instructions, circulars and any other regulations necessary for the

internal functioning of the Office within the framework of its competency; and

k) any others that may be assigned by the Council of Ministers.

#### SECOND SECTION

#### About the Books for Control of Procedures

ARTICLE 5. – The following books shall be set up in the Office for the control of procedures that are its duty to carry out:

- a) **Document In and Out Book:** records all incoming and outgoing requests and applications of concessionaires and users;
- b) **Concession Requests Book:** records applications processed for authorization of administrative concessions;
- c) **User Requests Book:** records requests processed for granting corresponding authorizations;
- d) **Administrative Control of Concessionary Registrations Book:** begins with recording the legal instrument issued by the Council of Ministers granting the concession. Also records modifications to authorization documents as well as extensions granted to concessionaires, measures imposed on them and any other elements considered to be of interest; and
- e) **Administrative Control of User Registrations Book:** begins with recording the legal instrument issued by the Council of Ministers granting the concession. Also records modifications to authorization documents as well as extensions granted to concessionaires, measures imposed on them and any other elements considered to be of interest.

ARTICLE 6. – The administrative control books are set up by Notary Publics.

ARTICLE 7. – The person in charge of the books records concessionaires and users authorized in chronological order on the registration and in the general index.

ARTICLE 8. – In the Document In and Out Book, the person in charge will briefly summarize their content.

The application/requests and presentation of documents may be done by interested parties themselves or through duly accredited representatives.

ARTICLE 9. – Concessionary and user requests are recorded in the corresponding books when it is proven that the presented documents fulfill all requirements for beginning the evaluation process. Should

this not occur, the documents will be returned.

CHAPTER III  
**ABOUT OFFICE RELATIONS WITH STATE BODIES AND ENTITIES**

FIRST SECTION

**About relations with the Ministry of Foreign Trade and Investment**

ARTICLE 10. – The Ministry of Foreign Trade and Investment keeps the Office informed about policy aspects associated with foreign trade, foreign investment and economic collaboration that has impact on activities undertaken in the Zone.

ARTICLE 11. – The following corresponds to the Ministry of Foreign Trade and Investment:

- a) To participate in the evaluation process of applications/requests presented to the Office about the granting of concessions or authorizations for setting up in the Zone.
- b) to provide consultancy on matters of project evaluation with foreign investment;
- c) to transfer experiences on matters of foreign trade and investment;
- d) to reconcile with the Office the promotional plan for foreign investment in the Zone; and
- e) to execute other actions considered to be necessary.

SECOND SECTION

**About relations with the Ministry of Science, Technology and the Environment**

ARTICLE 12. – Office relations with the Ministry of Science, Technology and the Environment are directed to ensure environmental sustainability and compliance with environmental, science, technology, metrology, standardization and industrial property policies and standards in the Zone.

ARTICLE 13. – The actions taking place in the Zone are undertaken in compliance with terms established on strategies, technical standards and environmental and scientific and technological legislation, as well as recommendations for studies on danger, vulnerability and risk effectuated in the Zone and climatic change adaptation measures.

ARTICLE 14. – The regime for infractions and measures is applied in accordance to environmental, technological, metrological and standardizing legislation and regulations passed by the Ministry of Science,

Technology and the Environment for that purpose.

THIRD SECTION

**About Relations with other Bodies**

ARTICLE 15. – The Office, in its relations with bodies of the Central State Administration and the guiding entities for each activity being undertaken in the Zone, informs them about matters of concern to them and for that purpose calls upon them whenever it should be opportune.

FOURTH SECTION

**About Relations with the Physical Planning Institute**

ARTICLE 16. – Office relations with the Physical Planning Institute are directed basically to make sure that the Zone Development and Business Program coordinates with the Plan for Territorial and Urban Planning.

ARTICLE 17. – Works taking place in the Zone are subject to territorial regulations for soil use and destination and other reasons established by the Plan for Territorial and Urban Planning.

FIFTH SECTION

**About Relations with the Artemisa Provincial Administration and Involved Municipal Administrations**

ARTICLE 18. – Office relations with the Artemisa Provincial Administration and municipal administrations, as regards the Zone, are directed basically to:

- a) Support development of economic, social, cultural and environmental activities in the Zone;
- b) look after incidents and implications that should arise dealing with the resident population of the Zone;
- c) process through the Office the proposed projects for collaboration or donations that are received for destination to the Zone; and
- d) present through the Office the requests received from foreign delegations, within the scope of its competency, regarding interests associated with development of the Zone.

CHAPTER IV

**ABOUT CONCESSIONAIRES AND USERS**

FIRST SECTION

**About Application/Request Presentation, Evaluation and Approval**

ARTICLE 19. – Applications/requests from interested parties are sent to the Director General of the Office accompanied by documents referred to in Article 9 of the Decree-Law.

ARTICLE 20. – After documentation is presented, the Office decides whether the file fulfills the requirements established in the Decree-Law and has a timeframe of up to five (5) business days to either accept or return it.

ARTICLE 21. – On the basis of acceptance of the documentation, the Office has a timeframe of up to thirty (30) business days to make the corresponding evaluation.

ARTICLE 22. – Requests/applications received by the Director General of the Office are evaluated in the Commission.

ARTICLE 23. – If once the evaluation process has started the Office should consider it necessary to have additional documentation of any kind, it will make such request to the applicant, indicating the timeframe for presenting it; during this timeframe the term foreseen for doing the evaluation will be interrupted.

Should the term granted not be fulfilled, the application presented will be considered to be suspended and the matter will be filed.

