

Council of ministers decision No. (4) for the year 2015 on investment promotion regulation

Council of Ministers:

Pursuant to the provisions of the Amended Basic Law for the year 2003 and its modifications; particularly Article (70) thereof,

and the provisions of the Law on Investment Promotion in Palestine No. (1) for the year 1998 and its modifications,

and upon the appointment of the Board of Directors of Palestinian Investment Promotion Agency (PIPA),

and in accordance with the decision of the Council of Ministers in its session held on 10/02/2015,

and pursuant to the powers authorized to us;

and for achieving the public interest,

We have issued the following regulation:

Article (1)

Definitions

The following expressions and terms, mentioned in this regulation, shall have the meanings ascribed beside each, unless the context deems otherwise:

Minister: Minister of National Economy

Competent Authority: the Ministry or the competent governmental authority

Law: Law on Investment Promotion no. (1) for the year 1998 and its amendments; referred hereinafter to as (Amended Law and its modifications).

Employee hired in the project: every natural person who works on full time basis and is fixed in the employees' income tax statements.

Qualified employee hired in the project: every natural person who holds an academic or vocational qualification according to the standards and regulations specified by PIPA Board of Directors, works on full-time basis and is fixed in the employees' income tax statements.

Production prepared for exportation: the local merchandise and products which are sold outside the Palestinian customs scope in accordance with the standards and regulations specified by the BoD.

Percentage of Local Component: percentage of component which includes equipment, machines and raw materials or semi-manufactured materials of national origin.

Investment Registration Certificate: the primary registration of the project in the public investment record for the purpose of achieving the necessary facilitations for the project by the competent authorities.

Investment Confirmation Certificate: the written approval issued by PIPA to the investor or project in accordance with the provisions of the law.

Application for Benefiting from Investment Promotion Law: application for benefiting from prepared and provided incentives as appropriate and in accordance with the law.

One Stop Shop: a unified information center which provides investors with all procedures and facilitations to offer business services related to establishing their projects.

Assigned Employee: the employee who is assigned by the Ministry or governmental authority in which he operates to work in PIPA's one stop shop

New Project: the new project which was established during the legal period specified by the BoD as of the date of submitting the application for benefiting from the law.

Qualified Project: the project which has met the procedural conditions to be presented to the BoD for making the decision thereon; and the project shall not benefit from the law unless after the issuance of the BoD's decision on the issuance of investment confirmation certificate.

Communications service: discharging, transferring, receiving, emanating, sending or broadcasting sound, data, information, symbols, sounds, or images through the communication network to any party and in any manner excluding radio and television broadcasting. This shall not include; for the purposes of benefiting from the law, communication services centers as well as programming companies which develop programs and companies that provide internet services according to the regulations specified by the BoD.

Monopolistic Concession Contract: an administrative contract by which the Council of Ministers mandates an individual or a company to manage and

utilize a public facility (individually) under the supervision and monitoring of the government for a certain period of time.

Article (2)

Development of the Existing Project:

1. For the purposes of benefiting from the law, the development process of the existing project shall be performed within a time period which does not exceed two years as of the date of commencing actual development as approved by PIPA BoD when it approves on the development plan.
2. The development percentage shall be calculated in accordance with the capital, equipment, machineries and work force added by the existing project.

Article (3)

Work force calculation to benefit from the law

1. The new projects which employ 25 employees at least or the existing projects which add 25 new employees in addition to existing workers shall benefit from incentives specified in the law; as of the effectiveness date of Amended law no. (7) for the year 2014, and the company or project should maintain the minimum number of employees upon which exemption has been granted, throughout the exemption effectiveness period.
2. The BoD shall issue the guidelines on the standards and regulations associated with workers and employees whose employment and utilization is accepted for the purposes of benefiting from the law, and the BoD shall issue the guidelines on the sectors which benefit from the law in accordance with providing the work force.
3. All what is mentioned in paragraph (2) above shall include the nature of employment contracts associated with them as well as the percentages of employees operating or qualified in the project out of the total number of employees, in addition to time periods of their working, utilization or replacement, and the manner of calculating the number of employees and their nationalities, as well as updating their data and any other regulations specified by the BoD.

Article (4)

Export percentage calculations to benefit from the law

1. The new and existing exportation projects shall benefit from the incentives specified in the law; provided that the percentage of their actual exported production shall not be less than (40%) out of total sales throughout the effectiveness period of the exemption.
2. The BoD shall set the standards and regulations related to time periods during which this condition is met and the possibilities of extending these periods.
3. The BoD shall set the standards and regulations related to applying for benefiting from the law as well as the supporting documents required by the BoD in this respect.

