



MINISTÈRE DU DÉVELOPPEMENT,
DE L'ANALYSE ÉCONOMIQUE
ET DE LA PROSPECTIVE

CODE OF INVESTMENTS OF BENIN



**Centre de Promotion
des Investissements**



**CODE OF
INVESTMENTS
OF BENIN**



Table of contents

Title	Pages
Foreword	5
Law N°90-002 dated 9th May 1990 relating to the Code of Investments	9
Law N° 90-033 dated 24th December 1990 as amended by articles 34, 41, 43, 47, 49, 51, 59, 62 and 74 of the Law N° 90-002 dated 9th May 1990 relating to the Code of Investments	38
Decree N° 98-453 dated 8th October 1998 prescribing the implementing provisions of the Law N°90-002 dated 9th May 1990 relating to the Code of Investments as modified by the Law N° 90-033 dated 24th December 1990.	45
Directive N°38/MPREPE/DC/SG/DPI/SACI dated 9th December 1998 relating to the procedures governing any application for preferential and special treatments under the Code of Investments.	79

FOREWORD

The 1980 decade was marked by an economic crisis whose consequences are still impacting the Republic of Benin on the eve of the third millenium.

Development issues facing the country as at now are related to its political past marked by almost two decades of “socialist” management from 1972 to 1989 which did not give any chance to private initiatives, and thereby, to an economic environment congenial for the promotion of both national and foreign private investments.

The Conference of the Active Forces of the Nation which met from 19 th to 28th February 1990 has developed a change in option for the management of the National Economy. Liberalism has henceforth become the national guidelines in terms of economy, political and social life. Democratization of the political life creates a new legal environment, securing the changes prescribed during the National Conference.

As part of this process of the liberalization of individual and collective initiatives, a number of legislative and regulatory texts have been taken to encourage and protect private investments. They are as follows :

Law N° 90-002 dated 9th May 1990 relating to the Code of Investments, as modified by the Law 90-033 dated 24th December 1990 ;

Law N° 90-004 dated 15th May 1990 subject to the statement of manpower, recruitment and termination of work contract ;

Law N° 90-005 dated 15th May 1990 prescribing the conditions under which commercial activities shall be carried out in the Republic of Benin.

The Code of Investments which took effect in 1990 has been revised since 1994 at the request of economic operators in order to make it more attractive.

The new draft Code was already under discussions with Partners in Development when WAEMU decided the adoption of a Community Code of Investments applicable for all members-States by the end of 1997 latest.

As this time frame has been postponed for the year 2000 pending the completion of some prior reforms, the Government has deemed untimely to adopt for two years an interim Code and has resolved to adopt the following texts towards easing the implementing provisions of the Code. They are as follows :

Decree N° 98-453 dated 8th October 1998 prescribing the implementing conditions of the Law N°90-033 dated 24th December 1990.

Directive N°38/MPREPE/DC/SG/DPI/SACI dated 9th December 1998 prescribing the procedures governing the application for preferential and special treatments under the Code of Investments.

This document which draws on the Code of Investments and its new implementing provisions makes available for users all information likely to help them better appreciate the procedures governing the application for preferential and special treatments under the Code of Investments.

Albert TEVOEDJRE
Minister of National Planning,
Economic Restructuring and Job Engineering

REPUBLIC OF BENIN

PRESIDENCY OF THE REPUBLIC

Law N°90-002 dated 9th May 1990
relating to the Code of Investments

The High Council of the Republic having considered and adopted in its session of 30th April 1990,

The President of the Republic enacts the provisions of the law that shall read as follows :

Title one : DEFINITIONS AND GENERAL PROVISIONS

Chapter I : DEFINITIONS

In accordance with this Law, the following terms shall have the following meanings :

Article 1 : “Enterprise” means any individual or legal entity, or any cooperative body, which exercises in the Republic of Benin a business activity within the primary, secondary or tertiary sectors.

Article 2 : “Extension” means an increase in the production capacity of the Enterprise through the setting up of an independent unit, or through the combination of a new activity with the existing one.

Article 3 : “Value - Added” means the balance between the turnover, all taxes inclusive and input.

Article 4 : “Investment” means the total amount, all taxes inclusive, of any type of fixed assets, origination fees and fixed working capital.

Article 5 : “Duration of the Approval” means the time-frame during which the Enterprise shall be under a preferential treatment.

Article 6 : “Raw materials” means the supplies and equipment intended to be incorporated to manufactured products.

Article 7 : “Equipment and products” means the material elements that the Enterprise acquires from abroad and that it can keep in stock for later use in manufacture.

Article 8 : “Equipment and implements” means the objects and appliances used to process or treat materials, such as industrial equipment and implements, agricultural equipment and implements, fishing gears and appliances, handling equipment, wrapping equipment (wrapping intended for internal use not to be delivered to the customers with its contents) ; repair materials (keys and other implements), rolling stock for commercial purpose.

Article 9 : “Product” means any physical object obtained after an agricultural activity from a fishing and an industrial processing activity.

Chapter 2 : GENERAL PROVISIONS

Article 10 : Except for activities which, on the account of general interest as well as law and order, are prohibited by the law, the exercise of an industrial, agricultural, commercial or artisanal activity is free in the Republic of Benin.

Article 11 : The provisions relating to investments in the Republic of Benin encompass a treatment under the general law, as well as preferential and special treatments.

Preferential treatments which are three (3) in number shall give national and foreign Enterprises customs and fiscal advantages which are as follows :

- Treatment A covering small and medium-scale Enterprises ;
- Treatment B for large-scale Enterprises ;
- Tréatment C or tax-flattening out treatment.

The special treatment shall cover artisanal and other Enterprises, the investment amount of which is provided for in article 57.

Article 12 : No Enterprise shall be entitled to be covered by two different treatments for the same activity.

Article 13 : With a view to bringing into play a fair competition, it is guaranteed that State-owned Enterprises, parastatals and private Enterprises shall, in accordance with this Code, be covered by the same rights and shall equally be subjected to the same obligations.

Article 14 : Any Enterprise that is engaged in a commercial, industrial, agricultural, artisanal or service-provision activity shall, whatever the treatment by which it is covered (general law or preferential treatment) benefit from the following guarantees :

- Freedom to trade (choice of suppliers, customers, service-provisions) ;

- Freedom to expatriate personnel and member of their family, to enter, to stay, to move around and to withdraw from the country in compliance with the texts in force ;

- Freedom to manage ;

- Freedom to transfer capitals and namely, profits and dividends duly computerized and freedom to transfer funds acquired by the Enterprises as a result of a transfer or separation by virtue of the legislation in force ;

The assurance that the Government of Benin shall not take any action toward nationalization ;

The assurance that the Government of Benin shall not take any action toward the expropriation of investments made by any Enterprise subject to cases of public utility established under conditions stipulated by the law.

As regards public utility, any action taken against expropriation shall not be discriminatory and shall make provision for a fair, adequate and prior redress, the amount of which shall be worked out according to the ordinary rules and practices of the international law.

Title II - PREFERENTIAL TREATMENT

Chapter I : COMMON PROVISIONS

Section I : SCOPE

Article 15 : Any of the preferential treatments stipulated in the above-mentioned Article 11 shall be applied to any newly created Enterprise of all sectors, which presents interest or a specific relevance to the attainment of the objectives of the National Plan of Social and Economic Development, and which does not operate under any of the categories here-below :

- 1- Activities consisting in purchase and resale without processing ;

2- Activities of repackaging, cutting, coiling and or wrapping of finished or semi-finished products and any other activities which do not entail any finished or processed materials in accordance with the customs nomenclature ;

3- Activities which have a particularly harmful effect on the environment and on the health of the populations.

On the proposal of the Minister in charge of National Planning, this list can be modified by a Decree with reference to the needs and requirements of the economic and social development.

Article 16 : The preferential treatment shall also be granted to Enterprises formerly established in Benin, as a result of an expansion of their activities, provided that such an expansion does not, however, fall within any one of the areas of activities referred to in Article 15 and that it shall meet the investment criteria of the required treatment. In the event of an expansion, the treatment granted shall only apply to that expansion,

Article 17 : Should there be a co-existence of activities enjoying a preferential treatment and other activities governed by the ordinary law (as in the expansion case of an approved activity), the former ones should compulsorily form a self-liquidating entity endowed with a separate accounts which makes possible to see clearly their results from those of the Enterprise as a whole.

Article 18 : To be approved for a preferential treatment, the business thus established shall, barring the conditions laid down in Article 15, contribute to a large extent to :

- Implementing the policy of regional Development through the setting up of business activities in the economically less developed areas ;
- Creating job ;
- Improving and rehabilitating the balance of trade and of payments ;
- Upgrading local resources.

Section II : DURATION OF THE APPROVAL

Article 19 : The time-frame of the approval shall extend to :

- A gestation period during which the investment program should be implemented.
- A period of operation corresponding to the stage of production or operation.

Article 20 : The gestation period shall begin from the enforcement date of the approval and extend to a time-frame not to exceed thirty

(30) months whatever the treatment. The final completion of the program shall be established by joint Directive of the Minister of National Planning, Chairman of the Technical Commission on Investments and of the Minister of Industry, Chairman of the Investment Auditing Board.

Article 21 : The period of operation shall come into force from the date of signature of the joint Directive establishing the end of the implementation of the investment program ;

The time-frame of the operation period shall be set for all the treatments as follows :

- Five (5) years for investments made in Zone 1 ;
- Seven (7) years for investments made in Zone 2 ;
- Nine (9) years for investments made in Zone 3.

