INVESTMENT LEGISLATION

The government aims to open up the Libyan economy to further industrialization with increased private sector participation and investment of foreign capital. Law No. 5 of 1426 (1997) was enacted to attract the investment of foreign capital. This law aims at encouraging foreign investment within the framework of the general policy of the State and is targeting the economic and social development, particularly in regard to the transfer of modern technology, the development of Libyan Technical resources, the development of national products and their contribution in international markets.

Libya has investment promotion agreements with Egypt, Iraq, Italy, Jordan, Palestine Authority, Somalia, Syria, United Arab Emirates and Yemen.

Below are some of the most interesting articles of Law No. 5 for the year 1426 (1997) concerning the encouragement of foreign capitals investment issued by the Libyan General People's Congress.

DOMESTIC LAWS: LAW NO. 5

Article 1

The aim of this Law is to attract investment of foreign capital in investment projects within the framework of the general policy of the State and for the objectives of economical and social development and in particular:

- Transfer of modern technology.
- Training the Libyan technical workforce.
- Diversification of income resources.
- Contribution to the development of the national products so as to help in their entry into the international markets.
- Realization of a local development

Article 2

This Law shall apply to the investment of foreign capital held by Libyans and the nationals of Arab and foreign states in investments projects.

It is permitted for the local capital to have partnership with foreign capital in investment and the executive regulations of this Law shall determine the bases and conditions for the implementation of this partnership.

Article 3

In the application of this Law, unless the context indicates otherwise, the following words and phrases shall have the meanings explained hereunder.

1. Jamahiriya means the Great Socialist People's Libyan Arab Jamahiriya.
2. The Law means the Law of Foreign Capital Investment Encouragement.
3. The Secretary means the Secretary of the General People's Committee for Planning, Economy and Commerce.
4. Authority means Libyan Foreign Investment Board.
5. The executive regulations means the regulation issued for the implementation of the provisions of this Law.

6. The foreign capital means the total financial value brought into the Great Jamahiriya whether owned by Libyans or foreigners in order to undertake an investment activity.
7. National Capital. The monetary or physical value by local currency included in the formation of the capital of the investment project owned by Libyan citizen juridical personality fully owned by Libyan citizens.
8. Project means any economic enterprise established in accordance with this Law the result of its work if the production of foods for end or intermediate consumption, or investment goods, or for export, or provision of service, or any other enterprise approved as such by the General People's Committee.
9. Investor means any natural or judicial entity, national or non-national, investing in accordance with the provisions of this Law.

Article 4

This Law regulates the investment of foreign capital brought into the Jamahiriya in any of the following forms:

Convertible foreign currencies or substitutes thereof brought through official banking methods.

Machinery, equipment, tools, spare parts and the raw materials needed for the investment project.

Transport means that are not locally available.

Intangible rights, such as patents, licenses, trademarks, and commercial names needed for the investment project or operation thereof.

Reinvested parts of the profits and returns from the project. The executive regulation shall regulate the manner for the evaluation of the portions used in the formation of the capital designated for the investment in the Jamahiriya.

Article 5

The authority known as “Libyan Foreign Investment Board” having its own independent juridical personality under the jurisdiction of the General People's Committee for Planning, Economy and Commerce is established by a decision from the General People's Committee upon the proposition by the Secretary stating the authority's legal address, its secretary and members of the management committee. The executive regulation shall regulate the meetings of the authority and the administrative procedures required for establishing project.

Article 6

The authority shall encourage foreign capital investment and promotion for the investment projects by various means; in particular it shall:

1. Study and propose plans to organize foreign investment and supervise foreign investments in the country.
2. Receive the application for foreign capital investments to determine whether they satisfy the legal requirements; and the feasibility study for the project and then submit its recommendation to the secretary accordingly.
3. Gather and publish information and conduct economic studies relevant to the economic development of the country.
4.

4. Take proper actions to attract foreign capitals and promote the chances of investment through various means.
5. Recommend exemptions, facilities or other benefits for the projects that are considered important for the development of the national economy, or recommend the renewal of exemptions and benefits as provided in the Law for further periods of time. It shall submit its recommendation to the relevant authorities.
6. Consider without prejudice the right of the investor to petition and litigate complaints, petitions, or disputes lodged by the investors resulting from the application of this Law.
7. Study and review periodically the investment legislations, propose improvement thereof and submit same to the concerned authorities.
8. Perform any other functions assigned to it by the general people's committee.