## SECOND SECTION

### **About Concessionary Responsibilities and Obligations**

ARTICLE 24. – Construction, installation and functioning of the concession zones will be carried out by the concessionaires who, for this purpose, may be authorized to carry out the following activities, among others:

- a) Urbanizing lots and building on them offices, factories, warehouses, storage buildings and buildings to provide services and other complementary activities, as well as any infrastructure that should be necessary and convenient for the development of concession zones, both for their own use and for leasing to third persons that would set up on them as users;
- b) Leasing lots in order to carry out authorized activities;
- c) Providing services for start-up and partial or total operation of plants that would support or carry out the users' own activities;
- d) Building, promoting and developing training centers for technical training and recreation, as well as service facilities including those for transportation, to be used by the concessionaires, users and their employees;
- e) Building homes, hotels and other facilities for accommodations that would contribute to the good functioning of the Zone in areas that

would opportunely be selected depending on the concessions granted;

- f) operating airports, heliports, ports, wharfs, landing/departure facilities, railway stations or lines or for land-based loading/unloading, according to legal regulations in force; and
- g) providing or receiving general or specialized services.

ARTICLE 25. – Concessionaires must:

- a) Keep records about their production, service and other activities according to accepted practices;
- b) invest in the development of the concession zone in agreement with the approved feasibility study;
- c) within a timeframe no longer than one hundred and eighty (180) calendar days calculated from its registration in the Administrative Control Book for Registration of Concessionaires, begin the investment referred to in the preceding section;
- d) fulfill their contributions to the Zone Development Fund;
- e) guarantee the existence and maintenance of the infrastructure in accordance with terms stipulated in the concession, that would allow suitable working conditions and the provision of basic and vital services, including green and leisure areas, in accordance with international practices;
- f) promote and develop training programs that would contribute to the technical-professional training of employees whenever required;
- g) make sure of the efficiency of facilities in the concession zone, together with the users, in such a way that they should have the necessary conditions for undertaking their activities;
- h) comply with standards regarding protection of the environment, elimination or mitigation of pollution, conservation of soil, water resources, maritime areas' flora and fauna as well as veterinary and phytosanitary controls, and make sure they are being fulfilled;
- i) comply with the terms established in labor and social security matters in the country;
- j) adopt the necessary measures so that inspections and checks by competent authorities can be effectuated with efficacy, for due control of conditions established in the concession;
- k) present to the Office, within the ninety (90) calendar days following the date of the end of the tax year, an annual report about

their operations and any other information that is required of them in order to comply with their obligations with the Ministry of Finances and Prices, the Taxation Administration and others that are of a statistical nature, as established;

l) implement clean technologies that eliminate or reduce the generation of waste, especially dangerous waste; and  
m) carry out their activities in the terms and conditions established in the concession.

ARTICLE 26. – the Concessionary may freely set the price that the user must pay in leasing the facilities, as well as fees for any services they agree to provide.

#### THIRD SECTION

##### **About User Responsibilities and Obligations**

ARTICLE 27. – Users of the Zone may be authorized to carry out the following activities, among others:

- a) Transformation of raw materials or semi-manufactured products;
- b) manufacturing finished or semi-finished products using the system of setting up and adjusting spare parts, parts, components or accessories;
- c) processing finished or semi-finished products including spare parts, components, accessories or parts to be submitted to some process that should be necessary in order to make commercialization or using the products in question more feasible;
- d) commercial activities for manipulation, packaging and re-packaging, storing and sales of the products;
- e) operational activities implicating the use of ports, airports, wharfs, loading and unloading sites, railroad stations and lines, land-based loading and unloading or other similar activities;
- f) banking services for financial intermediation and insurance in the Zone;
- g) marketing campaign, auditing, administration, informatics and consultancy services to concessionaires and users established in the Zone;
- h) general or specialized services to concessionaires, users and their employees;
- i) development of clean technologies and scientific and technological research services;
- j) seaculture activities; and
- k) agricultural activities involving farming the land and raising cattle.

ARTICLE 28. – Users must comply with the following obligations:

- a) Keep records about their production, service and other activities according to accepted practices;
- b) invest in the development of the concession zone in agreement with the approved feasibility study;
- c) within a timeframe no longer that one hundred and eighty (180) calendar days calculated from its registration in the Administrative Control Book for Registration of Concessionaires, begin the investment referred to in the preceding section;
- d) fulfill their contributions to the Zone Development Fund;
- e) promote and develop training programs that allow for technical-professional training and re-qualification of employees as necessary;
- f) within the ninety (90) calendar days following the date of the end of the tax year, present to the Office an annual report about their operations and any other information requested of them for compliance with their obligations with the Ministry of Finances and Prices, the Taxation Administration and others that are of a statistical nature as established;
- g) adopt the necessary measures so that inspections and checks by competent authorities can be effectuated with efficacy, for the due control of conditions established in the authorization;
- h) comply with the standards regarding protection of the environment, elimination or mitigation of pollution, conservation of soil, water resources, maritime areas flora and fauna as well as veterinary and phytosanitary controls, and make sure they are being complied with;
- i) comply with established terms in labor and social security matters in the country; and
- j) develop their activities within the terms and conditions established in the granted authorization.

#### CHAPTER V

##### **ABOUT SPECIAL REGIMES**

##### FIRST SECTION

##### **About Special Customs Treatment**

ARTICLES 29. – General Customs of the Republic grants powers for the customs formalities that are required before and during the entry of merchandise into the Zone which, coming from abroad, are considered to be necessary for the carrying

out of the activity approved by the corresponding authority, and applies the taxation treatment established in this Regulation or in provisions issued by the Ministry of Finances and Prices for this purpose.

ARTICLE 30. – Concessionaires and users who have had customs regimes granted to them shall hereinafter be referred to, for purposes of this Section, regimen holders.

ARTICLE 31. – Requests for enjoyment of customs regimes are resented by interested parties to the Office; the Office will supply the documentation to Customs covering elements of the presented request and the arguments for its necessity.

When authorization is required for the enjoyment of additional customs regimes to those initially granted or their expansion or transfer within the Zone itself, the regime holders will make their request through the Office.

ARTICLE 32. – General Customs of the Republic grants concessionaires and users of the Zone the customs regimes that the approved activity should require in order to facilitate merchandise being stored, transformed, terminated, marketed among persons authorized for that purpose, imported, exported or re-exported.

