

## **Chapter 5: Forming a Free Trade Zone**

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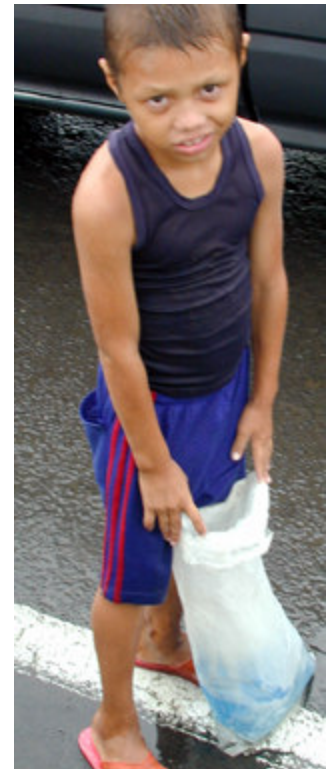
### **A. Why a free trade zone?**

Because it is the first worker-owned free trade zone in the world, everyone wants to know why the Fair Trade Zone chose to jump through so many hoops to become an official free trade zone. There are the obvious reasons: as a cooperative, they still had to pay taxes, as a free trade zone, they don't. As a cooperative, they endured long waits for imports and exports, as a free trade zone they don't.

“Here in Nicaragua I think [the government is] number one for bureaucratic paperwork,” says Rosa. “Documents might be in an office for a week just because they're missing one signature.” As a cooperative, she explains, there were a lot of steps involved in the importation process. “We had to get permission from the Ministry of Labor, wait a week for the Home Ministry to give us another permission and then another week for customs to receive it and to tell us, ‘Okay, you can take the goods to the co-op.’ It was a long time to be waiting and the cloth was just sitting there.”<sup>101</sup>

The benefits of tax exemption and expedited imports and exports are normally offered only to free trade zones in underdeveloped countries, almost all of which are owned by foreigners. The only benefits that this company's business brings to the host country are low-paid, highly unstable jobs. And where do all their profits go? Into the pocket of the owners, who keep their bank accounts in a more secure country than the one hosting its business. Therefore, in a country like Nicaragua, none of the profit stays in the country, and the free trade zone's contribution to the local economy in terms of salaries is minimal.

In the dominant neo-liberal global economy, economically disadvantaged people cannot compete. The very structure of the system is set up this way: all competitive advantages are given to the economic elite, while those who have little or nothing are expected to “pull themselves up by their bootstraps.” For those with few resources, viable alternatives are limited. In the developed world, they are most often forced into one or more minimum wage jobs to support their families – working long hours for low wages with few benefits, if any. In the developing world, and in Nicaragua's case in particular, those with scarce economic resources are given little option but to find



*stoplight water vendor*

work at one of the multiplying free trade zones where the working conditions are reprehensible: forced overtime, miserable wages, and often abusive treatment from the management.

For the worker-owners of the Fair Trade Zone, the effort they have put into becoming certified as a free trade zone has not just been about the economic benefits. It's also about offering better employment in their community and creating viable economic alternatives.

“Even though we aren't going to be millionaires,” says María Elena, “we are owners of our own business. We have the great blessing of not having a foreigner as our boss who would be yelling at us because we arrived late or because we did something wrong. It's a source of pride for me that I am an owner, and aside from being an owner, I am a worker in a free trade zone where I know that I don't have a boss who will yell at me.”<sup>102</sup>

### **1) What is a free trade zone exactly?**

A free trade zone (FTZ), or export processing zone, is an area of a country where tariffs and quotas are eliminated and bureaucratic requirements are lowered in order to attract companies by raising the incentives for doing business there. Most FTZs are located in the developing world. Usually, these zones are set up in underdeveloped parts of the host country, the rationale being that the zones will attract employees and thus reduce poverty and unemployment and stimulate the area's economy. These zones are most often used by multinational corporations to set up factories to produce goods (such as clothing or shoes).<sup>103</sup>

Because the multinational corporation is able to choose between many poor countries in setting up an overseas factory, bidding wars erupt between their governments. Often the government pays part of the initial cost of factory setup, loosens environmental protections and rules regarding negligence and the treatment of workers, and promises not to request payment of taxes for the next few years. When the taxation-free years are over, the corporation which set up the factory without fully assuming its costs is often able to set up operations elsewhere for less expense than the taxes to be paid, or simply set up a new free trade zone in the same current host country. These options give free trade zones leverage to take the host government to the bargaining table with more demands in order for it to continue operations in the country.<sup>104</sup>

“A consortium comes in, and they have a group of Koreans with money,” explains Rosa. “They build a factory, they are the owners, they just contract with the workers to make their garments and they export them. And when they say ‘I don't want to be here anymore, I've got enough,’



*a Nicaraguan free trade zone "sweat shop"*

they go. They pick up their stuff and they go and the workers are left unemployed.”<sup>105</sup>

