

# ALGERIA INVESTMENT LEGAL FRAMEWORK

## Investment regulations:

The Algerian Investment Code (Code des Investissements), amended by Ordinance 01-03 of August 20, 2001, stipulates the regulations applicable to national and foreign investments made towards the production of goods and services as well as to investments resulting from the attribution of concessions and/or licenses.

Any creation, extension, rehabilitation or restructuring conducted by a legal entity and relating to economic activities to produce goods and services (with the exception of trade) is likely to benefit, as specified by the Investment Code. In this regard, the regulations apply to both residents and non-residents.

The guiding principle is that, the greater the investment interest for the Algerian economy, the more significant the advantages granted.

Investment regulatory entities: - The National Investment Council (Conseil National de l'Investissement, C.N.I.). This entity defines governmental orientations in the investment field and authorizes investments that it deems to be useful for the economic development of Algeria.

- The National Agency for the Development of Investment (Agence Nationale de Développement de l'Investissement, A.N.D.I.). This agency replaces the Agency for the Promotion, Support and Monitoring of Investment (Agence de Promotion, de Soutien et de Suivi des Investissements, A.PSSI). Its mission is to:

- Promote, develop, and monitor investments;
- Welcome, inform and assist investors;
- Facilitate the execution of formalities when companies are created;
- Facilitate investment projects by decentralizing the services offered and grouping them in a single office;
- Grant investors benefits they can claim under the current system;
- Manage programs of financial assistance to investors;
- Ensure fulfillment of commitment by investors during the exemption period.

Single investment office: A single investment office has been set up within the A.N.D.I. It covers all administrations and organizations dealing with investments. Decisions by the investment office may be binding on these administrations. Its objective is to ensure, in coordination with the relevant administrations, that the procedures and formalities to be complied with for the creation of companies are reduced in number and simplified, and that projects are implemented.

Investment financial assistance: A fund for investment financial support has been set up within the A.N.D.I. Its goal is to provide the financial contribution of the Government as part of the benefits offered to investors, especially for expenses related to infrastructure work required for the investment to materialize. A Governmental Decree specifies the expenses that may be assigned to this account.

## Implementation of the Investment Code (Code des Investissements)

Algerian law defines an investment as follows:

- Acquisition of assets, as part of the creation of new activities, the extension of production capacities, rehabilitation or restructuring process;
- Participation in the capital of a company, in cash or in nature;
- Re- initiation of activities as part of partial or total privatization

Compulsory procedure: Application form: The application form must include the investment declaration and the request for fiscal benefits. Both documents must be presented simultaneously. The investment declaration must be presented to the ANDI and indicate in particular:

- Sector activity;
- Location;
- Jobs created;
- Technology used;
- Investment and financing plans;
- Measures for environmental protection;
- Anticipated length of time for materialization of investment;
- Commitments related to investment materialization.

By presenting his/her request, the investor can benefit from the guarantees of stability and security that are provided for by law. Said guarantees are :

- Non-discrimination;
- Legal security and inviolability of the law;
- Settlement of disputes.

Another application, namely, the request for fiscal benefits, must be submitted to the ANDI, in order to take advantage of one of the preferential taxation packages provided for by the Code on Investments. In this regard, the investor must choose one among the various fiscal preferential options offered. Both applications are still structured as they were under previous regulations on investment laws, pending adoption of the implementation texts for the Ordinance of August 20, 2001.

Within 30 days, starting on the day of the investment declaration and the request for fiscal benefits presentation, ANDI must provide the investor with all required administrative documents for the investment to materialize and notify the investor of its decision of acceptance or rejection.

In case of absence of reply from the ANDI, the investor can appeal to the supervisory authority of the Agency, which must respond within fifteen days. The decision made by the supervisory authority is subjected to appeal before a tribunal. In case fiscal benefits are granted, the Agency determines the length of their validity and specifies the time frame granted for the investment.

In the field of investments, the Algerian legislation provides advantages for different preferential categories. There is a general category that allows for various advantages regarding taxation and customs requirements, without any distinction, and specific categories that favor certain investments based on their goals and locations.

Benefits granted to investors  
General category: The main benefits offered to investors are:

- Application of customs duties at reduced rates specifically for imported equipment dealing with the investment;
- Exemption from the Valued-Added Tax, V.A.T, for goods and services directly related to the investment.
- Exemption from the transfer tax payment for all real estate acquisitions that are part of the investment.

These benefits are granted for a period specified by the ANDI, on a case-by-case basis. The said period starts from the day when the decision is made to grant the general category benefits to the investor.

