

Djibouti

Decree No. 2013-114/PR/MDCC on the attribution, operation and organization of the National Agency for the Promotion of Investments (ANPI). (2013)

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Decree No. 2013-114/PR/MDCC on the attribution, operation and organization of the National Agency for the Promotion of Investments (ANPI).

THE PRESIDENT OF THE REPUBLIC, HEAD OF GOVERNMENT

HAVING REGARD to the Constitution of 15 September 1992;

HAVING REGARD to Constitutional Law No. 92/AN/10/6th L of 21 April 2010;

HAVING REGARD to Law No. 58/AN/94/3ème L of 16 October 1994 amending the Investment Code; HAVING REGARD to Law No. 12/AN/98/4ème L of 11 March 1998 on the reform of state-owned companies, semi-public companies and public industrial and commercial establishments;

HAVING REGARD to Law No. 114/AN/01/4èmeL of 21 January 2001 establishing the National Agency for the Promotion of Investments;

HAVING REGARD to Law No. 212/AN/07/5èmeL establishing the CNSS and extending care benefits to self-employed workers;

HAVING REGARD to Decree No. 2012-0188/PR/MEFIP on the creation, powers and organization of the High National Council for Public-Private Dialogue;

HAVING REGARD to Decree No. 2012-0117/PR/MDC establishing a National Working Group on Foreign Direct Investment;

HAVING REGARD to Decree No. 2013-0044/PRE of 31 March 2013 appointing the Prime Minister;

HAVING REGARD to Decree No. 2013-0045 of 31 March 2013 appointing the members of the Government; On the proposal of the Minister Delegate in charge of Trade, SMEs, Handicrafts, Tourism and Formalization.

The Council of Ministers heard at its meeting of Tuesday, June 04, 2013.

DECREED

CHAPTER I: GENERAL PROVISIONS

Article 1:

This Decree establishes the attributions, organizations and functioning of the National Agency for the Promotion of Investments created by Law No. 114/AN/01/4th L of 21 January 2001.

Article 2:

The headquarters of the Agency shall be established in Djibouti.

CHAPTER II: OF THE MISSIONS OF THE ANPI

Article 3:

The National Agency for the Promotion of Investments is granted a delegation of competence empowering its General Directorate to issue, but not limited to, any operating permit, licence, certificate, approval or authorization, or any other document necessary for the creation of companies and the realization of investment projects of national or foreign private operators.

Article 4:

The mission of the National Agency for the Promotion of Investments is to implement the Government's policy on the promotion and development of private sector investment. To this end, it contributes, in particular, to facilitating the establishment and development of industrial, commercial and service enterprises, through appropriate planning, information, support and supervision mechanisms and arrangements.

Its responsibilities include the following:

- a) Undertake studies on targeted and prioritized investment sectors to assess the state of the sectors, their degree of evolution and development prospects;
- b) Promote investment potential and opportunities in the country and encourage the implementation of investment projects;
- c) Grant the benefits provided for by the Investment Code;
- d) Analyze the needs of companies in the context of their relations with the various State departments and propose to the authorities concerned the appropriate changes in the regulations with the objective of creating, within the administrative apparatus, a climate favorable to the development of the company;
- e) Recommend to the Government the legal and institutional reforms to be undertaken with a view to promoting the establishment and development of new businesses in Djibouti;
- f) To ensure the function of the Single Window to welcome promoters and investors, inform them, advise them, assist them and carry out, on their behalf, the formalities and procedures to which they are required;
- g) To ensure the creation and registration of enterprises and the management of a business database and a commercial and industrial information unit;
- h) Contribute to the training of business promoters and managers, in particular through the organization of seminars and training and refresher sessions in areas of interest to companies;
- i) Locate industrial, commercial and service zones and carry out, on behalf of the government, the development, servicing and management and/or sale of these areas;
- j) Identify investment projects within the framework of the national privatization strategy;
- k) Provide developers and investors with the usual logistics services;

Article 5:

The Agency shall act as a one-stop shop, which it houses. It thus acts as an intermediary between private operators and public and semi-public bodies involved, in particular, in the creation of companies with the aim of facilitating administrative procedures and procedures for these operators/investors. Agreements will be signed between the ANPI and the various public and semi-public administrations for the delegation and secondment of fully authorized representatives.

Article 6:

It is responsible for the design, implementation, organization and management of "Special Economic Zones" to promote the incubation of businesses, especially young people and women. These Zones offer a set of facilitation instruments, infrastructure and services. These Special Economic Zones will be gradually erected in all regions of the country to combine administrative decentralization with economic deconcentration, craft villages, industrial parks, commercial and service areas as well as common buildings.

Article 7:

The Agency is at the heart of the development of the private sector, which is the basis and fundamental vector of economic growth. It is thus empowered to formulate proposals and/or give its opinion on the privatisation of public enterprises and it represents the State in dealings with private companies by participating in the capital.

