

ORDINANCE N°01-03 DATED AUGUST 20. 2001  
IN THE MATTER OF INVESTMENT DEVELOPMENT

TITLE I

GENERAL PROVISIONS

**ARTICLE 1** - The present ordinance sets the applicable system to the national and foreign investments realized in goods and services production as well as the investments realized in matter of concession attribution and/or license.

**ARTICLE 2** - Investment, in the sense of the present order is defined as:

1. - Assets acquisitions of new activities , extension of production capacity, rehabilitation and corporate restructuring ;
2. - Shareholdings under the form of cash or kind inflow;
3. - Purchases in case of partial or total privatization;

**ARTICLE 3** - The investments referred to in article one and two, may benefit from this order advantages. The access conditions to these advantages are determined by the National Investment Council referred to at article 18.

**ARTICLE 4** - The investments are realized freely without prejudice of the law and policies related to the regulated activities and the environmental respect.

These investments are realized in regard of the legislation and guarantees of the law.

Investments that have the benefit of the incentives must be declared beforehand the realizations at the Agency referred to in article 6.

**ARTICLE 5** - The terms and conditions of the investment declaration, the advantages demand, the decision conceding advantages, are fixed by decree.

**ARTICLE 6** - A National Development Investment Agency is instituted, attached to the head of government, hereinafter referred to as " the Agency".

**ARTICLE 7** - The Agency, within 30 days, from the registering date of the incentives request shall:

- provide any administrative documents required for the investment realization,
- notify the granting or refusing decision for the incentives required from the investor.

In case of no response or contestation of the Agency decision, the investor may introduce a recourse at the level of the Agency , which must respond within 15 days.

The decision of the Agency may be jurisdictionally appealed.

**ARTICLE 8** \_ The Agency decision mentions the recipient, the advantages granted as well as the obligations, in compliance with the provisions of this order.

An extract of the Agency decision, identifying the recipient and the advantages granted , is published in the legal announcements official bulletin.

## **TITLE II** **THE INCENTIVES**

### **CHAPTER I** **THE GENERAL SCHEME**

**ARTICLE 9** \_Besides the tax and customs incentives provided by the common law, investments defined at article 1 and 2 , when realized in the terms (or conditions or manners) of article 13, may benefit from the following advantages:

- 1 - Application of a reduced rate for the customs duties for the imported equipments entering directly in the realization of the investment,
- 2 - VAT exemption for the goods and services entering directly in the investment realization,.
- 3 - Transfer tax exemption for any real estate acquisition in direct relation with the investment.

## CHAPTER II THE DEROGATORY SCHEME

**ARTICLE 10** - Shall benefit from particular incentives the following investments :

1 - Investments realized in zones requiring a particular State support for their development,

2 - Investments carrying a particular interest for the national economy and notably those using clean technologies that shall protect the natural resources, economize energy and lead to lasting development.

The zones referred to at article 1, as well as investments referred to at article 2 above are determined by the National Investment Council referred to at article 18.

**ARTICLE 11** - Investments realized in the zones referred to at paragraph 1 article 10 shall benefit from the following advantages:

1 - During the **phase of realization of the investment** :

- Transfer tax exemption for any real estate acquisition in relation with of the investment;
- Application of a fixed rate for the registering at a reduced rate of 2%0 for the constitutive acts and the raise equities;
- The Government shall partially or totally take in charge the expenses related to the infrastructures works required for the investment realization, after the Agency valuation;
- VAT exemption for the goods and services entering directly in the investment realization, whether they are imported or acquired in the domestic market, each time these goods and services are intended for operations that are subject to VAT;
- Application of a reduced rate for customs duties for any goods imported and entering directly in the realization of the investment.

2 - **After effective exploitation** :

- Corporate income tax, distributed profits tax exemption for a term of 10 years of effective activity,
- Property tax exemption for the real estates in relation with the investment, from the acquisition date and for a period of 10 years.
- Granting of additional incentives liable to improve and/or facilitate investment, such as the loss carry forward and the depreciating time.

**ARTICLE 12** - Investments referred to in paragraph 2 article 12 shall lead to an agreement between the Agency , for the count of the State, and the investor.

The convention shall be concluded after the approval of the Investment National Council referred to in article 18 and shall be published in the Gazette of the Democratic People's Republic of Algeria.

The terms of this convention shall be agreed , notably in case of the granting of a concession right or a licence requiring an investment subject to the incentives.

**ARTICLE 13** - Investments referred to at article 1, 2 and 10 shall be realized in a period of time previously agreed at the moment of the decision granting the incentives. This period of time starts from the notification of the decision, unless it is the decision of the Agency granting time extension, quoted at article 6 above.

### **TITLE III** **GARANTIES GRANTED TO INVESTMENTS**

**Article 14** - Foreign private persons or corporate bodies receive the same and equal treatment allowed to Algerian private persons or corporate bodies in respect to rights and obligations concerning investments.

Except to provisions of conventions concluded between Algeria and the countries of their citizenship, all foreign persons or corporate bodies receive equal treatment.

**ARTICLE 15** - Changes and annulments liable to occur in the future do not apply to investments subject to the present ordinance unless the investor specifically requests otherwise.

**ARTICLE 16** - Unless provided for legislation in force , investments are not subject to requisition by government order.

Such a requisition would be subject to a fair and equitable indemnity.