Article 22 : The implementation of the Investment program within a shorter time-frame not to exceed 30 months as provided for in Article 20 shall imply for the persons enjoying such treatments an extension of the time limit equal to the number of months remaining to reach the deadline. Such a bonus shall complement the duration of the operation period as specified in Article 21. Should the time-frame extend beyond the deadline specified for the setting up, the additional number of months shall be deducted from the period of operation. In such a process of deduction, only the number of days over 14 shall be taken into account for a full month.

Article 23 : In pursuance of the provisions of Article 21, the Territory of Benin is divided into three (3) zones called zone 1, 2, 3, which shall be described by an implementing decree of this Law.

Chapter II : PROCEDURE FOR GRANTING PREFERENTIAL TREATMENTS

Article 24 : Any application introduced by an Enterprise for a preferential treatment should be addressed to the Ministry of National Planning.

Article 25 : Any application for approval should indicate whichever of the preferential treatment is applied for. The application should be supported on the one hand, by a complete schedule of twenty (20) copies containing legal, technical, economic and financial information which shall be specified by Decision of the Minister of National Planning and, on the other hand, by a prior setting up license issued by the Minister responsible for the proposed business.

Article 26 : Approval for a preferential treatment shall be given by the Government on the proposal of the Minister of National Planning and after the opinion of the Technical Commission on Investments stipulated in chapter III below.

Article 27 : Notification of the approval or rejection of the application should be made to the applicant within a maximum period of two (2) months from the date the complete file is submitted.

Article 28 : The decree of approval shall :

1)- Set forth the purpose, the localization of the project, the time-frame for its completion as well as the duration of the approved period of operation ;

2)- Describe the activities for which the treatment is accorded, the nature and the quantities of items to be exonerated ;

3)- Specify the nature and the duration of the advantages granted ;

4)- Outline the obligations incumbent on the enterprise mainly in terms of the implementation of its programs of investments, production, employment and vocational training, the pursuit of its economic, commercial and social objectives ;

5)- Make provision for the special requirements for the arbitration referred to in Article 74 below.

Article 29 : The Chairman of the Investment Auditing Board shall be given by the approved enterprise notification of the completion of the investment program, The date of the completion shall be the subject of a decision of the Chairman of the Investment Auditing Board and that of the Chairman of the Technical Commission on Investments which shall primarily check that the unit is actually ready to commence production or operation.

Article 30 : The directive establishing that the investment program has been completed should specify the time-frame of the business covered by a preferential treatment and its effective date.

Chapter III : TECHNICAL COMMISSION ON INVESTMENTS (CTI)

Article 31 : The Technical Commission on Investments shall ;

1- Review and appraise application files introduced for the granting of preferential treatments provided under this Code and give reasoned opinions on such applications ;

2- Propose that approval be withdrawn in accordance with the provisions of Article 70 below ;

3- Give reasoned opinion on applications for reimbursement of contributions to the National Funds of Investments introduced by any Enterprise based in the Republic of Benin.

Article 32 : The composition and mode of operation of the Technical Commission on Investments shall be specified in the implementing Decree of this Law.

Chapter IV : LIABILITIES OF PERSONS **BENEFITING FROM A PREFERENTIAL** **TREATMENT**

Article 33 : Any Enterprise which applies for any of the three treatments referred to in Article 11 of this Law shall undertake to :

- Generate from its activities at least 50% of added value ;
- Allocate at least 60% of the wage bill to nationals ;
- Comply with national or international standards applicable to goods and services which are the purpose of its activity ;
- Preserve ecological conditions, especially the environment ;
- Keep regularly the accounts in accordance with the provisions of the National Accounting System ;
- Abide strictly by the agreed programs of investments and of activities.

Article 34 : Any Enterprise to which a preferential treatment is applied shall be bound to :

- 1- Go through various audits carried out by administrative services in accordance with the regulations in force ;

2- Promptly provide, in case the agreed programs of investments and of activities should undergo substantial modifications, a reasoned report to the Directorate of National Planning, the Directorate of Industry and to the Supervisory Ministry thereof,

3- Send every year to the Directorate of Labor in accordance with the existing legislation, a nominative statement of the employees of the Enterprise, indicating their qualification and wages as well as a progress report on vocational training program.

4- Send every year to the Directorate of Industry, the Directorate of Tax and the National Institute of Statistics and Economic Analysis (INSAE) within a period not exceeding four (4) months after the end of the fiscal year, the following documents and vouchers :

- A Report on the implementation of setting-up works and the progress made as regards programs of investment, equipment, employment and the vocational training program ;

- A copy of the balance-sheet, the characteristic management balances, the accounts entry table, the redemption tables and the statement of deposit accounts.

5- Send a monthly report to the National Institute of Statistics and Economic Analysis (INSAE) information related to production, manpower, consumption of raw materials, imports, exports as well as any other information as may be requested by the said Institute.

Article 35 : The use of foreign manpower by any Enterprise enjoying a preferential treatment shall be subjected to the legislation in force in this respect.

Article 36 : At the end of the period covered by the preferential treatment, the approved Enterprise shall carry on its activities for at least five (5) years in order not to be under the penalty of refunding to the Government of Benin the advantages obtained during the time-frame of the approval.

Chapter V : VARIOUS TREATMENTS AND RELATED ADVANTAGES

Section 1 : TREATMENT “A” OR TREATMENT FOR SMALL AND MEDIUM-SCALE ENTERPRISES

Article 37 : Treatment “A” is meant for encouraging the development of national or foreign small and medium-scale Enterprises, whose activities could contribute to the economic and social development of the country and promote joint ventures.

Article 38 : Shall be considered as a small and medium-scale Enterprise which could be approved for treatment “A” in compliance with this Code, any Enterprise which, besides the criteria set forth in Articles 15 and 18, satisfies the following cumulative conditions :

1- Have a trade register or in case of a cooperative, comply with the legislation in force as regards the formation of cooperatives ;

2- Have a program of investment, whose amount shall oscillate from twenty (20) million to five hundred (500) million CFA francs ;

3- Plan the employment of at least five (5) permanent wage-earners of Benin nationality ;

4- Keep on a regular basis accounts which shall be consistent with the National Accounting System irrespective of the current turnover.

Article 39 : Treatment “A” shall enable to enjoy the following advantages :

1 - During the period investments are carried out, exemption from import duties and taxes, except for highway maintenance tax and statistics tax, on :

- machineries, equipment and implements specifically intended for production or operation in respect of the approved program ;

- Spare parts specific to the equipment imported within the limit of an amount equal to 15% of the CIF value of equipment.

2 - During the period of operation and for a time-frame equal to that stated in above-mentioned Article 21 :

- Exemption from business profit taxes.
- Exemption from export duties and taxes applicable to products that are processed, manufactured, and exported by the Enterprise.

Section 2 : TREATMENT “B” OR TREATMENT FOR LARGE-SCALE ENTERPRISE

Article 40 : Treatment “B” or treatment for large-scale Enterprises shall be meant for the promotion of national or foreign Enterprises willing to contribute to the economic and social development of the Republic of Benin through their investments.

Article 41 : Shall be approved for treatment “B” any Enterprise which, besides the criteria set forth in abovementioned Articles 15 and 18, could make an investment over five hundred (500) million CFA francs and below three (3) million CFA francs.

Article 42 : Any Enterprise which has the benefit of such a treatment should generate at least twenty (20) permanent employments for Benin nationals,

Article 43 : Approval for treatment “B” shall imply the following advantages :

- 1 - During the period in which the investments are carried out :

- Exemption from import duties and taxes, except for highway maintenance tax and the statistics tax on :

- Machineries, equipment and implements, specifically intended to be used for production and operation in respect of the approved program,

- Spare parts which are specific to equipment imported within the limit of an amount equal to 15% of the CIF value of equipment.

2 - During the period of operation :

- Exemption from import duties and taxes applicable to the products that are processed, manufactured and exported by the Enterprise.

- Exemption from Business Profit Taxes.

Section 3 : TREATMENT “C” OR TAX STABILISATION TREATMENT

Article 44 : The treatment for fiscal stabilization is intended to encourage very large-scale enterprises which have concluded an Investment totaling over three (3) billion CFA francs.

Article 45 : Treatment “C” shall entitle to benefit from advantages accorded for treatment “B” and for a time-frame similar to the one granted for treatment “B”.

Article 46 : Provisions of the above-mentioned Articles 42 and 43 shall also be applied to Enterprises enjoying treatment “C”.

Article 47 : Any Enterprise approved for treatment “C” shall benefit from tax stabilization as regards the rate and the mode of determination of the tax basis for Business Profit Taxes during the entire time-frame of the approval,

Chapter VI : MISCELLANEOUS PROVISIONS

Article 48 : Enterprises approved for any one of the treatments specified in the above-mentioned Article 11 and which upgrade local resources shall benefit from the following special advantages :

- Exemption from incorporation duties in the process of formation ;
- Exemption from license fees during the first five (5) years of operation.

Article 49 : To enforce the provisions of this law, there shall not be any duty-free admission for building materials, office equipment, domestic electrical appliances and materials, special utility cars, air-conditioning equipment except for central air-conditioning materials, petroleum products apart from lubricants, fuel oil, gas-oil used as raw materials and bituminous products.

Article 50 : Operations carried out by any Enterprise under preferential treatment and which would not fall directly in line with

activities above-listed in the Approval Decree shall remain subject to provisions of the fiscal law and of the ordinary Law.

