

RÉPUBLIQUE ALGÉRIENNE DÉMOCRATIQUE ET POPULAIRE

INVESTMENT CODE

(Decree of October 5, 1993)

Part I

Article 1:

The present legislative decree sets out the regulations applicable to private local investments and foreign investments made in economic activities related to the production of goods and services not expressly reserved for the States or for its component departments or any legal entity expressly designated by a law.

Article 2:

Investments covered by the provisions of this legislative decree are those related to establishment, expansion of capacity, rehabilitation or restructuring, made in the form of capital or input in kind, by any individual or legal entity.

Article 3:

Investments shall be made freely subject to the legislation and regulation on regulated activities. Prior to investments being made, an investment proposal shall be introduced to the Agency referred to below.

Article 4:

The investment proposal of investment referral to in Article 3 above shall state, in particular:

- The area of activity;
- The location;
- The jobs to be created;
- The technology used;
- The investment and financing system as well as the financial evaluation of the project, accompanied by the recovery plan;
- The conditions for environmental protection;
- The estimated time period for implementing the investment;
- The obligations linked to the realization of the investment.

With regard to regulated activities, the proposal shall be accompanied by the documents prescribed by the law and regulations in force.

Where the investor is applying for benefits, the proposal shall be accompanied by all necessary support documents.

Article 5:

Investment proposed in accordance with Article 4 Above, shall be granted the provided for in Part V of the present legislative decree.

Article 6:

Investments proposed in accordance with Article 4 above may be granted the benefits which come under the general or the special incentive schemes provided for in the present legislative decree when the application is made to the Agency at the same time that the investments proposal is made.

Article 7:

There shall be established at the Office of the Head of Government, an Agency for the promotion, support and follow-up of investments, hereinafter referred to as the "Agency".

The functions of the Agency, apart from those outlined in the present legislative decree, its organization and its functioning shall be stipulated by means of regulations.

Article 8:

The Agency shall be responsible for assisting investors with the formalities necessary for making their investment, particularly those related to regulated activities and ensure that the legal deadlines are met.

The Agency shall be established as a one-stop facility, which groups together the administrations and bodies concerned with the investment.

In this connection, it shall provide, within the time period stipulated in Article 9 below and on the authority of the administrations concerned, all the documents legally required for making the investment.

Article 9:

The Agency shall have a maximum period of 60 days, from the date of the official submission of the proposal and application for benefits under the terms referred to in Article 4 above, within which to notify the investor, after appraisal, of the decision to grant or to withhold the benefits, as well as their duration in the case of agreement.

In the case where the Agency's decision is to be contested, the investor may make an appeal to the supervising authority for the Agency, stipulated in paragraph 1 of Article 7 above. This authority shall have a maximum period of 15 days within which to respond.

The decision is not susceptible of jurisdictional recourse.

Article 10:

The decision of the Agency shall indicate, in addition to the benefits granted, the reciprocal obligation of the investor, in accordance with the proposal referred to in Article 4 above.

The decision of the Agency shall be published in accordance with terms stipulated by regulation.

Article 11:

The form and manner in which the of investment proposal, the application for benefits and the decision of the Agency shall be made, shall be determined by means of regulation.

Article 12:

Investments made in the form of capital inputs, by means of freely convertible foreign currency, regularly quoted by the central BANK of Algeria and the importation of which is duly registered by the Bank, shall be given the guarantee for transfer of invested capital or income deriving from it. Such guarantee shall also apply to real net proceeds from transfer or liquidation, even if the amount is higher than the initial invested capital.

The corresponding application for transfer by the investor shall be made within a maximum period of 60 days.

Article 13:

The financing scheme referred to in Article 4 above, should include a minimum level of own funds to be determined by means of regulation.

Article 14 :

The investment should be made within a maximum, period of three years from the date the decision is made to grant the benefits, except where the Agency decides to grant a longer period of time.

