

Branch III
Guarantees

Investment guarantees

- 17.(1) An Investor shall enjoy the following guarantees :-
- (a) the non-nationalization, or non-confiscation of his project, non- acquisition of all, or part of the estates of the project thereof, or his investments, for public interest, save by law and in consideration of just compensation;
 - (b) the non-attachment, non-confiscation, non-custody or non-sequestration of the property of his project;
 - (c) the re-remission of the invested money, in case of the non-execution of the project, at the outset, liquidation, or disposal of the same, in any of the ways of disposal totally, or partially, in the currency, in which it has been imported; on condition of satisfying all the obligations legally due thereon, and in the case of non-execution of the project, at the outset, machinery, equipment, apparatuses, means of conveyance and other requisites, which have been imported for the project, may be re-exported, whenever all the obligations, mentioned in this paragraph have been satisfied;
 - (d) the remission of the profits and the cost of financing for the foreign capital, or loans, in the currency in which the capital or loan has been imported, at the date of accrual, after payment of the obligations legally due on the project;
 - (e) the import of such raw materials, as the project may need, and the export of the products thereof, after the automatic registering , of the investment project, onto the Exporters and Importers Register.
- (2) For the purposes of paragraph (c) of sub-section (1), the invested capital shall be specified in foreign currency ; and the elements of the capital in kind shall be evaluated

by the customs authorities by the customs certificate of value (CCV) , or the import form (IM).

**Privileges and guarantees of
the project protected**

18. Notwithstanding the provisions of any other law, no administrative body shall refrain from implementing the Privileges and guarantees, granted under the provisions of this Act.

**Chapter IV
Safeguards of Investment**

Investor licensed to establish a project

- 19.(1) Subject to the provisions of section 4, no person shall establish any project, in the Sudan, save after obtaining a licence therefor, from the Minister, or the State Minister, as the case may be, in accordance with the provisions of this Act.
- (2) Subject to the provisions of sub-section (1) , no licence shall be granted, for mixed or foreign investments, by states, save after approval of the Minister.

Feasibility study of the project presented

20. No project shall be granted licence, nor shall it be granted any such privileges and guarantees, as may be set out in this Act, save after presenting a technical and economic feasibility study of the project.

Grant of licence and privileges requested

21. An application, for the grant of licence, for any project, or of any of the privileges provided for in this Act, shall be presented, on the prescribed form as follows :-
- (a) strategic and non-strategic federal projects, to the Ministry;
 - (b) strategic and non-strategic state projects, to the State Minister.

Grant of licence

- 22.(1) The Ministry, or the State Ministry shall, upon receipt of a satisfied licence application, for any project, transfer the application to the federal Competent Minister, or the State Minister, as the case may be, within one week, to obtain the primary approval of establishing the project.
- (2) The federal Competent Minister, or State Minister, as the case may be, shall determine the application for primary approval, and send the same, to the Ministry, or State Ministry, as the case may be, within seven days, of the date of receipt of such application.
- (3) In case of not sending the primary approval, in the period provided for in sub-section (2), the Minister, or the State Minister, shall determine the application, after lapse of such period.
- (4) In all cases, the Minister, or the State Minister, as the case may be, shall determine the licence application, within a period not exceeding thirty days , of the date of receipt of the satisfied application, from the Investor.
- (5) Every applicant, for licence, shall be entitled to grievance, to the Federal, or State Council of Ministers, as the case may be, against the non-determination of his application, in accordance with the provisions of sub-section (1), to determine his grievance, within the period of one month, of the receipt of the satisfied grievance.

Land allocated for the project delivered

23. The Federal, or State Competent authority, shall deliver the land allocated for the project, within a maximum period of one month, of the date of granting the licence.

Conditions of the continued enjoyment of the licence and privileges

24. No Investor shall take any of the following measures, dur-

ing the period of validity of the licence and privileges, granted under the provisions of this Act, without obtaining a written approval , from the Minister, or the State Minister, as the case may be, the measures being to :-

- (a) conduct any amendment, or alteration, of the size of the project, or the object for which the licence has been granted, or transfer the project, from the place thereof prescribed in the licence;
- (b) use, or sell any of the equipment, machinery , apparatuses, materials or spare parts, with respect to which privileges have been granted, for any other purpose, other than the purpose, for which the licence has been granted;
- (c) change the purpose of use of the land allocated for the project, sell, mortgage or hire the same totally, or partially.

