

## Côte d'Ivoire

### Investment Code, Ordinance No. 646 of 2018 (2018)

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# Investment Code, Ordinance No. 646 of 2018

PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE

ORDINANCE NO. 2018-646 OF 1 AUGUST 2018

ON THE INVESTMENT CODE THE PRESIDENT OF THE REPUBLIC,

On the joint report of the Secretary of State to the Prime Minister, in charge of the Promotion of Private Investment, the Minister of Economy and Finance, the Minister of Trade, Industry and the Promotion of SMEs and the Secretary of State to the Prime Minister, in charge of the Budget and State Portfolio, Having regard to the Constitution;

Considering Law No. 2017-870 of 27 December 2017 on the State budget for the year 2018, in particular in its Article 12;

THE COUNCIL OF MINISTERS HAVING BEEN HEARD,  
ORDERS:

## TITLE I. GENERAL PROVISIONS

### Article 1:

For the purposes of this Code, the following definitions apply:

- a. Investment Promotion Agency: a body mandated by the State to promote investment in Côte d'Ivoire;
- b. Investment approval certificate: deed issued to the investor, under the which establishes that he is a beneficiary of the advantages of the Code of investments in the implementation phase;
- c. Investment declaration certificate: deed issued to the investor under the declaration to certify the admissibility of his or her application;
- d. Certificate of approval at " operation: deed issued to the investor, under the declaration or approval, which establishes that he is entitled to the benefits of the investments in the operation phase;
- e. Code: this Investment Code;
- f. Approval Committee: a committee set up within the agency responsible for the promotion of investments with the power to approve investment applications ;
- g. Local content: development of the economic fabric and local skills by involving them in economic activities through the creation of sustainable jobs, vocational training, subcontracting, and the opening of capital to the National;
- h. State agreement: agreement signed between the State and a private investor to develop an economic project with a structuring effect on the national economy;
- i. Business creation: the completion of a project by a new or existing company that invests in another

line of business;

j. Business development : the completion of a project by an existing company extension, diversification, integration or modernization of activities;

k. Sustainable employment: Employment with an employment contract of indefinite duration;

l. Local employment: A job held by a person of Ivorian nationality;

m. Large Enterprise: A company with an annual turnover of more than one billion;

n. Industry: Economic activity oriented towards extraction, production or processing;

o. Investment: Used by any person, natural or legal, for the purpose of acquisition of movable, tangible and intangible assets and to ensure the financing of the initial costs of establishment essential for the creation or extension of enterprises;

p. green investments: investments that promote the protection of the environment and contribute to sustainable development;

q. Investor: any natural or legal person, whether or not they are Ivorian nationals, carrying out investment operations on the territory of Côte d'Ivoire under the conditions defined in the framework of this Code;

r. Popular movements: movements of unleashed crowds in the context of a serious political and social crisis in Côte d'Ivoire;

s. Small and Medium-sized Enterprise: any company that employs less than two hundred permanent employees and has an annual turnover of less than one billion;

t. Product: any object obtained as a result of an industrial or artisanal processing activity, agricultural, fishing or service sectors;

u. Structuring project: any project that is part of a sectoral development strategy, which entails heavy investments, requires levels of technology, adds value to the national economy and fulfills the criteria defined by this Code;

v. Approval regime: a tax and customs incentive regime applied to an investment project subject to approval;

w. Reporting regime : a tax incentive scheme applied to a project investment on the simple declaration of its investment;

x. Resumption of activity: purchase of a company or activity that has stopped;

y. Social responsibility: the investor's responsibility for the impact of its decisions and activities on society and the environment;

z. Monitoring and evaluation: monitoring and evaluation of projects that have benefited from the amendments to this Code;

aa. Subcontracting: a contract by which a company, sponsor, asks another company, service provider, to carry out all or part of its activities.

## **Article 2:**

This Code sets out the conditions, advantages and rules applicable to national and foreign investments made in Côte d'Ivoire.

## **Article 3:**

The purpose of this Code is to promote:

- sustainable development through productive and socially responsible investments in Côte d'Ivoire;
- regional development;
- local content;
- the competitiveness of companies.

