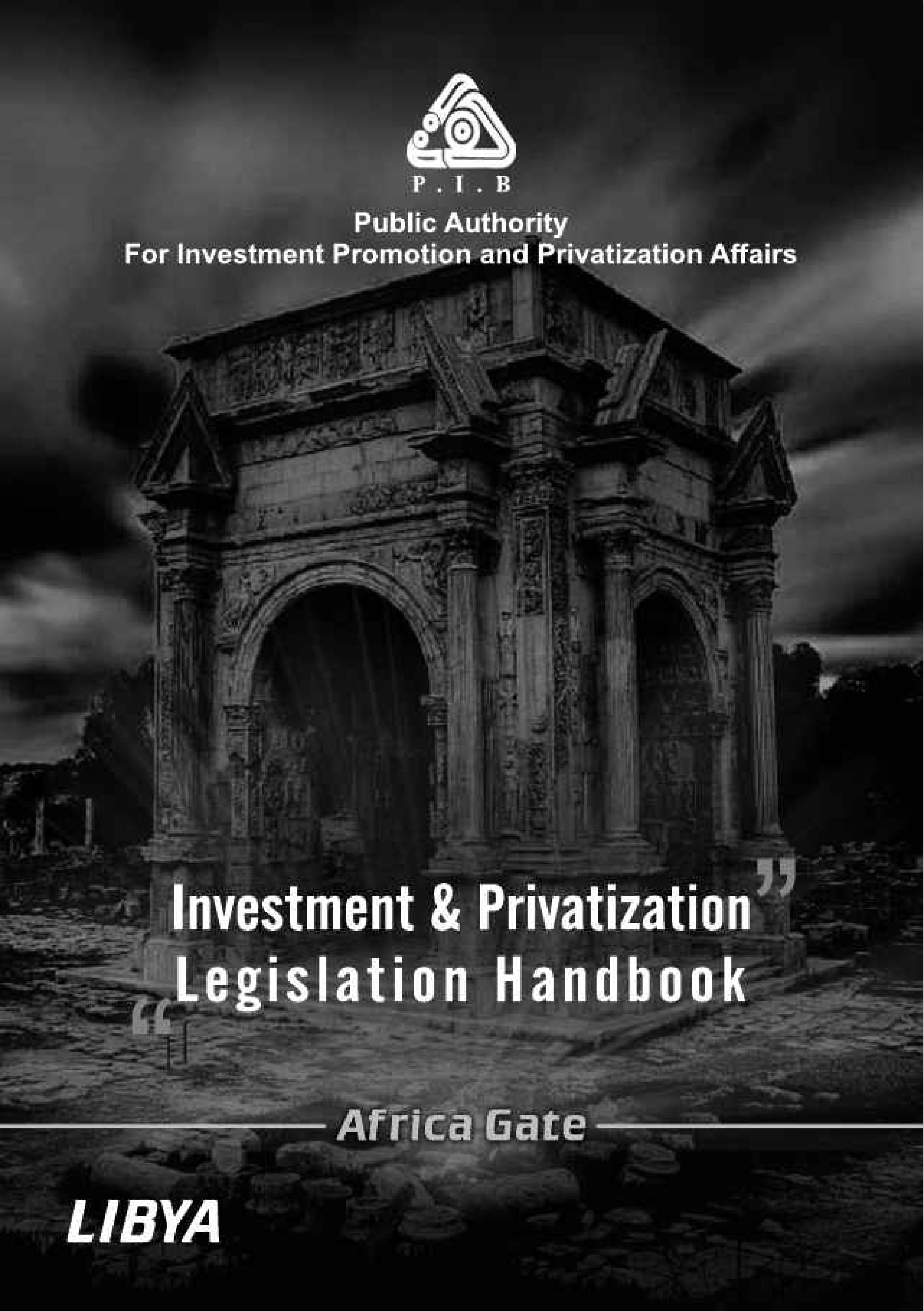

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Public Authority
For Investment Promotion and Privatization Affairs

