

Legislation on **INVESTMENT** in Mozambique



INVESTMENT PROMOTION CENTRE

Law on Investment
Regulation of the Investment Law
Code of Fiscal Benefits
Industrial Free Zones Regulation



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Law on INVESTMENT



Law nº 3/93, of 24th June



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REPUBLIC OF MOZAMBIQUE
ASSEMBLY OF THE REPUBLIC

Law n° 3/93, of 24th June

Preamble

An awareness of the need to establish a legal framework to regulate the process of carrying out, in Mozambican territory, both national and foreign private investment undertakings, which can contribute to progress and the improvement of well-being in the country, led to the adoption of Law n° 4/84, on 18th August, and the corresponding Regulations on Direct Foreign Investment, approved by Decree n° 8/87, of 30th January.

In complement to these, Law n° 5/87 was enacted on the 19th of January, and Decree n° 7/87, of the 30th of January, approved the Regulations on the Procedures for National Investments. Through Decree n° 10/87, also of the 30th of January, the tax and customs incentives applicable to private national investments were established.

The profound changes underway throughout the world in general, and in Mozambique in particular, especially those arising from the implementation of the Economic Recovery Programme and the adoption of the new Constitution of the Republic, together with the need to adopt a more open and objective economic policy which favours greater participation, complementarity and equality of treatment of national and foreign investments, have brought about the need to revise the existing legislation regarding investment matters.

In this context, with a view to adequately adjusting and improving the legal framework on private investment matters in the country, the Assembly of the Republic, under Section 1 of Article 135 of the Constitution, determines:



CHAPTER I

General Provisions

Article 1

(Definitions)

1. For the purposes of this Law, the following definitions shall apply:
 - a) Economic activity – the production and commercialisation of goods or the rendering of services of whatever nature, carried out in any sector of the national economy;
 - b) Foreign capital – the contribution valuable in monetary terms and made available under the investment forms contemplated in Article 9, and in accordance with the regulatory provisions of this Law, which have been brought in from abroad for carrying out investment project(s) in Mozambique;
 - c) Invested capital – the capital effectively paid up and applied in a direct investment project, whether national or foreign, in accordance with the definitions of paragraphs 1m) and 1n) of this Article;
 - d) National capital – the sum total of the contribution valuable in monetary terms under any form of participation in the investment through own equity capital, shareholder loans, movable or immovable assets and rights incorporated or to be incorporated in the investment project, in accordance with the Regulations of this Law;
 - e) Own equity capital – that part or component of direct investment made through provision of funds, assets or rights duly evaluated and certified by competent authority, belonging to the national or foreign investor and used for the realization of share capital in the company which will carry out and operate the investment project;
 - f) Re-exportable invested capital – assets and rights which comprise the direct foreign investment, under the definition of paragraph 1m) of this Article, corresponding to the values arising from the liquidation, if the undertaking is wound up, or to receipts from disposal, or payment of full or partial compensation, relating to the said assets or rights, after the payment of applicable taxes and any due debts and met any other obligations existing or foreseen in the terms of the authorization granted for carrying out the investment project;
 - g) Undertaking – activity of an economic nature in which national or foreign capital has been invested to carry out and operate an authorized investment project;
 - h) Company – the entity which carries out an economic or business activity, in an organized and continuous manner, and which is responsible for the implementation of the investment project and the subsequent operation of its activities;



- i) Franchising – commercial contract through which the franchiser or licensor supplies and allows, wholly or in part, the use of certain know-how, trademarks, emblems or commercial symbols to another person, with exclusivity and with or without guarantees of technical assistance and marketing services, the franchisee or licensee being obliged to make the necessary investments and agreed periodic payments and to accept control by the franchiser over the commercial activity undertaken;
- j) Foreign investor – individual or corporate person bringing to Mozambique from abroad capital and resources belonging to or at the own account and risk of the said person, with a view of carrying out direct foreign investment as defined in paragraph 1m) of this Article, in a project under this Law;
- l) National investor – individual or corporate person who makes available capital and resources belonging to or at the own account and risk of said person, with the aim of carrying out direct national investment, as defined in paragraph 1n) of this Article, in a project approved in accordance with this Law;
- m) Direct foreign investment – any form of foreign capital contribution valuable in monetary terms which constitutes own equity capital or resources at the own account and risk of the foreign investor, brought from external sources and to be used in an investment project for carrying out an economic activity, through a company registered in Mozambique and operating from Mozambican territory;
- n) Direct national investment – any form of contribution of national capital valuable in monetary terms which constitutes own equity capital or resources at the own account and risk of the national investor destined for use in an investment project for carrying out an economic activity, through a company registered in Mozambique and operating from Mozambican territory;
- o) Indirect investment – any form of investment whose remuneration and/or repayment does not exclusively consist of the direct participation of its contributors in the distribution of profits resulting from the operation of activities in projects in which the type of investment contemplated in Article 10 has been applied;
- p) Exportable profits – that part of profits or dividends (net of all operating costs) resulting from the activity of a project involving direct foreign investment eligible for the remittance of profits abroad under the provisions of the Regulations of this Law approved by the Council of Ministers; the investor is entitled to effect such remittance abroad at his/her own initiative, after having provided for the settlement of taxes and any other obligations due to the Government, any legal deductions for building up or replenishing the reserve fund, and for the repayment of loans and respective interest payments and any other obligations with third parties;
- q) Foreign person – any individual whose nationality is not Mozambican, or, in the case of a corporate person, the company originally formed under the legislation of another country, or which, having been formed in the Republic of Mozambique under Mozambican laws, has more than 50% (Fifty percent) of the respective share capital held by foreign persons, as provided for in paragraph 2 of this Article;



- r) Mozambican person – any citizen of Mozambican nationality or any company or institution formed and registered under Mozambican laws, with headquarters in the Republic of Mozambique, and in which the respective share capital belongs at least 50% (Fifty percent) to Mozambican citizens, companies or institutions, whether private or public;
 - s) Project – an undertaking of an economic activity in which one intends to invest or has already invested national or foreign capital, or a combination of both national and foreign capital, and which has been granted the necessary approval by the competent authority;
 - t) Direct foreign reinvestment – the application in an undertaking of all or part of the profits resulting from the operating activities of any direct foreign investment project, whether in the same undertaking which generated such profits or in other undertakings carried out in the country;
 - u) Direct national reinvestment – the application of all or part of the non-exportable profits resulting from the operating activities of a particular investment project, whether in the same undertaking which generated such profits or in other undertakings carried out in the country;
 - v) Earnings – any income generated in a given period of operating activity of an investment project, such as profits, dividends, royalties and other forms of remuneration associated with the concession of rights to access and use of registered technologies and trademarks, as well as the payment of loan interest and other payments related to direct and indirect investment;
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- x) Industrial Free Zone – area or unit(s) of industrial activity geographically delimited and regulated by a specific customs regime whereby goods therein which are destined exclusively for export production, including the export goods produced by such activities, are exempt from any customs duties and related taxes or para-fiscal charges and shall also benefit from appropriate exchange, fiscal and labour regimes especially instituted and designed for the efficient functioning of the undertakings operating therein, particularly with regards to their commercial and financial obligations abroad, provided the expected benefits to Mozambique include the general stimulation of regional development and the generation of general economic benefits and, in particular, the expansion of productive and commercial capacity, a wider tax base, the creation of jobs and the generation of foreign exchange;
 - z) Special Economic Zone – area of general economic activity geographically delimited and subject to a special customs regime under which all goods entering, located, circulating, manufactured or transformed therein or exported therefrom are totally exempt from any customs, duties and fiscal or para-fiscal charges, and enjoy, furthermore, a free exchange regime, including for offshore operations, appropriate fiscal, labour and immigration arrangements instituted and adequate to the rapid entry and efficient functioning of enterprises and investors wishing to operate there, in order to enable the fulfilment of their commercial and financial obligations abroad; provided the country expects to gain from the promotion of regional development and generation of general economic benefits and, in particular, the expansion of productive and commercial capacity and tax base, and the



creation of jobs and of foreign exchange.

2. To calculate the percentage participation in the share capital for the determination of the nationality of the investor, in accordance with the provisions of paragraphs 1q) and 1r) of this Article, the origin of the capital shall be determined by summing-up the shares pertaining, respectively, to the foreign and the Mozambican persons.

Article 2

(Object of the Law)

1. The present Law seeks to establish the basic and uniform legal framework for the process of carrying out both national and foreign investments eligible for the guarantees and incentives provided for in this Law, in the Republic of Mozambique.
2. Those undertakings in which investments are being or have been made without compliance of the provisions of this Law and its Regulations shall not be eligible to benefit from the guarantees and incentives herein contemplated.

Article 3

(Ambit of application)

1. The present Law shall apply to investments of an economic nature carried out in Mozambique which intend to benefit from the guarantees and incentives herein established, including those investments carried out in industrial free zones and in special economic zones, and which are in accordance with the provisions of the Regulations approved as per Article 29 of this Law, independently of the nationality and the nature of the investor.
2. This Law shall not apply to investments made or to be made in the areas of prospecting, research and production of petroleum and gas and in mineral resources extraction industries.
3. The present Law shall neither cover public investments financed by funds from the State Budget, nor investments of an exclusively social character.

Article 4

(Equality of treatment)

1. In carrying out their activities, foreign investors, employers and workers will enjoy the same rights and be subject to the same duties and obligations applicable to nationals in accordance with the legislation in force in the Republic of Mozambique.
2. Exception to the provision of paragraph 1 of this Article shall be those cases of projects or activities by nationals which by their nature or scale of investments and undertakings, may merit special treatment and support from the Government.



Article 5

(Assumption of international agreements)

The provisions of this Law shall not restrict any guarantees, advantages or obligations specially contemplated in international agreements or treaties to which the Republic of Mozambique has become a signatory.

Article 6

(Basic guiding principle for investments)

Investments covered by this Law, irrespective of the form they may assume, should contribute to the sustainable economic and social development of the country, meet the principles and objectives of national economic policy and satisfy the provisions of this Law and of its Regulations and any other applicable legislation in force in the country.

Article 7

(Objectives of investments)

The carrying out of investments under the present Law shall, inter alia, pursue the following objectives:

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- a) the development, rehabilitation, modernisation or expansion of economic infrastructures for the operation of productive activities or for rendering services necessary for supporting productive economic activities and promoting the country's development;
- b) the expansion and improvement of national production capacity or of capacity to render services which support productive activities;
- c) contributing towards training, expansion, and development of national entrepreneurs and Mozambican business partners;
- d) the creation of jobs for national workers and the raising of professional skill levels of the Mozambican labour force;
- e) the promotion of technological development and the improvement of entrepreneurial productivity and efficiency;
- f) the increase and diversification of exports;
- g) the rendering of productive services and of those generating foreign currency;
- h) the reduction and substitution of imports;
- i) contributing towards improving the supply of domestic markets and the satisfaction of the priority and basic needs of the population;
- j) any direct or indirect contribution towards improving the balance of payments and government budget revenue.



Article 8

(Forms of direct national investment)

Direct national investment may assume any of the following forms valuable in monetary terms:

- a) cash;
- b) infrastructures, equipment and relevant spare parts, materials and other goods;
- c) granting of operating rights over concessions, licences and other rights of an economic, commercial or technical nature;
- d) granting, in specific cases and under the terms agreed upon and approved by competent authorities, of land usage concession rights, patented technologies or registered trademarks, for which remuneration is limited to the participation in the distribution of profits resulting from the activity in which such rights, technologies or trademarks have been or shall be applied.

Article 9

(Forms of direct foreign investment)

Direct foreign investment may consist of any of the following forms valuable in monetary terms:

- a) freely convertible currency;
- b) equipment and relevant spare parts, materials and other imported goods;
- c) the granting, in specific cases and under the terms agreed upon and approved by the competent authorities, of concession rights to use patented technologies or registered trademarks for which remuneration is limited to the participation in the distribution of profits resulting from the activities in which such technologies or trademarks have been or shall be used.

Article 10

(Forms of indirect investment)

Except for those cases stated in paragraph b) of Article 8, of paragraph c) of Articles 9, and of paragraph 2 of Article 17, indirect investment, whether national or foreign, shall consist of any or a combination of loans, shareholder loans, additional supplies of capital, patented technologies, technical processes, industrial models and secrets, franchising, registered trademarks, technical assistance and other forms of access to the use or transfer of technology and registered trademarks, and which access to use is under exclusivity or a licensing arrangement restricted to a geographic zone or to commercial and/or industrial activity area.



Article 11

(Areas for investments by free private initiative)

Areas open to free initiative for private investments shall be all those of economic activities which are not expressly reserved to the ownership or exclusive operation by the Government or to the investment initiative by public sector.

Article 12

(Areas reserved to public sector initiative)

The Council of Ministers shall define the areas of economic activity reserved to the initiative of public sector for carrying out investments, with or without participation of the private sector, and, furthermore, define the percentage shareholding to private national and foreign investment.