Conditions for the workers in many of these FTZs, however, are not acceptable, and this is why many equate the term “free trade zone” with “sweatshop.” In Nicaragua, there are over 70 free trade zone corporations, employing over 70,000 workers, 80% of whom are women.<sup>106</sup> At least in Nicaragua’s case, sweatshop workers are subject to unacceptable labor conditions, long hours and low pay. In many places, only women younger than 35 are given jobs, and many are forced to take pregnancy tests before being given a job. Workers have insurance payments deducted from their paychecks only to discover in an emergency that they are not covered under any insurance plan. If workers miss a day to take their children to the doctor, they often come back to work to find they’ve been fired. Union organizing is banned outright or management controls which unions are set up. Workers who attempt to organize themselves are blacklisted from working in any free trade zone. Employees routinely work from before 7 AM to after 7 PM with forced overtime. They spend little time with their families: they can’t help their children with homework or pick up their grades at school. If they get one day a week off – which often they don’t – it must be spent washing by hand the laundry that has piled up during the week. Salaries are so miserable that with the minimum monthly salary (\$42), workers can’t even afford to buy one-eighth of the basic food basket (\$298). Pressure to produce in the free trade zones is so strong that many workers make themselves sick, and reports of physical and emotional abuse from supervisors are widespread.<sup>107</sup>



*Yadira & María Elena with their family*

“[At the Fair Trade Zone], we want to maintain a sustainable market so that we can keep working and giving employment,” explains Ruth. “[Working here] gives me and other workers time to be with our children. In the other free trade zones that’s not the case because they work Monday through Sunday, the whole week long.”<sup>108</sup>

## **2) Why set up a worker-owned free trade zone?**

As a free trade zone, the Fair Trade Zone now receives all the same benefits as the subsidiaries of multi-national corporations:

- ✓ Expedited import and export paperwork
- ✓ No payment of taxes or duties on imports and exports
- ✓ Exemption on local purchases of the 15% value added tax
- ✓ Exemption from all Nicaraguan taxes, **except** for payment of employees social security and health care
- ✓ Lower utility rates on public utilities (water)

The difference is that the workers are the owners, so when the company sees profit at the end of a year, that profit goes to the workers. There isn't any foreign bank account to store the profits in, so all of it stays right here in Nicaragua, being invested in the community by the workers, and by the business, which as a cooperative must set aside 30% of its annual profit for social projects. What conventional free trade zone does this?

“Now all of this is run by the workers and we are Nicaraguans and at least in my case, I am not planning on ever leaving here,” declares Rosa. “I will always be here, and if I'm not then my children will be here... We are all Nicaraguans, we're all poor people who started to work here and not one person is the owner here, but we are *all* owners.”<sup>109</sup>



The Fair Trade Zone has effectively turned the modern model of globalization on its head, using the very system that has been designed to benefit large corporations to benefit the local economy and poor workers. If it can be done effectively in Nueva Vida, Nicaragua, it can certainly be done effectively in other parts of the world, and that is where the hope lies for the poor in the developing world to have a hand in changing their own futures.

## **B. Steps to certification**

The steps to certifying a free trade zone that follow are legal process according to Nicaraguan free trade zone law. Regardless of where you are located, you should always check with the appropriate government offices in charge of free trade zones (in Nicaragua the *Comisión Nacional de Zona Franca CNZF*) and consult with a reputable lawyer, preferably one who comes recommended, and who has experience setting up free trade zones.

1. Form and legalize a business that is dedicated to the fabrication of products for export. For example, clothing of all kinds, footwear, electrical products etc. The constitution and bylaws should be written by a lawyer with experience in the formation of free trade zones, since there are specific laws that exist to create free trade zones.

In the formation of free trade zones, generally limited liability corporations are used, where there is no limitation of participants. In the case of the Fair Trade Zone, Nicaraguan law does not allow for cooperatives to own free trade zones. Therefore, the members of COMAMNUVI formed a limited liability corporation, Zona Franca Masilí, SA with the commercial names “Fair Trade Zone / Zona de Comercio Justo.” Each

member of COMAMNUVI has equal shares in the Fair Trade Zone and the Fair Trade Zone is wholly owned and operated by the members of COMAMNUVI.

2. Once the business is legalized, it is registered in the Mercantile Registry and then presented to the National Free Trade Zone Commission (CNZF), which approves it. It is necessary to attach the following documents:
  - a. Yearly investment plan (minimum of three years)
  - b. Yearly production plan (minimum of three years)
  - c. Environmental impact study
  - d. Contracts and letters of intention from clients
  - e. Health certificate of the premises
  - f. Approval certificate from local mayor's office
  - g. Certificate of use or non-use of aquifer water (wells, septic tanks, etc.)
  - h. The cost of registering the free trade zone with the CNZF is \$300 for paperwork
  - i. The cost of registering the free trade zone with the Nicaraguan government is \$10,000 as a guarantee against any future fines
  - j. The business has to register itself with the *Dirección General de Ingresos* (tax office), customs, and the local mayor's office

It is necessary for this process to be done by a lawyer with experience in free trade zones.