ARTICLE 33. – Concession and enjoyment of the authorized customs regime, where not contained in this Regulation, is governed by the customs rules applicable to the aforementioned regimes and the standards that make additions to it or modify it.

ARTICLE 34. – Registration in the Central Customs Registry is done free of charge.

## SECOND SECTION

### **About the Special Labor Regime**

ARTICLE 35. – To provide services to concessionaires or users, Cuban and foreign permanent resident in Cuba employees must first establish their labor relationship with the designated Cuban entity.

ARTICLE 36. – Matters regarding contracting employees, labor discipline, resolution of labor disagreements, collective labor agreements, internal regulations, social security, annual paid holidays, over-time, payment for holidays, protection, work safety and health and material responsibility are

governed by legislation in force on these matters.

ARTICLE 37. – The concessionary and user sign a contract for supplying the labor force with the designated Cuban entity; this contract must contain the following aspects:

- a) Full names and legal domiciles of the contracting parties and the capacity with which they appear;
- b) name and company domicile of the concessionary or user and the designated Cuban entity;
- c) object of the contract specifying positions, numbers of employees, among other aspects;
- d) payment for services rendered;
- e) return or replacement of employee;
- f) obligations of contracting parties in complying with stipulations in this Regulation and the labor legislation in force;
- g) duration and review of the contract;
- h) date on which the contract begins to be in force;
- i) signatures of the contracting parties; and
- j) any others that the parties should consider specifically necessary.

ARTICLE 38. – Presentation by the concessionary or user of the legal document granted to execute the activity authorized is an essential requirement, as well as accreditation of its representative and work permit, according to legal provisions in force.

ARTICLE 39. – Payment for work force service is agreed between the designated Cuban entity and the concessionary or user.

ARTICLE 40. – The concessionary or user may return contracted employees to the designated Cuban entity when, for justified causes, they do not satisfy work demands, proceeding to compensate the aforementioned entity. In necessary cases, one employee may be requested to be replaced by another.

ARTICLE 41. – Compensation referred to in the preceding article is paid to the designated Cuban entity just once, according to the following established terms:

- a) one month of salary for supplying an employee for up to 9 years of service;
- b) two months of salary for supplying an employee for 10 and up to 19 years of service;
- c) three months of salary for supplying an employee for 20 and up to 25 years of service;
- d) four months of salary for supplying an employee for 26 to 30 years of service; and

e) five months of salary for supplying an employee for more than 30 years of service.

ARTICLE 42. – No compensation payment will be made should the return take place at the initiative of the employee.

ARTICLE 43. – Dispositions for available employees given in legislation in force shall be applied to employees that should be returned to the designated Cuban entity.

ARTICLE 44. – The designated Cuban entity pays the salaries of contracted employees in Cuban pesos.

#### THIRD SECTION

##### **About the Special Control Regime**

ARTICLE 45. – The concessionaires and users authorized to operate in the Zone must comply with the legal regulations in force in the Republic of Cuba and those that are imposed by this Decree.

ARTICLE 46. – The concessionaires and users authorized to carry out operations in the Zone will be regularly inspected following coordination with the Office, by agencies of the Central State Administration and guiding bodies in the different activities; they will notify infractions detected through the aforementioned Office.

#### FOURTH SECTION

##### **About the Special Regime on Infractions and Measures to be Applied**

ARTICLE 47. – The concessionaires and users may be required by the Office before the infractions commission.

ARTICLE 48. – The concessionaires and users answer for the infractions committed directly or by their personnel, including infractions committed by employees contracted through the designated Cuban entities.

ARTICLE 49. – Besides the provisions in special legislation on each matter, the following are considered to be infractions:

- a) Doing business that is outside of the scope or activity for which authorization was granted;
- b) non-compliance with their obligations and of the terms and conditions established in the concession or authorization, as the case may be; and
- c) falsifying merchandise or fictitious supplies.

ARTICLE 50. – The concessionaires and users may have the following measures applied to them by the Office:

- a) Fines of 5,000.00 to 100,000.00 in the basic currency of their operations, with the

minimum and maximum amount raised up to three (3) times in the cases of repeat infractions;

b) Loss of tax benefits or other benefits granted for the term of up to one (1) year;

c) Revoking the concession or canceling authorization.

ARTICLE 51. – The Director General of the Office, the agency of the Central State Administration or the competent entity applies, via Resolution, the corresponding measure. The same legal instrument is used to resolve claims.

ARTICLE 52. – The Director General of the Office proceeds to notify the responsible party of the measure applicable within a timeframe that does not exceed the twenty (20) business days, calculated from knowledge of the infraction in the cases that are under its competency or of the measure imposed by competent organisms.

ARTICLE 53. – The party responsible for committing the infraction has seven (7) business days from notification to present claim for the imposed measure to the Director General of the Office.

ARTICLE 54. – The Director General of the Office, within a timeframe of up to three (3) business days, sends to the agencies of the Central State Administration the claims presented before him as a result of the measures imposed by them.

Agencies of the Central State Administration and entities have twenty (20) business days, calculated from the presentation of the claim, to respond and communicate to the Office for the claimed against party to be notified.

The Director General of the Office notifies the claimed against party within the timeframe of up to three (3) business days after the receipt of the decision of the agency of the Central State Administration or entity.

Disagreements with the decisions adopted by the agencies of the Central State Administration and entities are resolved according to the stipulations in legislation in force.

ARTICLE 55. – The Director General of the Office resolves the claim by measures imposed by him within the timeframe of up to twenty (20) business days calculated from presentation of the claim by the violator.

The claiming party has seven (7) business days from the notification of the decision referred to in the foregoing



paragraph to present the Reform Resource to the Director General of the Office.

ARTICLE 56. – The Director General of the Office has a timeframe of thirty (30) business days to resolve the Reform Resource.