CHAPTER II

Guarantees and Fiscal Incentives

Article 13

(Protection of property rights)

1. The Government of Mozambique shall guarantee the security and legal protection of property on goods and rights, including industrial property rights, comprised in the approved investments carried out in accordance with this Law and its Regulations.
2. When deemed absolutely necessary for weighty reasons of national interest or public health and order, the nationalization or expropriation of goods and rights comprised in an approved and realised investment under this Law shall be entitled to just and equitable compensation.
3. In the event of any complaint submitted by an investor under the terms regulated by the Council of Ministers not being resolved within a period of ninety (90) days, and when such fact has led the investor to incur in financial losses on the invested capital, the said investor shall have the right to a just and equitable compensation for such losses incurred and which are of evident responsibility of Government institutions.
4. For the purpose of determining the value of compensation or remuneration to be paid under paragraphs 1 and 2 of this Article, the evaluation of goods and/or rights nationalised or expropriated, including financial losses suffered by an investor which are of evident responsibility of Government institutions, will be carried out within ninety (90) days by a team especially appointed or by an auditing company of recognised expertise and competence.
5. The payment of the compensation or remuneration referred to in the preceding paragraphs of this Article shall take place within ninety (90) days counted from



the date of acceptance by the competent Government authority. The time for assessment for decision making on the evaluation made and submitted to the competent Government authority shall not exceed forty-five (45) days counted from the date on which the evaluation dossier was submitted and received.

Article 14

(Remittance of funds abroad)

1. The Government of Mozambique, in accordance with the conditions set down in the authorisation or other relevant legal instruments to the investment, shall guarantee the remittance of funds abroad in connection with:
 - a) exportable profits resulting from investments eligible for export of profits under the provisions of the Regulations of this Law;
 - b) royalties or other payments for remuneration of indirect investments associated to the granting and transfer of technology;
 - c) amortization of loans and payment of interest on loans contracted in the international financial market and applied in investment projects in the country;
 - d) the proceeds of any compensation paid in conformity with the provisions of paragraph 2 of Article 13;
 - e) invested and re-exportable foreign capital, independently of eligibility (or not) of the investment project to export profits under the Regulations of this Law.
2. The remittances referred to in paragraph 1 above shall comply with the formalities set down in Article 15 below.

Article 15

(Formalities for remittances abroad)

1. In harmony with the definition in paragraph 1p) of Article 1, provided that the applicable tax obligations and the exchange formalities have been satisfied, foreign investors with approved investments carried out in accordance with this Law and its Regulations are entitled to transfer abroad up to the whole amount of the profits accrued to them in each financial year.
2. The document which confirms, for the purpose of remittance of profits abroad, the investment effectively made and the fulfilment of fiscal obligations, shall be issued by the Ministry of Planning and Finance within thirty (30) days counted from the date of submission of the relevant application.
3. Remittances of re-exportable capital or of the proceeds of compensation or remuneration provided for in Article 13 shall be carried out in instalments timed over a period not exceeding five years and in a such a way as to avoid disturbing the balance of payments.
4. Remittance of exportable profits and of invested re-exportable capital shall be



processed in foreign currency of the investor's choice in accordance with the provisions of this Law and its Regulations and the terms of the authorization granted for the project.

5. Upon compliance with the provisions of paragraphs 1 to 4 of this Article, the transfer of funds abroad under the present Law and its Regulations shall take place, provided that the following have been met:
 - a) the constitution or replenishment of legal reserve fund;
 - b) the payment of any outstanding taxes;
 - c) the provisions necessary to ensure the timely repayment of loan instalments and interest on loans contracted for the realization of the investment;
 - d) adequate provisions to guarantee the repayment of loan instalments and interest on loans to fall due before further funds sufficient to meet such responsibilities are generated.
6. The remittance of exportable profits in each financial year, shall be promptly processed as long as the positive balance of foreign exchange generated by the undertaking or combination of several undertakings carried out by the same investor or group of associated investors allows the necessary coverage.
7. In case of insufficient exchange funds to cover the remittance of profits abroad in any given financial year by a project that have not generated a net surplus of foreign currency, the remaining balance shall be carried forward for its remittance abroad to the following financial year or years.
8. The transfer abroad of exportable profits generated by foreign investment which demonstrated the effective substitution and/or reduction of imports or that proved it has effectively saved foreign exchange for the country, but that does not have foreign exchange fund to cover such transfer, shall be allowed and effected under the terms to be agreed with the relevant foreign investor.
9. The remittance abroad of re-exportable invested capital shall be processed with observance of the provisions of paragraphs 3 and 4 of this Article, proportionately to the participation of direct foreign investment in the share capital in the undertaking, based on the result value of the liquidation, sale or compensation, total or partial, of such undertaking or, furthermore, provided that the authorization period of the direct foreign investment has expired without renewal.

Article 16 **(Incentives)**

1. In addition to the guarantees of ownership and of remittance of funds abroad provided for in Articles 13 to 15 above, the Government of Mozambique shall also guarantee the concession of tax and customs incentives granted in the Code of Fiscal Benefits for investments made in Mozambique in accordance with this Law and its Regulations.
2. The right to enjoy the incentives provided for in paragraph 1 of this Article shall be irrevocable throughout the validity of the relevant period contemplated



for in the Code of Fiscal Benefits for investments made in Mozambique, given that the conditions upon which the concessions were granted remain unchanged.

3. The Council of Ministers shall approve, by Decree, the Code of Fiscal Benefits referred to in paragraphs 1 and 2 of this Article.

CHAPTER III

Financing and Exchange Operations

Article 17 **(Financing of direct investment)**

1. Direct investment in projects to be carried out in the country under this Law and its Regulations shall be financed by own equity capital made available by the respective investors.
2. Financing made available through shareholder's loans and/or additional supplies of capital made available by the investors' own resources, and for which remuneration shall not bear interest charges made on the undertaking in which they have been applied, shall also be considered as components of direct investment.

Article 18 **(Access to domestic credit)**

Companies formed and registered with the participation of direct foreign investment are entitled to access to domestic credit borrowing on the same terms and conditions applicable to Mozambican companies and in conformity with the relevant legislation in force in the country.

Article 19 **(Allocation of foreign exchange)**

1. For those undertakings whose activities generate foreign exchange, the Bank of Mozambique may, upon a submission by the respective companies of their yearly plan of foreign exchange requirements, authorize the retention, in foreign currency accounts, of a proportion of the foreign currency revenue generated by such undertakings.
2. For those cases not covered by the paragraph 1 of this Article, appropriate arrangements shall be adopted for each undertaking taking into account its economic interest and social importance.

Article 20 **(Exchange Operations)**

Exchange operations and the conversion of foreign currency into local currency and vice-versa shall be processed in accordance with the legislation and rules in force in the country regarding such matters.



CHAPTER IV

Approval and Registration

Article 21

(Decision making on investment projects)

1. The carrying out, in Mozambique, of investment projects eligible for the guarantees and incentives provided for in this Law shall require approval by the competent government authorities.
2. The Government will establish, in Regulations, the levels of competence for the taking of decisions by governmental authorities on investment projects.
3. The Council of Ministers shall regulate the time limits to be observed for the taking of decisions on investment proposals, and set down the procedures to be followed when a given proposal has not been decided upon by the competent authority within the stipulated time limit.
4. The Council of Ministers shall, furthermore, regulate on the situations in which the authorizations granted for carrying out investment projects may merit changes or cancellation.

Article 22

(Registration of direct foreign investment)

1. The foreign investor, within one hundred and twenty (120) days counted from the date of notification of the decision authorizing an investment project, shall register the undertaking involving direct foreign investment with the authority responsible for monitoring the inflow of capital, and register subsequently each actual capital import operation that takes place.
2. The failure to effect the registrations provided for in this Article may lead to the non-recognition of the right to export profits and remit the re-exportable invested capital abroad.
3. The registrations provided for in this Article shall be effected without prejudice to the verification and confirmation, in accordance with the provisions contained in the Regulations of this Law, of the direct foreign investment amounts declared for registration.

Article 23

(Transfer of investor's position or rights)

1. The investor may transfer, wholly or in part, the position or rights held in an investment or the equity participation held in it, upon an express and duly founded request made by the investor to the Minister of Planning and Finance submitted through the Investment Promotion Centre or its provincial delegate.



2. The applicant for such transfer shall indicate, in the request, the identity of the recipient and the terms agreed upon in connection with such transfer of investment rights or position.
3. Where the applicant for the transfer of the position held or part of share capital held is, in whole or in part, a foreign investor, s/he shall be entitled to request the remittance abroad of the proceeds from this divestiture, provided the fiscal obligations applicable to capital gains have been satisfied.
4. The beneficiary of such transfer may only enjoy the guarantees and incentives provided for in this Law if such operation has been approved, effected and registered in accordance with the provisions of Article 22, and during the period of validity of the authorization granted for the relevant undertaking.

Article 24

(Confirmation and registration of indirect investment)

1. The realisation of any indirect foreign investment contemplated in this Law and its Regulations shall require previous confirmation from the competent authority.
2. For the purpose of the paragraph 1 of this Article, the competent authority shall be:
 - a) the Bank of Mozambique, for those components of investments made under the form of loans associated with direct investments, irrespective of any involvement of direct foreign investment.
 - b) the authority responsible, in conformity with the law, for the registration of any other specific form of indirect foreign investment brought in from outside Mozambique or from any other comparable source.
3. The necessary condition for any form of foreign investment covered by Article 10 to be considered as indirect investment applied in a project in accordance with this Law and its Regulations, shall be that such investment is confirmed and registered with the competent Mozambican authority as provided for in paragraph 2 of this Article.



CHAPTER V

Other Provisions

Article 25

(Resolution of disputes)

1. Any disputes arising from the interpretation and application of this Law and its Regulations, which cannot be resolved on a friendly basis or by means of negotiation, may be submitted to the competent judicial authorities, in accordance with Mozambican legislation, for their resolution.
2. Disputes between the Government of Mozambique and foreign investors concerning authorised and realised investments in the country, which cannot be resolved on the basis provided for in paragraph 1 of this Article, shall, unless otherwise agreed, be entitled to submission for resolution through arbitration, with possible recourse, upon express agreement of both parties, to:
 - a) the rules of the International Convention for the Settlement of Investment Disputes between States and Nationals of other States (ICSID) adopted in Washington on 15th March 1965, or through the International Centre for the Settlement of Investment Disputes between States and Nationals of other States;
 - b) rules set out in the ICSID Additional Facility adopted on the 27th September 1978 by the Administrative Council of the International Centre for Settlement of Investment Disputes between States and Nationals of other States, whenever the foreign investor does not meet the requirements provided for in Article 25 of the ICSID Convention;
 - c) rules of arbitration of the International Chamber of Commerce based in Paris.

Article 26

(Protection of the Environment)

1. Investors, and subsequently their companies, shall, in the process of elaboration, implementation and operation of their investment projects, carry out and submit the relevant studies and evaluations of the environmental impact and of any pollution and sanitation concerns that may result from their activities and the damages and/or wastes of their undertakings. Such studies and evaluations shall include any potential effects and/or implications on forest, geological and hydrological resources, whether within their area of concession or close to the peripheries of the areas in which the undertaking is being or is to be implemented and operated.



2. It shall also be the responsibility of said investors and companies to undertake appropriate measures for the prevention and minimisation of any negative environmental effects, particularly those identified in the environmental impact studies referred to in paragraph 1 of this Article, and subject to observance of the rules and guidelines issued by the competent authorities in this field, and in conformity with any legal provisions and any terms specified in the licence granted for the operation of the activity.
3. Those activities with levels of pollution and contamination likely to alter and negatively affect the environment or public health shall comply with restrictions established by law and/or issued by competent authorities, as well as to any rules or international agreements on such issues to which Mozambique has become a signatory.

Article 27

(Previous investment projects)

1. This Law and its Regulations shall not apply to investments made before it has entered into force, which shall continue to be governed by the provisions of the legislation and by the specific terms or contracts under which the authorisation for each particular investment project to be carried out, in Mozambique, was granted.
2. Investment proposals submitted for evaluation and approval before the entry into force of this Law shall be evaluated and decided upon, as appropriate, under the Law n° 4/84, of 18th August, or of the Law n° 5/87, of 19th January, unless the applicants opt for and expressly request that the present Law be applied.

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Article 28

(Regularisation of unregistered foreign investments)

1. Investors with projects involving direct foreign investment authorised under Law n° 4/84, of 18th August, and the Regulations on Direct Foreign Investment, which are currently under implementation, in the relevant authorization or their implementation to be commenced, but which have not yet been registered in accordance with the provisions of Article 22, shall provide for and effect such registration with the Ministry of Planning and Finance within a period of one hundred and eighty (180) days counted from the date on which the present Law has entered into force.
2. The non-observance of the provision stipulated in paragraph 1 of this Article may lead to the cancellation of the granted authorization and, consequently, to the cessation of the recognition and commitments that had been assumed by the Government of Mozambique in relation to such investments under Law n° 4/84, of 18th August, and its Regulation.



Article 29
(Regulations)

The Council of Ministers shall approve the Regulations relevant to the present Law.

Article 30
(Final Provision)

Those provisions of Law n°4/84, of 18th August, and of Law n° 5/87, of 19th January, to the extent that they are contradictory to the provisions of the present Law, are hereby revoked.

Approved by the Assembly of the Republic.

PRESIDENT OF THE ASSEMBLY

Marcelino dos Santos

Published on the 24th June, 1993.

PRESIDENT OF THE REPUBLIC

Joaquim Alberto Chissano

Regulation of the INVESTMENT Law





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REPUBLIC OF MOZAMBIQUE
COUNCIL OF MINISTER

Decree n° 14/93,
of 21st July

The approval and entry into force of Law n° 4/84, of 17th August and of Law n° 5/87, of 30th January, and of their respective Regulations, marked an important step in the definition of the legal and regulatory frameworks which govern the process of carrying out foreign and national investment in the Republic of Mozambique.