Article (5)

Special exemptions for export Projects

In case the minimum level of specified exportation percentage has not been met during the effectiveness period of exemption granted to the company as a result of emergent general conditions, then PIPA shall be entitled; pursuant to the guidelines issued by the BoD, to approve on granting an exclusive tax incentive for the project; provided that the percentage of actual exported production shall not be less than (30%) out of the project's total sales, and the exclusive exemption period shall not exceed (3) years; taking into consideration the tax bracket in which the project was included when it failed to meet the required percentage.

Article (6)

Percentage of local component to benefit from the project

1. The new or existing projects; which produce a new service or good and use (70%) of its production inputs of the local component, shall be qualified for benefiting from the incentives specified in the law; and the project should maintain the minimum level of this specified percentage during the effectiveness period of the exemption; provided that this benefit should be after the issuance of investment confirmation upon a decision made by PIPA.
2. The new or existing projects should complete the requirements associated with meeting the conditions of achieving the local component percentage according to the mechanisms and time periods specified by PIPA's BoD;

provided that this benefit shall be done after the issuance of investment confirmation upon a decision made by PIPA.

3. The BoD shall identify; upon its issued guidelines, the procedures and documents which should be made available or provided for PIPA to benefit from the law, such as tax invoices and certificates of origin associated with equipment or raw or intermediate materials.

Article (7)

Minimum Level of Capital

PIPA's BoD shall be entitled to identify a minimum level of invested capital value in the form of actual financial expenditure while excluding the value of the project land for the purposes of qualification for benefiting from the law.

Article (8)

Concession Contracts

The monopolistic franchise contract shall be excluded from the scope of benefiting from tax incentives stipulated in the law, and this shall not include non-monopolistic franchise contracts or licenses issued by organizational official references excluding the Council of Ministers. In addition, the concept of monopolistic franchise contract shall not include the privileges (concession) granted for establishing industrial and/or agricultural zones and cities or privileges which are not related to the public facilities.

Article (9)

Excluded, Added and New Sectors

1. Notwithstanding the provisions of Article (12) of the decision in the Law no. (7) for the year 2014, on the modification of Investment Promotion Law, PIPA's BoD shall be authorized to add other sectors or new economic activities it deems necessary for the purposes of benefiting from the Investment Promotion Law after the approval of the Council of Ministers thereon.
2. The financial, brokerage as well as loan and financing companies shall be considered as excluded banks pursuant to Article (43) of the Amended Law and its modifications.

Article (10)

Incentives Package Contract

1. PIPA's BoD shall be authorized to classify the Palestinian lands based on development priorities and in conformity with the governmental development plans; and such classifications shall be reviewed periodically and when necessary based on the public interest.
2. In public interest-based strategic projects and based on the geographic location requirements or level of strategic contribution in increasing local exports, creating job opportunities, accelerating devolvement, transferring knowledge at the national level or supporting research and development, PIPA's BoD shall be entitled to conclude a contract upon which the project shall be granted additional incentives to the tax incentives aiming at empowering, supporting and encouraging this project according to the terms and conditions of this contract; provided that this contract shall be presented to the Council of Ministers for approval thereon and on the incentives package granted accordingly.
3. After the approval of the Council of Ministers on the Incentives Package Contract, all official governmental references and competent authorities shall commit to execute the provisions of Incentives Package Contract within their competence and capacity.
4. The Incentives Package Contract shall include providing sources of support as well as infrastructure services and governmental lands.
5. PIPA's BoD shall be authorized; at its own discretion and in accordance with PIPA's capacities and without referring to the Council of Ministers, to provide logistic and technical incentives such as training and qualification services, expertise building, marketing as well as participation in exhibitions at local and international levels for investment projects which are qualified to benefit from incentives package contracts upon standards and regulations issued by PIPA's BoD.
6. Incentives package contracts shall be published in the newspaper; provided that this publishing shall not be considered as a condition for their effectiveness as long as they are approved by the Council of Ministers.

Article (11)

PIPA's Financial Resources

1. Allowances of granting project licenses and dealing with investment shall be identified and modified in accordance with the guidelines issued by **PIPA's** BoD as follows:
 - A. Allowance of applying for benefiting from the law
 - B. Allowance of granting investment registration certificate
 - C. Allowance of granting investment registration certificate (replacement copy)
 - D. Allowance of issuing investment confirmation certificate
 - E. Allowance of issuing investment confirmation certificate (replacement copy)
2. Financial penalties which are collected according to the provisions of Article (44) of Investment Promotion Law No. (1) for the year 1998 after the approval of the BoD thereon.
3. All grants received by PIPA shall be deposited in the public treasury account

Article (12)

Formation of Incentives Committee

1. PIPA's BoD shall establish the Incentives Committee upon a decision made by it in this respect and in accordance with the requirements and nature of PIPA's business; and upon the appointment of PIPA's Executive Director.
2. The Incentives Committee shall be changed and modified in the same mechanism as clarified in paragraph (1) above.