Article 51 : Machineries, equipment, implements, spare parts and raw materials imported within the framework of the approval can be transferred or lent free of charge or subject to payment only with the joint and prior authorization of the Minister of National Planning and the Minister of Finance.

Any transfer, if authorised, shall imply the payment of duties from which such goods have been exempted and which shall be computed on their value established in accordance with the customs regulation and rate applied on the day the statement will be submitted.

Article 52 : The benefit to enjoy, a preferential treatment as accorded to any Enterprise in accordance with the provisions of this Code shall not be transferable.

Article 53 : Approval for a preferential treatment shall neither be renewable nor extended. When the period of approval expires, the Enterprise shall lose its preferential status to fall within the scope of the provisions of the ordinary Law.

Article 54 : No legislative or statutory ruling, coming into effect after the date of the approval, shall be deemed to constitute an implied decision rejecting or limiting the provisions of the preferential treatment accorded to the Enterprise.

Article 55 : Any enterprise approved for a treatment shall be entitled to benefit from any provision that is more advantageous and which might be taken under the fiscal and customs legislation.

Article 56 : No preferential treatment shall allow any Enterprise to be exempted from taxes, charges and contributions apart from those directly stipulated by the law.

Title III : SPECIAL TREATMENT

Article 57 : Enterprises falling under the following categories shall be covered by the provisions of special treatment :

- Service-providing Enterprises belonging to the sectors of Health, Education and Public Works, the investment amount of which shall be at least equal to twenty (20) million CFA francs ;

- Enterprises engaged in any of the other activities stipulated in Article 15, the investment amount of which shall range between five (5) and twenty (20) million CFA francs.

Article 58 : Enterprises referred to in the above-mentioned Article 57 shall enjoy from their establishment a reduction of 75% in import duties and taxes, barring highway maintenance tax and statistical tax, on :

- Machineries, equipment and implements meant for production or operation ;

- Spares parts specific to such equipment imported within the limit of an amount equal to 15% of the CIF value of the equipment.

Article 59 : Machineries, equipment and implements, spare parts, raw materials and packaging except those stipulated in Article 58 as well as taxes overdue, shall fall under the general law during the period of approval.

Article 60 : Provisions of the above-mentioned Articles shall apply subject to a request filed to the Minister of National Planning and a commitment to keep a regular account in compliance with the provisions of the National Accounting system.

Article 61 : Such a request shall be reviewed by the Technical Commission on Investments (CTI). On the proposal of this Commission, a joint Directive of the Minister of National Planning and the Minister of Finance shall ascertain that such provisions may be applied to the Enterprise.

Article 62 : The request referred to in Article 60 shall include :

- Description of the manufacturing process of the goods or the upgrading mode for Enterprises engaged in processing;

- Nature, origin and quantity of raw materials required during the period covered by the approval ;

- Complete nomenclature of machineries, equipment, implements and spare parts, required for the setting-up exercise ;
- The number of life-long jobs ;
- One (1) copy of the Enterprise incorporation in the Trade Register.

Title IV : AUDITING SANCTIONS

Chapter I : THE INVESTMENT AUDITING BOARD (CCI)

Article 63 : In pursuance of the provisions of this Code, an Investment Auditing Board (CCI) shall be established.

Article 64 : The investment auditing board shall :

1- Check, on its own initiative or at the request of the Chairman of the Technical Commission on Investments (CTI), the performances of Enterprises benefiting from a preferential treatment of the Code of Investments, especially the consistence of their performances with the approved programs ;

2 - Establish the compliance or non-compliance of commitments made by beneficiaries of a preferential treatment, make to the Chairman of the Technical Commission on Investment (CTI) proposal for the

withdrawal of this approval in case of non-compliance with the said commitments. Investigations carried out by the Investment Auditing Board (CCI) shall, especially, be related to :

- The program of Investments ;
- Creation of employments and vocational training ;
- Production ;
- Regular book-keeping ;
- Compliance with, namely, the fiscal, parafiscal, customs and health legislation.

3 - Establish the completion of approved programs of investments ;

4 - Initiate an audit of investments actually made by any Enterprise applying for the reimbursement of its contribution to the National Investment Funds (FNI).

Article 65 : Any professional authority requested in this respect shall be compelled to provide the Board with all appropriate information and assistance in connection with such an audit.

Article 66 ; The composition and procedure of the Investments Auditing Board shall be ascertained by an Implementing Decree of this Law.

Chapter II : SANCTIONS

Article 67 : Any deflection of goods imported under this Code of Investments from its privileged destination shall ;

a)- Stand out as a failure of the approved Enterprise to meet its obligations ; and it shall be punished according to the provisions of Article 68 here-below ;

b)- Constitute a customs offence which shall be punished in accordance with the provisions of the Customs Law ;

Article 68 : In the event of a non fulfilment of any of such obligations prescribed in the above-referred Articles 33, 34, 35 as duly established by the Investment Auditing Board (CCI), the Enterprise shall be liable for, a fiscal penalty the amount of which shall be set forth in the Implementing Decree of this Code.

Article 69 : The purpose of the proceeds of the penalties levied in accordance with the provisions of the above referred Article 68 shall be specified by the Implementing Decree of this Code.

Article 70 : In the event of a serious or repeated violation of, or in the event of a non-implementation of the investment program established after the gestation period has elapsed, the approved Enterprise might lose the benefit to a preferential treatment according to the following procedure :

1)- The Chairman of the Technical Commission on Investments (CTI) shall formally require the Enterprise to take necessary actions to comply with the provisions of this Law as regards commitments ;

2)- If, within a period of thirty (30) days from the receipt of the service of notice, the Enterprise does not react or comply, the Chairman of the Technical Commission on Investments (CTI) shall, on the basis of a report to the Chairman of the Investment Auditing Board (CCI), suggest to the Government the withdrawal of the approval.

Article 71 : The decision of withdrawal shall be delivered by Decree.

Article 72 : In the event of a withdrawal of the benefit of a preferential treatment, the revoked Enterprise shall be compelled to pay back to the Government of Benin the value or the equivalent value of the advantages it would have obtained during the approval time-frame to which will be applied the ordinary discount rate of the Central Bank of the West African States (BCEAO).

Title V : SETTLEMENT OF DISPUTES

Article 73 : Any dispute arising between the Customs and Tax Authorities, and the approved Enterprise, from the enactment of the provisions of Articles 39, 43, 46, and 58 of the Code of Investments shall be settled by a Committee made up with representatives of the Ministers of National Planning, of Finance, of Industry and of Justice. Such a Committee shall be chaired by the Minister of National Planning.

Article 74 : The settlement of disputes related to the authenticity, interpretation or enforcement of the Approval Decree and the possible computation of fiscal fines due to the ignorance or the breach of liabilities shall be subject to one of the following arbitration procedures :

- 1 - The arbitration board shall consist of :
 - The appointment of an arbitrator by either party ;
 - The appointment of a third arbitrator by the first two arbitrators.

If one of the parties should fail to appoint an arbitrator within sixty (60) days after the other party has given notice for the appointment of an arbitrator, and if the two arbitrators should fail to agree on the appointment of the umpire within thirty (30) days after the date of the appointment of the second arbitrator, such

second arbitrator or the Umpire shall, as appropriate, be appointed by a highly qualified Authority at the instance of the earliest petitioner. Such an Authority shall be :

a) The President of the People's Central Court of the Republic of Benin, should only the interests of Benin be in dispute or should the parties agree thereto ;

b) The President of the Permanent Court of Arbitration of the HAGUE, if the dispute should arise between the Government of Benin and foreign interests.

All award, rendered by a majority of arbitrators who determine their own procedure, shall constitute the award of the Arbitral Tribunal and shall be final and binding upon both parties.

2)- The right to apply to the International Centre for the Settlement of Investment Disputes, established by the Convention of the International Bank for Reconstruction and Development (IBRD) dated 18th March 1965.

Title VI : INTERIM PROVISIONS

Article 75 : The guarantees and advantages granted to some Enterprises under Ordinance N° 72-1 of 8th January 1972 and the Law N° 82-005 of 20th May 1982 relating to Code of Investments shall remain vested interests until the end of the time-frarne specified by their approval instruments.

Article 76 : Decrees passed during the Cabinet meeting shall, as appropriate, set forth the implementing provisions of this Law.

Article 77 : This Law which shall repeal all the previous provisions, as they shall have otherwise provided, especially the Law N°82-005 of 20th May 1982 relating to the Code of Investments and its Implementing decree, shall be published in the Government Gazette and be enforced as a Law of the Government.

Done in Cotonou, 30th April 1990

Signed :

The President of the Republic, Head of State

Mathieu KEREKOU

The Prime Minister, Head of
Government

Minister of National Planing
and Statistics

Nicéphore SOGLO

Paul DOSSOU

**Circulated to : PR 4 PM 4 HCR 4 SGG 4 Ministries 16
Provinces 8 DB DCF DTCP DSDV DI 5 DPE DLC
INSAE 3 IGE 6 DCCT GCONB 3 UNB FASJEP 2 CPC
PP 4 DAN BN 2 ONEPI 1 JORB 1**

REPUBLIC OF BENIN

PRESIDENCY OF THE REPUBLIC

Law N° 90-033 DATED 24TH DECEMBER 1990

As amended by Articles 34, 41, 43, 47, 49, 51, 59, 62 and 74 of the Law N° 90-002 dated 9th May 1990 relating to the Code of Investments.