Lessons and experience has been acquired since then through practical application of the legislation referred to above and through activities of promotion and realisation of investments in the country. Such experience raised the need for revision and adaptation of the legislation and its Regulation and simplification and standardisation of the procedures for evaluation, approval and monitoring of the processes of both foreign and national investments.

In this context, with the new legislation governing foreign and national investment in the country having been approved and with a view to establishing the regulatory framework foreseen in Article 29 of Law n° 3/93, of 24th June, the Council of Ministers decrees that:

Article 1. The Regulations of the Investment Law, Law n° 3/93, of 24th June, which constitute an integral part of this Decree, are hereby approved.

Article 2. The provisions of the Regulations on Procedures for National Investments and of the Regulations on Direct Foreign Investment approved respectively by Decrees n° 7/87 and n° 8/87, both of 30th January, are hereby revoked.

Article 3. The present Decree enters immediately into force.

Approved by the Council of Ministers.

Published.

THE PRIME MINISTER

Mário Fernandes da Graça Machungo



REPUBLIC OF MOZAMBIQUE
COUNCIL OF MINISTER

Decree n° 36/95,
of 8th August

Being it necessary to review the procedures in force established by Regulations of the Investment Law approved by Decree n° 14/93, of 21st July, with the aim of streamlining the process of submission, verification, registration, inter-institutional coordination and the decision-making on investment project proposals, the Council of Ministers, under the provision of article 29 of the Law n° 3/93, of 24th June, decrees:

Article 1. The articles 6, 10, 11, 12, 13, 14, 15, 16, 17 and 19 of the Regulations of the Investment Law are hereby altered to the text contained in the Annex to the present Decree.

Article 2. The changes contained in the Annex referred to in previous paragraph constitute integral part of this Decree, which content shall be incorporated in the Regulations of the Investment Law approved by Decree n° 14/93, of 21st July.

Approved by Council of Ministers.

Published.

THE PRIME MINISTER

Pascoal Manuel Mocumbi



REPUBLIC OF MOZAMBIQUE
COUNCIL OF MINISTERS

Regulation of the Investment Law

(Approved by Decree n° 14/93, of 21st July, with changes approved by Decree n° 36/95, of 8th August, incorporated)

Article 1

(Subject)

The purpose of these Regulations is:

- a) the indication of the body charged with the coordination of the processes of investment and the creation of the institution which shall be responsible for the promotion of investment and rendering advisory services to Government bodies on investment matters;
- b) the definition of areas reserved for the public sector to carry out investments, with or without the involvement of the private sector;
- c) the fixing of a minimum value for direct investment required in investment projects as well as the establishment of rules for the determination of the real value of investments made;
- d) the stipulation of rules and deadlines for the presentation, analysis, evaluation and decision-making on investments, as well as for monitoring and verifying the processes of implementation of investment projects;
- e) the definition of the levels and deadlines for decision-making on investment projects and the procedures to be followed when the proposals are not approved within the established time period limit;
- f) the establishment of rules for the issue of investment certificates, for the introduction of alterations in the terms of the authorizations granted and for the cancellation of such authorizations; and
- g) the institutionalisation of rules of communication and correspondence and of resolution of any complaints in connection with investment matters.

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Article 2

(Scope of application)

The provisions contained in these Regulations shall apply to investment initiatives and projects submitted, approved and implemented under Law n° 3/93, of 24th June.



Article 3

(Coordination of investment processes)

The Minister of Planning and Finance shall ensure the coordination of all processes of investment governed by Law n° 3/93, of 24th June, and by the present Regulations.

Article 4

(Investment Promotion Centre)

1. The Investment Promotion Centre is hereby created with the aim of assisting the Minister of Planning and Finance to ensure the implementation of the provisions of Law n° 3/93, of 24th June, and of these Regulations, through undertaking actions to coordinate the promotion, analysis, follow-up and verification of investments carried out under the Law referred to above and these Regulations.
2. The Investment Promotion Centre shall be directly under the aegis of the Minister of Planning and Finance and shall be governed by its own Statute as approved by the Council of Ministers.

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Article 5

(Areas reserved for the public sector)

1. Without affecting the provisions of Article 4 of Law n° 15/91, of 3rd August, and any other specific laws, the areas defined as reserved for investment by the public sector, with or without private sector participation, shall comprise the following:
 - a) the production of electrical energy for public consumption in accordance with the specific legislation relevant to the matter;
 - b) the public supply of water for domestic and industrial purposes in urban centres;
 - c) the operation of postal services and public telecommunications;
 - d) the development and operation of national parks, both marine and on land, and of other areas under protection by law;
 - e) the production, distribution and trade of arms and munitions.
2. In justifiable circumstances, the Ministers and Secretaries of State supervising the respective areas of activity may propose to the Council of Ministers the alteration of the areas referred to in paragraph 1 of this Article. Such changes shall only be effective from the date of their entry into force.



Article 6

(Minimum value of direct investment)

1. For the purposes of these Regulations and of Law n° 3/93, of 24th June, the minimum value of direct national investment, as the paid up own equity capital of the respective investors, is fixed at the countervalue in national currency of five thousand United States dollars.
2. For the specific purposes of the remittance of profits abroad under paragraph 1 (a) of article 14 and other applicable provisions of the Law n° 3/93, of 24th June, and these Regulations, the minimum value of direct foreign investment resulting from the inflow of capital belonging to foreign investors and applied in an authorized economic undertaking, is fixed at the value of fifty thousand United States dollars.
3. The Council of Ministers may alter the minimum values of direct investment established in paragraphs 1 and 2 above, and such alterations shall only be effective as from their date of entry into force.

Article 7

(Determination of the value of direct national investment)

1. The value of direct national investment made, for purposes of registration and legitimacy for enjoyment of the guarantees and of fiscal and customs incentives provided for under Law n° 3/93, of 24th June, shall comprise the sum of the value of the own equity capital, including shareholders' loans and/or additional supplies of shareholder capital contributed in accordance with paragraph 2 of Article 17 of the said law.
2. The burden of proof of the effective application of direct national investment in an undertaking approved by the competent authority and implemented in the country, shall rest with the respective investor through registrations duly organised and confirmed by documents issued or certified by competent authorities for specific matters depending on the nature or form of contribution of the capital or relevant investment.

Article 8

(Determination of the value of direct foreign investment)

1. The value of direct foreign investment made, for the purposes of registration and of eligibility for guarantees and incentives established for foreign investors, as well as for the purposes of remittance of profits and capital abroad, shall consist of the sum of the value of investors' own equity capital, shareholders' loans and additional supplies of shareholders' capital made available in accordance with the terms of paragraph 2 of Article 17 of Law n° 3/93, of 24th June, which have entered the country and been effectively applied in an investment project, and of the exportable profits reinvested in the country and



registered with the competent authority in the Republic of Mozambique.

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2. The burden of proof of the effective entry of foreign direct investment applied in an undertaking duly authorised and carried out in the country, lies with the respective foreign investor through the presentation of registrations duly organised and confirmed by documents issued or certified, in the Republic of Mozambique, by the customs authorities and banking institutions, depending on the nature or form of the investment realised.
3. If the foreign direct investment is in the form of equipment, machinery and other imported material goods, then the respective values of the investment shall be considered at F.O.B. prices for the purposes of the provisions of this Article, unless the transport and insurance have been carried out by Mozambican companies and the respective payments have been made in foreign currency and effectively entered Mozambican territory.
4. The Ministry or Secretariat of State in charge of the sector of activity in which the investment has been made, in coordination with the Investment Promotion Centre, the Ministry of Trade and the National Customs Directorate, may determine that a technical team or an appropriately specialised entity carry out the evaluation and supervision of the costs, quality and specifications of the equipment, machinery, goods and materials imported and destined to be incorporated as investment in a project.
5. If, in the evaluation referred to above, situations of overinvoicing are discovered, the investors shall pay the expenses of evaluation, without affecting the application of sanctions provided for in the law.

Article 9

(Presentation of Proposals)

Investment proposals shall be submitted in three copies, duly elaborated in an appropriate form, to the Investment Promotion Centre or to its provincial delegate, accompanied by the relevant documents referred to below in Articles 10 and 11, as applicable.

Article 10

(Documentation accompanying Proposals)

1. The submission of investment proposals must be accompanied by the following documentation:
 - a) bank references for each prospective investor;
 - b) documents proving the legal existence of the prospective corporate investors;
 - c) reports and accounts of the previous financial year as well as any existing catalogues, brochures and other publications which illustrate the activities of the proponents;



- d) the “curriculum vitae” and certificate of the criminal record of the main persons responsible for the implementation and operation of the project;
 - e) the proposed articles of association of the company to be formed and registered in Mozambique for carrying out the proposed project and its activity in cases the envisaged implementing company doesn't yet exist;
 - f) any proposed alterations to be introduced in the articles of association, if the company is one which already exists;
 - g) the agreement or contract of association between the partners of the company, if applicable;
 - h) an evaluation study of the environmental impact of the project.
2. The submission of proposals which involve indirect investments shall include, additionally, the following elements:
 - a) the title deed or title to exclusive access or use of the specific form of indirect investment under consideration, indicating the respective period of validity of the deed;
 - b) the contract proposal or other valid document that establishes the forms and conditions applicable to the utilisation or application of the form of indirect investment in question.
 3. Foreign corporate proponents intending to invest through establishment of a branch in Mozambique shall present, in addition to the relevant elements referred to above, the following:
 - a) the legal document that proves the existence and the field of the firm or institution intending to establish a branch in Mozambique;
 - b) an indication of the own equity capital of the branch to be opened and operated in Mozambique, indicating explicitly the form of its realisation;
 - c) the minutes of the general meeting convened to deliberate on creating a branch, duly translated into Portuguese and authenticated.

Article 11

(Investments with share capital expansion and/or share offers)

1. Investment proposals which involve an increase in share capital or the offer or acquisition of shares shall be accompanied by the following supplementary documents:
 - a) the project or information which demonstrates the economic or legal need for the increase of share capital and the participation of foreign direct investment;
 - b) a photocopy of the minutes of the general meeting or other body deemed competent under the respective articles of association, which contains the decision taken to proceed with the expansion of share capital envisaged;



- c) a copy of the certificate of the commercial and fiscal registration of the firm in which the investment shall take place;
 - d) Financial statements and accounts for the last two financial years, except in cases where the company has existed for a shorter period of time; and
2. Proponents which are public limited companies shall, in addition, indicate:
- a) the face value and the number of shares to be issued, the forms of their subscription, their issue price and conditions of purchase;
 - b) any rights and privileges envisaged which may be conferred upon new shares to be issued and benefit the shareholders participating in the expansion of capital; and likewise, the number of shares to be subscribed and the forms and dates of their realisation.
3. Proponents which are private limited companies shall, in addition, identify the shareholders who will participate in the expansion of share capital as well as the values, forms and time periods for realising their respective participations.

Article 12

(Verification of the conformity of investment proposals)

1. The Investment Promotion Centre, or its provincial delegate, shall, upon the reception act, verify the conformity of each investment proposal and other documents presented on the basis of the appropriate application form.
2. The verification of the conformity of investment proposals shall essentially be focussed on the following aspects:
 - a) Prosecution of at least seven (7) of the ten (10) main investment objectives in Mozambique as stated out in article 7 of the Law n° 3/93, dated 24th June;
 - b) Capacity and availability of financial resources necessary for carrying out and start the operation of proposed investment project;
 - c) Capacity, experience and entrepreneurial and/or technical characterization of the proponents of the project (or provided by them) in order to guarantee the technical implementation and operation of the project;
 - d) Positive balance of the profitability foreseen for the project proposal;
 - e) Any implication of political, social, economic, financial and environmental concerns or of any other nature;
 - f) Measures provided (or to be undertaken) in order to guarantee the availability of:
 - land necessary for the project;
 - premises (own ones or to be leased);



- equipment (existing one or to be acquired);
 - logical structure of personnel foreseen for the management, operational, executive, auxiliary and seasonal staff (existing or to be recruited).
- g) Compliance with law and basic principles of the national economic policy and the sectorial development policies and strategies.
3. Once verified the conformity of each investment proposal, the Investment Promotion Centre shall proceed with the registration of the relevant investment project.

Article 13

(Inter-institutional coordination)

1. Following the verification of the investment proposals, the Investment Promotion Centre shall, within seven (7) working days after the reception of the proposal, ensure the necessary coordination with the project sector supervising Government body and with the Provincial Government and the Municipal Council of the City in which area the project shall be located, with the aim of creating practical conditions that will allow the commencement of the project implementation.
2. For the purposes of the previous provision, the Head of each sectorial supervising Government body, the Ministry of Planning and Finance (Customs and Taxation Departments) and the Provincial Government and the Municipal Council of the City shall appoint the relevant representative, and his substitute, who shall guarantee the inter-institutional coordination with the Investment Promotion Centre.
3. Independently of the reasons that may be evoked, in lack of any position, reaction and viewpoint within the time-limit set out in paragraph 1 of this article from the representative or his substitute appointed as per the previous paragraph, the Investment Promotion Centre and the relevant decision-making authority shall consider the tacit favourable position taken by such representative or substitute in relation to the proposal of approval to carry out the investment project submitted to him for his pronouncement.