Other infrastructure requirements:

- a. There must be a bathroom for each 10 people employed
- b. For each bathroom there must be two septic tanks for solids and liquids and these must drain according to the capacity they each have
- c. The perimeter of the business must be completely enclosed with only one entrance and exit
- d. There must be a defined area for solid waste (refuse)
- e. There must be a designated break room for the employees
- f. The company offices must be located on the premises inside the enclosed space and cannot be shared with any other company or organization



*the Fair Trade Zone factory*

- g. There must be a guard at the gate checking all persons and goods that enter and exit and they must be provided with a guard house

### **C. Notes on administering a free trade zone**

As of this writing, the Fair Trade Zone has been operating as a free trade zone only five months, and therefore is still learning how to administer a free trade zone. Though all worker-owners agree that the benefits of being a free trade zone have been worth the effort of getting certification, some of the benefits have not been as expected.

“There are certain disadvantages,” admits Yadira. “We understand that the raw materials can’t be warehoused more than three months under the free trade zone regimen. Before, as a cooperative, if we had raw materials left over – whole cloth or thread – we just had it in our warehouse four months, five months, six months, eight months maybe. And now we’re not going to be able to say ‘we’re going to buy six months of raw materials’ because we know that we only have three months.”<sup>110</sup>

Previously, the Fair Trade Zone had understood that they would be receiving reduced utility rates. Now they’ve been told that the government can’t help them with electrical rates because the electrical company has been privatized. “Because it’s a private business and each business has the right to charge whatever they want,” says Yadira. “The water company hasn’t been privatized yet, so we’ll see what answer they give us on that one.”<sup>111</sup>

Although free trade zones are able to make local purchases without being charged the 15% sales tax, there is much more paperwork involved than was anticipated. The cooperative must provide the National Commission of Free Trade Zones with a list of their vendors, and then the

Commission writes a letter allowing them to purchase from those specific vendors without being charged sales tax. “And if you are going to buy...a computer, a printer or a car maybe,” explains Yadira, “you have to get three quotes minimum. With these three quotes the business looks at which one is the best. Since these are places you’re going to buy where you’ve never bought before, you have to write a letter to the Commission...so that they write you another letter where you are exempt from the sales tax. And if you buy something with sales tax because you need it very fast, you can do the paperwork but they only pay you back what you paid out in sales tax months later.”<sup>112</sup> As of this writing, the Fair Trade Zone still has not received its tax exoneration letter.



*Fair Trade Zone worker-owner  
Tomasa Jirón – photo Kelly Doering*

The Fair Trade Zone worker-owners have also discovered unanticipated costs working as a free trade zone. “Even for the cloth to get out of customs you have to pay someone,” notes Tomasa. “You have to pay two custodians because one accompanies the cargo to a certain point and then the other receives it and comes out [to the co-op].”<sup>113</sup>

As a free trade zone, the Fair Trade Zone must be very careful with its inventory as every movement in and out of the factory is recorded by customs. They are also required to turn in monthly reports to customs detailing everything that has come in and gone out of the factory. “We can’t send out a product that isn’t verified by customs...Because everything that comes in as cloth has to leave as a garment. Not even a little can stay,” explains Yadira. “So we have to sell it with permission that customs gives us so that they know what product entered, has returned to its country of origin and that nothing is going to stay here. And that is how we have to do all the imports and the exports.”<sup>114</sup>



*maintaining co-op inventory – photo Kelly Doering*

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- <sup>101</sup> Interview with Rosa Isabel Dávila Alonso, 18 August 2005.
- <sup>102</sup> Interview with María Elena Medina Vallejos, 22 August 2005.
- <sup>103</sup> [http://en.wikipedia.org/wiki/Free\\_trade\\_zone](http://en.wikipedia.org/wiki/Free_trade_zone), 8 August 2005.
- <sup>104</sup> *Ibid.*
- <sup>105</sup> Interview with Rosa Isabel Dávila Alonso, 18 August 2005.
- <sup>106</sup> Interview with Harling Bobadilla, General Secretary of the Union of Textile Workers, 17 July 2005 Managua, Nicaragua.
- <sup>107</sup> *Ibid.*
- <sup>108</sup> Interview with Ruth Mena Garay, July 2005.
- <sup>109</sup> Interview with Rosa Isabel Dávila Alonso, 18 August 2005.
- <sup>110</sup> Julia Yadira Vallejos, group interview with Fair Trade Zone worker-owners 14 October 2005
- <sup>111</sup> *Ibid.*
- <sup>112</sup> *Ibid.*
- <sup>113</sup> Tomasa Jirón, group interview with Fair Trade Zone worker-owners 14 October 2005
- <sup>114</sup> Julia Yadira Vallejos, group interview with Fair Trade Zone worker-owners 14 October 2005