

LAW NO. 5 FOR THE YEAR 1426 (1997)

CONCERNING ENCOURAGEMENT OF

FOREIGN CAPITALS INVESTMENT

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THE EXECUTIVE REGULATION FOR LAW NO.5 FOR THE YEAR  
1426 (1997) ISSUED BY THE GENERAL PEOPLE'S COMMITTEE  
DECISION NO.(21) OF 1370 D.P. (2002)

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#### Article 1

The aim of this law is to attract investment of foreign capital in investment projects within the framework of the general policy of the State and of the objectives of economical and social development and in particular :

- Transfer of modern technology
- Training the Libyan technical personnel
- Diversification of income resources
- Contribution to the development of the national products so as to help in their entry into the international markets
- Realization of a locale development

#### Article 2

This law shall apply to the investment of the foreign capital held by Libyans and the nationals of Arab and Foreign States in investment projects .

#### Article 3

In the application of this law, unless the context otherwise requires, the following words and phrases shall have the meanings assigned opposite each:

1. Jamahyria means The Great Socialist People's Libyan Arab Jamahyria
2. The law means The law of Foreign Capitals Investment Encouragement
3. The Secretary means The Secretary of the General People's Committee for Planning , Economy and Commerce
4. Authority means Libyan Foreign Capitals Investment Corporation
5. The Executive Regulation means The Regulation issued for the implementation of the provisions of this law.
6. The Foreign Capital means The total financial value brought into the Great Jamahyria whether owned by Libyans or foreigners in order to undertake an investment activity
7. Project means Any economic enterprise established in accordance with this law the result of its work is the production of goods for end or intermediate consumption, or investment goods, or the export or provision of service, or any other enterprise approved as such by the General People's Committee
8. Investor means Any natural or juridical entity national or non-national, investing in accordance with the provisions of this law.

#### Article 4

This law regulates the investment of foreign capital brought into the Jamahyria in any of the following forms :

- Convertible foreign currencies or substitutes thereof brought through official banking methods.
- Machinery, equipment, tools, spare parts and the raw materials needed for the investment project.
- Transport means that are not locally available.
- Intangible rights: such as patents , licenses, trade marks and commercial names needed for the investment project or operation thereof.

- Reinvested part of the profits and returns of the project.

The Executive Regulation shall regulate the manner for the evaluation of the in kind portions used in the formation of the capital designated for investment in the Jamahyria.

## ARTICLE 5

There shall be established an Authority to be known as” The Libyan Foreign Capitals Investment Corporation” having its own independent juridicial personality, under the jurisdiction of the General People’s Committee for Planning , Economy and Commerce .The Authority shall be established by a decision from the General People’s Committee upon a proposition by the Secretary stating the Authority’s legal domicile, its secretary and members of its management committee .

The Executive Regulation shall regulate the meetings of the Authority and the administrative procedures required for establishing the Project.

## ARTICLE 6

The Authority shall work for the encouragement of foreign capitals investment and promotion for the investment projects by various means; in particular it shall:

1. Study and propose plans to organize foreign investment and supervise foreign investments in the country.
2. Receive the applications for foreign capital investments to determine whether they satisfy the legal requirements, and the feasibility study for the project and then submit its recommendations to the Secretary accordingly.
3. Gather and publish information and conduct economic studies relevant to the potentials of investments in the projects that contribute to the economic development of the country.
4. Take proper actions to attract foreign capitals and promote the chances of investment through various means.

- 5) Recommend exemptions, facilities or other benefits for the projects that are considered important for the development of the national economy, or recommend the renewal of the exemptions and benefits as provided for in the law for further periods of time. It shall submit its recommendations to the relevant authority.
- 6) Consider, without prejudice to the right of the investor to petition and litigation complaints, petitions or disputes lodged by the investors resulting from the application of this law.
7. Study and review periodically the investment legislations, propose improvement thereof and submit same to the concerned authority.
- 8) Perform any other functions assigned to it by the General People's Committee .

## ARTICLE 7

The project is required to realize all or some of the following :

Production of goods for export or contribution to the increase of export of such goods or substitute imports of goods in total or in part .

Make available positions of employment for Libyan man-power, train and enable some to gain technical experience and Know-how. The Executive Regulation shall set the conditions and terms of employment of Libyan manpower.

Use of modern technology or a trade mark or technical expertise.

Provision of a service needed by the national economy or- contribute to the enhancement or development of such service.

Strengthen the bonds and integration of the existing economic activities and projects or reduce the cost of production or contribute in making available materials and supplies for their operations

Make use or help in making use of local raw materials .

Contribute to the growth and development of the remote or underdeveloped areas .

## ARTICLE 8

Investment is permissible in the following areas:

Industry

Health

Tourism

Services

Agriculture

And any other area determined by a decision from the General People's Committee according to a proposal from the Secretary.