Article 15:

Investments which are of specific importance to the national economy, particularly because of the size of the project, the nature of the technology used, the high rate of integration of local resources in the production,

high foreign exchange earnings or because of their long-term returns, may be granted additional benefits, in accordance with legislation in force.

For such investment an agreements shall be concluded between the Agency, representing the Government, and the investor.

The investment agreement shall be concluded and approved by the Cabinet, and published in the Gazette of the Democratic People's Republic of Algeria.

Part II

General Scheme

Article 16:

The general scheme of benefits granted to investors, shall include the incentives defined in Articles 17 to 19 below.

Article 17:

Investments shall be accorded, for a maximum period of three years or the period stipulated in the Article 14 above, from the date of notification by the Agency, the following benefits, on realization of the investment:

- Exemption from tax on transfer in return for payment, for all real estate purchases made within the context of the investment:
- Application of the fixed registration fee at the reduced rate of 5 per 1000 for articles of incorporation and capital increase:
- Exemption, from the date of purchase, from tax on real estate which is part of the investment:
- Exemption from VAT on goods and services which are used directly in the realization of the investment, whether they are imported or purchased on the local market when such goods and services are intended for undertaking operations subject to VAT;
- Application of the reduced 3% custom duty on imported goods which form part of the investment. After agreement by the Agency, the goods referred to in the present Article may be disposed of or transferred in accordance with legislation in force.

Article 18:

On the decision of the Agency, the investment may be accorded the following benefits, from the date it is put into operation:

- Exemption, for a minimum period of two years and a maximum period of five years, from taxation on corporate profits contractual payments and the tax on industrial and commercial activity;
- Application, after the exemption period specified in the above paragraph, of the reduced rate on reinvested rate on reinvested profits;
- In the case of exports, exemption from the taxation on corporate profits, contractual payments and tax on industrial and commercial activity, in proportion to the export turnover after period of activity indicated in the paragraph above;
- Application, after the exemption period specified in the above paragraph, of the reduced rate on reinvested profits;
- Application of a preferential employers' contribution rate of 7% on salaries paid to the entire staff, in place of the rate fixed by the legislation and regulation on social security, during the period of exemption defined in paragraph 1 above with Government marking up the difference in the said contribution. The modalities of application of the above paragraph shall, if need be, be set out by means of regulation.

Article 19:

Purchase on the local market of goods held in a bonded warehouse and intended for use in the production of export products, shall be exempted from duties and taxes.

The same tax exemptions shall also apply to the operation of services linked to the purchases referred to above.

Part III

Special Schemes

CHAPTER 1 - Investments made in specific zones

Article 20:

Investment made in specific zones which are classified as areas to be promoted or areas of economic expansion, contributing to regional development may be granted the benefits provided for in this chapter.

Article 21 :

The investments referred to in Article 20 above shall be accorded, for a maximum period of three years or the period stipulated in Article 14 above, from the date of the Agency's notification, the following benefits on realization of the investment;

- Exemption from the tax on transfer in return for payment, for all real estate purchases, made within the context of the investment ;
- Application of the fixed registration tax at reduced rate of 5 per 1000 for articles of incorporation and capital increases ;
- The taking charge of total or partial liability by the State, after appraisal by the Agency, for expenditure on the infrastructure necessary for realization of the investment ;
- Exemption from VAT on goods and services used directly in the realization of the investment, whether they are imported or acquired on the local market, when the goods and services are intended for undertaking operations subjectivity VAT;
- Application of the reduced rate of 3% customs duty on imported goods used directly in the realization of the investment.

Such goods may be disposed of or transferred in accordance with legislation in force, after approval by the Agency.