Article 7

The project must comply with all or some of the following requirements:

Production of goods for expert or contribution to the increase of export of such goods or substitute imports of goods in total or in part.

Make available positions of employment for Libyan manpower, train and enable some of the workforce to gain technical experience and know-how. The executive regulation shall set the conditions and terms of employment of Libyan manpower.

Use of modern technology or a trade mark or technical expertise.

Provision of a service needed by the national economy or contribute to the enhancement or development of such service.

Strengthen the bonds and integration of the existing economic activities and projects or reduce the cost of production or contribute in making available materials and supplies for their operations.

Make use of help in making use of local raw materials.

Contribute to the growth and development of the remote or underdeveloped areas.

Article 8

Investment is encouraged in the following areas:

Industry

Health

Tourism

Services

Agriculture

And any other area determined by a decision from the General People's Committee according to a proposal from the Secretary.

Article 9

The permit for foreign capital investments shall be granted by the authority after the issuance of the secretary's decision approving the investment.

Article 10

Projects established within the framework of this Law shall enjoy the following benefits:

a. An exemption for machinery, tools and equipment required for executing the project, from all custom duties and taxes of the same impact.

b. An exemption for equipment, spare parts and primary materials required for the operation of the project, from all custom duties and custom taxes imposed on imports as well as other taxes of all same impact for a period of five years.

c. Exemption of the project from the income taxes on its activities for a period of five years as from the date of commencement of production or of work, depending on the nature of the project. This shall be extendable by an additional duration of three years by a decision from the general people's committee upon a request of the same by the secretary. Profits of the project will enjoy these exemptions if reinvested. The investor shall be entitled to carry the losses of this project within the years of exemption to the subsequent years.

d. Goods directed for export shall be exempted from excise taxes and from the fees and taxes imposed on exports when they are exported.

e. The project shall be exempted from the stamp duty tax imposed on commercial documents and bills used.

Article 11

Equipment, machinery, facilities, spare parts and primary material imported for the purpose of the project may neither be disposed or through sale or abandoned without the approval of the authority and after payment of custom duties and taxes imposed on importation thereof; nor be used for purposes other than those licensed thereof.

Article 12

The investor shall have the right to:

a. Re-export invested capital in the following cases:

End of the project's period.

Liquidation of the project.

Sale of the project in whole or in part.

Elapse of the period of not less than five years as of issuance of the investment permits.

b. Re-transfer the foreign capital abroad in same form in which it was first brought in after the elapse of a period of six months as of its importation in cases where difficulties or circumstances out of the investor's control prevent its investment.

c. It is permissible to transfer annually the net of the distributed profits realized by the project and interest thereof.

d. The investor has the right to employ foreigners whenever the national substitute is not available.

The foreign employees who come from abroad have the right to transfer abroad a percent of their salaries and wages and any other benefits or rewards given to them within the framework of the project.

Conditions and terms regarding the implementation of this article shall be set by the executive regulation.

Article 13

The investment period shall not be restricted by the legal forms required by the current legislation nor be subject to the procedures of registration at the commercial registrar nor at the registrar of importers and exporter. The executive regulation will set the legal forms of investment project which can be set up according to this Law, establishment conditions and procedure of setting up of such project and registration at the investment registrar. The investment project shall enjoy the status of independent financial and juridical personality once the process of the registration of its entity is completed.

Article 14

A project established in the local development areas or a project which contributes to food security or a project which uses installation and means conducive to save energy or water or contributes to the protection of environment, will enjoy the exemption mentioned in paragraphs b) and c) of article (10) of this Law for an additional period by a decision from the General People's Committee upon a proposal from the Secretary. The executive regulation will set the terms and conditions according to which the project could be considered within these areas.

Article 15

Notwithstanding ownership Laws in force, the investor shall be entitled to hold title for land use. The investor may also lease such land, construct buildings thereon and be entitled to own any property or lease thereof required for establishment or operation of the project; all as per the terms and conditions set in executive regulation.