## ARTICLE 9

The permit for foreign capital investments shall be granted by the Authority after the issuance of the Secretary's decision approving the investment.

## ARTICLE 10

Projects established within the framework of this law shall enjoy the following benefits:

- A) An exemption for machinery, tools and equipment required for execution of the project, from all custom duties and taxes, and taxes of the same impact.
- B) An exemption for equipment, spare parts and primary materials required for the operation of the project, from all custom duties and custom taxes imposed on imports as well as other taxes of the same impact for a period of five years.
- C) Exemption of the project from the income taxes on its activities for a period of five years as from the date of commencement of production or of work, depending on the nature of the project. This period shall be extendable by an additional duration of three years by a decision

from the General People's Committee upon a request of the same by the Secretary. Profits of the project will enjoy these exemptions if reinvested. The investor shall be entitled to carry the losses of his project within the years of exemption to the subsequent years.

- D) Goods directed for export shall be exempted from excise taxes and from fees and taxes imposed on exports when they are exported .
- E) The project shall be exempted from the stamp duty tax imposed on commercial documents and bills used.

Exemptions mentioned in paragraphs A ,B, and D of this Article do not include the fees imposed in consideration of services such as harbour, storage and handling dues.

## ARTICLE 11

Equipment, machinery, facilities, spare parts and primary material imported for the purpose of the project may neither be disposed of through sale or abandoned without the approval of the Authority and after payment of custom duties and taxes imposed on importation thereof; nor be used for purposes other than those licensed therefore.

## ARTICLE 12

The investor shall have the right to :

A) Re-export invested capital in the following cases :

- end of the project's period
- liquidation of the project
- sale of the project in whole or in part
- elapse of a period of not less than five years as of the issuance of the investment permits.

B) Re-transfer the foreign capital abroad in same form in which it was first brought in after the elapse of a period of six months as of its importation in cases where difficulties or circumstances out of the investor's control prevent its investment.

C) It is permissible to transfer annually the net of the distributed profits realized by the project and interest thereof.

D) The investor has the right to employ foreigners whenever the national substitute is not available.

- The foreign employees who come from abroad have the right to transfer abroad a percentage of their salaries and wages and any other benefits or rewards given to them within the framework of the project.

- Conditions and terms regarding the implementation of this Article shall be set by the Executive Regulation.

#### ARTICLE 13

The project shall not be subject to registration at the commercial register nor at the register of the Importers and Exporters; the Executive Regulation will set the procedures of the registrations at the Authority.

#### ARTICLE 14

A project established in the local development areas or a project which contributes to food security or a project which uses installation and means conducive to save energy or water or contributes to the protection of environment, will enjoy the exemptions mentioned in paras. B) and C) of Article 10 of this Law for an additional period by a decision from the General People's Committee upon a proposal from the Secretary. The Executive Regulation will set the terms and conditions' according to which the project could be considered as achieving these goals.

#### ARTICLE 15

Not with standing ownership laws in force, the investor shall be entitled to hold title for land use. The investor may also lease such land, construct buildings thereon and be entitled to own any property or lease thereof required for establishment or operation of the project; all as per the terms and conditions set in the Executive Regulation.

#### ARTICLE 16

The investor shall have the right to open for his project an account in convertible currencies at a commercial bank or at the Libyan Arab Foreign Bank.

#### ARTICLE 17

Ownership of the project may be transferred in whole or in part to another investor with the approval of the Authority; the new owner will replace its predecessor in all rights, undertakings and obligations arising there from in accordance with the provisions of this law and other legislations in force. The Executive Regulation shall set the terms and conditions for the transfer of ownership.

#### ARTICLE 18

In case it is proven that the investor has violated any provisions of this law or the Executive Regulation; the Authority shall issue a warning to the investor to rectify the violations within a period of time specified therein. In case of failure by the investor to adhere thereto, the Secretary, upon a recommendation by the Authority, may:

- deprive the project from some of the benefits provided for in this Law.
- oblige the investor to pay double the exemptions granted to him.

#### ARTICLE 19

The permit of the project may be withdrawn or the project finally liquidated in the following cases:

- failure to start or complete the project in accordance with the terms and conditions set by the Executive Regulation.
- violation of the general provisions of this law and its Executive Regulation.
- repetition of violations.

All in accordance with the procedures specified by the Executive Regulation.

## ARTICLE 20

The investor shall be entitled to petition in writing against any decision affecting him as per article 18 or article 19 of this law, or against any disputes arising because of the implementation of the provisions of this Law within thirty days as of the date of notifying him by a delivery guaranteed letter; the Executive Regulation shall specify the proper authority to which petitions should be submitted and processes of the petition.