#### FIFTH SECTION

##### About the Special Taxation Regime

ARTICLE 57. – The concessionaires and users benefiting from the special regime are exempted from the following tax obligations:

- a) Tax for the use of the labor force;
- b) tax on profits for ten (10) years. In cases of interest to the country, the Minister of Finances and Prices may extend said period;
- c) customs duties for means, equipment and goods imported for the investment process in the Zone;
- d) sales or services taxes during the first year of operations; and
- e) territorial contributions for local development.

ARTICLE 58. – The concessionaires and users benefiting from the special regime pay the following tax obligations:

- a) 12% tax on profits tax;
- b) 1% tax for payment of taxes on sales or services, for entities that market goods or provide services;
- c) 14% tax for contributions to social security for juridical persons employing salaried labor force.

#### SIXTH SECTION

##### About the Special Monetary and Banking Regime

ARTICLE 59. – In providing services of financial intermediation as authorized, the users fulfill, as well as stipulations in the Decree-Law and this Decree, the norms issued by the Banco Central de Cuba as applicable, including those relating to the prevention of money laundering and financing terrorism.

#### FINAL PROVISIONS

FIRST: The heads of agencies, bodies of the Central State Administration and corresponding entities, pass within the framework of their competency the legal provisions that should be necessary for application of this Decree.

SECOND: This Decree enters into validity on November 1<sup>st</sup> of 2013.

TO BE PUBLISHED in the Official Gazette of the Republic of Cuba.

GIVEN in the Palacio de la Revolución in Havana, on September 19 of 2013.

**Raúl Castro Ruz**

President of the Council of Ministers

#### BANCO CENTRAL DE CUBA

##### RESOLUTION No. 82/2013

WHEREAS: In Decree-Law No. 313 “About the Special Development Zone of Mariel” dated September 19, 2013, it is provided in its Article 43 that users authorized to establish themselves in the Zone to provide financial intermediation services require Permits from the Banco Central de Cuba and in Resolution No. 24 of March 24<sup>th</sup> of 1999 of the Minister-President of the Banco Central de Cuba, the general procedure for authorizing permits to financial institutions and representation offices and their registration in the General Registry of Banks and Non-Banking Financial Institutions is provided.

WHEREAS: According to provisions in the aforementioned legal provisions, it is necessary to specify the treatment to be granted to requests for Permits for providing intermediation financial services in the aforementioned Zone.

THEREFORE: In the exercise of the powers and duties conferred in Article 36 of Decree-Law No. 172 “About the Banco Central de Cuba” and Decree-Law No. 173 “About banks and non-banking financial institutions”, both of May 28<sup>th</sup> of 1997.

#### I Resolve:

FIRST: For providing financial intermediation services in the Special Development Zone of Mariel, hereinafter referred to as the Zone, authorization is to be requested for a permit from the Banco Central de Cuba through the single wicket at the Office of the Zone, taking into account the requirements established in Resolution No. 24 of March 24<sup>th</sup> of 1999 of the Minister-President of the Banco Central de Cuba.

SECOND: The financial institutions operating on national territory under General, Special Type A or Specific Permits granted by the Banco Central de Cuba, must likewise comply with the provisions in the foregoing section.

THIRD: In the cases of applicants who do not provide services on national territory, the Permit shall be a Special Type B or Representation Permit, as the case may be,

and in these cases the scope, class of operations and activities that the users may develop in the Zone shall be set.

FOURTH: When it is a matter of applications with proposals of foreign capital, adopting one of the forms of foreign investment foreseen by law, approval of the competent agency is presented according to Decree-Law No. 313 of 2013 and its complementary regulations.

FIFTH: In all cases, the Banco Central de Cuba issues the Permit to provide financial intermediation services in the Zone within the timeframe of ten (10) business days calculated from the date the application is accepted, following compliance with Resolution No. 24 of March 24<sup>th</sup> of 2999.

SIXTH: This resolution enters into force on November 1<sup>st</sup> of 2013.

TO BE PUBLISHED in the Official Gazette of the Republic of Cuba.

TO BE FILED in the original with the Secretariat of the Banco Central de Cuba.

GIVEN in Havana on the twentieth day of the month of September of two thousand and thirteen.

**Ernesto Medina Villaveirán**  
Minister-President  
Banco Central de Cuba

#### **GENERAL CUSTOMS OF THE REPUBLIC RESOLUTION No. 278-2013**

WHEREAS: Decree-Law No. 313 "About the Special Development Zone of Mariel" of September 19<sup>th</sup> of 2013, provides in its Article 29 that General Customs of the Republic establishes a special procedure for concessionaires and users of the Zone, with the aim of simplifying formalities and terms for registration, application and authorization of customs regimes and including the use of information technologies in such a way that it constitutes incentive for establishing same in the Zone. Likewise, in its Article 30, it provides that General Customs of the Republic determines control, formalities and terms that must be fulfilled for the entry, storing and exit of merchandise and international transportation means.

THEREFORE: In the exercise of the duty conferred in Agreement No. 2817 of the Executive Committee of the Council of Ministers of November 25<sup>th</sup> of 1994, in its Third Section, number 4;

#### **I Resolve:**

FIRST: To approve the Norms for Application of Special Customs Treatment in the Special Development Zone of Mariel; these norms are attached as appendices to this Resolution as an integral part of it.

SECOND: To empower the Customs Office of Mariel with control of the Special Development Zone of Mariel.

THIRD: To make responsible the Deputy Head of General Customs of the Republic who is delegated to look after activities of Customs Techniques for keeping the Head of General Customs of the Republic informed about compliance with the Norms approved by this Resolution, as well as to give indications as required ensuring its correct execution.

FOURTH: This Resolution enters into force on November 1st of 2013.

PLEASE NOTIFY the Director General of the Office.

TO BE PUBLISHED in the Official Gazette of the Republic.

TO BE FILED in its original at the Legal Affairs Division of General Customs of the Republic.