THE HIGH COUNCIL OF THE REPUBLIC has considered and passed

THE PRESIDENT OF THE REPUBLIC has issued the provisions of the Articles which read as follows :

Article 1 : Articles 34, 41, 43, 47, 49, 51, 59, 62 and 74 of the Law N° 90-002 dated 9th May 1990 relating to the Code of Investments shall be amended as follows :

“Article” 34 new : Enterprises under a preferential treatment shall be compelled to :

1- Go through various audits carried out by administrative services in accordance with regulations in force ;

2 - Promptly produce, in case of substantial amendments of its approved programmes of investments and activities a reasoned report for the Directorate of National Planning, the Directorate of industry and the supervisory Ministry thereof ;

3 - Forward every year to the Directorate of Labour in accordance with the legislation in force, a nominative statement of the wage-earners of the Enterprise indicating their qualifications and wages as well as a progress report on the vocational training program.

4 - Send every year to the Directorate of Industry, the Directorate of Inland Revenue and the National Institute of Statistics and Economic Analysis (INSAE) within a period not to exceed four (4) months after the end of the fiscal year, the following accounting documents and vouchers :

- A Progress Report on the setting-up and the advancement of the programmes of investment, equipment, employment and staff training ;

- A copy of the balance-sheet, the official settlement balances, the bridge table, the redemption tables and the statement of deposit accounts.

5 - Send to the National Institute of Statistics and Economic Analysis (INSAE), a monthly report on production, manpower, consump-

tion of raw materials, imports, exports as well as any other Information as may be requested by the said Institute”.

“Article 41 new : Shall be approved for treatment “B” any Enterprise which, besides the criteria set forth in above mentioned Articles 15 and 18, could make an investment over five hundred (500) million CFA francs and below three (3) billion CFA Francs”.

“Article 43 new : Approval for treatment ”B” shall imply the following benefits :

1 - During the period in which investments are carried out, exemption from import duties and taxes, except highway maintenance tax and the statistics tax on :

- Machineries, equipment and implements, specifically intended to be used for production and operation in respect of the approved program ;

- Spare parts which are specific to equipment imported within the limit of an amount equal to 15% of the equipment CIF value ;

2 - During the period of operation :

- Exemption from import duties and taxes applicable to products that are processed, manufactured and exported by the Enterprise :

- Exemption from Business Profit Taxes”.

“Article 47 new : Any Enterprise approved for treatment “C” shall benefit from tax bracket as regards the rate and the mode of determination of tax base except Business Profit Taxes during the entire time-frame of the approval”.

“Article 49 new : To enforce the provisions of this Law, there shall not be any duty-free admission for building materials, office equipment, domestic electrical appliances, special utility cars, air-conditioning equipment except central air-conditioning materials and petroleum products not including lubricants, fuel oil, gas-oil and bituminous products”.

Article 51 new : Machineries, equipment, implements and spare parts imported within the framework the approval can be transferred or lent free of charge or subject to payment only with the joint and prior authorization of the Ministry of National Planning and the Minister of Finance.

Any transfer, in case it is authorised, shall imply the payment of duties from which such goods have been exempted and which shall be computed on their value established in accordance with the customs regulation and rate applied on the day the statement will be submitted”.

“Article 59 new : Machineries, equipment, implements and spare parts, except those stipulated in Article 58 as well as taxes overdue, shall fall under the general Law during the period of approval”.

“Article 62 new : The request referred to in Article 60 shall include :

- Description of the manufacturing process of the goods or of the mode of upgrading for Enterprises engaged in processing ;
- Complete nomenclature of machineries, equipment, implements and spare parts required for the setting-up exercise ;
- Number of life-long employments ;
- One (1) copy of the Enterprise incorporation in the Trade Register.”

“Article 74 new : The settlement of disputes related to the authenticity, interpretation or enforcement of the Approval Decree and to the practicable, computation of fiscal fines due to any violation of the provisions of this Code or to any infringement of liabilities shall be subject to any one of the following arbitration procedures :

1 - The arbitration board shall consist of :

- The appointment of an arbitrator by either party ;
- The appointment of a third arbitrator by the first two arbitrators.

If any of the parties should fail to appoint an arbitrator within sixty (60) days after the other party has given notice for the appointment

of an arbitrator, and if the first two arbitrators should fail to agree on the appointment of the umpire within thirty (30) days after the date of the appointment of the second arbitrator, such second arbitrator or the Umpire shall, as appropriate, be appointed by a highly qualified Authority at the instance of the earliest petitioner. Such an Authority shall be :

a) The President of the Supreme Court of the Republic of Benin, should only the interests of Benin be in dispute or should the parties agree thereto ;

b) The President of the Permanent Court of Arbitration of the Hague, if the dispute should arise between the Government of Benin and foreign interests.

All award, rendered by a majority of arbitrators who determine their own procedure, shall constitute the award of the Arbitral Tribunal and shall be final and binding upon both parties.

2)- The right to apply to the International Centre for the Settlement of Investment Disputes, established by the Convention of the International Bank for Reconstruction and Development (IBRD) dated 18th March 1965.”

Article 2 : On page 12, “Title VI : Special Treatment” shall from now on read “Title III ; Special Treatment”.

On page 17, the date on which the provisions of the Law N° 90-002 have been issued is actually “9th May 1990” in stead of “30th April 1990”.

Article 3 : This Law, which enters into force as from its signature, shall be implemented as a law of the Government.

Done in Cotonou, on 24th December 1990

By the President of the Republic, Head of State

Mathieu KEREKOU

The Prime Minister Head of
Government

Minister of National
Planning and Statistics

Nicéphore SOGLO

Paul DOSSOU

**MINISTRIES 16, PROVINCES 6, DB - DCOF - DTCP -
DSDV - DI 10, DP - DLC - INSAE 3, IGE 1, DCCT - GCONB 2,
UNB - FASJEP - ENA - DAN - BN 5, BCP 2, JORB 1**

REPUBLIC OF BENIN

PRESIDENCY OF THE REPUBLIC

DECREE N° 98-453 dated 8th October 1998

laying down procedures for Implementing the law N° 90-002 dated 9th May 1990 relating to the Code of Investments as amended by the law N° 90-033 dated 24th December 1990

**THE PRESIDENT OF THE REPUBLIC,
HEAD OF STATE, HEAD OF GOVERNMENT,**

Whereas the law N° 90-032 dated 11th December 1990 relating to the Constitution of the Republic of Benin ;

Whereas the Law N° 90-002 dated 9th May 1990 relating to the Code of Investments ;

Whereas the law N° 90-033 dated 24th December 1990 as amended by Articles 34, 41, 43, 47, 49, 51, 59, 62 and 74 of the Law N° 90-002 dated 9th May 1990 relating to the Code of Investments ;

Whereas the release by the Constitutional Court on 1st April 1996 of the final results of the presidential election of 18th March 1996 ;

Whereas the Decree N° 98-280 dated 12th July 1998 relating to the composition of the Government ;

Whereas the Decree N° 91-2 dated 4th January 1991 laying down procedures for implementing provisions of the law N° 90-002 dated 9th May 1990 relating to the Code of Investments as amended by the law N° 90-033 dated 24th December 1990 ;

On the basis of a report from the Minister of National Planning, Economic Restructuring and Job Engineering ;

Having heard the Cabinet Meeting in its session dated 2nd September 1998 ;

ISSUES

Title 1 : SCOPE

Article 1 : Under the provisions of Article 15 indent 2 of the law N° 90-002 dated 9th May 1990 relating to the Code of Investments, the scope of the said Code shall encompass the following sectors :

- activities of Industrial processing,
- rural development (agriculture, animal husbandry, fishing, fish-farming, forestry) ;
- tourism and hotel trade ;
- industrial maintenance ;
- assembly line of electronics and mechanics ;
- cultural, artistic and audio-visual manufacture (records, moulding of records, cassettes and film productions) ;
- business geared toward environmental protection ;
- service provisions within the area of health, education, public works, and craft trade.

Article 2 : The following business shall be excluded from the scope of the above-referred Article 1 :

1 - business within the scope of purchase for resale in unaltered state ;

2- business engaged in the repackaging and wrapping of finished products ;

3- service provisions apart from those listed in the above-referred Article 1 ;

4 - business having a harmful effect on environment and health.

Article 3 : The following business shall be liable for the preferential treatments “A”, “B” and “C” of the Code of Investments :

- business engaged in industrial processing,
- rural development (agriculture, animal husbandry, fishery, fish-farming, forestry) ;
- assembly line of electronics and mechanics.

Article 4 : The following business shall benefit from the special treatment of the Code of Investments :

1) for an investment, the amount of which is at least equal to 20 million CFA francs

- tourism and hotel trade ;
- industrial maintenance ;
- cultural, artistic and audio-visual manufacture (records, moulding of records, cassettes and film productions) ;
- business geared toward the protection of the environment ;
- service provisions involved in the area of health, education, public works, and craft trade.

2) for investments, the amount of which ranges between 5 million and 20 million CFA francs.

Any business entitled to the preferential treatments “A”, “B” and “C”.

Title II : SUBMISSION OF APPLICATION FILE

Article 5 : Files of application for approval prepared in accordance with the provisions of the law N° 90-002 dated 9th May 1990 relating to the Code of Investments as amended by the law N° 90-033 dated 24th December 1990, must be submitted in 20 copies to the Ministry of National Planning.