## **Article 4:**

This Code applies to private investments made in Côte d'Ivoire by a natural or legal person subject to a real tax regime and fulfilling its accounting, tax and environmental obligations.

This Code does not apply to investments covered by specific aid schemes determined by the General Tax Code or by specific laws.

## **Article 5:**

The sectors of activity eligible for the benefits of this Code are classified into two categories: category 1 and category 2.

Category 1 includes agriculture, agro-industry, health and agriculture.

The hotel sector is eligible for category 1 when the planned investments are of an amount equal to or superior:

- to five billion, in zone A;
- to two billion, in zones B and C. Category 2 includes :
- sectors of activity not covered by category 1 ;
- sectors of activity which are not expressly excluded by Article 6 below;
- the hospitality sector for investments below the thresholds set for category 1.

## **Article 6:**

The Following are excluded from the benefits of this Code:

The following are excluded from the benefits of this Code:

- the trade sector ;
- the banking and financial sectors ;
- the non-industrial building sector;
- the sector of the liberal professions.

**Article 7:**

The list of activities falling within the scope of the sectors excluded from the benefit of this Code in accordance with Article 6 above shall be determined by decree.

**Article 8:**

For the application of this Code, the national territory is divided into three investment zones called zone A, zone B and zone C, the composition of which is defined by decree.

## **TITLE II. TAX INCENTIVE SCHEMES**

**Article 9 :**

Two tax incentive schemes are created:

- the declaration regime; the approval system.

## **CHAPTER 1. REGIME DE DECLARATION**

### **SECTION I. SCOPE OF APPLICATION**

**Article 10:**

The reporting regime applies to investments made in connection with the creation of activities. The benefits granted under this regime relate exclusively to the exploitation phase, and the investor is issued with an investment declaration certificate.

### **SECTION II. BENEFITS GRANTED**

**Article 11:**

Under Category 1

Enterprises belonging to the sectors of activity falling within category 1, as provided for in ! Article 5 of this Code shall benefit, at the end of the implementation of their investment programmes, from the following advantages.

1. In zone A

A five-year exemption of fifty per cent for:

- income tax, including the flat-rate minimum tax;
- the contribution of patents and licenses ;
- the contribution payable by employers, in respect of national employees, has been exclusion from the apprenticeship tax and the additional tax on continuing vocational training;
- tax on landed assets.

2. In zone B

An exemption for a period of ten years, total for the first five years, of fifty per cent for the following five years and relating to:

- income tax, including the flat-rate minimum tax; the contribution of patents and licenses;
- the contribution payable by employers, in respect of national employees, the exclusion of the apprenticeship tax and the additional training tax continuing professional development; tax on financial wealth;

Securities income tax for dividends paid to domestic shareholders.

3. In zone C

A fifteen-year exemption, total over the first ten years, seventy-five per cent over the following five years and relating to:

- tax on profits, including the minimum flat-rate tax;
- the contribution of patents and licenses ;
- the contribution payable by employers, in respect of national employees, has been the exclusion of the apprenticeship tax and the additional tax on continuing vocational training;
- tax on financial assets ;

Securities income tax for dividends paid to national shareholders.

Under Category 2

Enterprises belonging to the sectors of activity falling within category 2, as provided for in ! Article 5 of this Code, shall benefit, at the end of the implementation of their investment programmes, from tax credits determined as a percentage of the amounts invested, the rates of which are set out below.

1. In zone A

A twenty-five per cent tax credit deductible from:

- tax on profits, including the flat-rate minimum tax;
- the contribution of patents and licenses;

- the tax on land assets;
- value added tax;
- the contribution to be paid by the employer in respect of local jobs.

## 2. In zone B

A thirty-five per cent tax credit chargeable to:

- income tax, including the minimum flat tax;
- the contribution of patents and licenses;
- tax on financial assets;
- value added tax;
- the contribution to be paid by the employer in respect of local jobs.

## 3. In zone C

A tax credit of fifty per cent chargeable to:

- income tax, including the flat-rate minimum tax;
- the contribution of patents and licenses;
- the tax on the financial patrimony ;
- value added tax;
- the contribution payable by the employer in respect of local employment.

Tax credits granted in zones A, B and C are deductible until they are fully refunded.