Article 22:

On the decision of the Agency, the investments referred to in Article 20 above, may be granted the following benefits, from the date they are put in operation:

- Exemption, for a minimum period of five (5) years and maximum period of ten(10) years of effective operation, from taxation on corporate profits, contractual payment and tax on industrial and commercial activity ;
- Exemption, from the date of acquisition, from land tax on real estate which is part of the investment, for a minimum period of five(5) years and maximum period of ten(10) years ;
- Reduction by 50% of the reduced rate on profits reinvested in a specific area, after the operating period referred to in paragraph 1 above ; - In the case of exports, exemption from taxation on corporate profits, contractual payments and tax on industrial and commercial activity, in proportion to the export turnover , after the operating period referred to in paragraph 1 above ;
- The taking over of total or partial liability by the State for employer's contributions to the official social security system, on remuneration paid to the entire staff , for a period of five years, which may be extended on the decision of the Agency.

- The manner in which the above paragraph is to be applied, shall, if need be, be laid down by means of regulation.

Article 23:

The Government may grant concessions of State lands on favorable terms, which could be a taken amount of one dinar, for investments made in specific zones.

- The modalities for application of this law shall be laid down by means of regulation.

Article 24:

The designation and delimitation of specific zones shall be laid down by means of regulation.

Chapter 2 - Investments made in export processing zones

Article 25:

Investment in the form of capital inputs, made by means of freely convertible foreign exchange regularly quoted by the central Bank of Algeria, and importation which is duly registered by the Bank, may be put into operations in areas of the national territory, referred to as Export Processing Zones, where imports, exports, storage, processing or re-export operations are carried out in accordance with simplified customs procedures.

In these zones, commercial transactions shall be conducted solely in foreign exchange quoted by the Central Bank of Algeria.

Article 26:

The investments referred to in Article 25 above shall be made in export-oriented activities.

In this context "export" means marketing outside the national customs zone, including in the Export Processing Zones, goods and services produced by these investments.

In this context of current legislation, commercial relations between enterprises located in the Export Processing Zones, and those located in the national territory shall be considered as foreign trade.

Article 27:

Notwithstanding any other legislative provision to the contrary, labor relations between the salaried employees and enterprises located in the Export Processing Zones with regard to terms of recruitment, remuneration, and dismissal, shall be governed by conventional arrangements freely agreed between the parties. The local manpower shall continue to be governed by the provisions of the national legislation on social security.

Article 28:

Investments located in the Export Processing Zones shall, by virtue of their activity, be exempted from all fiscal, Para fiscal and custom taxes, duties and levies, with the exception of those mentioned below;

- duties and taxes on motor vehicles for tourism purposes other than those related on the operation,
- contributions and dues to the official social security system.

However, a foreign staff member who is classified as non-resident before recruitment may opt for a different social security system than the one for Algeria, except where there are provisions to the contrary in bilateral agreements of reciprocity in the area of social security that Algeria has signed with the staff member's country of origin. In this case, the employer and employee are not bound to pay social security contributions and dues in Algeria.

Article 29:

Distributed income generated from capital used in economic activities conducted in the Export Processing Zones shall be exempted from tax.

Article 30:

Foreign personal recruited in accordance with Article 33 below shall be subject to a system of all-inclusive tax on total income amounting to 20% of total remuneration.

Article 31:

The goods and services that are directly used in the realization of the investment and those necessary for their operation shall be imported freely.

The payment for such operations shall be made in accordance with the exchange control regulations specific to the Export Processing Zones.

Article 32:

Investors who are beneficiaries of the provisions of this chapter, are authorized to sell part of their own production in Algeria. Such sales shall be subject to legislation and regulation in force, particularly those governing foreign trade.

Article 33:

The recruitment of foreigners referred to in the paragraph above shall be subject to a simple declaration to the competent employment authorities in the country.

Article 34:

The modalities and conditions of designation, delimitation, granting of concessions and management of the Export Processing Zones shall be determined by further legislation.

Part IV

Other Benefits

Article 35:

Investments shall be accorded a reduced interest rate on Credit Banks, in accordance with the conditions and modes determined by regulation.

Article 36:

Rehabilitation or restructuring investment aimed at revival of activity after closure or liquidation, may be accorded the benefits provided for by the present legislative decree. The benefits shall be granted on the decision of the Agency.