Article 6 : The files shall be submitted along with the payment of an amount set as follows :

- 100,000 CFA Francs for treatment “A”
- 300,000 CFA Francs for treatment “B”
- 500,000 CFA Francs for treatment “C”
- 50,000 CFA Francs for special treatment.

Such amounts shall be paid into a banking account opened for this purpose and jointly managed by the Managing Director of the Investment Promotion Centre and the Director of Administration of the Ministry of National Planning.

Article 7 : The amounts stipulated in Article 6 shall be used to ensure the efficiency of the Technical Commission on Investments and its Secretariat.

Article 8 : As regards the contribution to the National Investment Fund, the application shall be addressed to the Minister of Finance,

Chairman of the Executive Board of the National Investment Fund who would place before the Minister of National Planning its reasoned opinion and a statement of account of the applicant in the account books of the National Investment Fund on the date on which the reimbursement file is submitted. The Minister of National Planning, after causing to proceed through the relevant commission to an audit of the investments made, shall submit the file to the Cabinet Meeting.

The actual reimbursement of contributions to the applicant should come up thirty (30) days latest following the decision of the Cabinet Meeting.

Title III : INVESTMENTS

Article 9 : According to treatments, the required level of investments shall be set as follows :

Treatment “A” : Actual investments ranging between 20 and 500 million CFA francs ;

Treatment “B” : Actual investments ranging between 500 million CFA francs and 3 billion CFA francs ;

Treatment “C” : Actual investments, the amount of which being over 3 billion CFA francs ;

Special treatment :

1- For Enterprises engaged in any of the business as follows, the actual investment shall be at least equal to 20 million CFA francs. They shall include :

- Service provisions involving the area of health, education, public works, and craft trade ;
- Tourism and hotel trade ;
- Industrial maintenance ;
- Cultural, artistic and audio-visual manufacture (records, moulding of records, cassettes and film productions) ; and
- Business geared toward the protection of the environment.

2 - Any other Enterprises engaged in any of the business entitled to the treatments “A”, “B” and “C” under the Code of Investments and the actual investments of which ranges between 5 and 20 million CFA francs.

Title IV : DEFINITION OF ZONES

Article 10 : The territory of the Republic of Benin is divided into three (3) zones described as follows :

Zone 1 : Cotonou and its neighbourhood within a radius of 25 km ;

Zone 2 : Metropolitan areas of Porto-Novo, Parakou, Abomey and Bohicon ;

Zone 3 : The remaining parts of the national territory.

Article 11 : The duration of the period of operation during which the Enterprise shall be entitled to preferential treatment under the Code shall be, according to the zone, established as follows for any treatments.

- 5 years for investments made in zone 1
- 7 years for investments made in zone 2
- 9 years for investments made in zone 3

Title V : TAX AND CUSTOMS REGULATIONS

Article 12 : Entitlement to the provisions of the Code does not imply a non compliance with tax regulation.

Any Enterprise entitled to a preferential treatment shall, in accordance with Article 34 of the Code, be bound to convey to the Di-

rectorate General of Tax and Land Registry copy of the balance-sheet, the monthly income tax returns and payroll taxes.

Article 13 : To enforce the provisions of Articles 37, 39, 40, 43, 44, 45, 57 and 58 of the Code of Investments, there shall not be any duty-free admission for building materials, office equipment, domestic electrical appliances and materials, special utility Cars, air-conditioning equipment except for central air-conditioning materials, petroleum products not including lubricants, fuel oil, gas-oil used as raw material and bituminous products.

Article 14 : Machineries, equipment, implements and spare parts imported within the framework of the approval could be transferred or borrowed free of charge or subject to payment only with the joint and prior authorization of the Minister of National Planning and the Minister of Finance subsequent to payment of duties and charges.

Article 15 : Raw materials and wrappings imported by virtue of the Code of Investments shall be liable for a treatment under the general law.

However, it would be proceeded, in accordance with provisions of the Customs legislation, to a refund of duties and charges (DRAWBACK) levied on raw materials and wrappings imported and used in the process of manufacturing exported products, subject to a compliance with Customs regulation.

Article 16 : Any dispute arising between tax or Customs Authorities and the approved Enterprise from the enforcement of provisions of the Code of Investments shall be settled by a commission comprising representatives of the Minister of National Planning (i.e the Managing Director of the Investment Promotion Centre), the Minister of Industry (i.e the Director of Industrial Development), the Minister of Finance (i.e the Director General of Tax and Land Registry - the Director General of Customs and Excise), the Minister of Justice (i.e the Director of Legislation, Consolidation of law and stamp Duties) and two representatives of economic operators.

Such a Commission shall be presided over by the Minister of National Planning or his representative.

Title VI : LABOUR LAW

Article 17 : Three (3) months before the commencement of business, all Enterprise should lodge a statement with the authority of Factory Inspection and Labour within its jurisdiction, from which the appropriate forms could be obtained.

The above document shall be accompanied by a statement of manpower recruitment in two copies corresponding to the specimen-form attached to the Directive of the Minister of National Planning, Economic Restructuring and Job Engineering, laying down the conditions under which such files shall be submitted.

Apart from such a statement, provisions of Article 34, indent 3 of the Code of Investments shall remain valid.

Article 18 : Entitlement to advantages of provisions of the Code should not imply :

- The failure to register a worker at the social security ;
- The failure to pay salaries in accordance with legislation.

Article 19 : For any recruitment exercise, the Enterprise shall feel free to proceed in accordance with the legislation existing in this respect. Foreign manpower, whatever its purpose or qualification, should be the subject of a prior authorization in compliance with the existing texts.

Article 20 : Any violation of the above-stipulated provisions and those under Title VI of the Labour Law shall be liable for sanctions set forth by the said Code.

Title VII : COMPOSITION AND OPERATION OF THE TECHNICAL COMMISSION ON INVESTMENTS (CTI)

Article 21 : The composition of the Technical Commission on Investments shall be established as follows :

Chairman : Minister of National Planning or his Representative ;

Members :

- Special Adviser on Economy to the President of the Republic ;
- Director-General of the Investment Promotion Centre ;
- Director of Industrial Development ;
- Director of Legislation, Consolidation of Law and Stamp Duties ;
- Director-General of Tax and Land Registry;
- Director of Customs and Excise ;
- Director of External Trade ;
- Director of Manpower ;
- Director-General of Economic Affairs ;
- Two (2) representatives of businessmen.

The Secretariat of the Technical Commission on Investments (CTI) shall be managed by the Investment Promotion Centre.

The Commission shall afford to any institution or person qualified for its specific terms of reference a fair hearing.

Article 22 : The Technical Commission on Investments (CTI) shall convene at the request of its Chairman within a maximum period of one (1) month from the date the complete file has been transmitted to its members.

All sessions and decisions of the Technical Commission on Investments (CTI) should only be by a majority of vote as specified in above-referred Article 21.

Each member of the Technical Commission on Investments (CTI) shall be duty bound to submit in writing to the meeting a comprehensive analysis of the file, specifically according to his/her area of competence.

Article 23 : In case the application documents do not allow the members to appraise the file, the promoter shall be invited to supply to the Commission twenty (20) copies of the document for which additional information is requested.

Article 24 : Proceedings of the Commission shall be entered into a minute duly signed by all members who have attended the meeting.

Members of the Commission shall be under the obligation of secrecy.

Title VIII : COMPOSITION AND OPERATION OF THE INVESTMENT AUDITING BOARD (CTI)

Article 25 : The composition of the Investment Auditing Board (CCI) shall be as follows :

Chairman : Minister of Industry or representative ;

Members : Director of Industrial Development ;

- Director-General of Tax and Land Registry ;
- Director-General of Customs and Excise ;
- Director of Manpower ;
- Director of Housing and Construction ;
- Director-General of the Investment Promotion Centre ;
- Director of Health Protection.

The Secretariat of the Board shall be managed by the Director of Industrial Development.

Any professional authority requested in this respect shall be compelled to provide the Board with all appropriate information and assistance in connection with such an audit.

Article 26 : The Investment Auditing Board shall convene at the request of its Chairman.

The Board shall conduct audits only in the presence of more than half its members as specified in the above-referred Article 25.

Audits conducted by the Investment Auditing Board shall be entered into a minute duly signed by the participants and a report thereon shall be transmitted to the Chairman of the Investment Auditing Board.

Article 27 : The Investment Auditing Board may take action at the instance of Its Chairman or the Chairman of the Technical Commission on Investments.

Title IX : SANCTION

Article 28 : Any violation of the provisions of Article 33, indent 5, and Article 34, indents 1 and 4, of the Code of Investments shall be punished by a fiscal fine of 200,000 CFA Francs.

Violations of the provisions of Articles 33, 34 and 35, except those above-specified, shall be punished by a fine of 100,000 CFA Francs.

Such a fine shall be increased by fifty per cent (50%) thirty (30) days after notification in case it is not paid in due course. Sixty (60)

days after the payment deadline, the procedure of withdrawal of an entitlement to a preferential treatment shall be embarked upon in accordance with Articles 70, 71 and 72 of the Code of Investments.

Article 29 : Fine payments by offenders shall be made by crossed banking cheque to the Minister of Industry within a maximum period of thirty (30) days from the date on which the minute has been notified.

Article 30 : Failure of offenders to pay such a fine within the above-specified time-limit shall immediately imply the deferment of entitlement to the treatment granted.

Article 31 : Proceeds of fines shall be distributed as follows ;

- 50% for the national budget ;
- 50% for the operation of the Investment Auditing Board.

