

## ALGERIA : PUBLICATION OF THE NEW INVESTMENT LAW

Algiers, 9 August 2022



### Key points

- Numerous guarantees to investors, including the guarantee to transfer in foreign currency the dividends and other investment proceeds.
- Legal stabilisation mechanism of the new investment law.
- Possible recourse to international arbitration in case of dispute between the Algerian State and the investor.
- A one-stop shop system for foreign investments.
- Simplification of the investment incentive schemes (3 schemes) and simplified procedure to benefit from such incentives (registration with the one-stop shop).

On 28 July 2022, a new Investment Law No. 22-18 dated 24 July 2022 (the "**Law 22-18**") was published in the Official Gazette.

The new law repeals the former law No. 16-09 of 3 August 2016 relating to the investment promotion (the "**Law 16-09**"). However, the implementing texts of the Law 16-09 remain in force until the promulgation of the implementing texts of the Law 22-18.

A few days before the publication of the new investment law, a law No. 22-15 of 20 July 2022 was published to introduce for the first time in Algeria the concept of free zones, each free zone is to be created by future executive decrees.

These new laws are all positive signs in the direction of investors, especially foreigners, to increase the attractiveness of the country.

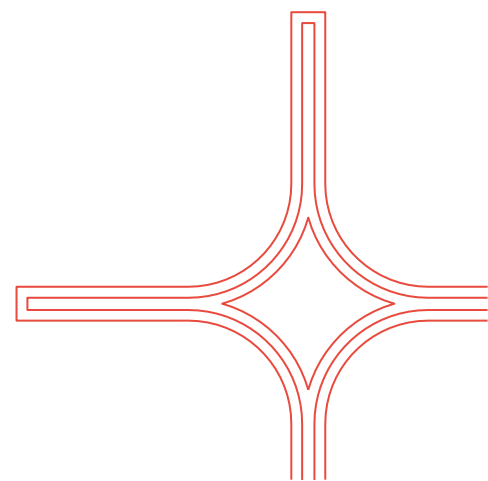
### General presentation

The objective of the new law is to encourage investment in order to develop priority sectors of activity with high added value, to promote technology transfer, to boost the creation of permanent jobs, and to strengthen and improve the competitiveness of the national economy and its export capacity.

The new law distinguishes 4 types of investments: the greenfield investments, the extension or restructuring of existing investments and the delocalisation of activities from abroad.

Law 22-18 mainly addresses the following topics:

- The guarantees granted to investments,
- The institutional framework,
- Incentive schemes and conditions of eligibility for such incentives.



## Investment guarantees

### ○ The transfer guarantee

Law 22-18 reiterates the transfer guarantee for the benefit of foreign investors, namely the right to transfer in foreign currency the invested capital, the income derived from it, as well as the proceeds from the sale and liquidation of the investment.

As before, foreign investors must make capital contributions in cash imported through the banking channel and denominated in a freely convertible currency (the amount of which must be equal to or higher than minimum thresholds defined according to the overall cost of the project) in order to be eligible to the transfer guarantee.

In addition, contributions in kind (contributions of new assets, assets relocated in Algeria, imported assets duly evaluated by a judicial expert) and reinvestments in capital of profits and transferable dividends, are also assimilated to external contributions.

### ○ Legal stabilisation

Law 22-18 provides for a legal stabilisation mechanism whereby the effects of revisions or repeals of Law 22-18 that may occur in the future do not apply to investments made under Law 22-18, unless the investor expressly requests it.

Such “freezing clause” contained in the new law seems to reflect the legislator’s intent to provide a positive environment for investment.

### ○ Recourse to international arbitration

Like the previous law, Law 22-18 allows recourse to international arbitration in the event of a dispute between the foreign investor and the Algerian State when an international convention on arbitration exists. In the absence of an international convention, the recourse to arbitration remains possible within the framework of a compromise between the Agency (acting on behalf of the State) and the investor (which is an innovation of the new law).

## Institutional framework

The National Investment Council ("**CNI**") and the National Investment Development Agency (now called the "Algerian Investment Promotion Agency", the "**Agency**") remain in place.

The CNI is responsible for proposing the State's investment strategy and assessing its implementation. As for the Agency, it is responsible for promoting investment and the attractiveness of Algeria, registering investment applications, managing investment incentive schemes, *etc.*

Two types of one-stop shops are created at the Agency:

- The single one-stop shop for major projects and foreign investments, responsible in particular for obtaining land for investment.
- The decentralized one-stop shops.

The one-stop shops are empowered to deliver all the decisions and authorisations required for the implementation and operation of the investment.

Implementing regulations are expected to set out the Agency's operating procedures, including the one-stop shops.

## Incentive schemes

Whereas the former law (and its implementing regulations) were unclear in terms of investment incentive schemes, Law 22-18 provides for only three schemes. To benefit from such incentives, the investments must first be registered with a one-stop shop.

These advantages consist essentially of an exemption from customs duties, VAT, and property tax during the investment phase, and exemptions from taxes on profits and taxes on professional activity for a period of 5 to 10 years during the operating phase.

- Regime of the sectors

Certain sectors listed by law are eligible for this regime, notably renewable energies, pharmaceutical industry, petrochemicals, agriculture, mining and quarrying, tourism, information technology, etc.

- Zone regime

This regime is applicable to investments made in certain regions (the highlands and the South) and in localities where the State intends to enhance certain resources or support their development.

- Regime of structuring investments

Investments with a high potential for creating wealth and jobs, likely to increase the country's attractiveness and to have a spillover effect in terms of the economic activity for a sustainable development are eligible for this scheme. An application text will specify the qualification criteria for this type of investment.

Should you have any questions about this newsletter, please do not hesitate to contact us.

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