Special system: Investments intended for economic areas that the Algerian Government wishes to develop and presenting a specific interest for the national economy, especially those involving the use of environmentally-sound technologies to protect natural resources, save energy and lead to sustainable development, can benefit from the following specific advantages:

1. For investment materialization:

- Exemption from transfer tax payment for all real estate acquisitions that are part of the investment;
- Application of a set fee, namely, the standard rate reduced by two per thousand, for registration formalities when companies are created or their capitals increased;
- Partial or total payment, by the Government, and once they have been reviewed by the Agency, of expenses incurred for infrastructure work required for the investment to materialize;
- Exemption from the Valued-Added Tax for all goods and services related to the investment, whether imported or acquired on the local market, when the goods and services are provided for the performance of transactions subject to V.A.T;
- Application of customs' duty reduced rates for goods that are imported and directly related to the investment materialization.

2. After the operation start-up:

- Exemption, for a period of ten (10) years of effective activity, from the Tax on Corporate Profit, T.C.P. (Impôt sur le Bénéfice des Sociétés, I.B.S.), the T.G.R. (I.R.G.) on profit distribution, the Lump Sum Payment, and from the Tax on Professional Activity;
- Exemption from the land tax for real estate properties, from the time when they were purchased and as long as they remain part of the investment during the ten (10) year period;
- Offer of additional benefits to improve and/or facilitate investments such as the postponement of deficits, and extended recouping time frames.

Specific categories: Investors who wish to take advantage of the attractive benefits offered by any of the existing specific categories must fulfill certain conditions. These categories provide for various benefits and fiscal exemptions depending on the case under consideration.

The specific categories concern: Specific areas: The ones that the Government promotes for development.

Privileged investments: Investments that present a specific interest for the national economy, such as investments that involve environmental technologies, protect natural resources, save energy and lead to sustainable development. These types of investments are the subject of conventions between the ANDI and investors.

Companies that benefit from fiscal benefits:i) Full benefit:The following companies can take advantage of all fiscal benefits provided for by the Algerian legislation on investment:

- Limited Liability Companies(&ldquo;Sociétés à Responsabilité Limitée&rdquo;, SARL);
  - Joint Stock Companies, J.S.C. (Sociétés par Actions, S.P.A.),
  - Limited Partnership With Shares (Sociétés en Commandites par Actions)
- ii) Partial benefit: Individual companies and Partnerships (&ldquo;Sociétés de Personnes&rdquo;) such as General Partnerships (&ldquo;Sociétés en Nom Collectif&rdquo;, S.N.C.), Limited Partnerships, L.P. (&ldquo;Sociétés en Commandite Simple&rdquo;, S.C.S.), and Undeclared Partnerships, U.P. (&ldquo;Sociétés en Participation&rdquo;, S.P.) that do not opt for the T.C.P. (I.B.S.) taxation, can take advantage of fiscal advantages, with the exception of T.G.R. (I.R.G.) benefits.

Yielded or transferred investments:

In case the ownership of an investment is yielded or transferred before the exemption period has ended, benefits remain in full effect as long as the new owner promises the Agency that he/she will comply with all the obligations that the initial investor committed to.

Guarantees granted to investors:

Essential guarantees are granted to investors by law:

-Non-discrimination:

Foreign individuals and foreign legal entities are treated in the same way as Algerian individuals and national legal entities are, as far as investment rights and obligations are concerned. Individuals and legal entities are all treated in the same way, subject to specific arrangements concluded, in the way of conventions for example, between the Algerian Government and the Governments of the countries investors belong to.

Legal security / inviolability of the law:

Unless expressly required by the investor, future revisions or the future abrogation of the investment legislation are not applicable to projects that fall under a current legislation at the time of the investment.

Settlement of disputes:

Any dispute between a foreign investor and the Algerian Government, whether initiated by the investor, or caused by a measure taken by the Algerian Government against the investor, is submitted to the competent jurisdictional court. Only multilateral conventions on conciliation and arbitration concluded by the Algerian Government, or specific agreements including compromising clauses or allowing the parties to agree on a special arbitration compromise, do not fall under this regulation.

In this context, Algeria has:

- Subscribed to the Convention for the Recognition of the Execution of Foreign Arbitration Sentences, adopted by the United Nations Conference in New York on June 10, 1958;
- Approved the Convention for the Settlement of Disputes Regarding Investments Between a Government and the Nationals of Other Governments, Washington, 1965;
- Approved the Convention creating the Multilateral Investment Guarantee Agency, M.I.G.A. (Agence Internationale de Garantie des Investissements, A.I.G.I.).