GIVEN in Havana on September 20th of 2013.

**Pedro Miguel Pérez Betancourt**  
Head, General Customs of the Republic

#### **STANDARDS FOR THE APPLICATION OF SPECIAL CUSTOMS TREATMENT IN THE SPECIAL DEVELOPMENT ZONE OF MARIEL CHAPTER I GENERALITIES**

ARTICLE 1. – These Standards establish special customs treatment to be fulfilled by concessionaires and users of the Special Development Zone of Mariel, hereinafter referred to as the Zone, and they are to be applied by all system units of Customs bodies, concessionaires, users and the rest of the business operators in the Zone.

#### **CHAPTER II**

#### **ABOUT REGISTRATION**

ARTICLE 2. – The Central Registry of General Customs of the Republic receives from the Office of the Special Development Zone of Mariel, hereinafter referred to as the Office, the E-mailed version of the certified copy of the document accrediting

authorization granted to users and concessionaires for their clear registration.

ARTICLE 3. – The General Customs of the Republic Central Registry receives from the Office the information about updates on cancellations or modifications that have been made, according to applications presented by users and concessionaires or those provided by guiding agencies of the Central State Administration, in E-mail or printed form.

ARTICLE 4. – The Head of the General Customs of the Republic Central Registry, within a timeframe not exceeding two (2) business days, updates the digital information received from the Office in the Customs Single System.

ARTICLE 5. – The Head of General Customs of the Republic Central Registry coordinates with the person designated by the Director General of the Office the establishment of channels for contingencies necessary for the transmission of information when it cannot be done digitally.

ARTICLE 6. – The Head of General Customs of the Republic Central Registry carries out periodic conciliations with the person designated by the Director General of the Office about transferred information and about other matters considered to be opportune so that, by common accord, provided services may be facilitated and perfected.

### CHAPTER III

#### **ABOUT ENJOYMENT OF THE CUSTOMS WAREHOUSING REGIME, MODIFICATIONS OR CHANGES IN APPROVED AREAS OR FACILITES AND REGISTRATION IN THE CUSTOMS CENTRAL REGISTRY**

ARTICLE 7. – The Head of General Customs of the Republic Central Registry sends the director of Customs Techniques the request for enjoyment of the customs warehousing regime received by the Office, as well as its warehousing conciliations, retentions or transfers, for their assessment, processing and presentation of the corresponding Resolution draft.

ARTICLE 8. – The person depositing in warehouses or the trustee who requires to extend the warehousing areas or facilities previously authorized or to move deposited merchandise to another warehouse inside the Zone, presents a request in writing with justifications to the Head of Customs Control who will issue an answer within a timeframe

not exceeding five (5) business days calculated from the date on which the request was presented.

ARTICLE 9. – The head of Mariel Customs authorizes the Universal Declaration to formalize importation of merchandise to and from the customs warehousing after the request has been presented by the holder of the regime.

This facility request is presented within a timeframe not exceeding fifteen (15) calendar days following the date of the operation and it is accepted or refused within the timeframe of five (5) business days calculated from the date on which it was presented.

### MINISTRIES

#### **SCIENCE, TECHNOLOGY AND THE ENVIROMENT**

##### **RESOLUTION No. 150/2013**

WHEREAS: Law No. 81 “About the Environment” of July 11 of 1997, in its Article 24 provides that all activities susceptible of producing significant effects on the environment or that should require due control for purposes of complying with stipulations established by environmental legislation must be granted an environmental permit by the Ministry of Science, Technology and the Environment in accordance with what that body stipulates.

WHEREAS: Decree-Law No. 313 “About the Special Development Zone of Mariel” of September 19 of 2013 provides in its Article 9, section g) that one of the documents that must be presented by the applicant to the Office of the Special Development Zone of Mariel, hereinafter referred to as the Zone, requests for licenses, permits and authorizations that are required.

WHEREAS: It is necessary to adjust the terms established in Resolution No. 132 “Regulation of the Environmental Impact Assessment Process” of August 11 of 2009 of the Ministry of Science, Technology and the Environment to provisions for assessment by the Office of requests to be established as concessionaires or users in the Special Development Zone of Mariel, hereinafter referred to as the Zone.

THEREFORE: In exercise of the powers conferred upon me by Agreement No. 2817 of the Executive Committee of the Council of Ministers in its Section Three, number 4,

dated November 25<sup>th</sup> of 1994 and the Final Fourth Provision of the aforementioned Decree-Law No. 313,

**I Resolve:**

FIRST: To approve the following:

**Regulations for carrying out the Environmental Impact Assessment Process in the Special Development Zone of Mariel**

ARTICLE 1. – The holder of a project for work or activity susceptible to Environmental Impact Assessment presents, prior to its execution, the corresponding request for an environmental license for construction to the Office.

ARTICLE 2. – The Office for Environmental and Nuclear Safety Regulation, hereinafter referred to as ORASEN, within the timeframe of five (5) business days, once it has been received from the Office, reviews the request presented for environmental license and if this has all the requirements demanded by law, proceeds to carry out the Environmental Impact Assessment.

ARTICLE 3. – In the case that the request presented for environmental license does not have all the requirements demanded by law, the Director General of ORASEN communicates this to the Director General of the Office so that it can request that the applicant completes or corrects the information sent in. Once the information is sent in, the timeframe established in Article 2 of this Regulation begins to be in force.

ARTICLE 4. – The Environmental Impact Assessment is done according to the stipulations established by law and in the following timeframes:

- a) Fifteen (15) business days for cases not requiring an Environmental Impact Study.
- b) Twenty (20) business days for cases requiring an Environmental Impact Study.

ARTICLE 5. – Once the assessment is finished, the Director General of ORASEN communicates to the Director General of the Office the decision that was adopted during the process.