**ARTICLE 17** - Any dispute between a foreign investor and the Algerian government caused by the investor or by a measure taken by the Algerian government with respect with the investor shall be submitted to relevant jurisdictions unless bilateral or multilateral conventions concluded by the Algerian government relative to reconciliation and arbitration or a specific agreement stipulating an arbitration clause or allowing the parties to agree a compromise or ad-hoc arbitration.

**TITLE IV**  
**INVESTMENT BODIES**

**CHAPTER I**  
**The National Investment Council**

**ARTICLE 18** - A National Investment Council is established hereinafter referred to as "The Council" presided by the Head of the Government.

**ARTICLE 19** - The Council is in charge notably of :

- Proposing the strategy and the priorities for the investment development;
- Proposing investment incentive measures adapted to changing circumstances;
- Adjudicating the agreements referred to in article 12 above;
- Adjudicating the incentives to grant in respect of investments referred to in article 3 above;
- Adjudicating with respect to the zones that shall benefit from the derogatory system provided for in the present ordinance;
- Proposing to the Government any decisions or measures necessary for the implementation of the investment support and promotion program;
- Encouraging and promoting institutions and financial instruments for investment financing;
- Dealing with any other question related to the implementation of the present ordinance.

**Article 20** - The composition, organization and the functioning of the Council are determined by an executive decree.

**CHAPTER II**  
**The National Investment Development Agency**

**ARTICLE 21** - The Agency referred to in article 6 above is a public, administrative establishment having the status of a corporate body and financial autonomy.

The Agency operate in the field of investment in liaison with the administrations and bodies concerned:

- assuring the promotion, the development and the monitoring of investments,
- receiving, informing and assisting resident and non resident investors,
- facilitating the accomplishment of the company formation formalities and the implementation of the projects by means of services of a decentralized one-stop shop facility,
- granting investments incentives in accordance with the regulatory scheme in force,
- managing the investment support fund referred to in article 28 below,

- assuring the compliance of the obligations agreed by the investors during the exemption phase.

The organization and the functioning of the Agency is determined by an executive decree.

**ARTICLE 22** - The headquarters of the Agency is located in Algiers.  
Regional or local offices of the Agency may be established throughout the country.  
Representation offices abroad may be established .  
The number and the location of local and foreign offices are determined by an executive decree.

### **The One-Stop Facility**

**ARTICLE 23** – A One-Stop Facility, in which the administrations and institutions concerned by the with investments are represented, is established within the Agency .

The One-Stop Facility is duly entitled to furnish administrative services necessary for the implementation of investments referred to in article 4.

Decisions of the One stop desk cannot be contested by the administrations involved.

**ARTICLE 24** - The One-Stop desk, within the Agency, is decentralized and operates throughout the country.

**ARTICLE 25** - The One-Stop desk assures in relation with the administrations and institutions concerned , the simplification of the procedures and formalities required for setting companies and for project implementation.

It assures that simplified procedures are really applied.

**ARTICLE 26** - In order to assure the use for investment development of assets remaining upon liquidation of public enterprises , the Algerian Government shall establish a real estate portfolio, the management of which is devolved to the Agency .

Implementation modalities of this article are determined by executive decree.

**ARTICLE 27** - The real estate offer intended for investment, is provided by representative of the administration in charge of lands at the level of the local One-Stop Facility.

## TITLE V

### ADDITIONAL PROVISIONS

**ARTICLE 28** - An Investment Support Fund is established under the form of a special affectation account .

This fund is intended to finance the Government's contribution for the incentives costs granted to investments, notably the expenses for the infrastructure works necessary for the investment realization.

The expenses list subject to this account is decided by the National Investment Council referred to in article 18 above.

The organisation and functioning modalities of this fund are determined by executive decree.

## TITLE VI

### MISCELLANEOUS PROVISIONS

**ARTICLE 29** - The investor's rights related to the incentives , in compliance with the laws and regulation instituting encouragement measures to investments, are maintained, until the expiration of their duration, in the conditions in which they have been granted.

**ARTICLE 30** - The investments which are granted incentives , in compliance with the present ordinance , are liable to be transferred or sold.  
The purchaser commits before the Agency, to respect the former investor's obligations that have allowed the granting of the incentives, if not, these incentives shall be cancelled.

**ARTICLE 31** - Investments in capital shares realised by free convertible foreign currency , for which the importation is duly observed and steadily quoted at the Bank of Algeria, shall benefit from the capital transfer guarantee for the capital invested and the incomes generated.

**ARTICLE 32** - The investments which are granted incentives by the present ordinance are monitored, during the exemption period, by the Agency.

The investments monitoring is done by the Agency in relation with the administrations and institutions for the respect of the obligations resulting from the granting of incentives.

**ARTICLE 33** - In the case of non-respect of the allotted time for realization and of the conditions for granting incentives referred to in article 13 above, these incentives shall be cancelled in the same conditions as those of their granting, notwithstanding other legal provisions.

**ARTICLE 34** - Before the setting up of the Agency referred to in article 6 above, the provisions of the present ordinance as well as the consequences of the transition period referred to in article 29 above, are taken in charge by the Promotion and the Investment Support Agency (APSI).

**ARTICLE 35** -Any previous provisions contrary to the present ordinance, notably those related to the legislative decree N° 93-12 of October the 5<sup>th</sup> ,1993 related to the investment promotion, are repealed, excepted the laws related to hydrocarbons referred to.

**ARTICLE 36** - The present ordinance shall be published in the Gazette of the Democratic People's Republic of Algeria.