## ARTICLE 21

The investor should:

- Maintain regular books and records for the project.
- Prepare an annual budget and profit and loss account audited by a chartered accountant as per the conditions set forth in the Commercial Law.

## ARTICLE 22

The employees of the Authority designated by a decision from the Secretary shall have the power of the judicial officers to control the enforcement of this Law and to unveil and record the violations and refer same to the competent authority; for this purpose the said employees shall be entitled to inspect the projects and check the books and records relevant to their activities.

## ARTICLE 23

The project may not be nationalized, dispossessed, seized, expropriated, received, reserved, frozen, or subjected to actions of the same impact except by force of law or court decision and against an immediate and just compensation provided that such actions are taken indiscriminately; the compensation will be calculated on the basis of the fair market value of the project in the time of action taken. The value of the compensation in convertible currencies may be transferred within a period not exceeding one year and according to the rate of exchange prevailing at the time of transfer.

## ARTICLE 24

Any dispute arising between the foreign investor and the State, due to the investor's act or to actions taken by the State, shall be referred to a court having jurisdiction in the Jamahyria except where there is a bilateral agreement between the Jamahyria and the State to which the investor belongs or where a multi-lateral agreements to which the Jamahyria and the State to which the investor belongs are parties that provide for relevant reconciliation or arbitration, or there is a special agreement between the investor and the State containing provisions in regard to an arbitration clause.

## ARTICLE 25

Foreign investments in existence on the date of issuance of this Law shall enjoy the privileges and exemptions provided for herein.

## ARTICLE 26

Provisions of this law shall not apply to foreign capital invested or to be invested in petroleum projects as per the provisions of law number 25 of 1955, as amended.

## ARTICLE 27

The Executive Regulation to this law will be issued by a decision from the General People's Committee upon a proposal from the Secretary.

## ARTICLE 28

Law number 37 of 1968 regarding investment of foreign capitals in Libya is hereby repealed and so are any other provisions that may contradict the provisions of this law.

## ARTICLE 29

This Law shall be published in the Official Gazette and in the different media and be effective as of its publication in the Official Gazette.

The General People's Congress.

## The Executive Regulation

For Law No. 5 For The Year 1426 (1997)

### On the Encouragement of Foreign Capital Investment

Issued Pursuant to the General Peoples' Committee Decision no. (21) of 1370 d.p. (2002)

#### Chapter One

##### AREAS OF INVESTMENT AND PROCESSING OF APPLICATIONS

###### Article (1)

###### Areas Of Investment and Conditions Thereof

It is permissible to invest foreign capitals owned by Libyan Arab nationals and subjects of Arab and non-Arab States in the areas of: Industry, Agriculture, Tourism, Health, and Services of all kinds as well as such other areas as may be added by the General People's Committee.

It is permissible for the national capital of natural and juristic persons to participate with the foreign capital in the investments. The People's Committee of the Investment Board shall determine the percentage of participation and the conditions to be satisfied for each project separately.

###### Article (2)

###### On The Valuation of Contribution In kind

When the invested capital contains a contribution in kind, the value of such share shall be assessed by a specialized technical committee, including as a member, a representative of the Investor, appointed by a decision of the Secretary of the People's Committee of the Investment Board. Decision of the Committee shall be taken by majority vote and shall be final.

### Article (3)

#### On The Submission Of Applications

Applications for investment shall be submitted by the applicant himself or by his representative to the Secretary of the People's Committee of the Investment Board on the specific form provided therefore, The application shall contain the following details:-

Name of the applicant, his nationality, legal form and address of his main office.

General description of the Project including in particular the area of investment the period of time needed to finalize the execution of the Project, and details of the nature of capital invested its value and units.

Applications may be submitted through the commercial attaches in the Fraternity Bureaus and the People's Bureaus abroad or their substitutes, such Bureaus or substitutes should forward the applications to the Authority as soon as they are received by them.

### Article 4

#### On The Documents Required for Investment

The applicant shall enclose with his application the following documents:

- 1) Certificate from the appropriate authority indicating the nationality of the applicant.
- 2) A study for economic and social feasibility of the investment Project, stating in particular the following:

- One) The value of the capital designated for investment in the Great Jamahiriya and its nature, valued in a freely convertible currency or its equivalent in the Libyan currency at the time of submission of the application.
  - Two) The raw materials and other factors, if any, available in the Great Jamahiriya which the Project intends to exploit.
  - Three) The technical specification of the Project, the forecast for production and the extent of its contribution to the national economy.
  - Four) A time schedule setting the duration for the execution of the project.
  - Five) The national and foreign manpower required for operating the Project.
  - Six) The cash flow throughout the years for the life of the Project.
- 3) A recent extract of the registration of the applicant in the Commercial Register in his country of origin if he has an economic activity therein.
  - 4) The latest approved financial statement of the applicant, if the applicant is a juristic person, or a certificate of financial good standing of the applicant from one of the international banks.
  - 5) An official certificate issued by an appropriate authority in the location of the main offices of the applicant to the effect that he has not been declared bankrupt.