### **Article 12 :**

The advantages applicable to small and medium-sized enterprises shall be the same as those granted to them under the approval system, during the operation phase, as described in the Article 18 of this Code.

# **CHAPTER II REGISTRATION SCHEME**

## **SECTION 1. SCOPE AND INVESTMENT THRESHOLDS**

### **Article 13:**

The approval regime is applicable to investments in the creation or development of activities. The procedures applicable to this scheme shall be defined by decree. The minimum investment thresholds are set as follows:

For large companies: two hundred million CFA francs, excluding VAT and working capital;

For SMEs: fifty million CFA francs, excluding VAT and working capital;

For large shopping centres: ten billion CFA francs for zone A and five billion CFA francs for zones B and C.

For the activities of the hotelier falling under category 1:

- zone A: equal to or greater than five billion ;
- zones B and C: equal to or greater than two billion.

For hotel activities falling under category 2:

- , zone A: less than five billion;
- zones B and C: less than two billion.

For my structuring projects :

- zone A: one hundred billion CFA francs of investment;
- zone B: seventy-five billion CFA francs of investment;
- zone C: fifty billion CFA francs of investment.

## **SECTION II. BENEFITS GRANTED**

Approved companies benefit, in respect of the implementation of their investment programme relating to the creation or development of activities, from the advantages in the establishment and operation phases, as follows.

### **SUBSECTION 1. IN THE IMPLEMENTATION PHASE**

#### **Article 14:**

The advantages granted during the implementation phase are as follows:

- exemption from customs duties, has exception to the statistical fee and Community and continental levies;
- Temporary suspension of value added tax on the acquisition of goods, services and works.

The exemption from customs duties and the temporary suspension of value added tax relate to equipment, capital goods and the first batch of spare parts acquired locally or imported, as well as services and works carried out on the territory in Côte d'Ivoire or abroad.

The value of the spare parts for the first lot must represent a maximum in proportion to the acquisition value of the materials and capital goods:

- ten per cent in zone A;
- twenty per cent in zone B ;

- thirty percent, in zone C.

**Article 15:**

The benefit of advantages during the establishment phase is subject to the presentation, by the investor, to the competent public services, of a certificate of approval for the investment, issued by the agency in charge of investment promotion.

The practical arrangements for the implementation of the system of temporary suspension of VAT, referred to in ' Article 14 above, shall be defined by decree.

**Article 16:**

When the investment is made simultaneously in several zones, the investor benefits, only in terms of income tax, from the advantage applicable to the area in which the investment is highest. Other advantages referred to in subsection II below shall remain applicable depending on the area.

## **SUBSECTION II. IN THE OPERATION PHASE**

### **A. LARGE COMPANIES**

**Article 17:**

Under Category 1

Large enterprises belonging to sectors of activity falling within category 1, as provided for in Article 5 of this Code, shall benefit from the following advantages.

1. In zone A

A five-year exemption of fifty per cent for:

- income tax, including the flat-rate minimum tax;
- the contribution of patents and licenses ;
- the contribution payable by employers, in respect of national employees, has been the exclusion from the apprenticeship tax and the additional tax for continuing vocational training;
- tax on financial heritage.

2. In zone B

A ten-year exemption, total for the first five years, fifty per cent for the following five years, and for: the tax on profits, including the minimum flat-rate tax; the contribution of patents and licences; the contribution payable by employers, in respect of national employees, has been the exclusion of the apprenticeship tax and the additional training tax

Continuing Professional:

tax on financial assets ;

Tax on income from securities for dividends paid to national shareholders.

3. In zone C

A fifteen-year exemption, total over the first ten years, seventy-five per cent over the following five years and relating to:

- the tax on profits, including the minimum flat-rate tax;
- the contribution of patents and licenses ;
- the contribution payable by employers, in respect of national employees, has been the exclusion of the apprenticeship tax and the additional training tax continuing professional life;
- the tax on land assets;
- the tax on the income from securities for dividends paid to domestic shareholders.

Under category 2

Large enterprises belonging to the sectors of activity falling under category 2, such as that I anticipate Article 5 of this code, beneficiary of credits of impots determined in Percentage of the amounts invested for which the rates are set out below.