Article 16

The investor shall have the right to open for his project an account in convertible currencies at a commercial bank or at the Libyan Arab Foreign Bank.

Article 17

Ownership of the project may be transferred in whole or in part to another investor with the approval of the authority; the new owner will replace its predecessor in all rights, undertakings and obligations arising there from, in accordance with the provisions of this Law and other legislations in force. The executive regulation shall set the terms and conditions for the transfer of ownership.

Article 18

In case it is proven that the investor has violated any provisions of this Law or the executive regulation, the authority shall issue a waning to the investor to rectify the violations within a period of time specifies therein. In case of failure by the investor to adhere thereto, the Secretary, upon a recommendation by the authority, may;

Deprive the project from some of the benefits provided for this Law.

Oblige the investor to pay double the exemptions granted to him.

Article 19

The permit of the project may be withdrawn or the project finally liquidated in the following cases:

Failure to start or complete the project in accordance with the terms and conditions set by the executive regulation.

Repetitions of violations.

All in accordance with the procedures specified by the executive regulation.

Article 20

The investor shall be entitled to petition in writing against any decision affecting him as per article (18) or article (19) of this Law, or against any disputes arising because of the implementation of the provisions of this Law within thirty days as of the date of notifying him by a delivery guaranteed later; the executive regulation shall specify the proper authority to which petitions should be submitted and processes of petition.

Article 21

The investor should:

Maintain regular books and records for the project.

Prepare an annual budget and profit and loss account audited by a chartered accountant as per the conditions set forth in the commercial Law.

Article 22

The employees of the authority designated by a decision from the Secretary shall have the power of the judicial officers to control the enforcement of this Law and to unveil and record the violations and refer same to then competent authority; for this purpose the said employees shall be entitled to inspect the projects and check the books and records relevant to their activities.

Article 23

The project may not be nationalized, dispossessed, seized, expropriated, received, reserved, frozen, or subjected to actions of the same impact except by force of Law or court decision and against an immediate and just compensation provided that such actions are taken indiscriminately; the compensation will be calculated on the basis of the fair market value of the project in the time of action taken. The value of compensation in convertible currencies may be transferred within a period not exceeding one year and according to the rate of exchange prevailing at the time of the transfer.

Article 24

Any dispute arising between the foreign investor and the state, due to the investor's act or to actions taken by the state, shall be referred to a court having jurisdiction in the Jamahiriya and the state to which the investor belongs or where a multi-lateral agreements to which the Jamahiriya and the state to which the investor belongs are parties that provide for relevant reconciliation or arbitration, or there is a special agreement between the investor and the state containing provisions in regard to an arbitration clause.

Article 25

Foreign investments in existence on the date of issuance of this Law shall enjoy the privileges and exemptions provided for herein.

Article 26

Provisions of this Law shall not apply to foreign capital invested or to be invested in petroleum projects as per the provisions Law number 25 of 1995, as amended.

Article 28

Law number 37 of 1968 regarding investment of foreign capitals in Libya is hereby repealed and so are any other provisions that may contradict the provisions of this Law.

INTERNATIONAL LAWS AND AGREEMENT

The EU General Affairs Council on 13 September 1999 decided to lift a number of EU sanctions against Libya, which were imposed in 1986. This followed an earlier decision by the EU in April 1999 to suspend EU sanctions adopted in response to Security Council Resolutions 748 and 833 of 1992 and 1993. The EU measures lifted are restrictions on the freedom of Libyan diplomats and consular personnel; and reduction of the staff of diplomatic and consular missions. More recently, on Monday 13th of October 2004, the EU finally ended its 12 years of sanctions and eased an arms of embargo to reward Libya for giving up efforts to develop weapons of mass destruction. The U.N. Security Council lifted 11-year-old sanctions in 2003, and in April 2004 the United States removed most of its commercial sanctions.

Libya is a member of the following international organizations:

ABEDA, AFDB, AFESD, AL, AMF, AMU, CAEU, CCC, ECA, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IDB, IFAD, IFC, IFRCS, ILO, IMF, IMO, INTELSAT, INTERPOL, IOC, ISO, ITU, NAM, OAPEC, OUA, OIC, OPEC, PCA, UN, UNCTAD, UNESCO, UNIDO, UNITAR, UPU, WFTU, WHO, WIPO, VMO, WTO.