Article 37:

businesses which do not operate continuously and which introduce, from the date of promulgation of this legislative decree, a second, third or fourth team, in order to optimize their operating capacity and services, may benefit from a State take over of 50% of the employer's contribution to the official social security system for the second team, 75% for the third team and 100% for the fourth team during a period of five years, and possibly beyond.

This benefit shall be granted on the decision of the Agency.

Part V

Guarantees for Investments

Article 38:

Foreign individuals and legal entities shall receive the same treatment as Algerian individuals and legal entities, as far as the right and obligations related the investment are concerned.

Foreign individuals and legal entities shall all be treated the same, subject to the provisions of agreements concluded by Algeria with their countries of origin.

Article 39:

Revisions and abrogation likely to be made in future, shall not apply to investments made within the context of the present decree, unless the investor expressly requests it.

Article 40:

Except in cases provided for by legislation in force, the investments made cannot be requisitioned through administrative channels. Requisition shall be fairly and equitably compensated.

Article 41:

Any dispute arising between a foreign national and the Algerian State, as a result of action taken by the investor or a measure taken by the Algerian State against the former, shall be submitted to the competent authorities, except where Algerian has concluded bilateral or multilateral agreements on conciliation and arbitration where there are specific agreements stipulating on arbitration clause or allowing the parties to come to a compromise through ad-hoc arbitration

Part VI

Special Provisions

Article 42:

Investments considered having priority under legislation in force, shall be subject to the provisions of Article 4 above. They shall be legally entitled to receive the full benefits specified in the legislation on priority activities. Moreover, they may be accorded the benefits provided for by the present legislative decree under the terms laid down in Article 3 to 11 above.

Article 43:

investments made by State enterprises may, by means of regulation benefit from the provisions of the present legislative decree.

Part VII

Miscellaneous Provisions

Article 44:

Investments which are accorded the benefits provided in the present legislative decree may be transferred or disposed of. The acquirer shall give an undertaking to the Agency to honor all the obligations taken on by the initial investor and which led to the granting of the said benefits. Failing this, the benefits shall be withdrawn.

Article 45:

Investments that are underway, on the date of promulgation of the present legislative decree, may benefit from the provisions of the present legislative decree.

Investments put into operation within a period of five years before the promulgation of the present legislative decree may benefit from the provisions of the present legislative decree.

An application shall be made to the Agency for the investments referred to in the paragraph above, in accordance with Articles 3 to 11 above.

These incentives shall not, in any way, applied simultaneously with the benefits accorded before promulgation of the present legislative decree. They are not retroactive and do not provide entitlement to tax credit or any other form of commitment from the Government for periods preceding the promulgation of the present legislative decree.

Article 46:

investments that are accorded the benefits provided the present legislative decree, shall be subject, during

the period of the said benefits, to monitoring by the Agency. Except in the case of force major in the event of the provisions of the present legislative decree not being adhered to, the benefits granted maybe partially or totally withdrawn in the same way that they were granted without prejudice to other legal provisions in force.

Article 47:

Investment made or under way before the entry into force of the present legislative decree shall be accord the guarantees spelt out in part 5 above.

Article 48:

Until the Agency referred to in Article 7 above is established, the prerogatives conferred on it under the present legislative decree shall be exercised by the Ministry of Economic Affairs.

Article 49:

With the exception of the laws relating to hydrocarbons above, all previous provisions contrary to the present legislative decree are abrogated, including those relating to:

- 1) The modified and supplemented law No 82-13 of 28 August 1982, relating to the formation and functioning of semi-public companies.
- 2) Law No 88-25 of 12 July 1988 relating to the orientation of private local economic investments;
- 3) The second paragraph of Article 183 and the second paragraph of Article 184 of Law No 90-10 of 14 April 1990, relating to money and credit.

Article 50:

The present legislative decree shall be published in the Gazette of the Democratic People's Republic of Algeria