Investment & Privatization Legislation Handbook

Africa Gate

LIBYA

P . I . B

Public Authorityfor

Investment Promotion and Privatization Affairs

Investment & Privatization

Legislation Handbook

Contents

Note:

When dealing with the law and regulation, the provisions of the issued constitutional declaration shall be taken into account, with regard to the Interim National Transitional Council in accordance with Article 35 (in which the text is stated:

(All provisions set forth in current legislation shall continue to operate, as long as they do not conflict with the provisions of this announcement until it is issued to amend or cancel it, and every indication in that legislation for the so-called (People's congresses) or (General People's Congress), It is considered a reference to the Interim National Transitional Council or General People's Congress, and each reference is made to the so-called (General People's Committee) or (people's committees) is considered a reference to the executive office or members of the executive office or government, each within the limits of his competence, and each reference to (great socialist people's Libyan Arab Jamahiriya).

is considered a reference to (Libya).

Law No. (9) Of (2010) Concerning Investment Promotion

Ownership with the sale of Law No. (9) for the year 1378 (2010)

regarding the encouragement of investment

General People's Congress:

- In implementation of the decisions of the Basic People's Congresses in their annual general congress for the year 1377.
- After perusal of the declaration of the establishment of the people's authority.
- On the Great Green Document of Human Rights in the Age of the Masses.
- And Law No. (20) of 1991 regarding the promotion of freedom.
- And Law No. (1) for the year 1375. regarding the system of work of people's congresses and people's committees.
- And the Merchants Law and its amendments.
- And Law No. (67) for the year 1973 regarding customs and its amendments.
- Law No. 11 of 1992 establishing some provisions relating to real estate ownership and its
amendments.
- And Law No. (19) of 1992 regarding production tax.
- Law No. (5) of 1426 regarding the encouragement of foreign capital investment and its amendments.
- And Law No. (13) of 1430 regarding planning.
- And Law No. (3) of 1369. regarding urban planning.
- And Law No. (7) of 1372. regarding tourism.
- And Law No. (12) for the year 1372, regarding stamp tax.
- And Law No. (1) for the year 1373 regarding banks.

- And Law No. (6) of 1375. regarding encouraging investment of national capital.
- And Law No. (7) of 1378, regarding income tax.

Draft the following law

Article (1)

Definitions

In applying the provisions of this law, the following terms and expressions shall have the meanings corresponding to them, unless the context indicates otherwise.

1. The State: The Great Socialist People's Libyan Arab Jamahiriya.
2. The Administrative Authority: The administrative authority competent to implement the provisions of this Law.
3. Secretary: The secretary of the sector to which the administrative authority belongs.
4. Executive Regulations: The regulations issued in implementation of the provisions of this law.
5. Foreign capital: It is the monetary, in-kind, or cash financial value denominated in one of the foreign currencies that enters the country, whether it is owned by Libyans or foreigners in implementation of an investment activity.
6. The national capital: the monetary, in-kind, or intangible value denominated in the local currency that is included in the formation of the capital of the legislator, the investment of Libyan citizens or legal persons whose capital is wholly owned by natural or legal Libyan persons.

7. Investment project: Any investment activity that fulfills the conditions stipulated in this law, regardless of its legal form.
8. Privatization: It means transferring the ownership of companies, production and service units wholly or partly owned by the state or by public legal persons to the private sector.
9. The Investor: Every natural person or a national or foreign entity that invests in accordance with the provisions of this law.

Article (2)
Scope of application

This law applies to the national or foreign capital or the joint capital invested in the areas targeted by this law.

Article (3)
Objectives of the law

This law aims to encourage the investment of national and foreign capital to establish investment projects within the framework of the state's general policy and the objectives of economic and social development, in a way that ensures, in particular, the achievement of the following objectives:

1. To rehabilitate and develop the Libyan elements in an effective manner, to provide them with advanced skills, and to provide them with job opportunities.
2. Work on the transfer of knowledge and technology and its settlement in the Libyan economy.
3. Contribute to the establishment, development or rehabilitation of service and production economic units in a way that helps them compete and enter global markets.
4. Achieving spatial development.
5. Increasing and diversifying sources of income