1. In zone A

A tax credit of twenty-five per cent deductible from:

- income tax , including the flat-rate minimum tax;
- the contribution of patents and licenses ;
- tax on financial assets;
- value added tax;
- the contribution to be paid by the employer in respect of local jobs.

2. In zone B

A thirty-five per cent tax credit deductible from :

- income tax , including the minimum flat-rate tax;
- the contribution of patents and licenses;
- tax on financial assets;
- value added tax ;
- the contribution to be paid by the employer in respect of local jobs.

3. In zone C

A fifty percent tax credit deductible from:

- the tax on profits, including the minimum flat-rate tax;
  - the contribution of patents and licenses ;
  - tax on financial assets ;
  - value added tax ;
  - the contribution to be paid by the employer in respect of local jobs.
- Loans granted in zones A, B and C are deductible until they are fully repaid.

## B. SMALL AND MEDIUM-SIZED ENTERPRISES

### Article 18:

#### Under Category 1

Small and medium-sized enterprises belonging to sectors of activity falling within category 1, as provided for in ! Article 5 of this Code, shall enjoy the following advantages:

After.

#### 1. In zone A

A five-year exemption of seventy-five per cent on: income tax, including the flat-rate minimum tax;

-the contribution of patents and licences;

the contribution payable by employers, in respect of national employees, has been

-Exclusion of the apprenticeship tax and the additional training tax

continuing professional development; tax on financial assets;

the tax on banking transactions.

#### 2. In zone B

An exemption for a period of ten years, total over the first five years, of seventy-five per cent over the following five years and relating to:

tax on profits, including the minimum flat-rate tax;

the contribution of patents and licences;

the contribution payable by employers, in respect of national employees, has been the exclusion of the apprenticeship tax and the additional training tax

the tax on financial assets;

the tax on banking transactions;

the tax on income from securities for dividends paid to national shareholders.

#### 3. In zone C

A total exemption for a period of fifteen years and relating to: tax on profits, including the minimum flat-rate tax; contribution of patents and licences;

the contribution payable by employers, in respect of national employees, has been the exclusion of the apprenticeship tax and the additional training tax

continuing professional life; tax on financial assets;

the tax on banking transactions ;

Securities income tax for dividends paid to national shareholders.

#### Under Category 2

Small and medium-sized enterprises belonging to sectors of activity falling within category 2, as provided for in ! Article 5 of this Code, shall benefit from tax credits determined as a percentage of the amounts invested, the rates of which are set out below.

#### 1. In zone A

A tax credit of thirty-seven decimal five per cent chargeable to:

- the tax on profits, including the minimum flat-rate tax;

- the contribution of patents and licenses;

- the tax on land assets;

- the added value tax;

- the contribution to be paid by the employer in respect of local employment.

#### 2. In zone B

A tax credit of fifty-two decimal five per cent chargeable to:

- the FMPOT on profits, including the flat-rate minimum tax;

- the contribution of patents and licences; the tax on financial assets;

- value added tax;

- the contribution to be paid by the employer in respect of local jobs.

#### 3. In zone C

A tax credit of seventy-five per cent deductible from:

- tax on profits, including the minimum flat-rate tax;

- the contribution of patents and licenses;

- the tax on the financial patrimony;

- value added tax;

- the contribution to be paid by the employer in respect of local jobs.

Tax credits granted in zones A, B and C are deductible until they are fully repaid.

## C. STRUCTURING PROJECTS

### Article 19:

When projects eligible for the benefits of this Code are classified in the category of structuring projects, as defined by the said Code, the agency in charge of investment promotion shall submit to the Government a request to open negotiations with a view to signing a State agreement.

Negotiations are conducted by the agency responsible for the promotion of investments, in liaison with all stakeholders in State services and local authorities if necessary.

The agreement, after its approval by the Council of Ministers, is signed by the Ministers responsible for Finance and Budget as well as the sectoral minister(s).

### Article 20:

In addition to the advantages granted by this Code, the economic projects benefit from the additional advantages granted to them in the State agreement provided for in Article 19 above.

## D. LOCAL CONTENT

### Article 21:

Large foreign companies eligible for the benefits of this Code, belonging to categories 1 and 2 as defined by Article 5 above, are entitled, in addition to these benefits, to tax credits provided that they apply a local content focuses on job creation, the opening of the capital; the social welfare to nationals and subcontracting.