A directive of the Minister of Industry shall lay down the practical procedures for their utilisation.

Title X : MISCELLANEOUS PROVISIONS

Article 32 : Enterprises engaged in the industrial processing of agricultural, animal and mining produces of local origin shall be entitled to the provisions of Article 48 of the Code of Investments.

Article 33 : In accordance with the provisions of Article 52 of the Code of Investments, entitlement to any treatment shall be *intuitus personae*.

Article 34 : Entitlement to provisions of the Code of Investments shall not imply the preclusion of Importation of products similar to those manufactured by the approved Enterprise.

Actions toward economic protection may, however, be taken on the basis of market conditions and existing regulations.

Article 35 : The Minister of National Planning, Economic Restructuring and Job Engineering, the Minister of Industry and Small and Medium-Scale Enterprises, the Minister of Civil Service, Manpower and Administrative Reforms, the Minister of Finance, the Minister of Commerce, Craft Trade and Tourism, shall severally be responsible for the implementation of this decree which shall be published in the Government Gazette.

Done in Cotonou, on 8th October 1998

By the President of the Republic,
Head of State, Head of Government,

Mathieu KEREKOU

The Minister of National Planning,
Economic Restructuring and Job Engineering

Albert TEVOEDJRE

The Minister of Finance,

The Minister of Commerce,
Craft Trade and Tourism

Abdoulaye BIO TCHANE

Marie - Elise GBEDO

The Minister of Industry and Small
an Medium-Scale Entreprises

The Minister of Civil Service
and Administrative Reform

Pierre John IGUE

Ousmane BATOKO

Copy Circulated to : PR 6, AN 4, CS 2, CC 2, CES 2, HAAC 2,
MPREPE 4, MF 4, MCAT 4, MPTRA 4, OTHER MINISTRIES 14, SGG 4,
DGBM - DCF - DGTCP - DGDDI - DGID 5, BN - DAN - DLC 3, GCONB -
DCCT - INSAE 3, BCP - CSM - IGAA 3, UNB - ENA - FASJEP 3, JO 1

REPUBLIC OF BENIN

PRESIDENCY OF THE REPUBLIC

ORDINANCE No. 2008-04 DATED July 28, 2008

Relating to the modification of articles 11 and 33 of law No. 90-002 dated May 9, 1990 on Investments Code and establishing by addition of articles 47-1 A 47-3 the regime “D” relating to the heavy investments

**THE PRESIDENT OF THE REPUBLIC,
HEAD OF STATE,
HEAD OF GOVERNMENT,**

Considering law n° 90-032 dated December 1990 relating to the Constitution of the Republic of Benin ;

Considering the announcement of the final results of the presidential election dated March 19, 2006 by the Constitutional Court on March 29, 2006 ;

Considering Decree n° 2007-540 dated November 2, 2007 relating to the formation of the Government ;

Considering consultations of the speaker of the National Assembly and the President of the Constitutional Court dated July 25, 2008 ;

Considering notice n° 035-C/CC/Pt of the Constitutional Court dated July 28, 2008 ;

The Council of Ministers heard in its extraordinary session dated July 28, 2008 ;

ORDERS :

Article 1 : Articles 11 and 33 of Law n° 90-002 dated May 9, 1990 relating to Investments Code are amended as follows :

Current Article 11 : The provisions relating to investments in the Republic of Benin include a common law regime, privileged regimes and a special regime.

The privileged regimes, which are four (4), provide national and foreign companies with customs and tax benefits.

These are the following regimes :

- Regime “A” which applies to small and medium enterprises ;
- Regime “B” or regime of big corporations ;

- Regime “C” or regime of tax stabilization ;
- Regime “D” or regime of heavy investments ;

The special regime is applied to cottage-type enterprises and others, the investments amount of which is provided for in article 57 of this law.

Current Article 33 : Any company which requests any of the four privileged regimes mentioned in article 11 of this Law shall undertake to :

- Take out of his activities, at least 30% of the added value ;
- Allocate on average at least 60% of the payroll to the nationals ;
- Conform to the national or international quality standards applicable to goods and services that it delivers ;
- Safeguard the ecological conditions, particularly the environment ;
- Keep regular account in compliance with the provisions of the SYSCOA accounting system as well as the uniform act concerning the accounting law of OHADA ;
- Observe strictly the approved programs of investment and activities.

Article 2 : In the chapter V, a paragraph 4 has been created relating to the regime “D” or regime of heavy investments. As a result, the current chapter V shall henceforth read as follows :

Chapter V (CURRENT) : THE DIFFERENT REGIMES AND THEIR ADVANTAGES

Paragraph 1 : REGIME “A” OR REGIME OF THE SMALL AND MEDIUM ENTERPRISES (WITHOUT CHANGE),

Paragraph 2 : REGIME “B” OR REGIME OF LARGE-SCALE FIRM (WITHOUT CHANGE),

Paragraph 3 : REGIME “C” OR REGIME OF TAX STABILIZATION (WITHOUT CHANGE),

Paragraph 4 : REGIME “D” OR REGIME OF HEAVY INVESTMENTS.

Article 47-1 : Heavy investments shall include investments whose duty free amount is equals or higher than fifty billions CFA francs (50,000,000,000).

Article 47-2 : The registration of enterprises whose duty free amount of investments equal or are higher than CFA francs fifty (50,000,000,000) billions shall entail the particular advantages below :

1- The duration of the registration includes :

- A period of incorporation or maximal investment of five (05) years ;
- An exploitation period of 12, 13 or 15 years where the project is situated in the area 1, 2 or 3 defined in the article 23, of :

➤ 12,13 or 15 years when the duty free amount of the investment to be carried out is equal or higher than FCFA 100 billions,

➤ 10, 11 or 13 years for any other level of heavy investment

During the whole period of validity of the authorization, the company receives the tax stabilization concerning the tax base rules, terms and condition for recovery and control, collection, calculation, rate and pricing.

2- Customs regime :

- During the investment period :

➤ Exemption from import duties and taxes excepted road network tax, statistics tax, the customs stamp, the community levy of solidarity and the community levy on machines, equipment, materials, tools, commercial vehicles, spare parts and consumables, used by the approved project ;

- During the exploitation period

➤ Exemption from import duties and taxes excepted road network, statistics tax, the customs stamp, and the community solidarity tax and the community tax on spare parts.

➤ Exemption from import duties and taxes excepted road network tax, statistics tax, the customs stamp, and the community solidarity tax and the community tax on inputs and fuels.

3- As for the domestic regime :

- During the investment period

➤ Exemption from trading tax and the tax on built and non built properties

- During the operating period as from the first year of production and for a duration in accordance with the implementation area defined in article 23 :

➤ Exemption from trading tax and tax on built and non built properties ;

➤ Exemption from business profits tax.

➤ Exemption from employer's contribution to employees on salaries as regards expatriate staff regularly registered according to the rules in force in Benin.

Article 47-3 : For this category of investments, the associated convention duration could be higher than the one defined in the sector-based specific codes in force.

REPUBLIC OF BENIN

PRESIDENCY OF THE REPUBLIC

ORDINANCE N° 2008 - 06 DATED NOVEMBER 5, 2008

Relating to the amendment of articles 11 new, 33 new, 47-1 and 47-2 of law No. 90-002 of May 9, 1990 relating to the code of investments, as amended by the ordinance 2008-04 of July 28, 2008 and establishing by articles 47-4 to 47-8 the regime “E” relating to structuring investments.

**THE PRESIDENT OF THE REPUBLIC,
HEAD OF STATE,
HEAD OF GOVERNMENT,**

Considering Law n° 90-032 dated December 11, 1990 relating to the Constitution of the Republic of Benin ;

Considering Law n° 90-002 dated May 9, 1990 relating to the code of investments in the Republic of Benin;

Considering Law n° 90-033 of December 24, 1990 modifying the articles 34, 41, 43, 47, 49, 51, 59, 62, and 74 of Law n° 90-002 dated May 9, 1990 relating to the code of investments in the Republic of Benin ;

Considering Ordinance n° 54-PR/MFAE/DD dated November 11, 1996 relating to the general code of Customs in the Republic of Benin ;

Considering Ordinance n° 2008-04 dated July 28, 2008 relating to the amendment of articles 11 and 33 of Law n° 90-002 of May 9, 1990 relating to the code of investments and establishing through addition of articles 47-1 to 47-3 the regime “D” relating to heavy investments ;

Considering the proclamation on March 29, 2006 of the final results of the election of March 19, 2006 by the Constitutional Court ;

Considering Decree n° 2008-637 dated October 27, 2008 relating to the composition of the Government ;

Considering Decree n° 2008-204 dated April 9, 2008 relating to the transmission to the National Assembly of the bill modifying articles 11 and 33 of Law n° 90-002 of May 9, 1990 relating to the code of investments and establishing the regime “D” relating to heavy investments ;

Based on a joint report of the senior Minister of State in charge of Planning Development and the Evaluation of Public Action and of the Minister of Economy and Finances ;

After consulting the Speaker National Assembly and the President of the Constitutional Court ;

Considering Notice n° 044-C/CC/Pt dated November 4, 2008 by the President of the Constitutional court ;

Considering Agreement n° 08-149/National Assembly /Pt/ SP-C dated November 4, 2008 by the President of the National Assembly ;

The Council of Ministers sitting in its session dated November 4, 2008 ;

ORDERS :

Article 1 : The articles 11 new and 33 new, 47-1 and 47-2 of Law n° 90-002 dated May 9, 1990 relating to the code of investments are amended as follows :

Article 11 new : Measures relating to investments in Benin Republic include a common law regime, privileged and a special regime.