Article (13)

Duties of the Incentives Committee

The Executive Director shall be authorized to appoint the PIPA's BoD to be in charge of the business procedures of the Incentives Committee and the manner of its formation as well as its powers, work mechanisms and regularity of its formation; as well as any sub-committee which may emerge from the Incentives Committee; whether it is an executive or specialized incentives committee.

Article (14)

Specifying the Commencement Date of Earning Profits

The Incentives Committee shall be considered the competent authority for specifying the commencement date of earning profits for the purposes of applying the provisions of Article (23) of the Amended Law and its modifications.

Article (15)

Granting Investment Incentive

PIPA's BoD shall issue its approval on granting the project the investment incentive which is assigned to it by PIPA's Executive Director accordingly, and PIPA's BoD shall also issue the investment confirmation certificate according to the internal procedures and steps specified by the BoD.

Article (16)

Publishing Investment Confirmations

PIPA shall publish periodical reports on the projects activities and numbers; such reports include names of projects benefiting from the law; unless the BoD decides otherwise according to a justified request submitted by the beneficiary investor to be approved by the BoD.

Article (17)

Duties of One Stop Shop

1. Dealing with the investment application in one accessible place
2. Providing a unified information center where investors can obtain all information and legislations, including answering their inquiries.
3. Improving the quality of services with regards to granting licenses for projects
4. Providing the investor with information on the necessary procedures for licensing the project.
5. Setting a work mechanism to offer its services in coordination with PIPA's departments and relevant institutions.

6. Creating a record for all submitted transactions in which all basic data and information are recorded.
7. Setting a special manual of the one stop shop's business which shall include information, data and documents necessary for licensing investment projects; and it shall be updated when necessary.
8. Preparing a periodical statistical report
9. Coordinating and dealing with PIPA's offices wherever they are located as well as relevant institutions and the rest of sectors, and submitting necessary suggestions to PIPA to develop the work mechanism for the service of the investor.
10. Applying any new service decided by PIPA's BoD
11. Submitting suggestions and recommendations on the difficulties and obstacles which hinder licensing projects to PIPA's Executive Director

Article (18)

PIPA shall perform the duties vested in the one stop shop by its executive administration without any delay until the formation of the one stop shop is completed.

Article (19)

BoD Meetings

1. The BoD meetings shall be held in PIPA's headquarter or any other place selected by the Board Director if necessary.
2. The quorum of holding the meeting shall be completed by the presence of at least two thirds of members; provided that the director or his deputy shall be included.
3. If the quorum was not completed, then the invitation shall be presented again before (7) days of the date specified for holding the meeting.
4. Deputization shall not be allowed with regards to attending the BoD meetings or in voting.
5. The topics mentioned in the agenda shall be discussed, and the BoD shall be entitled to discuss other topics if necessary.

6. The BoD shall invite whom it deems necessary from inside or outside PIPA to seek out their opinions without granting them the right to vote.
7. PIPA shall maintain a special record for registering all the BoD minutes of meetings as well as discussions, decisions made and attendance lists.

Article (20)

Board of Directors Membership

1. The Board member, who is a representative of the public sector organization specified in the law, shall be nominated by the representative entity; provided that the board member shall be one of the top management staff members. Moreover, the public sector organization, which is a board member, shall be entitled to replace its representative upon a formal letter submitted by the public sector organization in coordination with PIPA's Board Director.
2. The representative of board member, who is a representative of private sector organizations specified in the law, shall be nominated by the private sector organization itself; provided that he shall perform his tasks independently of his organization. Furthermore, the private sector organization, which is a board member, shall be entitled to replace its representative upon a formal letter submitted by the private sector organization in coordination with PIPA's Board Director.
3. The board member should not be absent for (3) successive meetings of PIPA's BoD meetings without a legal excuse approved by the BoD; and in this case the Board Director shall be entitled to speak to the representative entity for the purpose of replacing such board member.
4. The membership period shall be (3) years; and it shall be renewable for once only.

Article (21)

PIPA Executive Director

1. PIPA's Executive Director shall be appointed upon a decision made by the Council of Ministers pursuant to the appointment of PIPA's BoD for (4) renewable years through the appointment of the Council of Ministers by the BoD for approval on the renewal whenever the BoD deems necessary.
2. The BoD shall be entitled to delegate additional powers and authorities to the Executive Director.

3. PIPA's Executive Director shall be entitled to appoint PIPA's BoD to establish sub-committees or form executive incentives or specialized incentives committees.

Article (22)

Cancellation

All what contradicts with this regulation shall be cancelled

Article (23)

Validity and Effectiveness

All the competent parties; within their competence and capacity, shall execute the provisions of this regulation, and it shall be applicable as of its date of publishing in the official newspaper.

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Rami Hamdallah

Prime Minister

Disclaimer:

The original text in Arabic and the English translation are for guidance purposes.