Enterprises belonging to the sectors of activity falling under category 1 apply the tax credits from the end of the total exemption period.

These tax credits are:

Local employment

An additional tax credit of two per cent is granted to foreign investors whose number of managers and management officers of Ivorian nationality represents eighty per cent of the total number of these two categories of employees.

Contracting out

An additional tax credit of two per cent is granted to companies that subcontract to national companies the execution of infrastructure works, software, the manufacture of spare parts or any other good intended to be incorporated into a final product in Côte d'Ivoire and abroad. Subcontracting also covers services and must represent at least twenty-five percent of the activities subcontracted by the company. As part of the opening of the capital to nationals

A tax credit of two per cent is granted to an investor who operates in one of the sectors of activity listed by decree issued by the Council of Ministers and who opens his share capital at least fifteen per cent to national investors.

### Article 22:

When the conditions justifying the application of the tax credit provided for in the previous article are no longer met, the company concerned can in no way continue to apply it. It must inform! tax authorities to report this situation.

### Article 23:

The Investments realises in the hotel industry or in large centres Commercial who necessary one partnership Come in the company who creates the infrastructure and the person who operates it, benefit from the benefits of this Code

provided that each company makes the appropriate investment and applies for approval.

Benefits are granted in the following ways:

- The advantages in the investment phase are attributed to the company that creates the real estate infrastructure. This Benefit besides during Phase of exploitation, of the exemption from tax on financial assets ;

The benefits in the operating phase are applied to the operating company.

# TITLE III : GUARANTEES AND OBLIGATIONS OF INVESTORS

## CHAPTER I - GUARANTEES GRANTED TO INVESTORS

### Article 24:

The State shall take measures to facilitate the formalities for the implementation of investments and to implement the Government's strategy to improve the business environment and the institutional framework.

### Article 25:

Subject to bilateral, regional and multilateral conventions signed by the State, foreign natural and legal



subject to bilateral, regional and multilateral conventions signed by the State, foreign natural and legal persons shall be treated fairly and equitably with regard to the rights and obligations attached to their investments.

**Article 26:**

Investments in each of the sectors provided for in the provisions of this Code shall be carried out freely in compliance with the laws and regulations in force in Côte d'Ivoire.

**Article 27:**

Access to foreign currency is not restricted. No restrictions can be placed on investors to obtain foreign currency necessary for their activities.

Investors, provided that they comply with foreign exchange regulations, have free access to foreign exchange, in particular for:

- ensure current payments;
- to finance their supplies and various services provided with foreign natural or legal persons.

**Article 28:**

The State shall authorize the transfer of assets relating to investments subject to fiscal regularity.

However, the state can prevent a transfer through equitable application; non-discriminatory and in good faith, of its texts concerning:

- the protection of creditors' rights ;
- environmental protection ;
- Criminal offences matters;
- transfers of currency or other monetary instruments;
- the implementation of an enforceable title;
- execution of judgments rendered at outcome of legal proceedings;
- enforcement of arbitral awards.

**Article 29:**

Any expatriate, member of the staff of an enterprise benefiting from the provisions of this Code, is authorized to transfer freely, in accordance with the foreign exchange regulations, all or part of its remuneration, regardless of its legal nature and the amount expressed in local currency or foreign currency.

**Article 30:**

Access to raw or semi-finished raw materials produced on the national territory is guaranteed to all investors. If necessary, the State shall take the necessary measures necessary to ensure the effective exercise of freedom of access to raw materials.

Freedom of access to raw materials is subordinated to application by the investor concerned of a purchasing policy guaranteeing producers a fair remuneration.

The State shall take all necessary measures to guarantee the interests of producers in case of necessity.

**Article 31:**

The State guarantees to any investor the freedom to appoint the members of the board of directors, the general manager or the manager, as the case may be.

However, subject to regional and international commitments and agreements, the number of staff of foreign senior managers and management officers may not exceed a ratio to the total number of staff.

**Article 32:**

In accordance with the international agreements and treaties to which it has subscribed, the State shall protect intellectual property rights, including patents, trademarks and trade names, as well as rights to the transfer of technology.