Article 14

(Approval proposal)

1. Completed the verification of each investment proposal, the Investment Promotion Centre shall prepare the approval proposal to be submitted to the consideration and decision of the competent decision-making authority.
2. The approval proposal shall contain the draft of the Provincial Governor's Order, Ministerial Order or Internal Resolution of the Council of Ministers and the Specific Terms of Authorization applicable to the project under consideration, and the Specific Terms of Authorization shall, inter alia, contain:



- a) the identification of the investors;
- b) the designation and activity of the project and of goods and/or services envisaged by the project, and an indication of the targets and results to be attained;
- c) the location and scope of activity of the project;
- d) the regime of the authorization of the concession or license to exploit natural resources and to use infrastructures and equipment;
- e) the value of the resources and other goods and services referred to in paragraph d) above, as well as the forms of payment for the use of such goods and services;
- f) the nature, value and forms of the realisation of the investment concerned;
- g) the legal status of the enterprise to be formed or established for the project, as well as the list of the possible shareholders or partners, the distribution of capital shares, the total value of the initial capital and the dates they are to be paid up;
- h) the import-export regime and the nature of the commodities to be imported and exported;
- i) the number and the categories of the national and foreign workers to be employed, and the training schemes envisaged for Mozambican workers;
- j) the incentives to be granted and the regime for remittance abroad of profits accruing to foreign investors;
- k) the time period for starting the implementation of the undertaking, or of each phase of its implementation, as appropriate;
- l) the area and availability of the land required for the project, with favourable supporting information from the National Directorate of Geography and Surveys or by the City Council, as applicable;
- m) any other relevant issues to be included in the authorization.

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(Competence and time-limits for decision making on investments)

1. Decision making for the approval of carrying out the investment projects received in the country shall be taken by:
 - a) the Provincial Governor, within the maximum time-limit of three (3) working days after the reception of each approval proposal for carrying out national investment projects of amounts equal to or higher than the countervalue of five thousand United States dollars up to one hundred thousand United States dollars;
 - b) the Minister of Planning and Finance, within the maximum time-limit of three (3) working days after the reception of each approval proposal for



carrying out investment projects which are eligible for the remittance of profits abroad as well as any national investment project, when the total value of the project does not exceed the countervalue of one hundred million dollars of United States.

- c) the Council of Ministers within the time-limit of ten (10) working days after the reception of each investment approval proposal for carrying out the following type of projects:
 - i) investment projects which values exceed the countervalue of one hundred million of United States dollars;
 - ii) projects requiring land concessions of areas equal to or higher than five thousand (5.000) hectares for agricultural purposes and ten thousand (10.000) hectares for livestock and forestry purposes;
 - iii) any other project with foreseeable serious implications of political, social, economic, financial concerns or of any other nature which should be pondered and decided upon by the Council of Ministers.
2. Based on weighty consideration of the political, financial, economic, social and any other complexities and implications of an investment project, the Investment Promotion Centre may submit investment proposals, under competence of the authorities referred to in subparagraphs a) to c) of previous paragraph to the consideration of the Minister of Planning and Finance for referring them to the decision-making by the Prime Minister.

Article 16

(Confirmation of tacit approval)

1. Elapsed over three (3) or ten (10) working days, counted from the date of reception of the approval proposal submitted as per the provisions of, respectively, the sub-paragraph a) and b) and the sub-paragraph c), both of paragraph 1 of the previous article, without a decision having been taken on the proposal, the Investment Promotion Centre shall confirm the tacit authorization granted by the relevant decision-making authority for carrying out the investment project in conformity with the precise terms of the approval proposal submitted to such authority for decision making purpose.
2. It is null and void any other decision taken on the same date or after the confirmation of the tacit authorization granted and confirmed in accordance with the provision of the previous paragraph.

Article 17

(Notification of the decision taken)

1. Decision taken on investment project by the provincial Government shall be notified to the project's proponents by the provincial delegate of the Investment Promotion Centre. Such notification shall be made within two (2) working



days of the date the decision has been taken and shall include the terms of the authorization granted to the project.

2. The Investment Promotion Centre shall within the time-limit of two (2) working days counted from the date of the decision taken as per the provisions of articles 15 and 16 on each investment project proposal notify the relevant proponent investors and inform them the decision taken as well as the relevant terms of the authorization being such decision taken a favourable one.
3. Notification of authorization granted by the competent authority confers on the investors the right to immediately begin to implement the authorized project in accordance with the terms of the authorization and the provisions of the legislation applicable on specific matters.
4. Proponents whose investment projects have been rejected may reformulate their proposals and submit them a new in accordance with the provisions of Articles 9 and 11, as applicable, for the reconsideration of the decision taken.

Article 18

(Company formation and registration)

1. The associated investors shall fulfil the necessary legal formalities relevant to the formation and registration of the company that is to implement the project, namely with the Notary Public, the Commercial Registry and the Local Tax Office of the area of location of the head office or main establishment of the company.
2. When an investment project is to be carried out by a branch of an existing company, such branch shall be registered by the respective investor with the Commercial Registry.

Article 19

(Starting implementation of the project)

1. Implementation of the project approved falls under the responsibility of the individual investors or the company concerned and shall start within one hundred and twenty (120) days counted from the date of the notification to the investors as referred to in paragraph 2 of Article 17, if a different time limit is not established in the authorization.
2. In case the effective implementation of the project doesn't start within the time limit set out in previous paragraph, and unless the concerned investors provide a performance guarantee deposit and/or other type of callable performance guarantee correspondent to five percent (5%) of the total investment, but never higher than US\$ 500.000, as a back-up of the investors' commitment to really pursue the effective implementation of the project, the authorization granted for carrying out the project shall be cancelled and shall not from then have no legal effect.



3. The deposit or other type of performance guarantee provided for as per previous provision shall be free and given back to the concerned investors once they have effectively made and applied in the approved project an investment amount equal to the value of the deposit or other type of performance guarantee provided for by such investors.
4. If the commencement of the project implementation doesn't take place within the maximum period of additional hundred twenty (120) days the authorization granted to carry out the project shall be cancelled, and the deposit or other type of performance guarantee provided for as per paragraph 2 of this article shall revert to the State of Mozambique and the Bank of Mozambique shall be the competent entity to call for such performance guarantee pursuant to the notification received from the Investment Promotion Centre to proceed in such direction.

Article 20

(Commercial book-keeping and statistical records)

1. Investment undertakings carried out in the Republic of Mozambique shall organise and maintain a system of book-keeping and statistical records in conformity with the commercial legislation applicable, and shall make information available at any time concerning the evolution of the economic and financial situation of relevant projects.
2. Undertakings operating any foreign currency transactions shall maintain records and controls of such operations in conformity with the banking rules and procedures in force in the country.

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Article 21

(Follow-up and verification of investments)

1. The realization, operation and management of approved investment projects and their activities shall conform with the provisions of the Mozambican legislation, and, specially, with the conditions established by the terms of the authorization and any other legal provisions governing specific matters relevant to the project or its activities.
2. The follow-up and verification of the realization of investment projects governed by Law n° 3/93, of 24th June, and by the present Regulations, shall be ensured by:
 - a) the Government authorities and institutions which supervise the respective sectors and branches of activity to which the investment projects relate, for issues of their specific concern and responsibility;
 - b) the Investment Promotion Centre, which shall follow-up the fulfilment of the terms of the authorization of projects, and of the provisions of these Regulations and of Law n° 3/93, of 24th June.



3. The Investment Promotion Centre may regularly request information from investors regarding the development of investment undertakings, either through specific forms to be completed, or through visits and audit missions to the investment projects.
4. Depending on the results of the visits and audit missions carried out, sanctions appropriate to the nature of each infringement found may be applied, including the payment of the expenses of visits and audit missions and possible suspension or cancellation of the right to enjoy the guarantees, incentives and other benefits granted under Law n° 3/93, of 24th June.

Article 22

(Issue and updating of investment certificates)

1. Having produced proof of fulfilment of the formalities required by legislation applicable to approved investment undertakings, the Investment Promotion Centre shall, at the request of the respective investors, issue the investment certificate which proves the compliance of requirements demanded by law and the effective realization of the investment in the undertaking or company, which shall also contain the names of the national and foreign investors involved in the undertaking.
2. The proof referred to in paragraph 1 above shall consist of a dossier containing authenticated copies of the following documents:
 - a) certificate of the formation of the company at a Notary Public;
 - b) articles of association of the company published in the Official Gazette (Boletim da República);
 - c) certificate of registration of the undertaking with the Commercial Registry;
 - d) proof of the registration of the undertaking with the local tax office;
 - e) document of appointment of the managing director of the undertaking and assignment of duties s/he will carry out for the project;
 - f) proof of the effective realization of the investment, including the description and specification of the investment actually made by each co-investor through:
 - contributions to share capital;
 - shareholders' loans;
 - provision of equipment and other material goods;
 - other forms (specified).
 - g) Financial statements and accounting reports of the closed financial year(s);
 - h) Other information considered by the investors as of interest and relevant for the purposes of following-up the state of development of the undertaking;



3. If additional investments or other substantial changes to the undertaking has taken place, and have been proved in accordance with the provisions of paragraph 2 of this Article, the Investment Promotion Centre shall update the relevant investment certificate, at the request of the investors.
4. The investment certificate issued under the terms of this Article shall provide sufficient proof for the purposes of recognition and the enjoyment of the guarantees and incentives referred to in Articles 14 to 17 of Law n° 3/93, of 24th June.

Article 23

(Alterations to the terms of authorization)

Under circumstances worthy of consideration, and at the duly founded formal request of the investors or their representatives, the terms and conditions established in the authorization may be modified by the competent authority that approved the investment project, as provided for in Article 16 of these Regulations.

Article 24

(Cancellation of the authorization)

Cancellation of the authorization to carry out an investment project may only be decided by the entity which granted such authorisation, if any of the following circumstances occurs:

- a) winding up of the company before the expiry of the validity period of the authorization granted;
- b) expiry of the time limit established for the start of the project's implementation without it having been actually started;
- c) refusal to supply information, supply of false information and/or denial of access for the appointed officials for visits and audit missions to the undertakings;
- d) Interruption of performance of the project's activities for a period of more than three successive months or for a period of more than four interpolated months without previous consent of the competent authority that granted the authorization for the project's realization;
- e) serious infringement of the provisions of Law n° 3/93, of 24th June, or of these Regulations, or of the terms of the respective authorization or any other relevant legal arrangements.

Article 25

(Communication and Correspondence)

Any communication and exchange of correspondence between the parties and entities involved in the process of presentation, verification, analysis and evaluation,



approval, notification, supply of information and follow-up, linked to investment projects, shall be legally binding when having been reduced to writing and communicated to the parties and entities envisaged, and the relevant documents shall acquire legal force once signed by the authorized representatives of the parties or entities involved.

Article 26 **(Complaints)**

1. Complaints related to investment issues arising from the application of Law n° 3/93, of 24th June, and these Regulations, shall be submitted, duly founded, to the Investment Promotion Centre.
2. The Investment Promotion Centre shall, within ten days, refer each complaint to the appropriate entity, requesting the necessary analysis and the measures to be taken for its resolution.
3. If, within the period of twenty days, counted from the date of the request referred to in paragraph 2 above, no reply has been given and no steps taken for the resolution of the complaint submitted, the Investment Promotion Centre shall refer the matter for consideration and decision by the Minister of Planning and Finance, with the express information of the silence assumed by the entity which the complaint had been directed to.
4. Complaints relating to the Investment Promotion Centre shall be submitted, adequately founded, to the Minister of Planning and Finance.
5. The provisions of this Article do not limit the right of recourse by the interested parties in applying the procedures for resolution of disputes on investments provided for in Article 25 of Law n° 3/93, of 24th June.

Code of
FISCAL Benefits

Law 4/2009 of 12 January





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REPÚBLIC OF MOÇAMBIQUE
ASSEMBLY OF THE REPUBLIC

Law n° 4/2009, of 12 January

It being necessary to reformulate the Code of Fiscal Benefits approved by Decree 16/2002 of 27 June in order to rationalize the fiscal benefits for investments and make them more effective as an instrument of the political economy, the Assembly of the Republic pursuant to the provisions of Article 127.2 and Article 179.2 o) of the Constitution determines:

ARTICLE 1

The Code of Fiscal Benefits, which is annexed to this Law as an integral part thereof, is approved.

ARTICLE 2

The Council of Ministers is delegated the competency to approve regulations in respect of this Law and shall do so within a period of 90 days from the date of publication.

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ARTICLE 3

All legislation contrary to this Law is revoked.

ARTICLE 4

This Law enters into force on 1 January 2009.

Approved by the Assembly of the Republic on 26 December 2008

The President of the Assembly of the Republic, *Eduardo Joaquim Mulémbwè*

Promulgated on 1 January 2009.

Let it be published.

The President of the Republic

ARMANDO EMÍLIO GUEBUZA



CODE OF FISCAL BENEFITS

TITLE I **GENERAL PROVISIONS**

CHAPTER I **Fundamental Principles**

Article 1 **(Scope of application)**

1. The provisions of this Code apply to investments carried out by individual and corporate persons provided that such persons are duly registered for tax purposes.
2. The investments referred to in the preceding clause are investments that are carried out under the scope of the investment law and its regulations, subject to the exceptions provided for in this code.