Duties of the Investor

25. The Investor shall :-

- (a) commence executing the project, within a maximum period of twelve months, of the date of receipt of the land, unless such period has been extended, on the part of the Minister, or the State Minister, for any such period, as he may deem fit;
- (b) submit, to the Minister, the Competent Minister and the State Minister, periodical reports, every six months, during the period of validity of privileges, on the progress of the operation of executing the project, up to the date of commencement of production, or practice of activity;
- (c) keep regular books, and maintain records, whereon shall be entered the assets of the project exempted from customs duties, and the exempted imported materials;
- (d) present, to the Minister, the Competent Minister and the State Minister, annually, during the period of validity of the privileges, a copy of the annual accounts of the project, approved by a certified auditor;

The Investor contravening the provisions of this Act

- 26.(1) An Investor shall be deemed to have committed a contravention of the provisions of this Act, where he :-
- (a) contravenes the provisions of sections 19, 24 and 25;
 - (b) delivers false, or misleading information , or uses such unlawful methods, as may result in obtaining any benefit, in accordance with the provisions of this Act, for himself, or any other person;
 - (c) suspends the project, without reasonable cause;
 - (d) contravenes the laws of the country, in such way, as may endanger the security and safety thereof.
 - (e) Contravenes licence condition.
- (2) Without prejudice to any such penalty, as may be provided for in any other law, the Minister, or the State Minister, as the case may be, may in case of commission, by the Investor, of any of the contraventions, provided for in subsection(1), impose any of the following sanctions, in accordance with the size of the contravention and the circumstances of commission thereof, and the extent of such damages, as may affect the national economy :-
- (a) warning him, to remove the grounds of the contravention, if the same is required, within such period, as he may specify;
 - (b) decrease the period of any of the privileges granted to the project, or the size thereof;
 - (c) not granting him any of the privileges and guarantees provided for in this Act;
 - (d) total, or partial revocation of the privileges, and the same shall result in binding the Investor to restitute the value of the material benefit gained thereby, from obtaining any previous privileges, where gaining such benefit results, from occurrence of the ground which led to the issue of the decision of revocation;

- (e) revocation of the licence, and the same shall result in acquisition of the land granted to him under the provisions of this Act.
- (3) An Investor in respect of whom a decision, under the provisions of sub-section (2), has been passed may submit his grievance, to the Federal, or State Council of Ministers, as the case may be, within one month, of the date of his being notified of the decision, and the decision, in this respect, shall be final; provided that this provision shall not prevent the Investor from access to courts.

Chapter V
Investment Organs
The ministerial committee

27. The Council of Ministers, upon the recommendation of the Minister , may constitute a ministerial committee under the chairmanship of the Minister, and membership of the Minister of Finance and the Competent Minister, and the regulations shall specify the functions thereof.

Constitution of the committee
of commissioners

- 27A. The Minister shall constitute the committee of commissioners, from a chairman and a number of members, representing the competent bodies, having a relation to investment, from the ministries and competent government units; provided that the post of any of them shall not be less than the head of the unit, or whoever may deputize therefor, and shall fully be officially authorized, by the body which he represents, and the committee shall include representatives of the private sector.

Functions of the Committee

- 28.(1) The Committee of Commissioners shall have the following functions, to :-
- (a) consider the extent of compatibility, by strategic projects, with the priorities of investment, in the strategic fields;
 - (b) consider the needs, by strategic projects, to infrastructure and basic services, needed by the project, and the extent of availability, or possibility of providing the same;
 - (c) consider the needs of the project, to manpower and the specialized one, procured from abroad, in accordance with the prevailing laws;
 - (d) achieve the sector investment plans, by the approved and proposed investment projects;
 - (e) co-ordinate, between the Ministry, and the Competent Ministries, and the states, in every such thing, as may concern investment projects, especially on the map of investment lands.
- (2) The Committee may call any person, or body of competence, upon discussing any such subject, as may fall within the competence of such Committee, and he shall not be entitled to vote.

Functions of federal ministries

29. Federal ministries, having connection with investment, shall have competence, as to the following :-
- (a) specify priorities, and lay down the investment policies, at their ministries;
 - (b) prepare sector investment maps;
 - (c) approve, on point of principle, the establishment of the project, upon such primary feasibility study, as may be transferred thereto, by the Ministry; provided that the final feasibility study of the project shall be presented to the Ministry ;

- (d) follow-up the execution of the projects concerning the Competent Ministry, and submit periodical reports, as the Minister may require.

State Investment

30. An investment Act in the states shall be promulgated, by a state law, as to the form of Federal Investment Encouragement Act, 1999.