**Article 33:**

Ownership of all property, movable or immovable, tangible or incorporeal, is protected in all its aspects, its elements and its dismemberments, its transmission and the contracts to which it is subject.

Notwithstanding the provisions of the preceding Alinea, the transfer of land belonging to the rural land may be carried out only in accordance with the provisions of the laws and regulations relating to the rural land domain.

No investor may be deprived of ownership of his investments except in the public interest and on condition of fair and prior compensation.

**Article 34:**

The agency in charge of investment promotion takes all measures to facilitate the obtaining of work visas and residence visas in connection with the technical services of the Ministry of the Interior and Security, the Ministry of Foreign Affairs and the Ministry of Labour.

Work visas and residence visas are granted within the framework of the application of this Code exclusively to company directors, shareholders and all persons on a mission for the accounting of companies.

**Article 35:**

The State shall establish developed industrial zones, agricultural land and areas of tourist interest, as the case may be, and shall facilitate access to them by investors through various measures, including the establishment of a collaborative platform among all the competent services of the State, under the conditions determined in Article 42 of this code.

## **CHAPTER II - OBLIGATIONS OF INVESTORS**

### **Article 36:**

The investor must comply with the laws and regulations in force relating in particular to human rights, labour rights, social responsibility, environmental protection, taxation and the fight against corruption and illegal activities.

In addition, the investor complies with the national or, failing that, international technical standards for quality, social, health and environmental management. its products and services.

As part of the fight against corruption and illicit activities, the investor adopts ethical rules, an internal and external control system and working procedures.

### **Article 37**

The investor has obligation to provide the Investment Promotion Agency, within ten days of the date of receipt of the application, with all information and documents of a financial or non-financial nature, in the context of the application of the provisions of this Code.

The documents that may be requested include financial statements, financial reports, of activities, reports on corporate social responsibility practices, certifications to different standards and any other document deemed necessary by the Agency in charge of investment promotion.

## **TITLE IV. COLLABORATION OF THE AGENCY WITH THE OTHER STRUCTURES OF THE STATE**

### **Article 38:**

The agency in charge of investment promotion is the main interlocutor for investors. It carries out its missions in collaboration with all the private and public structures involved in Application of this Code.

### **Article 39:**

In order to facilitate the accelerated processing of investment files, a collaboration platform is created, the terms of organization and operation of which are set by decree.

### **Article 40:**

An approval committee shall be set up within the agency responsible for promoting investments, the composition of which and the rules of organisation and operation shall be determined by decree.

The approval committee shall take approval decisions which shall be notified to the investors by the director-general of the agency responsible for the promotion of investments. The latter prepares, signs and transmits the approval decision.

## **TITLE V. MISCELLANEOUS PROVISIONS**

### **Article 41:**

The benefit of the advantages conferred under an investment incentive scheme may not be extended to a company that does not meet the conditions required to benefit from them.

### **Article 42:**

The duration of the benefits granted during the operation phase has a company, benefiting from one of the incentive schemes cannot be extended. •

The advantages granted may not have retroactive effect.

### **Article 43:**

With the authorization of the Director-General of Customs, controls relating to the status of fixed assets and imports of companies benefiting from certificates and investment approvals are organized in accordance with the legal and regulatory provisions in force. ,

To ensure the proper administration of the registration system, !' Customs Administration puts in place .for each investor, a system for monitoring imports of eligible goods.

### **Article 44:**

Initial Term

The time limit for carrying out investments by undertakings benefiting from the advantages provided for in this Code shall be two years from the date shown on the certificate given to the investor.

For investments with special cycles, and in particular in the agricultural sector, the applicable duration is that defined for each sector of activity concerned by the competent ministries in conjunction with the agency responsible for the promotion of investments.

Extension of duration

#### EXTENSION OF DURATION

When an investor has not been able to carry out the entire project for good reasons beyond his control and proved, at the end of the initial period of twenty-four months, he shall be granted, by decision of the approval committee, an additional period of time the duration of which may not be exceeded forty-eight months.

The above-mentioned extension may be granted only if the investor has carried out at least sixty-six per cent of his project.

Applications for extensions of time must be received by the investment promotion agency no later than three months before the expiry date of the initial period.