ARTICLE 6. – Against the decision adopted, the applicant may establish an appeal within the timeframe of five (5) business days calculated from the date of notification, before the Director General of ORASEN who will resolve the matter within the timeframe of five (5) business days

following the date the appeal is filed, by resolution.

ARTICLE 7. – Request for an operations environmental permit is presented by the Director General of the Office to the Director General of ORASEN.

SECOND: In the Zone, provisions in Resolution No. 132 “Regulation for the Environmental Impact Assessment Process” of August 11, 2009 must be applied and the rest of the legislation on the matter, in everything that is not contrary to what is established in this Resolution.

THIRD: This Resolution enters into force on November 1<sup>st</sup> of 2013.

PLEASE NOTIFY the Director General of the Office of the Special Development Zone of Mariel.

TO BE COMMUNICATED to the Deputy Minister looking after the area of the environment and sent by him to the heads of entities that make up the environmental system of this ministry and to the Head of the Office of the Special Development Zone of Mariel.

TO BE PUBLISHED in the Official Gazette of the Republic.

TO BE FILED in its original in the Protocol for Resolutions in the Legal Department of this Ministry of Science, Technology and the Environment.

GEIVEN in Havana, at the offices of the Ministry of Science, Technology and the Environment, on the twentieth day of the month of September of 2013.

**Elba Rosa Pérez Montoya**

Minister of Science, Technology and the Environment

**FINANCES AND PRICES**

**RESOLUTION No. 384/2013**

WHEREAS: Decree-Law No. 313 “About the Special Development Zone of Mariel” of September 19 of 2013 establishes in its Articles 38 and 39 that concessionaires and users must contract for insurance for properties of any type and responsibilities; for that purpose Cuban insurance companies, under competitive conditions on a world scale, will have the right of first choice. Whenever that is not possible, the Superintendent of Insurance authorizes obtaining insurance through foreign companies. Likewise, Article 44 provides the

obligation of entities established in the Zone to contribute to the formation of a Fund for its development, support and the maintenance of common areas.

WHEREAS: It is necessary to establish the form in which application can be made to the Superintendent's Office for Insurance of Cuba by concessionaires and users for the authorization required for insurance with foreign entities; as well as the amounts to be contributed to the formation of the Development Fund for support of the Special Development Zone of Mariel Office and the maintenance of common areas.

THEREFORE: In the exercise of the duties conferred on me in number 4 of the Third Section of Agreement No. 2817 of the Executive Committee of the Council of Ministers of November 25<sup>th</sup> of 1994 and the power granted in the Final Fourth Provision of the aforementioned Decree-Law 313,

**I Resolve:**

FIRST: Concessionaires and users of the Special Development Zone of Mariel, hereinafter referred to as the Zone, who are interested in contracting insurance for their properties of any type and responsibilities with foreign companies, present their request in writing, in the Spanish language, to the Superintendent's Office for Insurance of Cuba, by means of the single wicket of the Office of the Special Development Zone of Mariel, hereinafter referred to as the Office, including the following information:

- a) Company name and registry information in Cuba of the applicant entity
- b) Full name, Identity Card number or Passport number of the person presenting the application, in representation of the applicant entity
- c) Full names, citizenships, numbers of Identity Documents or Passports, in the case where the applicant is a natural person
- d) Address (location) in the Zone, telephone number and E-mail address of the applicant
- e) Type of insurance they would like to contract, as well as the properties or responsibilities they wish to insure
- f) Company name and nationality of the foreign insurance company they wish to contract.

SECOND: Together with the application referred in the previous Section, the interested entity or person presents the following documents:

- a) Document issued by the Office that accredits that the concessionary or user applicant is registered in the corresponding control book
- b) Price quote or coverage refusal of the Cuban company having the first choice option
- c) Price quote of the foreign insurance company proposed to provide coverage for properties or responsibilities that they wish to insure
- d) Power of Attorney accrediting the legal representation with which the person presenting the application appears.

THIRD: Once the application and required documents have been presented, the Superintendent's Office for Insurance issues its authorization or refusal within the timeframe of the ten following (10) business days.

FOURTH: The concessionaires and users of the Zone contribute to the formation of a Development Fund in order to support the Office and provide maintenance for common areas, hereinafter referred to as the Fund, with a quarterly payment for the amount of a half a percentage point (0.5%) of gross income for each quarterly period, in the currency in which they are operating.

The annual total payment of these contributions cannot be less than what has been established in this document for the concessionaires and users who have no incomes in a calendar year; they must make their payments as a final quarterly payment every year.

Contributions to the Fund are made within a timeframe no greater than fifteen (15) business days following the close of every calendar trimester.

FIFTH: When concessionaires and users of the Zone do not obtain incomes in a calendar year they make annual payments to the Fund for the amount of six hundred (600.00) convertible pesos, or six hundred (600.00) Cuban pesos should their operations be made exclusively in that currency; these contributions will be made within the thirty (30) calendar days following the close of that period.

The amount established in the preceding paragraph may be reviewed and updated depending on changes in the economy and requirements demanded by the Fund.

SIXTH: The Office has a bank account in a commercial Cuban bank in order to

collect Fund contributions; it will be managed according to stipulations established for such purposes.

SEVENTH: This Resolution enters into force on November 1<sup>st</sup> of 2013.

PLEASE NOTIFY the Director General of the Office of the Special Development Zone of Mariel.

TO BE PUBLISHED in the Official Gazette of the Republic of Cuba.

TO BE FILED in the original at the Legal Department of this Ministry.

Given in Havana on the 20<sup>th</sup> day of the month of September of 2013.

**Lina Olinda Pedraza Rodríguez**  
Minister of Finances and Prices

## THE INTERIOR

### RESOLUTION No. 14

#### THAT ESTABLISHES REGULATIONS ON MIGRATORY MATTERS AND DEALING WITH DOMESTIC LAW AND ORDER, APPLICABLE TO THE SPECIAL DEVELOPMENT ZONE OF MARIEL

WHEREAS: Decree-Law No. 313 "About the Special Development Zone of Mariel" of September 19 of 2013 provides for a migratory control and domestic law and order regime applicable to concessionaires and users of the Zone.