IMPORT/EXPORT RULES AND REGULATIONS

Trade Policy

Libya seeks to strike a balance between the increased pressures for liberalization of the economy and attracting foreign capital on the one hand and protecting local industry and manufacturing and other national interests on the other.

IMPORTS AND EXPORTS

Imports are generally unrestricted except for specifically banned items.

Import licences are required.

Goods of Israeli origin are not permitted to be imported.

All industrial supplies, foodstuffs and consumer goods are imported to Libya, there are few restrictions on imports except for certain prohibited items.

Imports are subject to customs duties depending upon the category of import.

There are no official price controls.

Customs clearance procedures require the appointment of a local agent.

Libya has an annual International Trade Fair where many countries take stalls to exhibit their products.

Exports are encouraged and are generally free of restrictions.

LABOUR RELATIONS & SOCIAL SECURITY

Manpower

The number of the Libyan manpower according to 2001 was to 805,580, 67.80% of then were males and 32.20% females. 37.23% of the total manpower is scientific and technical professionals. Another 19.13% are working in the industry, transportation and agriculture fields. Finally, 18.72% are working in services and trade. The secretaries of the popular congresses and people's committee in addition to the directors, executive managers and administrative officers represent as well 18.72% of the total national manpower. Libya is characterized by the availability of cheap and skilled manpower. Moreover the percentage of the economically active category is higher in percentage in young people.

Labour Relations

Availability of Labour

Libya has a work force of approximately one million, of which 31% work in industry, 27% are involved in services, 24% in government and 18% in agriculture.

Employer/Employee Relations/Union

The employer/employee relationship is defined in the Libyan Labour Law No. 55 of 1970 and its subsequent amendments and modifications. The provisions of the Libyan Labour Law 1970 deal with all employer/employee relations such as minimum wage, daily and weekly working hours, night shift regulations, dismissals and training schemes. Labour Law in Libya is fairly comprehensive and specific advice should be sought on the subject. All employees are members of their own employee unions, however the relations between employer and employees generally tend to be trouble free.

Employee Training Programmes

All employers are expected to have formalised training programmes for the Libyan Nationals they employ and are required to demonstrate the implementation of their programmes.

Working Conditions

Working conditions are defined in the Labour Law 1970 and the Social Securities Act 1980.

Wages and Salaries

The levels of salaries and wages payable in the public sector are stipulated by Law 15 0f 1981. However the salaries in the private sector vary according to the degree of skills, professional qualifications and experience.

Hours Worked

The normal working week is 42 although the Law permits a maximum of up to 48 hours per week. Overtime is paid at the rate of time and a half for a week days and double time for Fridays and public holidays.

Paid Holidays and Vacations

The minimum statutory period for annual vacation is 24 working days.

Equal Opportunities

The Libyan Government is committed to promotion of equal opportunities for its entire people.

Termination of Employment

Minimum prescribed notice of termination of employment is required under the Law. If it is considered that a particular dismissal is unfair the employee may take the case to court. If the court finds in favour of the employee it may order reinstatement or compensation.

SOCIAL SECURITY SYSTEM INAS

Social Security System is due in accordance with Law 13 of 1980 as amended by Law 1 of 1991.

Coverage

The contributions are payable by all employees working in Libya whether local or foreign, based on gross income. Contributions may be made either weekly or monthly. The gross salary with regard to foreign nationals is required to include an amount for housing and subsistence regardless of whether this is paid to the employee or not.

Foreign Companies Domestic Companies

Employee 3.75% 3.75%

Employer 11.25% 10.50%

Government - 0.75%

15.00% 15.00%

Solidarity Fund

In addition to the above, Solidarity Fund Contributions are payable by deduction from the employees salary at the rate of 1% of the gross salary.

Libyan Employees are subjected to 1.5% contribution tax (Libyan Nationals only)

Foreign Personnel Work Permits

Foreigners who work in Libya require a working permit which must be applied for in advance by the prospective employer. Permission is normally granted provided the skills and qualifications are those that are permitted and required in Libya and are not specifically prohibited by the Labour Office. The approval for a working permit is given usually after one week after the application is received.