6. Rationalizing energy consumption.
7. Exploitation of locally available raw materials.

Article (4)
Investment photos

This law regulates the investment of national and foreign capital, which is included in the formation of the capital of the legislator, in one of the following forms:

1. The local currency, and the convertible foreign currencies or their equivalent, as stipulated by the official banking methods.
2. The machinery, equipment, devices, fixtures, means of transportation, spare parts and raw materials required for the implementation and preparation of the investment project.
3. the moral rights such as patents, licenses, trademarks and trade names necessary for the establishment or operation of the investment project.
4. The reinvested part of the profits and returns of the legislator, whether in the same project, or in another project.
5. The executive regulation regulates how the in kind and cash assets are valued, and the profits are reinvested.

Article (5)
Law enforcement agency

A competent administrative body shall be established to undertake the implementation of the provisions of the law, and its name and organization shall be issued by a decision of the General People's Committee based on a proposal from the Secretary.

Article (6)
Law enforcement duties

The administrative authority works to encourage the investment of national and foreign capital and to promote investment projects by various means, and it has in particular:

1. Studying and proposing plans regulating investment and privatization, including preparing a comprehensive investment map for all areas of investment and investment opportunities. available and permitted in accordance with the areas of investment mentioned in this law.
2. Receiving investment requests, determines the extent to which they achieve the objectives of this law, fulfill the conditions and controls, and study the economic feasibility of the investment project. ensuring the continued availability of the necessary conditions for national and foreign investments subject to the provisions of the law
3. Collecting and disseminating information and contributing to the preparation of economic studies related to the possibilities of investing in projects that contribute to economic development for the state.
4. A and taking the necessary means to attract national and foreign capital and to promote investment opportunities by various means.
5. Providing a unified window service to enable the investor to obtain the licenses, approvals and services necessary for the investment project easily and conveniently.
6. Studying investment legislation and review, it from time to time and submit its proposals related to its development to the Secretary.
7. Take the necessary measures to implement the general policy to expand the base of ownership and ownership of companies and public economic units.

8. Any other functions assigned to it by the General People's Committee.

Article (7)

And the conditions that must be met in investment projects

The legislature is required to fulfill all or some of the following:

1. Transfer and localization of knowledge, modern technology, technical expertise, or intellectual property right.
2. Supporting the link or integration between existing economic activities and projects, reducing production costs, or contributing to the provision of materials and operating requirements for them.
3. Exploiting or assisting in the exploitation of local raw materials.
4. Contribute to the development and enhancing of remote areas.
5. Producing commodities for export or contributing to increasing exports thereof, or as a result of which the import of commodities will be dispensed with, in whole or in part.
6. Providing a service needed by the national economy or contributing to its improvement, development or rehabilitation.
7. Providing work places for the Libyan workforce of at least 30%, and working on training them and providing them with technical skills and expertise, and the executive regulations specify a condition and employment conditions for national and foreign workers.

Article (8)

Investment areas

The investment shall be in all production and service fields, and the executive regulations shall specify the production and service fields that are not covered by the application of this law or which It is limited to Libyans only or to participation between Libyans and foreigners, the percentage of each side's contribution to the project, the legal form of the project, and the minimum capital in accordance with the nature of the activity.

Article (9)

Permission to invest

Permission to establish, develop, rehabilitate, manage and operate the investment project is issued by a decision of the trustee based on a proposal from the administrative authority. This authority is exclusively concerned with issuing all licenses and approvals necessary for the investment project, so that these licenses and permissions replace any other approved licenses or permissions. In accordance with the legislation in force, the executive regulations specify the conditions and controls for granting permits and licenses.

Article (10)

Benefits and exemptions

The investment legislator subject to the provisions of this law shall enjoy the following advantages:

1. Exemption of machinery, equipment, and devices necessary for the implementation of the project from all taxes, customs fees, facilitation service fees, and other fees and taxes of similar effect. The exemptions mentioned in this paragraph do not include fees charged for services such as port, storage and handling fees.