The Investment Board may ask for any additional clarifications or information relevant to the details submitted by the applicant on the intended project, for the purpose of eliminating any ambiguity.

All documents submitted for the Project should be approved and authenticated by the Fraternity Bureau or the Libyan Arab People's Bureau in the applicant's country of residence or main place of business abroad. All said documents should be original with Arabic translation.

In all cases the documents should be completed within a period of time not exceeding sixty days as of the date the application submission.

At his discretion and for reasonable justifications, the Secretary of the People's Committee of the Investment Board may extend the said period.

## Article 5

### On The Details To Be Included In The Receipt

The applicant shall be given a receipt for his application that includes the following details:

- 1-Number and date of submission.
- 2-Name, surname, nationality and capacity of applicant.
- 3-Name and signature of the employee who received the application.
- 4-A list of the documents attached to the application.
- 5-Area desired for investment.

## Article 6

### On The Registration of the Applications

Upon their delivery to the Investment Board the applications shall be registered in a special register in serial numbers according to the date of their receipt. Each application is to be kept in a separate file wherein to be deposited all documents, papers, and correspondence relevant to it.

On the outside part of the cover of the file the number of the application, the name of the applicant, his address and nationality shall be recorded. On the inside part of the cover there shall be recorded list of the papers and documents deposited therein along with their serial numbers in the file, their dates, total number of their pages and the date of their deposit.

## Article 7

### On The Consideration of Applications

During a period not exceeding sixty days as of the date of receipt of all the required documents, the People's Committee of the Investment Board shall examine the applications, prepare the proper recommendations and the technical and administrative reports regarding them including its views of the Project and the Project's benefits to the national economy. The Authority shall forward its proposals and recommendations to the Secretary in charge for the adoption of the relevant Resolution.

The Secretary in charge may send the application with all its enclosures back to the Authority if it appears to him that any of the Project's components is unclear or that certain information is missing. In such a case the reasons of returning shall be stated clearly so that the Authority may clarify and complete them.

## Article 8

### On Notifying the Applicant

Within ten days as of the date of the receipt by the Investment Board of the approval or rejection or the conditional approval, the Secretary of the people's Committee of the Authority shall notify the applicant in writing either through direct delivery or by delivery-guaranteed registered mail, of the Secretary's in charge approval or rejection of the investor's application. If the approval is made contingent on one condition or more, the Secretary of the people's Committee of the Investment Board shall so state and notify the applicant to make available the missing details within a specific period of time. In case of approval the Investment Board shall issue the required permits for investment.

## Article 9

The Investment Project shall be established according to one of the forms organized by the Commercial Law, and shall be registered with the Investment Board in accordance with the rules and procedures set forth in this Regulation.

## Article 10

### On the Setting Up of the Investment Register

A special register shall be established at the Investment Board called (the Investment Register) in which all projects permitted for investment shall be registered.

In this Register, a special page shall be assigned for each Project for the recording of the following details:

1- the Project owner's name, surname, and nationality. If the owner is a company, the name of the company, its address, activities, capital, main office and the name of its Legal representative, his surname and nationality.

2- area of investment and the activities undertaken by the Project.

3- application number and date of submission identical to its entry in the register of applications referred to in Article (6) hereof.

4- registration's number and date of the Resolution granting the permit.

5- Details of exemptions extended to the project, the duration of their effectiveness, and other facilities and privileges.

6- a summary of the report of the committee for the evaluation of the contribution in kind incorporated in the foreign capital and its date.

7- any other information relevant to the investment Project.

8- any changes or modifications on the above mentioned data and information.

## Article 11

### On Registration in the Investment Register

The permission holder shall apply to the Investment Register Office for registration using the form prepared by the Investment Board along with the following documents:

1- Deed of Incorporation and Articles of Association for the Project that has been established in the form of one of the companies organized by the Commercial Law, or the Deed of Incorporation and Articles of Association of the parent company if the Project takes the form of a branch of the said company, along with the board of directors resolution to establish the branch, appoint its general manager and legal representative in the Great Jamahiriya. If the investor is a natural person, the information he supplied upon applying for obtaining the permission for investment would be sufficient.

2- The power of attorney or delegation of authority issued to the project manager or its legal representative, clearly stating his authorities and the period of validity for the power of attorney or delegation of authority.

3- a specimen of the signature of Project's general manager or its legal representative in the Great Jamahiriya.

4- A certificate from the relevant competent authority to evidence the transfer of part or all of the Project's capital to the Great Jamahiriya.