Article 2 **(Concept of Fiscal Benefit)**

1. Fiscal benefits are those measures that exempt or reduce the amount of tax to be paid in order to benefit activities that have a recognized public interest as well as to encourage the economic development of Mozambique.
2. Fiscal benefits are those provided for in this Code, namely:
 - a) deductions from taxable income;
 - b) deductions from tax;
 - c) accelerated depreciation and reintegration;
 - d) investment tax credit;
 - e) exemptions;
 - f) the reduction in tax rate and the deferral of the payment of tax.
3. Fiscal benefits are considered to be fiscal expenditure, and the appropriate declaration of benefits used in each tax year is required for the purpose of their determination and control.



Article 3 **(Entitlement to Fiscal and Customs Benefits)**

1. Investments carried out under the scope of the Investment Law are entitled to the fiscal benefits defined in this Code, provided that the investments observe the terms established herein excluding investments as provided for in paragraph 3 of this article.
2. Investments which are also entitled to the fiscal benefits provided for under this Code are:
 - a) investments that are carried out outside the scope of the investment law in commercial and industrial activities in rural areas;
 - b) investment in new infrastructures built for retail and wholesale commerce;
 - c) manufacturing and assembly industries.
3. With the exception of the situations referred to in the preceding paragraph investments carried out in commercial activities are excluded from entitlement to enjoyment of fiscal benefits.
4. The effective enjoyment of fiscal benefits may not be revoked, nor may the acquired right to the benefit be abrogated, except where as provided for in this code, the beneficiary has not complied with its obligations or if the benefit was improperly granted.

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Article 4 **(Accumulation of Fiscal Benefits)**

The specific fiscal benefits provided for in this Code may not be aggregated with other specific or general benefits, without prejudice to the cases expressly provided for in this Code.

Article 5 **(Transfer of Fiscal Benefits)**

The fiscal benefits granted under this Code are transferable during their term of validity by means of an authorization of the Minister with oversight of the area of investment promotion provided that the fiscal benefits are not altered and that transferee fulfils the requirements for the enjoyment of such benefits.

Article 6 **(Requirements for Exemption from Customs Duties and Value Added Tax)**

1. An exemption from customs duties, and that is only granted when the goods to be imported are not produced in Mozambique or if produced in Mozambique do not satisfy the specific characteristics for the purpose and function required



or inherent in the nature of the project and the respective activity to be carried out and explored.

2. The aforesaid said exemption does not apply to food, drink, tobacco, clothing, passenger vehicles and other articles of personal and domestic use.

Article 7 **(Time Period for the exemption from Customs Duties and Value Added Tax)**

The exemption from customs duties and Value Added Tax - VAT, is granted for the period of the first five years of the project implementation.

Article 8 **(Inspection and Audit)**

All individual and corporate persons who are holders of the right to enjoy fiscal benefits as provided for under this Code are subject to regular inspection and audit carried out by the Tax Administration and other competent entities for the purpose of controlling compliance with the prerequisites for the respective fiscal benefits and compliance with the obligations established for such holders.

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CHAPTER II **Procedures for obtaining Fiscal Benefits**

Article 9 **(General Recognition Requirements)**

The beneficiary of fiscal benefits shall comply with the following general prerequisites for obtaining fiscal benefits, without prejudice to other specific requirements established by law:

- a) tax registration, namely acquisition of a personal tax identification number (NUIT);
- b) have organised books and accounts in compliance with the General Accounting Plan and the requirements of the Corporate Income Tax Code (IRPC) and the Personal Income Tax Code (IRPS);
- c) not have committed any infraction of a tax nature, as provided under the terms of Law 2/2006, of 22 March (Tax Infraction Law).



Article 10

(Recognition of internal tax benefits)

Subject to any provisions to the contrary, in order to obtain automatic recognition of the fiscal benefits which apply to domestic taxes collected by the Tax Administration, the titleholders of investment projects entitled to the enjoyment of Fiscal Benefits shall submit to the local Tax directorate the investment authorisation order and terms or other legally probative instrument together with a copy of the declaration of commencement of activity.

Article 11

(Recognition of import benefits)

1. In order to enjoy the customs and fiscal benefits provided for under this Code with respect to taxes assessed by the Customs Authority, the titleholder of such benefits shall submit to the Customs Services a list of the goods to be imported with exemption from payment of the customs duty and other imposts as well as the other items required under the terms of other legal instruments including the tax registration identification number.
2. The list referred to in paragraph 1 of this Article shall be approved after the issuance of the investment project authorisation and subject to the terms established in the Investment Law Regulations and other applicable legislation.
- 7 3. The Customs Services shall, with five business days dating from the date of receipt of the list, undertake the respective registration and control procedures.

Article 12

(Proof of Investment)

1. In order to enjoy the Fiscal Benefits in respect of income in accordance with the terms of this Code, investment project titleholders entitled to benefits shall submit the following items together with the income tax declaration required under the Corporate and Personal Income Tax Codes (IRPC & IRPS):
 - a) a declaration stating the amount of the investment realised, using the form approved by the Minister having oversight of Finances;
 - b) the origin of the purchases and expenditure which are the basis of any deductions, indicating the invoice number, the name of the supplier, the invoiced amount and amount to be deducted as well as the accelerated depreciation amounts.
2. In order for the Tax Administration to determine the tax expense, investment project titleholders referred to in the preceding paragraph shall submit the declaration with the respective calculation of the value of the tax benefit as provided for in article 2.3 of this Code at the time of the submission of the income tax declaration required under the IRPC and IRPS Codes.



TITLE II

FISCAL BENEFITS

CHAPTER I

General Benefits

Article 13

(Scope of application)

The general benefits provided for under this Chapter apply to investments that are not the beneficiaries of the specific benefits provided for under this Code.

SECTION I

Benefits on the Import of Goods

Article 14

(Customs Duties and Value Added Tax Exemption)

Investments carried out under the terms of the Investment Law benefit from an exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule ("*Pauta Aduaneira*") including the accompanying spare and accessory parts.

SECTION II

Fiscal Benefits in respect of Income

Article 15

(Investment tax credit)

1. Investments carried out in the City of Maputo benefit, for a period of five tax years, from a deduction (not to exceed the tax payable in respect of the investment project activity) from Corporate Income Tax (IRPC) that is equal to 5% of the total investment actually realised.
2. In the case of investment projects carried out in the other provinces, the percentage, as established in the preceding paragraph 1, is 10%.
3. In the case of Personal Income Tax (IRPS), the investment tax credit deduction referred to in the preceding paragraphs shall not exceed the tax payable in respect of income taxable under Category 2 income (as defined in the IRPS Code).



4. Any portion of the tax credit not used in the respective tax year may be carried forward and used in the five successive tax years dating from the date of commencement of investment for projects currently in operation and the commencement of operations for new projects.
5. For the purposes of the provisions of the preceding paragraphs, only investment in new tangible fixed assets acquired by and utilised in the investment project operations within Mozambique qualifies.
6. The provisions of this article do not apply when the investment in tangible fixed assets results from:
 - a) construction, acquisition, repair or extension of any buildings;
 - b) passenger vehicles;
 - c) furniture and articles of comfort and decoration;
 - d) social equipment;
 - e) specialised equipment which is considered to be advanced technology under the terms of this Code;
 - f) other investment assets that are not directly and necessarily associated with the productive activity carried out by the project.
7. For the purposes of this Code:
 - a) the commencement of investment is considered to be the moment in which the procedures to obtain Fiscal Benefits is initiated, after approval of the investment project;
 - b) the commencement of operations is considered to be the moment in which the operations that produce taxable income are initiated.

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Article 16 **(Accelerated Depreciation and Reintegration)**

1. Accelerated depreciation of new immovable assets used in the conduct of the investment project is permitted. The normal legal rates, which apply to the calculation of depreciation and reintegration amounts considered to be deductible costs for the purpose of determination of taxable income for IRPC or IRPS, may be increased by 50%.
2. The provisions of the preceding paragraph also apply on the same terms to rehabilitated immovable assets and to machinery and equipment used in industrial and /or agro-industrial operations.



Article 17

(Modernization and introduction of new technology)

1. The amount invested in specialised equipment utilizing new technology for the conduct of investment project operations shall, during the first five years from the commencement of operations, benefit from a deduction from taxable income for the purposes of Corporate Income Tax (IRPC) equal to a maximum of 10% of taxable income.
2. The deduction referred to in the preceding paragraph as well as the respective terms applies to Personal Income Tax (IRPS), but only in respect to income from activities falling within Category 2 income (as defined in the IRPS Code).

Article 18

(Professional Training)

1. The cost of investments in professional training of Mozambican employees is deductible from taxable income for the purposes of the calculation of Corporate Income Tax (IRPC), during the first five years dating from the date of commencement of operations up to a maximum amount equal to 5% of taxable income.
2. In the case of professional training in the utilization of equipment considered to be new technology, as referred to in the preceding article, the maximum amount deductible from taxable income for the purposes of the calculation of Corporate Income Tax (IRPC), is equal to 10% of taxable income.
3. The deductions referred to in the preceding paragraphs as well as the respective terms apply to Personal Income Tax (IRPS), but only in respect to income from activities falling within Category 2 income (as defined in the IRPS Code).
4. The investment cost referred to in the preceding paragraphs does not include the cost of equipment and other assets of the company used in the professional training.

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Article 19

(Expenditure considered to be Fiscal Costs)

1. During a period of five tax years dating from the date of commencement of operations, investments eligible for fiscal benefits under the terms of this Code the following allowances may be also considered as costs for the determination of taxable income for corporate income tax (IRPC) purposes:
 - a) in the case of investments carried out in the City of Maputo, 110% percent of the value of expenditure in the construction and rehabilitation of roads, railways, airports, mail delivery, telecommunications, water supply, electrical



- energy, schools, hospitals and other works that are considered to be of public utility by the competent authority;
- b) In the case of the other provinces, an amount equal to 120% percent of the expenditure, under the same terms as the previous paragraph.
 - c) In the case of expenditure for the acquisition for personal ownership of works of art and other objects that are representative of Mozambican culture as well as activities that contribute to the development of such works under the terms of the Law for the Defence of Cultural Patrimony, Law 10/88, of 22 December, only 50% of the expenditure is deductible as a cost for tax purposes.
2. The terms and provisions of the previous paragraph shall be applicable to income subject to the Personal Income Tax (IRPS), but only in respect of income from activities belonging to the Second Category of IRPS.

CHAPTER II

Specific Benefits

SECTION I

Creation of basic infrastructure

Article 20

(Qualifying Investments)

The provisions of this section are applicable to investment by the private sector or by public-private partnerships that has as its exclusive objective the establishment of basic public infrastructure that is essential for the promotion and attraction of investments, for the conduct of concrete activities in sectors of the national economy, such as the construction and rehabilitation of roads, rail lines, airports, water supply, electricity, telecommunications and others.

Article 21

(Customs Duty and Value Added Tax Exemption)

Investments defined in the preceding article benefit from an exemption from the payment of customs duties and VAT on the import of goods classified as class "K" in the Customs Tariff Schedule ("*Pauta Aduaneira*") including the accompanying spare and accessory parts.



Article 22

(Income Tax)

1. Investments that have the exclusive objective of establishing basic public infrastructure as defined in article 19 of this Code, benefit from the following incentives with respect to Corporate Income Tax (IRPC):
 - a) an 80% reduction in the rate of IRPC tax in the first five tax years;
 - b) a 60% reduction in the rate of IRPC from the 6th to the 10th tax year;
 - c) a 25% reduction in the rate of IRPC from the 11th to the 15th tax year.
2. In the case of taxpayers subject to Personal Income Tax (IRPS), the benefit provided for in the previous paragraph shall apply only to the taxable income derived from the activity benefitting from the incentive but only in respect of income from activities belonging to the Second Category of IRPS.

SECTION II

Rural Commerce and Industry

Article 23

(Qualifying Investments)

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The provisions of this section are applicable to investment in the construction and/or rehabilitation of infrastructure to be used exclusively for the conduct of commercial and industrial activity in rural areas.

Article 24

(Customs Duty and Value Added Tax Exemption)

1. Investments in commerce carried out in rural areas benefit from an exemption from payment of customs duties and VAT on the import of goods classified as class "K" in the Customs Tariff Schedule ("*Pauta Aduaneira*") as well as others which are essential to the conduct of the activity, namely:
 - a) freezers;
 - b) scales;
 - c) weights;
 - d) cash registers;
 - e) oil and fuel meters;
 - f) counter.



2. Investments in industry carried out in rural areas benefit from an exemption from payment of customs duties and VAT on the import of goods classified as class "K" in the Customs Tariff Schedule ("*Pauta Aduaneira*") including the accompanying spare and accessory parts.
3. The application for the enjoyment of the fiscal and customs benefits shall be made by a legally registered business entity and shall include the entity's NUIT (tax identification number) and the business licence for commercial or industrial activity in rural areas.

SECTION III

Manufacturing and Assembly Industries

Article 25 **(Qualifying Investment)**

The provisions of this section apply to investments in the manufacturing and assembly industry sector.

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Article 26 **(Exemption of customs duties)**

1. Investments in the manufacturing industry sector benefit from an exemption from payment of duties on the import of raw materials to be used in the industrial manufacturing process.
2. Investments in the assembly of motor vehicles; electronic equipment; computer and communications technology and others benefit from an exemption from payment of customs duties on the import of materials to be used in the industrial production process.
3. The application for the enjoyment of the fiscal benefits defined in the preceding paragraphs shall be made by a legally registered business entity and shall include the entity's NUIT (tax identification number) and the business licence for industrial activity.
4. The fiscal benefits referred to in paragraphs 1 and 2 of this article are granted to investment projects which both demonstrate and assume the obligation to maintain an annual invoicing not less than 3.000.000,00 Meticaís and which have a final product added value of at least 20%.