CHAPTER III: THE FUNCTIONING OF THE AGENCY

Article 10:

Internal regulations shall be adopted by the Board of Directors by a majority of three-quarters of the members present or represented, and approved by the supervisory authority, in addition to the statutes of the A.N.P.I.

CHAPTER IV: THE ORGANIZATION OF THE AGENCY

Section I: The Agency's Directorate-General

Article 11:

In accordance with the provisions of Article 2 of this decree granting the ANPI a delegation of competence, the Director General of the Agency is authorized to issue, but not limited to, any operating permit, license, certificate, approval or authorization, or any other document necessary for the creation and implementation of investment projects of national or foreign private operators.

The Director General of the ANPI is responsible for:

1. To prepare, propose, promote and possibly execute, sectoral development projects or programmes or private sector investment in promising sectors;
2. To issue duty-free import authorizations for the raw materials, semi-finished products and materials required in accordance with the list previously established in the feasibility study;
3. To apply for duty-free import authorizations for raw materials, semi-finished products and necessary materials in accordance with the list previously established in the feasibility study and approved;
4. To grant the titles, authorizations and approvals necessary for the creation of companies, to issue the approvals for the granting of the advantages of the Investment Code;
5. To grant authorizations and licenses for establishments in Special Economic Zones;

6. To make available the land in the developed areas dedicated to the activities of the investment programs.

Article 12:

The Agency's General Management is responsible for the technical, administrative and financial management of the Agency and generally exercises all the powers delegated to it by the Board of Directors. It is responsible for preparing the work of the Agency's Management Board and Committees. The General Management is represented by a Director General appointed by decree adopted by the Council of Ministers.

Article 13:

The Chief Executive Officer represents the Agency vis-à-vis third parties in all civil, administrative and judicial acts within the framework of the legislation in force and the decisions of the Board of Directors. It has authority over all staff it recruits, appoints to all posts and dismisses in accordance with the Agency's Staff Regulations and the legislation in force.

The Director-General may delegate his signature to the agents under his authority. He may be assisted by a Deputy Chief Executive Officer, whose appointment is subject to the approval of the Board of Directors. He/she may be joined by assistant(s) and research officers.

Section II: Missions of Departments

Article 14:

In the context of the execution of its missions, the Agency shall be structured as follows:

1. The "Promotion" Department;
2. The "Development" Department;
3. the one-stop shop;
4. The Department of Economic Studies and Prospections;
5. The Information Systems Department.

These departments are headed by Heads of Department selected from among the Agency's managers with sufficient skills and experience. Each of the Agency's various departments will have offices corresponding to the tasks and missions assigned to it.

Article 15:

The Promotion Department is in charge of marketing and communication and is responsible for the collection of information, its formatting as well as the analysis and implementation of recommendations. At the same time, the country's opportunities are listed and information disseminated. This department welcomes, informs and guides national and international investors. It is responsible for the following tasks:

- 1) Reception;
- 2) Design, development, publication and dissemination of information materials on business and investment potentials and opportunities as well as the advantages offered;
- 3) Publication of information and orientation bulletins;

- 4) Organization and facilitation of thematic workshops, forums and promotional and marketing tours inside and outside the country;
- 5) Provide constantly updated sectoral fact sheets with the institutions and ministries concerned;
- 6) Ensure the visibility of the Agency for greater attractiveness to investors.

Article 16:

The Development Department manages the approvals and application of the Investment Code. It monitors and controls the implementation of the investment projects involved. It thus proceeds to:

- 1) Reception and study of applications for accreditation;
- 2) Analysis and evaluation of investment programs;
- 3) Management of approvals;
- 4) Monitoring, evaluation and control of approved investment programmes;
- 5) Bestows awards and awards for model investors; 6) Suspension of approvals in case of non-compliance with the agreed terms and conditions.

Article 17:

The mission of the Single Window is to simplify the formalities and procedures to which they are bound by national or foreign private promoters. The One-Stop Shop is the single point of contact, in one place, with a short time and at a lower cost for the creation, modification or termination of companies. In this context:

- 1) It carries out the establishment, modification or cessation of enterprises throughout the territory of the Republic of Djibouti;
- 2) It carries out all types of procedures on behalf of third parties;
- 3) It is responsible for the administrative procedures for the registration and establishment of companies within the Special Economic Zones;
- 4) It approves and approves the sale of land in developed areas dedicated to the activities of investment programmes;
- 5) It provides legal assistants and routine services;
- 6) Together with the Economic Studies and Prospecting Department, he diagnoses the business environment and market opportunities;
- 7) It facilitates the formalization process for economic operators in the informal sector.

Article 18:

The Single Window operates with a system of Liaison Officers who are seconded, by agreement, by the competent public and semi-public administrations. These delegates are duly empowered with the widest powers by their respective hierarchy.

The One-Stop Shop registers civil acts relating to the legal incorporation of companies, such as articles of association or their amendments, minutes of the deliberations of the management bodies, as well as acts relating to the life of the company.