They registration in the Investment Register shall produce all legal effects resulting from registration in the Commercial Register, including the creation of the juridical personality. After satisfying all documents and information required in this Article, the Investment Register Office shall issue to the applicant a certificate proves his registration in the Investment Register in the form prepared by the Investment Board.

## Article12

### On the Complaints

An Investor may file a complaint against administrative action taken against him and he may as well resort to the competent court if any of the following decisions has been taken against him:

- Rejecting the registration of the Project in the Investment Register Office.

- Denying the Project any of the privileges determined under the Encouragement of Foreign Capitals Investment Law.
- Obliging the investor to pay double of what he has been exempted from.
- Issuance of a resolution to withdraw the project or finally liquidate it.
- Withdrawal of the permission.

The complaint shall be submitted to the People's Committee of the Investment Board through its Secretary within thirty days as of the date of notifying the complainer of the Resolution issued against him.

The People's Committee of the Investment Board shall forward the complaint along with its opinion to the secretary in charge who shall consider it and issue his decision within fifteen days from the date of submitting the complaint to him.

Filing the complaint with the Investment Board shall not prejudice the right of the Investor to resort to the judiciary.

## Chapter Two

### On the Privileges and Exemptions

#### Article 13

##### Right to Import

Every Investor permitted to invest shall be entitled to import all the needs and requirements of the Project from abroad whether in the form of machinery, instruments, or equipment required for the execution of the Project, or in the form of spare parts or raw materials required for the operation of the Project.

The imported items shall be exempted, within the limits stated in Article 10 of Law no. (5) of 1426, from all custom fees and duties and taxes of similar effect imposed on the imports, in accordance with the following conditions:

1. The items are imported in the name and for the benefit of the Project.
2. The imported items shall commensurate, quantitatively and qualitatively, with the area of the permitted investment.
3. The permit of investment is valid at the time of import.
4. An undertaking to use such items in the Project and not to dispose of it in any way to any other entity without the written consent of the Investment Board.

In the event of approval of the sale of such machinery instruments, or equipment to a person who does not enjoy a similar custom exemption, the Investor will have to pay the custom duties required thereon, which he had been exempted from.

## Article 14

### Right to Export

The Investor may export his products to outside the Great Jamahiriya whenever he desires to do so whether they are primary goods, intermediary or finished products ready for direct consumption, in accordance with the following conditions:

1. Investment permit is valid at the time of export.
2. The goods to be exported are the product of the investor's Project.

The goods to be exported shall be exempt from excise tax and from the fees and taxes imposed on export at the time of export.

## Article 15

The exemptions provided for in this Regulation do not include exemption from fees set for provision of services such as handling fees, harbour and storage fees and the like.

## Article 16

### Exemption form the Stamp Duties

The investment Project established according to the Law shall be exempted from the stamp duties imposed on the commercial papers and documents it uses.

## Article 17

### On The Employment of Manpower

The Investor is entitled to employ and import foreign manpower and technical foreign expertise needed for establishing and operating the project, according to the following rules and conditions:

1. The investor has a valid permit issued in accordance with the provisions of the Law.
2. The manpower imported should be qualified, technically specialized, and not available in the local market.
3. Obtain the approval of the Authority.
4. The investor should sign written contracts with the imported manpower specifying the duration of employment the terms and the wages.

Requests for the import of foreign manpower shall be presented to the Investment Board on the forms and according to the procedures set forth by the competent authority in charge of foreign labour. The Investment Board will follow up such requests with the competent authority and provide the Investor with the approvals as soon as they are issued.

## Article 18

### On the Transfers for the Foreign

### Manpower of the Project

The foreign manpower imported and employed under written contracts in the permitted investment projects shall be allowed to transfer part of their salaries and wages or any financial rewards granted to them after the deduction of the due fees or taxes. The People's Committee of the Investment Board shall determine the transferable percentage in accordance with the Project's nature and the employees' qualifications and expertise.

## Article 19

### On The Changes in Investment Projects

An investor permitted to invest hereunder may expand, develop, add to, or modify some of the activities of the Project.

Application for expansion, development, or modification shall be made on the special form provided for this purpose, attached with the following documents:

1. Copy of a valid investment permit.
2. An economic feasibility study for the expansion, development, or modification.
3. Investor's decision to expand, develop, or modify the Project.

The approval of the expansion, development, or modification shall be made by a decision from the People's Committee of the Investment Board.

## Article 20

### On The Opening of Bank Accounts by the Investor

As soon as the investment permit issued, the Investor shall be entitled to open bank accounts in the name of the Project at the commercial banks or at the Libyan Arab Foreign Bank in the local currency or in other currencies as he deems suitable.