There are five privileged regimes which offer customs and tax preferences to domestic and foreign firms.

Those regimes are as follows :

- The “A” regime applied to the small and medium-size enterprises ;
- The “B” regime or regime for big corporations;
- The “C” regime or the fiscal stabilization regime;
- The “D” regime or heavy investments regime;
- The “E” regime or regime for structuring investments.

The special regime is applicable to cottage industries and others of which the investments amount is provided in for the article 57 of this law.

Article 33 new : Any Enterprise which applies for any of the first four privileged regimes mentioned in article 11 new of this Law shall undertake to :

Allocate on average at least 60% of the payroll to the nationals ;

- Conform to the national or international quality standards applicable to goods and services that it delivers ;
- Safeguard the ecological conditions, particularly the environment ;
- Keeps regular account in compliance with the provisions

of the SYSCOA accounting system as well as the uniform act concerning the accounting law of OHADA ;

- Observe strictly the approved programs of investment and activities.

Article 47-1 new : Heavy investments shall include investments whose duty free amount equals or is higher than fifty billions CFA francs (50,000,000,000) but less than CFA francs Hundred billion (100,000,000,000) ;

Article 47-2 new : The registration of enterprises whose duty free amount of investments equals or is higher than CFA francs fifty (50,000,000,000) billion but less than Hundred CFA francs (100,000,000,000) billion shall entail the particular advantages below :

1- The duration of the registration includes :

- A period of incorporation or maximal investment of five (05) years ;
- An exploitation period of 12, 13 or 15 years where the project is situated in the area 1, 2 or 3 defined in the article 23 ;

2- During all the validity period of the registration, the enterprise benefits from the fiscal stabilization concerning the tax base rules, modalities for collection and control, calculation, rate and pricing.

3- Customs regime :

- During the investment period :

➔ Exemption from import duties and taxes excepted road network tax, statistics tax, the customs stamp, the community solidarity tax and the community tax on machines, equipment, materials, implements, commercial vehicles, spare parts and consumables, used by the approved project.

- During the exploitation period

➔ Exemption from import duties and taxes excepted road network, statistics tax, the customs stamp, and the community solidarity tax and the community tax on spare parts.

➔ Exemption from import duties and taxes excepted road network tax, statistics tax, the customs stamp, and the community solidarity tax and the community tax on inputs and fuels.

4- As for the domestic regime :

- During the investment period

➔ Exemption from trading tax and the tax on built and non built properties ;

- During the exploitation period from the first year of production.

⇒ Exemption from trading tax and tax on built and non built properties ;

⇒ Exemption from business profits tax.

⇒ Exemption from employer’s contribution to employees on salaries as regards expatriate staff regularly registered according to the rules in force in Benin Republic.

Article 2 : In chapter V, it shall be created a section 5 relating to the “E” regime or structuring investments regime. Accordingly, the chapter V new shall henceforth read as follows :

Chapter V new : KINDS OF REGIMES AND THEIR ADVANTAGES

Section 1 (unchanged) : “A” REGIME OR THE SMALL AND MEDIUM-SIZE ENTERPRISES REGIME

Section 2 (unchanged) : “B” REGIME OR THE BIG CORPORATION REGIME

Section 3 (unchanged) : “C” REGIME OR THE FISCAL STABILIZATION REGIME

Section 4 (unchanged) : “D” REGIME OR HEAVY INVESTMENTS REGIME

Section 5 (unchanged) : OF “E” REGIME OR STRUCTURING INVESTMENTS REGIME

Article 47-4 : Structuring investments shall include investments whose duty free amount is higher than or equals CFA francs one hundred (100,000,000,000) billion and which contribute to the consolidation of the identified poles of development.

Article 47-5 : The registration of enterprises whose duty free investments amount is higher than or equals CFA francs hundred billion (100,000,000,000) shall include particular fiscal, customs and mining conditions.

Article 47-6 : The Government, through the relevant sectorial Ministers, in connection with the Minister of Economy and Finances, the Minister in charge of Industry and Commerce and the Minister in charge of Development, shall be entitled to negotiate with the concerned investors the fiscal, customs and mining conditions mentioned in Article 47-5.

Article 47-7 : Those specific conditions shall be enshrined in an agreement approved by a decree passed in council of Ministers.

Article 47-8 : The government shall submit a report to the national Assembly o the annual implementation of measures relating to the “E” Régime on the occasion of the examination of the appropriation bill of the State.

Article 3 : This Ordinance, which supersedes all the previous opposite measures, will be executed as a State Law.

Done in Cotonou on November 5, 2008

By the President of the Republic
Head of State, Head of Government,
Illegible

Dr. Boni YAYI

The Senior Minister of State in charge
of Planning Development and the
Evaluation of Public Action
Illegible signature

The Minister of Economy and Finances
Illegible signature

Pascal Irenée KOUKPAKI

Soulé Mana LAWANI

The Minister of Justice, Legislation and Human Rights,
Government Spokesman
Illegible signature

Victor Prudent TOPANOU

EXEMPLIFICATIONS :

PR 6 - AN 4 - CC 2 - CS 2 - CES 2 - HAAC 2 HCJ 2 - MCPDEAP 4 - MEF 4 -
GS/MJLDH 4 - OTHER MINISTRIES 28 - SGG 4 - IGE - DGB - CF - DGTCP
- DGID - DGDDI - DGAE DGML - DNMP - IGF - CAA 10 - BN - DAN - DLC
3 - GCONB - DGCST - INSAE 3 - DGPD - DGSP - DCRE 3 - BCP - CSN - IGAA
3 - UAC - UNIPAR - ENAM - FADESP - FASEG - FLASH 7 - JO 1.

REPUBLIC OF BENIN

MINISTRY OF NATIONAL PLANNING,
ECONOMIC RESTRUCTURING
AND JOB ENGINEERING

OFFICE OF THE DIRECTOR GENERAL

OFFICE OF THE PERMANENT
SECRETARY OF THE MINISTRY

DIRECTORATE OF INVESTMENT
PROMOTION

THE MINISTER OF NATIONAL PLANNING,
ECONOMIC RESTRUCTURING AND JOB
ENGINEERING

Directive
**Year 1998 N° 38/MPREPE/
DC/SG/DPI/SACI**

SUMMARY :

Conditions under which approval for preferential and special treatments of the Code of Investments can be applied for.

Whereas the law n° 90-032 dated 11th December, 1990 relating to the Constitution of the Republic of Benin,

Whereas the release by the Constitutional Court on 1st April 1996 of the final results of the presidential election of 18th March 1996,

Whereas the law n° 90-002 dated 9th May 1990 relating to The Code of Investments as amended by the Law N° 90-033 dated 24th December 1990,

Whereas the Decree n° 98-280 dated 12th July 1998 relating to the composition of the Government,

Whereas the Decree : 97-166 dated 7th April 1997 relating to the duties, organisation and operation of the Ministry of National Planning, Economic Restructuring and Job Engineering,

Whereas the Decree n° 98-453 dated 8th October 1998 laying down procedures for implementing provisions of the law n° 90-002 dated 9th May 1990 relating to the Code of Investments as amended by the Law n° 90-033 dated 24th December 1990,

Whereas the Directive N° 002/MPS/DC/DP/SI dated 9th January 1991 relating to the conditions governing any approval application for preferential and special treatments of the Code of Investments.

DIRECTS

Article 1 : Files of approval for preferential and special treatments which can be applied for under the Code of Investments shall be compiled and submitted in accordance with a specimen form of submission attached to the Directive.

Article 2 : Any file introduced for application for approval deemed not consistent with these provisions by the Chairman of the Technical Commission for Investments shall effectively be sent back to the promoter involved for additional information.

Article 3 : This Directive which shall come into force from its signature shall be published and disseminated as and when necessary.

Done in Cotonou, 9th December 1998

The Minister of National Planning,
Economic Restructuring and Job Engineering

Albert TEVOEDJRE

CC :

Original	: 1
MPREPE	: 1
DC	: 1
DA/MPREPE	: 1
CT/RIDRUP	: 1
DPI	: 3
SACI	: 10
All CTI members	: 12
Record	: 2
Archives	: 2

FORMAT OF FILES TO BE INTRODUCED FOR APPLICATION FOR A TREATMENT UNDER THE CODE OF INVESTMENTS

Files of approval for preferential and special treatments which can be applied for under the code of Investments shall be prepared and submitted in accordance with the following model :

Part one : Format of the application for a preferential treatment

I. INTRODUCTION

II. LEGAL PROPOSAL

III. TECHNICAL PROPOSAL

IV. ECONOMIC AND FINANCIAL PROPOSAL

V. CONCLUSION

Part two : Procedures to be followed when applying for a special treatment

GENERAL CONCLUSION

Part one : Composition of the files related to an application for a preferential treatment

I - INTRODUCTION (PROJECT BRIEF)

Project purpose

Project justification

Expansion or new business

Siting of the project

Reference of the authorization issued by the ministry covering the proposed business

(attach photostat of the said authorization to each copy of the file)

Total investments (in the common system of Law and treatment applicable under the code in cfa francs)

Method of investment financing

(as regards loans, specify the financial institutions involved)

Number of job to be created

II - LEGAL PROPOSAL

A - IDENTIFICATION

I - FOR INDIVIDUAL PROJECTS

Name of the company and address of the head office

Date of establishment

Purpose of the company

Authorized capital of the company (in CFA Francs)