The One-Stop Shop institutes a procedure for the tax registration of the investor in collaboration with the Directorate of Taxation, and assigns certified copies of the declaration of establishment of the company to legal entities and assigns them the corresponding tax identification numbers.

The One-Stop Shop carries out affiliations to the National Social Security Fund for jobs created and declared at the registration of companies, as well as for self-employed workers.

The Single Window carries out on behalf of third parties the procedures for obtaining visas, work permits and resident cards, building permits as well as the conversion of driving licenses, connection to the EDD, ONEAD and DJIBOUTI-TELECOM. It will also serve as a decision-making aid to investors through the provision of information on human resources in partnership with ANEFIP.

All other facilities necessary for the development of the activities of private operators will be provided there.

Article 19:

The Department of Economic Studies and Prospecting is responsible for the support and assistance of small and medium-sized enterprises. It is responsible for:

- 1) Sectoral studies and information and training sessions, as well as coaching;
- 2) Establishment and management of a database on companies and a unit for commercial and industrial information and interaction with companies in the context of their relations with the various State services and proposing appropriate changes in the regulations in order to ensure a favourable business climate;
- 3) Encouragement of the spirit of partnership and joint venture; 4) Establishment and management of Special Economic Zones;
- 5) Participate in Privatization and Business Takeover programs.

Article 20:

The Information Systems Department is responsible for the design, structuring, provisioning and administration of the Agency's computer network, the Agency's website and databases. It is responsible for:

- 1) General Computer Network Administration;
- 2) Web Portal Management;
- 3) Database configuration and management:
 - i. Commercial Register;
 - ii. Management of approvals;
 - iii. Management of visas and other administrative formalities;
 - iv. Records Management;
 - v. Contact Management.
- 4) Setting up an Internet portal:
 - i. Organization and management of the electronic portal;

ii. Investor's Guide.

CHAPTER V: Financial Organization

Article 25:

The activities of the Agency shall give rise to the payment of fees to cover part of the costs associated with these activities.

Any intervention by the Agency, whether compulsory or optional, shall give rise to the payment of a fee. The amount of the fees provided for above shall be fixed by decree.

ACCOUNTING OFFICER

Article 26:

The Agency's Accounting Officer is appointed by order adopted by the Council of Ministers after consultation with the Board of Directors; His duties shall be terminated in the same manner. The functions of Director and Accounting Officer are incompatible. The Accounting Officer is responsible for:

- Revenue collection;
- Payment of expenses;
- The handling of funds;
- The custody and custody of funds and securities belonging to or entrusted to the Agency;- The preservation of supporting documents for operations; - Prosecution.

The financial and accounting management of the National Agency for the Promotion of Investments, a Public Industrial and Commercial Establishment, is subject to the commercial accounting regulations.

The Agency's operations are tracked by fiscal year beginning on 1 January and ending on 31 December of the following year.

The Board of Directors examines each year before 1 November the provisional operating account and the capital account for the following financial year. It shall approve the final accounts for the preceding financial year before 1 July.

The above-mentioned accounts, the profit and loss account and the balance sheet of the Agency are sent to the Minister to which they are attached, who forwards them to the Government for approval.

Article 27:

Revenue

The Agency's revenues include:

- subsidies or endowments and advances that may be granted to it by the State;
- any revenue arising from the normal exercise of the Agency's tasks and powers under the legislation in force;
- proceeds from the sale of movable and immovable property;
- proceeds from the rental of immovable property;

- borrowings;
- proceeds from grants, donations and bequests.

Article 28:

Expenses

The Agency's expenditures include:

- staff remuneration;
- the Agency's operating expenses;
- the costs of managing and maintaining the movable and immovable property belonging to it;
- the expenses of borrowings contracted and the depreciation expenses of the Agency's movable and immovable property;
- all other expenses falling within the scope of the Agency's missions.

Article 29:

Royalties per transaction

1. Registration and publication of the following documents in the commercial register:

Natural person.....	20 000 FDJ
Artificial person.....	75 000 FDJ
Issuance of Negative Certificate.....	3,000 FDJ
Extract of the Register central of the Commerce (Official copy).....	1000 FDJ
Registration of a pledge:.....	25 000 FDJ
Modification of the Commercial Register.....	FDJ 30 000
Issue of duplicates.....	5,000 FDJ
2. Support and assistance operations:	
Import Authentication Certificate.....	18 000 FDJ
Application for Accreditation.....	300 000 FDJ
Elaboration of a Business Plan.....	50 000 FDJ
Flat fee for any other type of service.....	5 000 FDJ

Article 30:

The accounts of the National Investment Promotion Agency shall be kept in accordance with the rules governing commercial accounting.

CHAPTER VI: FINAL PROVISIONS

Article 31:

This Decree shall enter into force upon its signature. It will be published and registered in the Official Journal.

Done in Djibouti, 08 June 2013

The President of the Republic, Head of Government

ISMAÏL OMAR GUELLEH

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