## Article 21

### On The Transfer of Dividends

The net of the distributed dividends and interests realized by the Investor from the Project in the Great Jamahiriya shall be transferred abroad upon an application submitted by the concerned person to the People's Committee of the Investment Board through its Secretary, in three copies on the form specified for this purpose. The application shall include the following details:

1. Name of the applicant, his surname, nationality, and his capacity.
2. Entry number of the project in the register referred to in article (10) hereof.
3. The amount of the dividends and interest to be transferred abroad as per the latest approved balance sheet of the Project along with a copy of said balance sheet.

The Investment Board shall review the application in order to ascertain that the legal requirements are satisfied for the transfer, if so ensured, the Investment Board shall forward the application along with its opinion to the People's Committee of the Investment Board to look into it and take the proper decision.

In case of approval, the People's Committee shall forward the application to the bank with which the Investor established an account, to affect the transfer of the amount subject of the application.

In case of non-approval, the Investor should be notified of the decision and its reasons.

In any case the People's Committee should make a decision on the Investor's application within a period not exceeding two months from the date of submitting the application to the Investment Board.

## Article 22

### On The Ownership and Renting of Real Estate

The Investor shall be entitled to own land for use, rent or construct buildings onto them and shall be entitled as well to own or rent buildings, under the following conditions:

1. That it is necessary for the establishment or operation of the Project, or for the accommodation of its employees.
2. That the real estate is suitable for the purpose for which it is to be owned or rented.
3. Obtain the approval of the Authority to buy or lease.
4. The land is suitable for the purpose of establishing the project thereon or its operation, and its use does not contradict with the approved urban zoning nor does it cause any harm to the environment or the natural, tourist, or agricultural resources.

## Article 23

### On Enjoying The exemption

For the purpose of applying the exemptions provided for in Article (10) of the Law, the Investor is required to submit the following documents:

- 1) Concerning income realized during the year:
  - a) Certificate issued by the department in charge of the follow-up of the project execution in the Authority indicating that the Project started production, or started providing services and the date of start of production for productive projects or start of operations in case of services projects.
  - b) Annual balance sheet of the Project accompanied with a report from an approved auditor.
- 2) Concerning the re-invested dividends:

- a) Decision from the proper entity owning the Project approving reinvestment of the profits resulting from the Project.
- b) Approved annual balance sheet accompanied with a report from an approved auditor.

In all cases the Investment Board shall notify the Tax Department regarding that the project is enjoying the exemption as per the Law.

## Article 24

### On Re-transfer of the Invested Capital

The Investor is entitled to re-transfer abroad the capital invested in the Great Jamahiriya by an application submitted to the Secretary of the People's Committee of the Investment Board in any of the following cases:

1. End of the Project's period.
2. Liquidation of the Project.
3. Total or partial sale of the Project.
4. Elapse of a period of time of not less than five years from the date of the issuance of the investment permit.

The application is to be submitted in triplicate on the form provided for this purpose including the following details:

1. Name of the applicant, his surname, nationality, and his capacity.
2. Registration Number of the Project in the register referred to in Article (10) hereof.
3. The amount of the capital to be transferred abroad as per the latest approved balance sheet of the Project in the Great Jamahiriya.

The following documents shall be enclosed with the application:

One) A bank certificate proving the amounts of money transferred from abroad in favour of the project or the report of the technical committee on the value of contribution in kind, as the case may be, making part of the Project's capital imported from abroad.

Two) A copy of the balance sheet of the Project.

Three) A certificate from the People's Committee of the Investment Board indicating the end of the Project's period, or its liquidation, or its sale in part or whole or the elapse of a period of five years as of the date of the establishment of the Project.

If more than one person owns the capital and part of it was paid in local currency, the share of the partner who had transferred his share from abroad will be allowed to transfer his share abroad in a transferable currency within the limits of the value that had been transferred from abroad.

The Investment Board shall review the application in so far as it is satisfying the required conditions and then forward it, along with its opinion to the People' Committee of the Investment Board for its consideration and for taking the proper decision accordingly.

The People's Committee shall in case of approval forward the application to the bank with which the Investor established bank accounts to affect the transfer of the amount subject of the application.

In case of non- approval the Investor should be notified of the decision and its reasons. In any case a decision should be made on the Investor's application within a period not exceeding sixty days from the date of submitting it.

Article 25

On Determining the Projects Enjoying

## Additional Exemptions

- 1- A project shall be deemed to have been established in geographic development areas if placed in one of the areas specified in the General People's Committee Resolution no. (1005) for the year 1991, or in any other area determined by a resolution of the General People's Committee.
- 2- A project shall be deemed to be contributing to the realization of food security if it shall concentrate on the production of the highest possible volume of cereals, optimum exploitation of arable cultivated lands and establish food industries using local raw materials.
- 3- A project shall be deemed to be realizing saving in energy or water consumption or, otherwise contributing to the protection of the environment, if such project depends totally or partially on the exploitation of the solar energy or any other type of the new and renewable energies or it uses an advanced irrigation system minimizing the consumption and depletion of water resources or it uses advanced instrument and machinery capable of minimizing the consumption of energy and burning of fuels or making them exhaust a lesser percentage of carbons thereby contributing to the preservation of the environment.