SECTION IV

Agriculture and Fishery

Article 27

(Customs Duty and Value Added Tax Exemption)

Investment in agriculture and aquaculture shall benefit from an exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule ("*Pauta Aduaneira*") including the accompanying spare and accessory parts.

Article 28

(Income Tax)

1. Investment in agriculture and aquaculture benefit from the following tax incentives with respect to Corporate Income Tax (IRPC):
 - a) an 80% reduction in the IRPC rate until 31 December 2015;
 - b) a 50% reduction in the IRPC rate from 2016 until 2025.
2. In the case of taxpayers subject to Personal Income Tax (IRPS), the benefit provided for in the previous paragraph shall apply only to the taxable income derived from the activity benefitting from the incentive but only in respect of income from activities belonging to the Second Category of IRPS.

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Article 29

(Additional Benefits)

The fiscal benefits provided for in articles 18 and 19 of this Code shall apply to investments in agriculture and aquaculture as defined in this section.

SECTION V

Hotelry and Tourism

Article 30

(Qualifying Investment)

1. The provisions of this section are applicable to investments in hotelry and tourism industry, namely:



- a) construction, rehabilitation, expansion or modernization of hotelery units and the respective complementary and related parts, with the principal purpose being the provision of tourism services;
 - b) development of infrastructure for the establishment of camping and caravan parks with a minimum three star classification;
 - c) equipment for the development and exploration of marinas;
 - d) development of wild life reserves, national parks and game reserves for tourism.
2. Investments in the following areas are excluded from the provisions of the previous paragraph:
- a) rehabilitation, construction, expansion or modernization of restaurants, bars, cafés, food establishments, discotheques and other similar units when not a part of the units referred to in the previous paragraph;
 - b) car rental;
 - c) travel agencies, tourism operators and similar activities.
3. Investments carried out in tourism and hotelery activity, which are not eligible for the specific benefits defined in the previous paragraph, are entitled to the general benefits defined in articles 15 to 19 of this Code.

Article 31

(Customs Duty and Value Added Tax Exemption)

Qualifying investment as defined in article 30.1 of this Code shall benefit from an exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule ("*Pauta Aduaneira*") as well as the following goods which are considered to be indispensable for the conduct of tourism and hotelery activity provided that the quantities are limited to the amounts strictly necessary for the construction and outfitting, namely:

- a) construction materials excluding cement, blocks, tiles, paint and varnish
- b) rugs and carpets;
- c) sanitary equipment;
- d) furniture;
- e) textiles;
- f) elevators;
- g) air conditioners;
- h) kitchen equipment;
- i) refrigeration equipment;
- j) tableware and restaurant and bar articles;
- k) communication equipment;
- l) safes;



- m) computer and sound equipment;
- n) televisions;
- o) recreational watercraft, yachts and related equipment and water sports security equipment;
- p) aircraft, aeroplanes, helicopters, hang-glider, gliders, flight simulators, equipment and related equipment and tourist activity security equipment.

Article 32

(Investment tax credit, accelerated depreciation and reintegration)

1. Qualifying investment under the terms of this section also benefit from the tax credit provided for under article 15 of this Code.
2. Accelerated depreciation of new immovable assets, vehicles, automobiles and other tangible fixed assets used in the conduct of the hotelery and tourism activities is permitted. The normal legal rates that apply to the calculation of depreciation and reintegration amounts considered to be deductible costs for the purpose of determination of taxable income for Corporate Income Tax (IRPC) or Personal Income Tax (IRPS) may be increased by 50%.

Article 33

(Additional Benefits)

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Investments defined in this section benefit from the benefits provided for in articles 17 to 19 of this Code.

SECTION VI Science and Technology Parks

Article 34

(Science and Technology Parks)

Investments in scientific investigation, development of information and communication technologies, as well as research and development benefit, for the duration of the project, from an exemption from the payment of customs duties and VAT on the import of scientific, teaching and laboratory material and equipment, including software and support materials, for technical, scientific education, teaching and investigation construction materials, machinery, equipment, and the respective accompanying accessories and spare parts.



Article 35 **(Income Tax)**

1. Investments in the areas of scientific investigation, information and communication technology development as well as research and development carried out in science and technology parks shall benefit from the following incentives in respect of Corporate Income Tax (IRPC):
 - a) IRPC exemption in the first five tax years;
 - b) a 50% reduction in the rate of IRPC tax from the 6th to the 10th tax year;
 - c) a 25% reduction in the rate of IRPC from the 11th to the 15th tax year.
2. In the case of Personal Income Tax (IRPS) taxpayers, the benefit provided for in the previous paragraph shall apply only to the taxable income derived from the activity which is the beneficiary of the incentive and which is Category 2 income.
3. Investments that do not fall within the areas of scientific investigation, technological development, information and communication, and research and development carried out in science and technology parks are not entitled to the fiscal benefits referred to in paragraphs 1 and 2 of this article.

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SECTION VII **Large Dimension Projects**

Article 36 **(Qualifying Investments)**

Authorized investment that exceeds twelve million five hundred thousand Meticais ¹, as well as investment in public domain infrastructure carried out under the regime of a concession are entitled to the fiscal benefits set out in this section.

Article 37 **(Customs Duty and Value Added Tax Exemption)**

Investments defined in the preceding article shall benefit from an exemption from payment of customs duties and VAT on the import of construction materials, machinery, equipment accompanying spare and accessory parts and other goods used in the carrying out of the activity.

¹ *Technical error. Value to be corrected to twelve billion five hundred million Meticais.*



Article 38 **(Additional Benefits)**

The fiscal benefits provided for in articles 15 to 19 of this Code shall apply to investments defined in this section.

SECTION VIII **Rapid Development Zones**

Article 39 **(Definition)**

For the purposes of this Code, Rapid Development Zones (ZRD) are geographic areas within the national territory of Mozambique which have great natural resource potential but which are lacking in infrastructure and have a weak level of economic activity.

Article 40 **(Qualifying Areas)**

1. Rapid Development Zones include the following regions in Mozambique: Zambeze River Valley zone, Niassa Province, Nacala district, Ilha de Moçambique (Mozambique Island), Ibo Island and other areas which may be approved by the competent authority.
2. The Zambeze River Valley zone includes:
 - a) all the districts in Tete Province;
 - b) the districts of Morrumbala, Mopeia, Chinde, Milange, Mocuba, Maganja da Costa, Nicoadala, Inhassunge, Namacurra and Quelimane in Zambézia Province;
 - c) the districts of Gorongosa, Maringué, Chemba, Caia, Marromeu, Cheringoma and Muanza in Sofala Province;
 - d) the districts of Bárue, Guro, Tambara and Macossa in Manica Province.
3. The Council of Ministers has the competency to establish new rapid development zones under the terms of this Code.

Article 41 **(Eligible Activities)**

1. The following activities are eligible for the fiscal benefits specified in this Section:
 - a) agriculture;
 - b) tree plantations;



- c) aquaculture;
 - d) stock-raising;
 - e) forestry operations;
 - f) wild life related operations;
 - g) water supply;
 - h) electricity generation, transport and distribution;
 - i) telecommunications;
 - j) construction of public use infrastructures;
 - k) housing construction;
 - l) construction of agriculture related infrastructures;
 - m) construction of hotel infrastructure and hotel operation, tourism and related activities;
 - n) construction of trade infrastructure;
 - o) industry;
 - p) cargo and passenger transport;
 - q) education;
 - r) health.
2. The fiscal benefits provided for in this Section apply exclusively to investments in activities carried out in Rapid Development Zones.

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Article 42

(Customs Duties and Value Added Tax Exemption)

Investments carried out in Rapid Development Zones in the activity sectors defined in the previous paragraph benefit from an exemption from payment of customs duties and VAT on the import of goods in class "K" of the Customs Tariff Schedule ("*Pauta Aduaneira*") including the accompanying accessories and spare parts.

Article 43

(Fiscal benefits in respect of Income)

1. Investments located in Rapid Development Zones in the activity sectors defined in this Section benefit for a period of five tax years from an investment tax credit equal to 20% of the total investment realized, deductible from the Corporate Income Tax (IRPC) payable but which shall not exceed the tax otherwise payable.
2. In the case of taxpayers subject to Personal Income Tax (IRPS) the tax credit referred to in the previous paragraph shall not exceed the amount of tax resulting from income from the activity that is the beneficiary of the incentive and which is income classified as second category income(as defined in the IRPS Code).



3. Any portion of the tax credit not used in the respective tax year may be carried forward and used in the five successive tax years dating from the date of commencement of investment for projects currently in operation and the commencement of operations for new projects.

Article 44 **(Additional Benefits)**

Investments defined in this section benefit from the benefits provided for in articles 18 and 19 of this Code.

SECTION IX **Industrial Free Zones**

Article 45 **(Customs Duty and Value Added Tax Exemption)**

1. Operators of Industrial Free Zones benefit from an exemption from payment of customs duties on the import of construction materials, machinery, equipment, accompanying spare and accessory parts and other goods used in the carrying out of the licensed Industrial Free Zones activity.
2. Industrial Free Zones enterprises benefit from an exemption from customs duties on the import of goods and merchandise to be used in the implementation of projects and exploration of activities which have been authorised under the terms of the Industrial Free Zones Regulations.
3. The exemption referred to in paragraphs 1 and 2 of this article includes VAT both on the import and on internal acquisitions as provided for in the VAT Code.

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Article 46 **(Income Tax)**

1. From the date of the issuance of the respective Certificate, Industrial Free Zones Developers and enterprises benefit from the following incentives with respect to Corporate Income Tax (IRPC):
 - a) IRPC exemption in the first five tax years;
 - b) a 50% reduction in the rate of IRPC tax from the 6th to the 11th tax year;
 - c) a 25% reduction in the rate of IRPC for the remaining life of the project.



2. Isolated Free Zone enterprises approved in accordance with the terms of the Free Zone Regulations benefit from the following incentives with respect to Corporate Income Tax (IRPC):
 - a) IRPC exemption in the first five tax years;
 - b) a 50% reduction in the rate of IRPC tax from the 6th to the 10th tax year;
 - c) a 25% reduction in the rate of IRPC for the remaining life of the project.

SECTION X

Special Economic Zones

Article 47

(Customs Duty and Value Added Tax Exemption)

1. Special Economic Zones Developers and Enterprises benefit from an exemption from payment of customs duties on the import of construction materials, machinery, equipment, accompanying spare and accessory parts and other goods used in the carrying out of the licensed Special Economic Zones activity.
2. The exemption referred to in paragraph 1 of this article includes VAT both on the import and on internal acquisitions as provided for in the VAT Code.

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Article 48

(Income Tax)

1. From the date of the issuance of the respective Certificate, Special Economic Zones Developers benefit from the following incentives with respect to Corporate Income Tax (IRPC):
 - a) IRPC exemption in the first five tax years;
 - b) a 50% reduction in the rate of IRPC from the 6th to the 10th tax year;
 - c) a 25% reduction in the rate of IRPC for the remaining life of the project.
2. From the date of the issuance of the respective Certificate, Special Economic Zone enterprises benefit from the following incentives with respect to Corporate Income Tax (IRPC):
 - a) IRPC exemption in the first three tax years;
 - b) a 50% reduction in the rate of IRPC from the 4th to the 10th tax year;
 - c) a 25% reduction in the rate of IRPC from the 11th to the 15th tax year.
3. Special Economic Zone enterprises approved in accordance with the terms of the Special Economic Zone Regulations benefit from a 50% reduction in the rate of IRPC tax for a period of five tax years.



CHAPTER III

Sanctions

Article 49

(Sanctions which preclude, suspend or cancel Fiscal benefits)

1. Without prejudice to other sanctions permitted under the tax and customs legislation in force, the violation of the provisions of this Code is subject to the application of sanctions which may, depending on the gravity of the infraction, preclude, suspend or cancel the application of the fiscal benefits.
2. The failure to comply with one or more of the prerequisites provided for in Article 8 of this Code is an infraction subject to the sanction of preclusion from the enjoyment of the benefits.
3. Infractions subject to the sanction of suspension of benefits, are:
 - a) the failure to pay taxes that are due to the State Treasury, provided that this infraction occurs only once;
 - b) the failure to deliver the declaration required under Article 2.3 of this Code;
 - c) the commission of infraction of a fiscal nature and other infractions, provided that under the terms of the applicable legislation are not considered to be grave;
 - d) non-compliance with the terms imposed in the grant of the fiscal benefits.
4. The repeated commission of the infractions referred to in the preceding paragraph shall be subject to the sanction of cancellation, without prejudice to the terms of Law 2/2006, of 22 March.

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Article 50

(Cancellation and suspension of fiscal benefits)

1. The enjoyment of fiscal benefits shall expire at the end of the period of time for which granted, when cancelled as a sanction or if subject to terms and conditions, when a resolutive condition occurs or the beneficiary fails to comply with the obligations imposed by these terms and conditions.
2. The cancellation or suspension of fiscal benefits results in the automatic application of general taxation as provided for by law.
3. In the event of the application of a suspensive sanction, the suspension shall remain in force until the complete remedying of the cause of the suspension, including the payment within a period of sixty days counting from the date of the notification of tax due by the competent services.
4. The holders of a right to fiscal benefits are obliged to declare, within a period of 30 days thereof, when the factual or legal basis for the fiscal benefit has ended including the suspension of fiscal benefits but excluding where the termination was officially known.