Chapter VI **Final Provisions** **Investment maps**

31. The Ministry shall lay down the national investment map, in accordance with the policies and directives of the National Economic Planning Council; provided that the same shall include particular percentages, of the federal projects, in the states, and submit the same, to the Council of Ministers, for approving the same; provided further that the investment map shall include such sector investment maps, as may be prepared by the federal ministries and ministries of investment in the states.

Settlement of Investment disputes

- 32.(1) Saving such disputes, as may be governed by the provisions of the agreements set out in sub-section (2), where any legal dispute, relating to investment, arises, the same shall be submitted to conciliation, or arbitration .
- (2) The provisions of the Investment of Arab Capitals, in Arab States, Consolidated Agreement, 1980, the Settlement of Investment Disputes, Between Arab States, Agreement, 1974, the Settlement of Investment Disputes, Between States and Citizens of other States, Agreement, 1965, the Economic, Technical and Trade Co-operation, Between States Parties, to the Islamic Conference Organization, General Agreement, 1977 and any such other agreement,

in this respect, as the Sudan may be a party thereto, shall apply to every such legal dispute, as may directly arise out of any of such agreements.

Power to make regulations

33. The Council of Ministers , upon the recommendation of the Minister, may make such regulations, as may be necessary, for the implementation of the provisions of this Act. Without prejudice to the generality of the foregoing, such regulations may include the following matters :-
- (a) specification of type and size of such projects, as may be granted preference privileges;
 - (b) laying down safeguards for the prevention of overlapping, between federal, state and local investments;
 - (c) specification of strategic and non-strategic projects;
 - (d) the procedure of applying, for the grant of licence and privileges, and specifying the type and size thereof;
 - (e) specifying services fees;
 - (f) the safeguards and bases, pertaining to control, and follow-up, of the projects licensed, under the provisions of this Act.

Republic Of The Sudan
Ministry Of Investment

**The Investment Encouragement
Regulations, 2000
Amended (2003)**

SCPP

In the Name of Allah, the Gracious, the Merciful

**The Investment Encouragement
Regulations, 2000 (Amended 2003)**

In exercise of the powers conferred upon him, under the provisions of section 33, of the Investment Encouragement Act, 1999, the Council of Ministers upon the recommendation of the Minister hereby make the following Regulations :-

Chapter I
Preliminary Provisions
Title and commencement

1. These Regulations may be cited as the, " Investment Encouragement Regulations, 2000" amended 2003, and shall come into force, as from the date of signature.

Revocation and saving

2. The Investment Encouragement Regulations, 1990 shall be revoked; provided that all the licences and measures, taken there under, shall remain in force, until revoked, or amended .

Interpretation

3. In these Regulations, :-
 - (a) the words and phrases, set out therein, and interpreted in the Investment Encouragement Act, 1999, shall have the same meanings assigned therein thereto ;
 - (b) unless the context otherwise requires, :-
 - "Act", means the Investment Encouragement Act, 1999;
 - "Federal project", means every project, the site of the facilities of which extends for more than one state, a foreign investment, or joint with foreign parties, works under licences from foreign companies, or established, under a special agreement,

"State project", with the Republic of the Sudan, or that the project is established on investment in the federal natural resources; means, other than the federal project, such project, as the site of the facilities of which may be in the state, and works according to a licence granted, in accordance with the provisions of the Act, and these Regulations, in the state.

Chapter II
Investment Projects, Least Developed Areas and
Procedure of Applying for Licence
Strategic projects specified

4. For the purposes of section 9 , of the Act, the projects specified in Schedule I, hereto, shall be strategic projects.

Least developed areas

- 5.(1) The Council of Ministers, upon the recommendation of the Minister, may specify the least developed areas.
- (2) Without prejudice, to the provisions of sub-regulation (1), the following areas shall be deemed from least developed areas :-
- (a) such areas, as in which the infra-structure, and the basic development constituents may not be available;
 - (b) such areas, as may not have existing investment projects;
 - (c) border areas;
 - (d) such areas, as the establishment of investment projects in which may lead to the achievement of the balanced rural development.

Licensing applications presented

- 6.(1) The applications, pertaining to licensing the establishment of a new project, in accordance with the provisions of the law, shall be presented, to the Ministry, or the State Ministry, in Form No.(2), hereto ; provided that the technical and economic feasibility study shall be attached.
- (2) The Ministry, or the State Ministry shall examine the presented application, and verify that it satisfies the basic information, and the things attached thereto, mentioned in sub-regulation (1), and submit the same satisfied, to the Minister, or State Minister, as the case may be, to issue the approval, within one week, of the date of the issue thereof; and in case of rejection, the decision shall be grounded.