Upon applicant's request and after ascertaining that the project has been set up in geographic development areas or, otherwise contributing towards the realization of food security or using equipment capable of minimizing energy or water consumption or contribute to protecting the environment, the Investment Board shall make a recommendation to the People's Committee of the Authority for the extension of the period of exemptions, provided for under paragraphs (b) & (c) of Article (10) of the Law, for an additional period of time. In case of approving the recommendation, the matter shall be referred by the Secretary in charge to the General People's Committee for issuing its decision in this respect.

## Article 26

### On Re-transfer of the Un-invested Capital

It is permissible for the Investor to re-transfer abroad the un-invested foreign capital, in the same form it has been imported in, in the following cases, and in accordance with the following conditions:

- 1- The elapse of six months from the date of transfer of the capital to be invested in the Great Jamahiriya, without obtaining the permits and approvals required for the Project, or for commencing the execution of the Project.
- 2- The inability of the Investor to invest the funds either because of not obtaining the investment permit or because of difficulties and circumstances beyond his control.
- 3- Submit an application to the Investment Board, in the specific form provided therefore, accompanied with a certificate from the bank in which the funds transferred to the Great Jamahiriya were deposited, stating the net amount transferred, and a statement setting forth the reasons and circumstances prevented the carrying out of the investment, and the supporting documents if any.

In the case that the application is approved by the Investment Board, it shall notify the bank in order to re-transfer the said amount abroad, according to the procedures applicable in this respect.

## Article 27

### On the Investors Duties and Prohibitions

- 1-The owner of the Project who has obtained the permits required for the investment shall abide by the following:

One) Commence the execution of the Project within six months from being notified of the approval to establish the Project according to the provisions of this Regulation. Otherwise the Secretary in charge may, upon the recommendation of the People's Committee of the Authority, cancel the decision of approval and consider it null and void. The People's Committee of the Authority may, for objective reasons, permit to extend this period for an additional reasonable period, if necessary.

Two) Execute the Project in accordance with the approved feasibility studies on the basis of which the permit has been issued.

They may not be amended without a decision from the Secretary in charge upon presentation by the People's Committee of the Investment Board, based on objective grounds or compelling circumstances.

Three) Maintain the accounting books and records as required by the Commercial Law, and submit the final financial statement and the balance sheet of the Project to the Investment Board and to the Tax Department within the time limits provided for by the Commercial Law and the Income Tax Law.

Four) Submit to the Investment Board quarterly reports on the activities of the Project.

Five) Give priority to the national manpower whenever the required qualification for filling of the positions and jobs for the Project are the same.

2- The People's Committee of the Investment Board may recommend to the Secretary in Charge to withdraw the decision of approval, cancel it or liquidate the Project completely in any of the following events:

a) Non-completion of the Project execution during the period specified in the permit and the elapse of the additional period granted to the Investor, or if it appeared to the Investment Board that the Investor is not serious in the execution of the Project, or is unable to execute it due to financial or technical reasons.

The People' Committee of the Investment Board shall notify the Investor by an official notice addressed to him at his address stated in the application for the investment approval, of the necessity to complete the execution of the Project according to the time schedule set forth for that purpose.

In case of withdrawing the permit, the Investor shall sell the real estate and lands that he might have bought for the purpose of the Project.

The Investor shall also remove all installations or additions to the land he had been permitted to use for the purpose of the Project and to restore it at his expense to its original conditions and form. The Investor shall be notified of the foregoing by a delivery guaranteed registered letter.

b) Repetition of the violations, or committing a violation for which has already received a warning and failed to rectify it.

Upon withdrawing the permit for any of these reasons, the Investor is required to pay customs fees and duties or any other fees on the imported machinery, equipment and means of transport of which he has been exempted pursuant to the provisions of the Law, if they are disposed of through sale or assignment, without prejudice to any compensation that may be required by law.

## Article 28

### On The Control and Follow Up

The department in charge within the Investment Board shall have the right to follow up the permitted investment projects, and prepare periodical reports on them to be presented to the People's Committee of the Investment Board, it is also entrusted with the function of financial control. The employees of the Investment Board who are granted the capacity of law enforcement officers shall inspect the projects, have access to their books and records relevant to their activities and to record the violations or irregularities therein and report same to the competent authorities.