2. Exemption of equipment, spare parts, means of transport, furniture, supplies, raw materials and advertising materials related to the operation and management of the project for a period of five years from all fees and taxes of whatever type or source.
3. Exempting goods produced for the purpose of export from production tax and from customs duties and taxes imposed on export.
4. The legislator shall exempt the investment from income tax for its activity for a period of five years, the calculation of which starts from the date of the authorization to practice the activity.
5. the dividends and shares resulting from the distribution of the legislator's investment profits during the exemption period, as well as the profits resulting from the project's merger, sale, division or change of its legal form from all taxes and fees due, all during the exemption period.
6. Exemption of profits resulting from the activity of the legislator if they are reinvested.
7. It is advisable to exempt all papers, behaviors, transactions and facts that the investment legislator creates, concludes or uses from the stamp tax established under the provisions of the legislation in force.

The investor may carry over the losses incurred by his project during the years of the exemption to subsequent years.

The executive regulations of this law specify the conditions and controls necessary for the implementation of this article.

Article (11)

Disposal of machinery and equipment

It is not permissible to dispose of imported machinery, equipment, furniture, means of transportation, devices, spare parts, raw materials and operating requirements for the purposes of the investment project by selling or abandoning them inside the country except with the approval of the Authority and after paying all customs duties and taxes prescribed for their import.

Article (12)

Investor rights

The investor has the right to:

1. Opening accounts for his investment project in local and foreign currencies with banks operating in the country.
2. Borrowing from local and foreign banks and financial institutions in accordance with the legislation in force.
3. Re-export the invested foreign capital in the event of the expiry of the investment project's term, liquidation or sale, in whole or in part.
4. Re-transfer the foreign capital to the expense in the same form in which it was received after the lapse of six months from the date of its receipt, if difficulties or circumstances prevented from investing it.
5. Transferring the net distributed profits and returns generated by the foreign capital invested in the investment project.
6. The use of foreign labor in the absence of an alternative from the nationals.

7. Obtaining a five-year renewable residence, the duration of the investment project, and obtaining a multi-trip exit and re-entry visa.

Article (13)
foreign workers

Foreign employees, under work contracts in investment projects licensed to establish, enjoy transferring their salaries and wages and any continuous financial benefits granted to them within the framework of the investment project outside the country, after collecting the fees or taxes due thereon in accordance with the legislation in force.

Article (14
investment register

And without prejudice to the provisions regulating the commercial register, a register called (the investment register) shall be created in the administrative authority in which all investment projects are registered, indicating the legal form of these projects, the size of investments, the type of activity, the names of their owners and shareholders, their nationalities, and the percentage of foreigners in them, and the regulation shall specify executive controls and procedures for registration in the investment register.

Article (15)
Additional benefits and exemptions

By a decision of the General People's Committee, based on the proposal of the Secretary, it is permissible to grant tax benefits and exemptions for a period not exceeding three years or other additional benefits to investment projects that are proven to be:

1. Contribute to achieving food security.

2. Use equipment that will achieve energy or water savings, or contribute to environmental protection.
3. Contribute to achieving spatial development.
4. The executive regulation determines the controls and provisions regulating the consideration of the legislator as fulfilling these considerations.

Article (16)
Ownership of economic units

The economic units targeted for ownership and that achieve the objectives and conditions set forth in this law shall enjoy all the advantages and exemptions contained therein in the event of their development, rehabilitation, management and operation, provided that a decision is issued by the General People's Committee.

Article (17)
Use of real estate

As an exception to the legislation in force related to ownership, the investor has the right to benefit from the real estate necessary to establish or operate the project, whether it is public or private.

Article (18)
Dispose of project

The ownership of the project may be transferred in whole or in part to another investor with the approval of the administrative authority, and the new owner shall replace the previous owner in the rights, duties, and obligations arising from him under the provisions of this law and other applicable legislation. The executive regulations specify the conditions and conditions in which ownership is transferred.

Article (19)
Irregularities

If it is proven that the investor has violated any of the provisions of this law, the violator will be decided by the administrative authority to correct the violation within an appropriate period specified in the warning. Refer the matter to the authorities The competent judiciary to oblige the investor to pay twice what he was exempted from.