#### **Article 45:**

The investment report shall be carried out by the agency responsible for the promotion of investments in relation with the competent State services.

In this regard, the investor has a period of thirty days, from the date of completion of the work, to inform the agency in charge of investment promotion.

In the absence of notification within the prescribed period. The duration of the benefits starts from the date set on the investment approval certificate .

#### **Article 46:**

An investor who wishes to modify his investments in the course of implementation may benefit from the integration of new investments into its approval.

Applications for investment changes are submitted in a simplified file in the format provided by the investment promotion agency.

The investor can switch from the declaration regime to the approval regime, when the additional investments lead to a change in the investment threshold.

An amending certificate is issued to the investor and takes account of the change in investment.

#### **Article 47:**

Obligation of monitoring and evaluation

Investments benefiting from the advantages granted under this Code shall be subject to monitoring and evaluation.

Monitoring and evaluation procedures

The monitoring carried out by the agency in charge of investment promotion is carried out through support and assistance to investors as well as through the collection of various statistical information on the progress of the project and its operation.

As part of the follow-up, and in liaison with the agency in charge of the promotion of investments,

The administrations and bodies concerned with the implementation of the incentive scheme provided for in this Code are responsible for ensuring, in accordance with their powers and during the exemption period, the investor's compliance with its obligations in respect of the benefits granted.

Monitoring and evaluation of tax expenditure

Investments benefiting from the advantages of this Code shall also be subject to monitoring and evaluation of the tax expenditure. To this end, a mechanism has been put in place, the terms and conditions of which are set by order of the Minister in charge of the Budget.

#### **Article 48:**

Failure to comply with the provisions of this Code and its implementing texts shall be punished.

An investor who, after a formal notice issued by the investment promotion agency, does not provide proof of his investment within three months, is punished by a fine of:

- 200,000 FCFA to 500,000 FCFA, for SMEs;
- 1,000,000 FCFA to 5,000,000 FCFA, for large companies.

Payment of the fine without the communication of the documents requested by the investment promotion agency within three months shall result in the suspension of the benefits for a period not exceeding six months.

The suspension of benefits shall also apply to cases of non-compliance with the obligations laid down in Articles 36 and 37 of this Code.

The withdrawal of the approval occurs in the following cases:

- the non-regularization of his situation by the investor who has been the subject of a suspension of benefits;
- the non-respect some obligations Environmental Can cause consequences on human and animal health.

#### **Article 49:**

Difficulties in the interpretation of the provisions of this Code shall be regulated by means of an opinion by the Approval Committee and liaison with the competent technical services.

#### **Article 50:**

Any dispute between the State of Côte d'Ivoire and the investor arising from the interpretation or the application of the provisions of this Code shall be regulated in accordance with the following

procedures:

The parties shall endeavour to resolve by amicable negotiations any differences of opinion and differences which may arise between them. interpretation or the execution of this Code. When the parties enter into a settlement agreement, the said agreement shall take the place of law with regard to them and they undertake to carry out the work in good faith and as soon as possible.

If a friendly settlement cannot be reached within a period that may not exceed twelve months, the rules of the United Nations Commission on International Trade Law on conciliation apply.

However, the parties may agree to submit their dispute to the Arbitration Centre of the Common Court of Justice and Arbitration of the Organization for the Harmonization of Business Law in Africa.

The investor must, at the time of obtaining the approval, submit to the agency responsible for the promotion of investments a letter of commitment relating to the terms and conditions of the dispute settlement that he chooses. Get engagement is equivalent to waiving the right to use any other arbitration center for the settlement of the dispute that opposed to the State.

## **TITLE VI. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 51:**

Investments made for the creation and development of activities not put into operation, on the date of entry into force of this Code, may benefit from the more favourable provisions it grants, at the request of the investor. The conditions to be met are determined by decree.

The application shall be made within six months of the entry into force of this Code.

### **Article 52:**

Approvals granted before the entry into force of this Code, shall remain in force until the end of their application.

### **Article 53:**

Ordinance 2012-487 of 7 June 2012 on the Investment Code, as amended by Ordinance No. 2015-714 of 4 November 2015, repealed.

Done in Abidjan, 1 August 2018

Alassane OUATTARA