It is incumbent upon those who carry out such projects to furnish the Investment Board with the information and data which reflect the stages of execution and operations and in general the work progress of the Project, and in particular:

1. Type of service or production and quantities thereof.
2. Actual cost of production or service.

3. Number of manpower employed on the project and their categories and nationalities.
4. Goods and material imported for the project.
5. Goods directed for export.
6. Developments or improvements carried out on the project.
7. Obstacles and difficulties facing the project, if any.
8. Exemptions and advantages from which the project has benefited.

## Article 29

### On The Penalties

The Investment Board may, in cases where the investor commits any violation to the law or the Executive Regulation such as, without limitation:

1. Existence of a flagrant deviation in the execution of the Project.
2. Submission of untrue information on the Project, or the use of evasive or fraudulent methods in dealing with the Investment Board.
3. Non compliance with the instructions of the Investment Board issued in accordance with the laws and regulations.
4. Change of the field of investment specified in the investment permit issues to the Investor without the approval of the People's Committee of the Investment Board or carrying out of an unauthorized work.
5. Disrespect of the laws and regulations in force in the Great Jamahiriya.

Warn the violating Investor in order to make him correct the violation committed by him within a period specified in the warning compatible with the subject of the violation. If the investor does not comply with the warning or if he repeats the violation, the Investment Board shall submit

its recommendations to the Secretary in charge to impose on the Investor one of the following penalties:

1. Denying the Project some of the privileges provided in the law.
2. Make the Investor pay double of what he has been exempted from.

The Secretary in charge shall issue the proper decision specifying the penalty to be imposed on the Investor. The Secretary may impose more than one penalty on the investor where the violations are more than one.

### Article 30

#### On The Liquidation of the Investment Project

The People's Committee of the Investment Board may recommend to the Secretary in charge the liquidation of the investment Project in any of the following cases:

1. The submission of an application from the concerned person accompanied with a resolution from the extra-ordinary general assembly for the liquidation of the Project.
2. The Project loses more than half of its capital.
3. End of the Project's specified period without submitting an extension application, or the non approval of the application for an extension.
4. Realization of the Project's objectives.
5. If it becomes impossible for the Project to conduct its activities.
6. The issuance of a decision for the cancellation of the permit.

If the Secretary in charge approves the recommendation of the People's Committee of the Investment Board, he shall issue decision ordering the liquidation. The Investor shall appoint the liquidators to proceed with the liquidation of the said Project and prepare the financial statement of the liquidation. If the Investor does not appoint the liquidators within a period of three months the date of decision of liquidation, the Secretary of the People' Committee of the Investment Board shall issue a decision appointing the liquidators. The Investor shall bear the liquidators and fees cost of liquidation.

## Article 31

### On Disputes Settlement

The Libyan courts shall have jurisdiction to decide on any dispute that may arise between the Investor and the Investment Board either due to the Investor's action or because of the actions taken by the against him by the Investment Board, unless there is a bilateral agreement between the Great Jamahyria and the state to which the Investor belongs, or where there is multilateral agreements to which the Great Jamahyria and the state of the Investor are parties which expressly provide for amicable settlement or arbitration, or that there is a special agreement between the Investor and the state providing for an arbitration clause.

## Article 32

### On The Transfer of the Investment Project Ownership

The ownership of the Project may be transferred from one owner to another in part or in whole by way of sale or assignment. The person seeking the disposal of the Project shall submit an application to the Secretary of the People's Committee of the Investment Board containing comprehensive information on the Project along with the date and the number of the permit decision, name and nationality of the acquiring person, data on his financial and technical capabilities and reasons for the transaction. The transaction will become effective only after the following conditions are satisfied:

1. The approval of the People's Committee of the Investment Board.
2. The consent of all owners where there are more than one owner for the Project; if the project is owned by a juristic entity the consent shall be granted by the corporate body designated in the articles of association of the entity.

As for the transfer of ownership by way of inheritance, the new owner or his representative shall present a certificate establishing that he or his representative is the legitimate heir, issued by the appropriate authorities in his country of origin authenticated by the fraternity Bureau or the

People's Bureau in that country or by any Arab Embassy if the Great Jamahyria has no political or consular representation there.

3. A written undertaking to the effect that the project will continue in the same field of activity.
4. An undertaking to the effect that the new owner will subrogate the former one in the rights, duties and obligations arising from the Law and other legislation in force.

The new owner shall satisfy the same conditions as the former owner in so far as technical and administrative expertise and other qualification decreed in this Regulation.

### Article 33

#### Issuance of Certificates and Extracts

The Investment Board shall issue to the applicant upon his request a certificate or an extract from the register referred to in Article (10) of this Regulation relevant to the registration of the permitted projects, against the payment of the fee determined for that purpose.

### Article 34

This Regulation shall be put into effect from the date of its issuance; any contradictory provision is hereby repealed.