Article (20)
Revocation of licenses

The approvals and licenses issued to the legislator may be withdrawn or permanently liquidated in the following cases:

1. Not to start implementing the project or not to finish the implementation at the time specified for it without justification.
2. Violation of the provisions of this law.

All of this is in accordance with the controls, conditions, and procedures specified by the executive regulations of this law.

Article (21)
grievance

The investor may file a written grievance against any decision issued against him in violation of the provisions of this law, within thirty days from the date of his notification by virtue of a letter with acknowledgment of receipt.

Article (22)
Project accounting documents

The project owner must keep the legal books and final accounts necessary for the project according to the legislation in force, and prepare the annual budget and accounts.

The final conclusion certified by a chartered accountant according to the conditions contained in the law of commercial activity and in accordance with professional standards.

Article (23)

the guarantees of the project

It is not permissible to nationalize the legislature, expropriate it, forcibly seize it, confiscate it, impose custody, hold it, freezing it, or subject it to procedures having the same effect, except by virtue of a law or a judicial ruling and in return for a fair compensation, and on the condition that these procedures are taken in an unlawful manner. The compensation is calculated on the basis of the market and fair value of the legislator when taking the action, and it is allowed to transfer the value of the compensation in convertible currencies within a period not exceeding one year from the date of enactment of the law or the ruling and at the prevailing exchange rates upon transfer.

Article (24)

Settlement of Disputes

Any dispute that arises between the foreign investor and the state, either by the action of the investor or as a result of measures taken by the state against him, shall be submitted to the competent courts in the state, unless there is a bilateral agreement between the state and the state to which the investor belongs, or multilateral agreements in which the state to which the investor belongs are parties to which include relevant texts By conciliation, control, or a special agreement between the investor and the state that stipulates the condition of control.

Article (25)

Fees for services

A decision is issued by the trustee based on a presentation from the administrative authority specifying the fees to be paid by the investor in return for providing services.

Article (26)

Superintendent and Judicial Control

The employees of the administrative authority who are appointed by a decision of the competent secretary shall have the capacity of judicial police officers to monitor the implementation of the provisions of this law and to seize and prove violations and refer them to the competent authority. Relationship Informing and coordinating with the administrative authority before carrying out any inspection and control work on projects the investment licensed to invest in accordance with the provisions of this law

Article (27)

Excluded from the scope of this law

The provisions of this law do not apply to national and foreign capital invested or invested in oil and gas projects.

Article (28)

Enforcement of legislation regulating economic activity

The provisions of the legislation regulating economic activity shall apply to those who are subject to the provisions of this law, unless there is a special provision in it

Article (29)

Executive Regulations

The executive regulations of this law are issued by a decision of the General People's Committee based on a proposal from the Secretary.

Article (30)

Repeal of previous laws

Law No. (5) of 1426 AD regarding encouraging investment of foreign capital and its amendments, Law No. 6 of 1375 AD regarding investment of national capitals, and the tenth article of Law No. (7) of 1372 FYR, regarding tourism, is repealed. Any other provision that contradicts the provisions of this law shall also be repealed.

The provisions of the law apply to all investment projects and the facts and actions related to them that exist under the aforementioned laws in this article at the time of the issuance of this law, without prejudice to the privileges and exemptions granted before its issuance.

The executive regulations and decisions issued in accordance with the provisions of the aforementioned laws shall continue to operate in a manner that does not conflict with its provisions, until the issuance of the executive regulations of this law.

Article (31)

Spread the law

This law shall be effective from the date of its publication in the Legislation Code.

Issued in Sirt

Corresponding to January 28, 2010,

Important notice

Article (30) of Law No. (9) of 2010 AD regarding the promotion of investment stipulated: to cancel previous laws, as well as Article (10) of Law No. (7) of 2004 AD regarding tourism Below is the text of the repealed article:

((In the application of the provisions of Law No. (5) of 1997 AD, in the field of tourism investment projects The General People's Committee for Tourism assumes the powers entrusted to the People's Committee of the Investment Authority, and the Secretary of the General People's Committee for Tourism assumes the powers of the competent secretary in that law and its regulations executive))