CHAPTER IV

Miscellaneous

Article 51

(General transitory regime)

1. The fiscal benefits the right to which has been acquired or the application for which has been formulated and submitted on the basis of prior Codes of Fiscal Benefits, approved by Decree 12/93, of 21 July, and Decree 16/2002, of 27 June, prior to the entry into force of this Code on 1 January 2009 shall be maintained in accordance with the terms on which granted.
2. Investment projects submitted for analysis and approval prior to the entry into force of this Code on 1 January 2009, shall be reviewed and decided in accordance with the terms of the Code of Fiscal Benefits approved by Decree 16/2002, of 27 June, except where the proponents expressly choose and request the application of this Code, within the maximum time period of sixty days from date of this Code's entry into force.

Article 52

(Disposal of assets subject to fiscal benefits)

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When the fiscal benefit applies to the acquisition of assets to be directly applied in the realisation of the buyer's objectives, if the assets are disposed of or applied to another purpose, without obtaining the prior authorisation of the competent authority, the fiscal benefit will be null and void, without prejudice to any other sanctions.

Article 53

(Supplementary rules)

The provisions of the Corporate Income Tax Code, the Personal Income Tax Code, the Value Added Tax Code, the Customs Dispute Procedures, the Tax Dispute Procedures, the Tax Executions Code and other applicable legislation shall apply to any omission in this Code unless contradicted by the provisions of this Code.

Article 54

(Entry into force)

This Law enters into force on 1 January 2009.

Approved by the Assembly of the Republic on 26 December 2008.

The President of the Assembly of the Republic, Eduardo Joaquim Mulémbwè.

Promulgated on 1 January 2009.

Let it be published.

The President of the Republic, ARMANDO EMÍLIO GUEBUZA.

Industrial FREE ZONES Regulation



Approved by Decree nº 62/99, of 21st September, with changes approved by Decree nº 35/2000, of 17th October, and the Decree nº 16/2002, of 27th June, incorporated.



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REPUBLIC OF MOÇAMBIQUE
COUNCIL OF MINISTER

DECREE n° 62/99,
of 21 September

The current state of the regional and world economy recommends that the establishment and development of Industrial Free Zones in our Country be orientated and regulated by a legal framework that is supportive of the desired technological level.

The volume of investments, which are being made in these areas, requires a suitable treatment at both the legal and the institutional level.

In these terms and pursuant to the combined provisions of Article 153.1(e) of the Constitution of the Republic and Article 29 of Law n° 3/93, of 24 June, the Council of Ministers Decree:

- 62 Article 1.** The Industrial Free Zone Regulations, which are annexed to and incorporated as an integral part of this decree, are approved.
- Article 2.** Decree n° 18/93, of 14 September and Decree n° 38/95, of 8 August are revoked.
- Article 3.** This Decree enters immediately into force.

Approved by the Council of Ministers

Let it be published

THE PRIME MINISTER

Pascoal Manuel Mocumbi



REPUBLIC OF MOÇAMBIQUE

COUNCIL OF MINISTER

The Industrial Free Zone Regulation

(Approved by Decree n° 62/99, of 21 September with changes approved by Decree n° 35/2000, of 17 October, and the Decree n° 16/2002, of 27 June incorporated)

CHAPTER I

General Provisions

Article 1 (Definitions)

For the purposes of these Regulations the following terms have the meaning indicated:

1. “Customs” the entity that is responsible for ensuring compliance with the laws and regulations in force concerning the entry into and exit of goods from the Country’s customs territory.
2. “Authorisation for the Establishment of a Industrial Free Zone” an authorisation issued by the Council of Ministers that gives its holder the right to make the investments which are necessary for the establishment and operation of an IFZ in two phases: (i) the first phase, which refers to the construction of the IFZ security systems; and (ii) the second phase, which occurs after the acquisition of the Industrial Free Zone Developer Certificate, refers to the construction of the other IFZ infrastructure and the operation of the IFZ.
3. “Beneficiary” the entity to whom an Industrial Free Zone Developer Certificate or an Industrial Free Zone Enterprise Certificate is granted.
4. “Industrial Free Zone Enterprise Certificate” is the document issued in accordance with the terms of these regulations by the Industrial Free Zone Council that permits the certificate holder to develop and operate the licensed activity within the Industrial Free Zone.
5. “Industrial Free Zone Developer Certificate” is the document issued in accordance with the terms of these regulations by the Industrial Free Zone Council that permits the certificate holder to initiate the permitted Industrial Free Zone Developer activities.



6. “Industrial Free Zone Council (CZFI)” is the body established by the Government to prepare the policies for the creation and implementation of Industrial Free Zones and/or Special Economic Zones.
7. “Industrial Free Zone Enterprise” a legal entity to whom a Industrial Free Zone Enterprise Certificate has been granted in accordance with the provisions of these regulations and whose principal activity is industrial production for export.
8. “Industrial Free Zone Export” the exit of goods from the customs territory of the Industrial Free Zone.
9. “**Export to an Industrial Free Zone**” the exit of goods and services out of the Country’s customs territory into an Industrial Free Zone.
10. “Local Supplier” is a Mozambican entity that supplies goods and services destined for the licensed activity of an Industrial Free Zone Enterprise or an Industrial Free Zone Developer.
11. “Import from an Industrial Free Zone” is the entry of goods, which are from an Industrial Free Zone, into the Country’s customs territory.
12. “Industrial Free Zone Import” the entry of goods into an Industrial Free Zone from outside of the Country’s customs territory.
13. “Industrial Free Zone Developer” the legal entity to whom a Industrial Free Zone Developer Certificate has been granted in accordance with the provisions of these regulations and whose principal activity is the establishment, development and operation of an Industrial Free Zone.
14. “Country” the Republic of Mozambique.
15. “Industrial Free Zone” the area, unit or series of units of industrial activity geographically demarcated, that is a group of businesses located in a physically set-off area as defined in article 1.1(x) of Law n° 3/93, of 24 June, where the goods that are imported into such a zone are not considered to have entered the country’s customs territory for the purposes of the duties and other imposts that are payable.¹

Article 2

(Scope of Application)

These Regulations apply to undertakings carried out by individual persons or by public or private collective persons, which have as their objective the establishment, development and/or administration of an Industrial Free Zone and/or economic activities eligible for Industrial Free Zone status in accordance with these Regulations.

¹ as amended by Decree n°. 35/2000, of 17 October



Article 3 **(Co-ordination)**

The Industrial Free Zone Council, established pursuant to Decree n° 61/99, of 21 September, is responsible for the co-ordination of the processing of investment projects governed by these Regulations.

Article 4 **(IFZ Parameters)**

The terms governing the design and structure of the IFZs shall, in accordance with the requirements to be established under the IFZ Customs Regime pursuant to Article 37 of these Regulations, ensure the effective control of the goods kept in the Industrial Free Zone.

Article 5 **(Employment Positions)**

1. The authorisation for the establishment of an Industrial Free Zone is subject to the existence, in the Industrial Free Zone overall, of at least 500 permanent employment positions for employees of Mozambican nationality, provided that each of the Enterprises operating in the Industrial Free Zone shall employ a minimum of 20 employees.
2. In the case of units or enterprises that wish to operate as an Industrial Free Zone and to benefit from the incentives provided for under Law n° 3/93, of 24 June, the authorisation is dependant on the existence of at least 250 permanent employment positions in each unit or enterprise for employees of Mozambican nationality.²

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Article 6 **(Operation of an IFZ)**

1. Without prejudice to the provisions in the following clauses, the importation into an IFZ of merchandise of any nature, quantity, provenance or origin shall be permitted except if its import is prohibited by law.
2. The provisions of the preceding clause shall not prevent the interdiction or restriction of imports justified on the basis of morality, public policy, public security or as a result of treaties or resolutions of international organisations that have been ratified by Mozambique.
3. The processing of alcoholic beverages or tobacco and its derivatives in an IFZ shall only be authorised in those cases in which a minimum of 50% of the raw materials to be incorporated into the final product are of national origin.

² as amended by Decree n° 35/2000, of 17 October



4. The processing of gold, silver, precious stones, skins, firearms, munitions, pyrotechnic articles and explosives shall only be authorised in those cases in which a minimum of 25% of the raw materials to be incorporated into the final product are of national origin.
- 5 Merchandise shall be brought into and taken out of IFZs in strict obedience with the requirements to be established in the IFZ Customs Regime as provided in Article 37 of these Regulations.

Article 7

(IFZ Activities)

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1. Any export-oriented activity of an industrial nature may be authorised in an IFZ. An application for the installation of an Enterprise in an IFZ shall be reviewed and approved by the Industrial Free Zone Council taking into consideration principally the micro and macro economic impact of the undertaking and provided that at least 85% of the annual production is to be exported.
2. Activities that may be authorised in an Industrial Free Zone under the terms of the preceding clause do not include the exploration and extraction of natural resources, the processing of raw cashew nuts and fish, including prawns, of national origin as well as the exercise of any activity, which, in conformity with legislation currently in force, is reserved for the State with or without private sector participation.
3. The Industrial Free Zone Council may add to the list of activities excluded from Industrial Free Zones based on the interests of the national economy and in order to stimulate the realisation of certain activities outside of the Industrial Free Zones.

Article 8

(Sale and Transfer of Merchandise and Goods within Industrial Free Zones)

Within an Industrial Free Zone, merchandise and goods may, with the prior authorisation of the Executive of the Industrial Free Zone Council, be sold or disposed of from one Enterprise to another. The sale or disposal shall be registered with the customs service in accordance with the terms provided for in the IFZ Customs Regime pursuant to article 37 of these Regulations.

Article 9

(Importation into the Internal Market from Industrial Free Zones)

The enterprises that operate in an Industrial Free Zone, may sell goods into the local market up in an amount equal to a maximum of 15% of the previous year's production volume, provided that the consignees of the goods in question comply with the following conditions:

- a) obtain the prior, written authorisation of the CZFI to sell into the local market;



- b) pay the duties and other import charges calculated on basis of the customs value of the goods in the condition in which they enter the customs territory of the Country on exit from the Industrial Free Zone; and
- c) observe the procedures to be established under the Industrial Free Zone Customs Regime concerning the introduction of merchandise in the Country's customs territory.

Article 10

(Local Suppliers)

Sales of goods and services by local suppliers to Industrial Free Zones for the purposes of licensed activities of an Industrial Free Zone Enterprise or Developer shall be considered to be exports.

Article 11

(Licences)

1. The licence for the installation, operation and exercise of industrial activity as an Industrial Free Zone is an administrative authorisation and cannot be, separately, the subject of any legal transactions.
2. The *inter vivos* transfer of a business establishment whose installation, exploitation, reopening, equipment modification or change of location was licensed under these Regulations is subject to the prior approval of the Industrial Free Zone Council, the registration of the transfer in the Executive of the CZFI and the recording of the transfer on the respective Certificate.
3. The execution of legal transactions which violate the provisions of the preceding clauses shall result in the cancellation of the licence and all other legal consequences.

Article 12

(Sale of Goods, Improvements and Services)

1. Industrial Free Zone Developers who carry out civil construction works or improvements within an IFZ may freely rent or sell such works.
2. Such Developers may freely set the price for any services which are provided to the Enterprises which operate within the Industrial Free Zone.
3. In the case of the sale of water, energy or telecommunications services to the Industrial Free Zone, the terms of the sale and supply of services shall be fixed by the interested parties, namely the relevant competent authorities.
4. Developers shall furnish copies of the contracts made with Enterprises within the Industrial Free Zone to the Executive of the Industrial Free Zone Council. The administrative authorities concerned shall be completely discrete and keep the content of such contracts confidential.