THEREFORE: In the exercise of the duties conferred on me in number 4 of the Third Section of Agreement No. 2817 of the Executive Committee of the Council of Ministers of November 25 of 1994, and the power granted in the Final Fourth Provision of the aforementioned Decree-Law No. 313.

#### I Resolve:

FIRST: To establish regulations on migratory and domestic law and order matters in the Special Development Zone of Mariel; they are annexed to this Resolution and are an integral part of it.

SECOND: Entities issuing certificates that are recognized in the Special Development Zone of Mariel for matters relating to physical protection in port facilities and fire safety are approved by the Ministry of the Interior.

Those recognized for providing safety and physical protection services in the Special Development Zone of Mariel, in matters dealing with assessment, consultancy, advice, drawing up Safety and Protection Plans and protection services are

companies or agencies dedicated to this activity, following the judgment of the Ministry of the Interior.

THIRD: To immediately apply the foreseen regulations to the port enclosure (land, works and facilities destined for servicing the port, container terminal and water and coast areas including the coastal zone of the port enclosure) and zones for logistical activities related to oil prospecting.

Implementation of the provisions of this document will be carried out gradually, in accordance with development and execution of the foreseen investment process for the Special Development Zone of Mariel.

FOURTH: Exercise of the functions of state controls in matters dealing with possession and operation of vessels and the control of maritime traffic, fire safety and physical protection is executed by the inspectors of the Harbor Master's Office, Fire Department and Ministry of the Interior Protection, respectively.

FIFTH: This Resolution enters into force on November 1<sup>st</sup> of 2013.

TO BE COMMUNICATED to the Director General of the Office of the Special Development Zone of Mariel, the First Deputy Minister and the Deputy Minister of the Interior, heads of Global and Linear Ministerial Bodies, the provincial head of MININT (Artemisa) and to as many natural and legal persons as need to know.

TO BE PUBLISHED in the Official Gazette of the Republic.

Given in Havana on the 20<sup>th</sup> day of the month of September of 2013.

Minister of the Interior  
General of the Army  
**Abelardo Colomé Ibarra**

#### SINGLE APPENDIX REGULATIONS ON MIGRATORY MATTERS AND INTERNAL LAW AND ORDER, APPLICABLE TO THE SPECIAL DEVELOPMENT ZONE OF MARIEL

##### I. MIGRATORY REGULATIONS:

1. Requesting and authorizing visas for entering national territory, the migratory dispatch for vessels and aircraft through international border points located in the Zone are executed in accordance with what has been established in the migratory legislation in force.
2. Aspects regarding the authorization of temporary resident status to foreign

natural persons or those without citizenship performing as concessionaires or users of the Zone are governed by provisions in the regulations of the Ministry of the Interior which is the authority in these matters.

3. The Department for Identification, Immigration and Foreigner-related Matters (DIIE in its Spanish acronym), at the request of the Director General of the Office of the Special Development Zone of Mariel, grants 90-day temporary resident visas to foreign natural persons or those without citizenship who would like to establish themselves as concessionaires or users of the Zone, until such time as they acquire work permits and temporary resident status in the country.
4. The Department for Identification, Immigration and Foreigner-related Matters knows the migratory formalities that concessionaires or users of the Zone may eventually request through the official in charge of this activity in the Office of the Special Development Zone of Mariel.
5. Migratory authorities provide cancellation of temporary resident status for foreign natural persons or those without citizenship that function as concessionaires and users of the Zone at the time they receive notification from the office about the cessation of their professional or labor activities; also, their departure from the country in accordance to the timeline established in migratory provisions.
6. The migratory authorities control those foreign natural persons and those without citizenship who are associated with activities authorized to concessionaires or users of the Zone only carry out authorized professional or labor activities. Likewise, they provide cancellation of temporary resident status for this category of persons when they do not fulfill migratory dispositions or when they commit criminal acts.

## **II. THE HARBOR MASTER'S OFFICE REGULATIONS FOR SAFETY AND CONTROL OF MARITIME TRAFFIC:**

1. Concessionaires or users functioning as shipowners, port administrators or operators, or who provide any service in the port enclosure located in the Special Development Zone of Mariel abide by the

provisions in legislation in force in matters of:

- a) navigational safety and control
- b) protection of ships and port facilities
- c) control of weapons, ammunition and dangerous substances
- d) sailor identities
- e) registration of ships' papers with acquired Cuban flags

Likewise, they request the Harbor Master's Office for permits granting access to anchored ships, entry and departure of ships and vessels, their cargos and passengers, removal, ship and vessel repairs, embarking and disembarking of crews and passengers, execution of maritime port services or nautical operations, keeping the Office of the Special Development Zone of Mariel informed.

2. The Harbor Master's Office, at the request of the Office of the Special Development Zone of Mariel, issues authorizations to establish loading and unloading points for the moving of persons by sea, from or to the Zone. These points will be governed by special regulations provided for the purpose.
3. The Harbor Master's Office may position guarding service for vessels and ships during their stay in the port enclosures of the Zone, execute maritime port controls and sounding for the ships and their cargo, make provisions about these cautionary measures and detain persons when faced with well-based suspicions of crimes or other violations of the Law. It also participates in investigations of maritime events and accidents.
4. The Harbor Master's Office issues the level of maritime protection that ought to be assumed by port enclosures located in the Zone, in accordance with the Protection of Vessels and Port Facilities Code.

## **III. FIRE SAFETY REGULATIONS:**

1. Persons involved in the investment process, concessionaires and users of the Special Development Zone of Mariel abide by the fire safety regulations in force in the country.
2. The Office of the Special Development Zone of Mariel, as member of the fire safety system of the Republic of Cuba, has an integral plan for fire safety and other emergencies, composed of special plans possessed by concessionaires and

users of the Zone, ensuring the execution of proper control actions.