Preliminary approval

7. The Minister, or the State Minister, may grant the applicant, for any investment project, a preliminary approval, in the form No.(3), hereto, upon the recommendation of the Competent Ministry, and a primary study of the project including the security and safety measures of the project; provided that the project, or activity shall be among the investment projects, set out in the Act; and the period of validity of such approval shall be three months, unless renewed by the Minister , or State Minister, for another period, not exceeding one month, for substantive reasons .

Grievance

8. An applicant, in case of non-determination of his application, in accordance with what is provided for in section 22(5), of the Act, may present a grievance to the Federal, or State Council of Ministers, who shall determine the grievance, within one month, of the date of receipt of the satisfied application.

**Duties of an investor towards the
licensing application**

- 9.(1) In case of notifying the applicant of the preliminary approval, he shall register a business name, in accordance with the provisions of the Business Names (Registration) Act, 1931, or any law as may substitute the same. Where the applicant is a branch of a foreign company, he shall register the branch of the company, in the Sudan, in accordance with the laws organizing the same; on condition that the certificate evidencing the registration of the business name, or branch of the foreign company, shall be presented , within a maximum period of two months, of the date of his obtaining the preliminary approval .
- (2) Notwithstanding the provisions of sub-regulation (1), the Minister may extend the period of presenting the certificate , for a period, not exceeding one month, of the date of the first period.

Grant of licence

- (10) Grant of licence for a new project including privileges shall be as shown in form (4) appended to the regulations.

Chapter III
Privileges, Facilities and Guarantees
Exemptions granted

- 11.(1) The Minister may grant the strategic and non-strategic project, after being registered in accordance with the provisions of the organizing laws, the customs privileges for the means of conveyance belonging thereto, as follows :-
- (a) minibuses, the capacity of which is not less than 24 passengers / buses / lorries / trucks / semi-trucks 4 wheel drive cars (pick up) / specialized cars which serve one purpose;
 - (b) salon cars the capacity of the engine of which is less than 1000 c.c.;

- (c) specialized investment projects cars (limosine) such that they shall not be less than (35) new cars lump sum; and on condition that the engine capacity shall not be less than 1500 (one thousand five hundred) c.c..
- (2) Subject, to the provisions of sub-regulation (1) , the Minister may exceptionally grant the project a customs exemption for the cars set out hereunder, during the age of the project, the capital of which is not less than three milliard Sudanese Dinars; on condition that the exemption shall not exceed 50% of the duties prescribed for the following cars :-
 - (a) salon car ; or
 - (b) box car; or
 - (c) station wagon.
- (3) The Minister, upon the recommendation of the State Minister, may grant the state project the privileges provided for in sub-regulation (1) , as to such conditions and safeguards, as he may deem fit.
- (4) The production inputs, hereinafter set out, shall enjoy the same rate of import duty prescribed on the production inputs, set out in the Customs Tariff, in accordance with a list approved by the Ministry and the Competent Ministry:-
 - (a) the inputs of assembly industry, such that the percentage of manufacture is not less than 26% , as value added; provided that the same shall annually be increased, as is set out in the licensing conditions;
 - (b) the inputs of production of metal and wood industries;
 - (c) the inputs of food industries, and include milk powder, greases and oils.
- (5) The Minister, upon the approval of the Ministerial Committee, provided for in regulation 27(c) , hereof, may grant the projects of the services sector customs exemption on the imports of the project, as to such conditions and safeguards, as the Ministerial Committee may specify; provided that the rate of customs duty shall be speci-

fied for every case individually.

- (6) The imports of the investment projects shall be subject to the Value Added Tax Act.
- (7) Accumulators, tyres, textiles, building materials and corrugated carton shall not be granted any customs privileges.

Conditions and safeguards of the period of tax exemption in accordance with the provisions of section 10 (2) , of the Act specified

11A. The Council of Ministers, upon the recommendation of the Minister, and upon the application of the investor, may extend the period of tax exemption, in accordance with the provisions of section 10(2), of the Act, as to the following conditions and safeguards :-

- (a) the strategic project shall be from such strategic projects, as may be governed by a special agreement concluded with Sudan Government, providing for extension of the exemption;
- (b) the project shall be from such projects, as may achieve strategic targets for the State, and effectively contribute to increasing the national income;
- (c) where the project establishes infra-structures, in the rural areas, in such way, as may effectively contribute to the establishment of specific industries in the area.

Similar projects

12. For the purposes of granting privileges, to similar projects, the following standards shall be taken into consideration :-

- (a) the invested capital;
- (b) the size of employed labour;
- (c) the productive capacity of the industry, and animal production projects;
- (d) the areas for rain fed, or artificially irrigated by the Nile, or subterraneously;
- (e) the site.