CHAPTER II

Establishment of an Industrial Free Zone

Article 13

(Proposal for the Establishment of an IFZ)

1. The Industrial Free Zone Council shall authorise the establishment of an Industrial Free Zone based upon the submission of concrete proposals for a particular investment project for the establishment, development and operation of industrial units or complexes to be realised under the Industrial Free Zone regime or for the realisation of specific industrial activities in previously designated geographical areas or industrial facilities.
2. A proposal for the establishment of an Industrial Free Zone shall be submitted by an interested party to the Executive of the Industrial Free Zone Council and shall contain:
 - a) the name or corporate denomination, domicile or headquarters of the interested party;
 - b) the indication and description of the area where the applicant wishes to install the Industrial Free Zone, including a topographical map of the location with the buildings and access ways demarcated thereon;
 - c) the proposed systems of monitoring and security for customs control of the movement within and on entry into and exit from the Industrial Free Zone;
 - d) the period of time required for the installation of the security systems and for the commencement of operation of the Industrial Free Zone;
 - e) a list of the imports to be made during the construction phase of the Industrial Free Zone security system;
 - f) the total amount of investment and financing sources.
3. The interested party shall also include in its proposal an undertaking for the fulfilment of the following basic requirements for the Industrial Free Zone:
 - a) an architectural and urban planning proposal including basic sanitation which shall identify the areas suitable for the installation of the industrial estate and the related basic support services;
 - b) preparation of an environmental impact study in accordance with the established norms;
 - c) the establishment of green zones and leisure areas in order to provide an appropriate employment environment;
 - d) establishment of water supply systems, rain and residual water drainage systems, waste removal and industrial waste treatment;
 - e) installation of the electricity distribution grid and telecommunications systems;



- f) provision of appropriate facilities for emergency medical care;
 - g) provision of installations equipped with a security and telecommunications system at the principal entry gate of the Industrial Free Zone as provided for in the procedures to be approved pursuant to article 37 of these Regulations.
4. In the case of units or enterprises that wish to operate under the Industrial Free Zone regime, the authorisation is also dependant on the social, economic and environmental impact of the investment proposal in question.³

Article 14

(Preparation of the Study to be Submitted to the Council of Ministers)

1. The Industrial Free Zone Council is responsible for the analysis of the Industrial Free Zone proposals and for the preparation of an analysis of the proposal for the establishment of an Industrial Free Zone to be submitted to the Council of Ministers for its decision.
2. The analysis referred to in the preceding clause shall contain:
 - a) the opinions of the Ministries who are members of the CZFI concerning the conformance of the objectives for the establishment of the Industrial Free Zone with the respective sector policies of the Ministries;
 - b) the opinion of the customs authority regarding the territorial customs control mechanisms for the Industrial Free Zone to be established and the certification of the list of imports to be made during the construction phase of the customs security systems and during the first phase of development of the Industrial Free Zone;
 - c) the evaluation of the project's environmental impact in accordance with the norms to be defined in a suitable form by the CZFI based on the recommendations of the Ministry for Environmental Co-ordination;
 - d) The opinion of the municipal or Provincial Government authorities in whose jurisdiction the Industrial Free Zone is proposed.

Article 15

(Concession of Land for an IFZ)

1. Developers licensed for the development and/or administration of IFZs as well as companies with certificates to operate under the IFZ regime who wish to carry out, at their own cost, the construction of industrial buildings and other basic and auxiliary infrastructure that is indispensable for the establishment, administration and operation of Industrial Free Zones shall, in accordance with the Land Law and its regulations, apply for the concession of the area of land necessary for this purpose.
2. The concession is for a renewable period of 50 years.

³ as amended by Decree n° 35/2000, of 17 October



Article 16

(Industrial Free Zone Developer Certificate)

1. The Industrial Free Zone Council is empowered to issue the Industrial Free Zone Developer Certificate upon approval of the project by the Council of Ministers and after the construction of the customs security system has been certified by the National Customs Directorate. This Certificate shall be the only licensing document required by the Developer to commence its activity.
2. The duration of the private operation of an area delimited as an Industrial Free Zone shall be fixed in the Industrial Free Zone Developer's licensing document.

Article 17

(Constructions within an IFZ)

Authorised Developers who need to carry out civil construction works, whether for their own use, or for sale or rental to other Enterprises authorised to exercise activities within an Industrial Free Zone, are obligated to obtain a civil construction permit in accordance with the legislation in force. If a Developer does not have such a permit, it must contract with a company licensed in Mozambique to perform the works in question.

CHAPTER III

Enterprises Operating in Industrial Free Zones

Article 18

(Requests for the Acquisition of an Enterprise Certificate to Operate in an IFZ)

1. An application for the licensing of a company to operate in an Industrial Free Zone shall be submitted to the Executive of the Industrial Free Zone Council together with the following documentation:
 - a) promissory contract for a rental and/or a purchase between the Company and the Industrial Free Zone Developer;
 - b) Description of the activities to be carried out by a Company including the indication of the value of the product, the exports and, as the case may be, sales for the internal market;
 - c) the duly filled in, CZFI approved form which shall contain the number of employment positions to be created for Mozambican workers, the estimated product value, the estimated value of the goods to be exported and an estimate of the net foreign exchange results for the balance of payments;
 - d) certificates of confirmation issued by the National Customs Directorate and the National Directorate of Tax and Audit.



Article 19

(Analysis of an Authorisation for a Company to operate in an IFZ)

1. The application submitted in accordance with article 18 of these Regulations shall be reviewed by the Executive of the CZFI before submission to the CZFI for approval.
2. The review referred to in the preceding clause shall include the verification that the proposed activity is in conformity with the general authorisation given the IFZ in question, as well as the evaluation of the macro-economic and social impact of the proposed activity, the Country's medium-term development strategies and the environmental impact of the proposed activity.

Article 20

(Licensing Power and Duration)

1. The licensing of companies to operate in an Industrial Free Zone shall be authorised by the CZFI. Subject to the company's compliance with the procedures provided for in articles 18 and 19 of these Regulations, the CZFI shall issue a Certificate which authorises the company to operate in an Industrial Free Zone.
2. The licence referred to in the preceding clause shall be issued within a maximum period of thirty days from the date of submission of the application.

Article 21 71

(Confirmation of a Tacit Authorisation)

1. If no decision on a company's licensing application has been made by the end of the period defined in clause 2 of the preceding article, the Industrial Free Zone Council shall confirm the tacit authorisation of the application submitted.
2. Any other decision taken on or after the date of the confirmation and issuance of the tacit authorisation, as provided for in the preceding clause, shall be null and without effect.

Article 22

(Installation Schedule)

1. The minimum period allowed for the installation by the companies who wish to operate in an Industrial Free Zone is one year. This period may be extended by the CZFI upon application submitted at least three months before the expiration date of the initial term by the interested parties.
2. In the event of the total, permanent suspension of the exercise of activity by the Enterprise prior to the expiration of the respective licence including any renewal periods, and provided that the licence has not been transferred in accordance with article 11.2, the CZFI shall, in consultation with the Executive of the CZFI, determine the destiny of the enterprise taking into consideration the Country's interests.



CHAPTER IV

Tax and Fiscal Regime

(According to the changes introduced by the new Code of Fiscal Benefits for Investment, approved by the Decree n° 16/2002, of June 27)

Article 38

(Indirect Tax Exemptions)

1. The Developers of Industrial Free Zones are entitle to an exemption from customs duties on the importation of construction materials, machinery, equipment, accessories, accompanying spare parts and other goods destined to the exercise of the activity licensed as an Industrial Free Zone.
2. Industrial Free Zone Enterprises are entitled to an exemption from customs duties on the importation of goods and merchandise destined to be used in the implementation of projects and the operation of the activities that have been authorised under the terms of the Industrial Free Zone Regulations, approved by Decree n° 62/99, of 21 September.
- 72 3. The exemptions referred to in clauses 1 and 2 of this article extends to the Value Added Tax (VAT) and the Specific Consumption Tax (SCT), and includes internal acquisitions as provided in the VAT Code approved by Decree n° 51/98, of 29 September [as amended] and in the SCT Code approved by Decree n° 52/98, of 29 September [as amended].
4. The exemptions provided for in this article do not include food, alcoholic beverages, tobacco, clothing and other articles of personal and domestic use.

Article 39

(Taxes on Profits)

1. The Developers of Industrial Free Zones and the Industrial Free Zone Enterprises holding an IFZ Certificate shall, for the period of ten (10) years, benefit from a sixty (60%) percent reduction in the rate of Corporate Income Tax (IRPC) on the profits derived from the exercise of activities licensed under the IFZ Regulations approved by Decree n° 62/99, of 21 September [as amended].
2. The enterprises that benefit from the tax regime referred to in the previous clause, shall have duly organised accounts and records in accordance with the Corporate Income Tax Code and shall file the appropriate statement with the local tax office in accordance with the schedule established in the tax legislation.



Article 40

(Real Property Transfer Tax (SISA) Exemption)

IFZ Developers and IFZ Enterprises are exempt from real property transfer tax (SISA) payable on the acquisition and use of immovable assets.

CHAPTER V

Special Exchange Regime

Article 29

(Framework)

The Special Exchange Regime to be applied to entities covered by these Regulations is based on the provisions of article 31(d).⁴ This provision requires the Central Bank to collect certain exchange information for statistical purposes. (See below article 34 of these Regulations, of Law n° 3/96, of 4 January).

Article 30

(Foreign Exchange Accounts)

Industrial Free Zone Developers and Enterprises are permitted to open, maintain and transact foreign exchange accounts with the Country and abroad.

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Article 31

(Importation of Capital)

Documentary proof of the importation of capital for the initial subscription or increase of share capital of the entities covered by these Regulations shall be registered with the Bank of Mozambique. The Bank of Mozambique shall issue documentation certifying such registration.

Article 32

(Foreign Remittances)

1. The transfer of profits and dividends may be realised subject to compliance with the provisions of the preceding article, proof of satisfaction of tax obligations and confirmation by the Ministry of Planning and Finance of the exportable amount.
2. The repatriation of capital may be realised upon compliance with the provisions in the applicable legislation.

⁴ This provision requires the Central Bank to collect certain exchange information for statistical purposes. See below article 34 of these Regulations



Article 33 **(Finance)**

Industrial Free Zone Developers and Enterprises may, subject only to the requirement of furnishing the Bank of Mozambique with a copy of the financing agreement for purposes of registration, obtain external finance, provided such finance does not require guarantees from the Bank of Mozambique or from the Mozambican Government.

Article 34

(Submission of Information)

The entities covered by this Regime shall comply with the obligations to submit information to the Bank of Mozambique as provided in Law n° 7/96, of 5 July.

Article 35

(Application of the Exchange Law)

The provisions of Law n° 3/96, of 4 January [Exchange Law] and the Exchange Regulations set out in the Notice n° 5/96, of 19 July - GGBM (Office of the Governor of the Bank of Mozambique) - shall govern any omission in the special foreign exchange regime set out in these Regulations.

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CHAPTER VI

Miscellaneous

Article 36

(Existing Enterprises)

Upon compliance with the requirements defined in these Regulations and, in particular, upon compliance with article 5.2 and article 13.4 of these Regulations, existing Enterprises may apply to the Industrial Free Zone Council to be included under the Industrial Free Zone regime.

Article 37

(Procedures for the Implementation of the Industrial Free Zone Customs Regime)

The Minister of Planning and Finance shall, within thirty days of the publication of these Regulations, approve the procedures that shall ensure the implementation and control of the Industrial Free Zone Customs Regime.



Article 38 **(IFZ Labour Regime)**

In collaboration with the Industrial Free Zone Council and its Executive, the Ministry of Labour shall, within thirty days of the date of publication of these Regulations, draft the Industrial Free Zone Labour Regime to be submitted to the Council of Ministers. (The Industrial Free Zone Expatriate Labour Regime Regulations were approved by Decree n° 75/99, of 12 October.)

Article 39 **(Infractions)**

1. In the event of a material or systematic violation of these Regulations or other norms applicable to the Industrial Free Zones by an Developer, upon the failure of the Developer to respond to the recommendations or notices to comply, the Council of Ministers may, on the proposal of the CZFI, cancel the respective authorisation.
2. In the event of a material or systematic violation of these Regulations or other norms applicable to the Industrial Free Zones by an Enterprise operating in an Industrial Free Zone, upon the failure of the Developer to respond to the recommendations or notices to comply, the CZFI may, on the proposal of the Executive of the CZFI, cancel the respective authorisation.
3. The cancellation of the authorisation referred to in clauses 1 and 2 of this article shall not free the Developer or Enterprise from civil responsibility and tax liabilities arising from its actions.

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Article 40 **(Cancellation of the Certificate or Licence)**

1. In the event of the cancellation of an Industrial Free Zone Developer Certificate or of a Licence to operate in an Industrial Free Zone, the Developer or the Enterprise in question may within a maximum of 180 days, upon demonstration that it has fully satisfied all civil responsibility and tax liability arising from its default and without prejudice to the provisions of the following clauses 2 and 3:
 - a) in the case of a Developer, transfer its Industrial Free Zone Developer Certificate to another CZFI authorised Developer;
 - b) in the case of either a Developer or an Enterprise remove the ZFI goods for re-exportation, introduction into another Industrial Free Zone or, subject to the payment of the charges owed on the customs value of the assets as assessed at the time of entry into the customs territory, import into the customs territory of the Country.
2. In the event of the cancellation of an Industrial Free Zone Developer Certificate under the terms of article 39.1 of these Regulations, the CZFI shall, through



its Executive, take the measures necessary to maintain the patrimonial assets of the Industrial Free Zone in order to maintain the proper operation of the Industrial Free Zone.

3. Any claims resulting from the measures adopted for the purposes provided for in the preceding clause shall not suspend the implementation of such measures.

Article 41 **(Report of Activities)**

1. Within thirty days following each year of activity, the Developers shall submit to the CZFI an annual report of the development, implementation and operation of the Industrial Free Zone.
2. The form for the submission of the reports referred to in the preceding clause shall be approved by the CZFI.

Article 42 **(Claims and Disputes)**

1. Industrial Free Zone Developers and Enterprises shall use their best efforts to resolve by amicable or mediated negotiation any ambiguities, claims and disputes that may arise in the process of implementation and operation of the respective projects.
2. If a negotiated or amicable solution of any ambiguities, claims and disputes that have arisen is not possible, then the provisions of article 26 of the Investment Law Regulations (approved by Decree n° 14/93, of 21 July) and article 25 of Law n° 3/93, of 24 June (the Investment Law) shall apply.

Article 43 **(Subsidiary Legislation)**

Any omissions from these Regulations will be construed in accordance with the provisions of Law n° 3/93, of 24 June as well as the provisions of other legislation that is applicable to the particular matter in issue in the Republic of Mozambique.

Invest in Mozambique.



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