3. Persons involved in the investment process ensure that every object in their works follows the fire safety and protection against other emergencies requirements, particularly the water supply systems, fire extinguishers, electrical protection, against spillage, portable protection, automatic detection and emergency response.

The Firefighter Corps of Cuba demands proper requirements and guarantees.

4. The Firefighter Corps of Cuba, together with the Fire Protection Agency (APCI in its Spanish acronym), carries out start-up tests for the Zone's investments in order to make sure that these follow the fire safety requirements.
5. Concessionaires and users of the Zone, following approval by the Firefighter Corps of Cuba, certify and validate the following through the Fire Protection Agency:
  - a) The structure, organization and services foreseen in the territorial development plan
  - b) Compliance with existing regulations and new investments being executed in the Zone
  - c) Equipment and materials relating to fire safety.
6. The Firefighter Corps of Cuba carries out pre-operational and control visits to check the handling of fire safety during the investment process; these actions are carried out after coordination with the Office.
7. When faced with the occurrence of a fire or other emergency, the non-specialized professional and volunteer forces of the entities based in the Zone which act to mitigate such occurrences, subordinate themselves to the Firefighter Corps of Cuba until the reasons for their participation have ceased.

#### **IV. SECURITY AND PROTECTION REGULATIONS:**

1. Persons involved in the investment process, concessionaires and users of the Zone, must fulfill the regulatory provisions in force on matters of physical protection by virtue of which they must draw up a Security and Protection Plan for their facilities, request licenses and permits for importing, exporting and using dangerous substances, as well as certifying and coordinating the safety/security means or

systems they would like to import or use in the country.

2. Concessionaires and users of the Zone determine the regime for control of access and internal circulation of persons and vehicles in their facilities, vital points, reserved areas and free-access areas, depending on the security and physical protection levels and criteria established by the Ministry of the Interior.

The Protection Division of the Ministry of the Interior, at the request of the Office of the Special Development Zone of Mariel, establishes special protection regimes in the facilities.

3. Concessionaires and users of the Zone, through entities outfitted for such purposes:
  - a) Contract security services or security and protection personnel.
  - b) Certify provision of security and physical protection services, foreseen safety measures to be imported or used for such purposes and the protection of port facilities.
4. Concessionaires or users working as shipbuilders, port administrators or operators adopt in the port enclosures the security and physical protection procedures and measures that match the level of maritime protection established by the Harbor Master's Office.

The Senior Administrative executive in each port enclosure approves the assessment and protection plan and designates a Protection Official for port facilities.

#### **V. REGULATIONS ON ROAD SAFETY**

1. The National Traffic Division provides facilities to the Office of the Special Development Zone of Mariel for the purposes of executing formalities associated with fleets of vehicles, professional drivers and putting up road signs and signals.

#### **LABOR AND SOCIAL SECURITY**

##### **RESOLUTION No. 49/2013**

WHEREAS: Decree-Law No. 316 of September 19 of 2013 "Regulation of the Decree-Law for the Special Development Zone of Mariel" states in its Article 39 that payment for labor force services is agreed between the designated Cuban entity and the concessionary or user and in Article 44, that the payment of employee salaries is done by



the designated Cuban entity in Cuban pesos, therefore it is necessary to establish the procedure for paying the supplying of the labor force as well as payment of employee salaries.

THEREFORE: In the exercise of the powers conferred on me in the Third Section number 4 of Agreement No. 2817 of the Executive Committee of the Council of Ministers on the 25<sup>th</sup> of November of 1994 and the Final First Provision of the aforementioned Decree No. 316.

**I Resolve:**

FIRST: To determine the amounts to be paid for labor force supplied, the following elements are assessed between the designated Cuban entity and the foreign concessionary or user:

- a) salaries paid for positions of similar complexity in entities in the same branch or sector of the geographical area of the foreign concessionary or user;
- b) salaries paid to workers in Cuba, including paid annual holidays; and
- c) expenses paid by the employing entity in handling the guaranteed provision of the qualified labor force and which involves their recruiting, selection and training, among other aspects.

The amount determined is the payment for services rendered, recorded in the supply contract which is signed by the concessionary and user with the designated Cuban entity.

SECOND: The salary referred to in subsection b) of the preceding Section is that which is paid for positions that are requested by foreign concessionaires and users and includes:

- a) scale salary;
- b) additional payments established in legislation in force, night-time duty, housing, shifts, height, legally approved economical-social interest

Payments for seniority, masters and doctorates are included when the parties agree that those who occupy specific positions have such additional requisites.

THIRD: Agreed amounts for payment of supplied labor force may be modified as the result of annual assessment made by the

Parties as they evaluate business outcomes and conditions.

FOURTH: For payments of employee salaries by the designated Cuban entity as authorized by the Ministry of Labor and Social Security, the following must be taken into consideration:

- a) complexity, working conditions and additional requisites for positions filled;
- b) forms of payment for yield as applied;
- c) set coefficient and amounts paid for the service of supplying the labor force.

FIFTH: For Cuban concessionaires and users, the following is applied when formulating salaries:

1. Salaries are tied in with the entity results;
2. salary increases produced as a result of salary association will be financed by the entities in accordance with compliance with direction indicators;
3. salary limits to be received are determined by salary expenses by weight of planned gross added value;
4. Directors of entities approve pay systems per yield that are applied.

SIXTH: To set the salaries, the basis is a minimum, equivalent to the average salary at the close of the preceding year in the province of La Habana, at the time of negotiation.

SEVENTH: This Resolution enters into force on November 1<sup>st</sup> of 2013.

TO BE FILED in the original of this Resolution in the protocol of the Legal Department of this Ministry.

TO BE PUBLISHED in the Official Gazette of the Republic.

Given in Havana on the 20<sup>th</sup> day of the month of September of 2013.

**Margarita M. González Fernández**  
Minister of Labor and Social Security