Banking and postal references

2 - FOR COMPANIES

Trade name of the company and address of the head office

Purposes of the company

Legal status of the company

Date of establishment

Registration date in the trade register

Place where accounts are kept

Authorized capital of the company (in CFA Francs)

Ownership of the company

Full address of the company

III - TECHNICAL PROPOSALS

A - PRODUCTION EQUIPMENT, OTHER PLANTS AND SPARE PARTS

DESCRIPTION	QUANTITY	ORIGIN	SOURCE	ECONOMIC LIFE BRAND NEW	BASE YEAR	POWER SUPPLY	DESIGN CAPACITY

DESIGN CAPACITY OF THE PROJECT

B- MANUFACTURING PROCESS

- Implementation plan
- Description of the plan
(can only be claimed for the production engineering of material goods)

C - ROLLING STOCK

SOURCE
CHARACTERISTICS
PROJECT LIFE
POWER SUPPLY
POWER CONSUMPTION

D - LAND AND CONSTRUCTIONS

METHOD OF PROCUREMENT
SURFACE AREA
CHARACTERISTICS OF THE PREMISES

IV- ECONOMIC AND FINANCIAL PROPOSALS

A - INVESTMENTS

- 1 - FUNDS STATEMENT
 - a) UNDER THE COMMON SYSTEM OF LAW
 - b) ACCORDING TO THE PREFERENTIAL TREATMENT APPLICABLE UNDER THE CODE OF INVESTMENTS
(see model below)

CODE OF INVESTMENTS

ACCOUNTS NUMBER		NAME OF AN ACCOUNT	Amount per	
			Account	Partial totals
20		FIXED ASSETS		
	201	Pre-production expenses		
	202	Expenses spread over many years		
	203	Premium on redemption		
21		INTANGIBLE ASSETS		
	211	Research and engineering		
	212	Patents, licences, concessions and similar duties		
	213	Software		
	214	Marks		
	215	Goodwill		
	216	Lease		
	217	Capital Cost		
	218	Other duties and intangible assets		
	219	Current intangible assets		

ACCOUNTS NUMBER		NAME OF AN ACCOUNT	Amount per	
			Account	Partial totals
22		PLOTS OF LANDS		
	221	Agricultural and forest land		
	222	Wildlands		
	223	Developed sites		
	224	Development works		
	225	Mining fields		
	226	Serviced lands		
	227	Leased lands		
	228	Other lands		
	229	Current development lands		
23		BUILDINGS, ENGINEERING FACILITIES AND ASSEMBLY LINES		
	231	Industrial, agricultural, administrative and commercial buildings on real estate		
	232	Industrial, agricultural, administrative and commercial buildings on other people's preserve		

CODE OF INVESTMENTS

ACCOUNTS NUMBER		NAME OF AN ACCOUNT	Amount per	
			Account	Partial totak
	233	Capital equipment		
	234	Engineering facilities		
	235	Office bulding		
	237	Industrial, agricultural, administrative and commercial buldings on concession		
	238	Other facilities and assembly lines		
	239	Current buldings and facilities		
24		EQUIPMENT		
	241	Industrial and commercial equipment and implements		
		Industrial equipment Industrial implements Commercial equipment Commercial implements		
	242	Agricultural equipment and implements Agricultural equipment Agricultural implements		

ACCOUNTS NUMBER	NAME OF AN ACCOUNT	Amount per	
		Account	Partial totals
243	Recoverable and identifiable equipment and implements		
244	Equipment an furniture Office equipment Computer hardware Office automation Office furniture		
245	Equipment and furniture of staff house		
246	Transportation equipment		
247	Animal and farming assets		
248	Assembly line and equipment production		
249	Other equipment Current equipment		
25	Advance payments and instalments on investments		
26	Share		
27	Other financial fixed assets		
	SPARE PARTS		
	OPERATING EXPENSES		
	TOTAL		
	CONTINGENCIES		
	GRAND TOTAL		

DEPRECIATION TABLE
SPECIFY WHETHER AS A REDUCING CHARGE
METHOD OR STRAIGHT-LINE DEPRECIATION

- a) Under a system of common law
- c) Under a preferential treatment of the Code

HEADING	ACQUISITION VALUE	ACQUISITION DATE	RATE		YEAR OF SERVICE	
				APPROVAL PERIOD	FIVE YEARS AFTER APPROVAL	SALVAGE VALUE
Fixed expenses - Intangible assets - Depreciable lands** - Non residential buildings - Oder constructions - Works of land development and on-farm improvements						

HEADING	ACQUISITION VALUE	ACQUISITION DATE	RATE		YEAR OF SERVICE	
				APPROVAL PERIOD	FIVE YEARS AFTER APPROVAL	SALVAGE VALUE
- Transportation equipment - Industrial machineries and equipment - Agricultural machineries and equipment - Office machineries and equipment - Computer machineries and equipment - Wrapping equipment - Animal assets						

The approval period is 5, 7, or 9 years according to the localisation of the project Agricultural, forestry and mining fields

B - KEY ELEMENTS OF THE MARKET RESEARCH

- List and characteristics of goods and services to be manufactured
- Market targeted, and
- Sales price envisaged

C - PRODUCTION

1- OPERATING PLAN AND COMPUTATION OF TURNOVER

Item	Period of approval			The compulsory five years after approval		
	1	2	...	1	...	5
Operating plan (1)						
Unit selling price (2)						
Computation of turnover (1x2)						

2 - RAW MATERIALS AND SUPPLIES

DESCRIPTION	Origin	Quantity required for one manufactured unit	Unit price	Amount
-				
-				
-				
Value of raw materials utilized for one unit manufactured (in CFA Francs)				

3- COSTING OF RAW MATERIALS AND SUPPLIES (IN CFA FRANCS)

	Period of approval			The compulsory five years after approval		
	1	1	1	1	1	1
DESCRIPTION	1	1	1	1	1	1
Value of raw materials for one unit produced						
Annual Production						
Cost of raw materials consumed						

D - STAFF AND MANPOWER

Table showing the strength of the personnel

JOB DESCRIPTION	QUALIFICATION	STRENGTH		GROSS PAY	
		B	F	B	F
Supervisory personnel					
Professional personnel					
Clerical Staff					
Foreman					
Specialised line staff					
Non-specialised lins staff					
TOTAL					

B = Beninese ; F = Foreigner

- Payroll fax

- Table showing the evolution of total wages bill over the 5 years of approval period

N.B : Each promoter shall attach to his/her file of approval application, a statement of establishment signed by himself/herself and duly

initialled by the Director of Manpower. The model of the said statement is available at the Directorate of Manpower.

E - FORECAST OPERATING ACCOUNT

1- OPERATING ITEMS NOT YET DETERMINED

- Costing of other input :
 - * Transportations consumed (in CFA Francs)
 - * Other services consumed (in CFA Francs)
- Valuation of other operating expenses
 - * General expenses (in CFA Francs)

2- FORECAST OPERATING ACCOUNT OF THE PROJECT

- a) Under the system of common law
- b) Under the preferential treatment of the Code of Investments
(See model on next page) ;

CODE OF INVESTMENTS

NAME	PERIOD OF APPROVAL			THE COMPULSORY 5 YEARS AFTER APPROVAL			TOTAL
	1	2	1	5	
1) TURNOVERS							
- Raw materials and related supplies - Transportations consumed - Other external services							
2) Total input							
3) VALUE ADDED (3) = (1) - (2)							
Other expenses Labour costs Tax and other charges							
4) Total expenses							
5) Gross operating surplus (5) = (3)-(4)							
Loan servicing costs							
Depreciation							

NAME	PERIOD OF APPROVAL			THE COMPULSORY 5 YEARS AFTER APPROVAL			TOTAL
	1	2	...	1	...	5	
6) Total							
7) NET RESULT BEFORE Tax on Business Profits (7) = (5) - (6)							
8) Business Profit Tax							
9) ACCOUNTING NET RESULT TABLE (9) = (7) - (8)							
10) NET CASH-FLOW = (9) + Depreciation							
11) CUMULATED NET CASH-FLOW							

F - FORECAST CASH-BUDGET ACCOUNTS

Basic items

1 - Financial package

2- Statement of loan repayment

3- Forecast cash budget account

a) Under the system of common law

b) According to the preferential treatment of the Code of Investments (see model below)

NAME	Gestation period			Period of approval			The 5 compulsory years after approval			Total
	1	2	3	1	2		1	2		
Source of working capital										
- Cash as at 01/01										
- Share capital										
- Loan to associates										
- Bank loans										
- Other sources										
- Cash flow										

NAME	Gestation period			Period of approval			The 5 compulsory years after approval			Total
	1	2	3	1	2		1	2		
Total working capital provided										
Application of working capital - Capital cost - Investment rollover including float - Loan repayment - Other repayments										
Total working capital applied										
Balance as at 31/12 (showing a cash surplus or a deficit)										

G - DETERMINATION OF THE INTERNAL RATE OF RETURN (IRR)

$$\text{IRR } r = \text{such as } \sum_{i=0}^n \frac{\text{ANR}_i + \text{D}_i - \text{I}_i}{(1+r)^i} = 0$$

ANR_i = Accounting Net Result for year i

D_i = Appropriation to the reserves

I_i = Investments for year i

YEAR	ANR _i	D _i	I _i	Balance (ANR _i + D _i) - I _i	Updated balance (B)	
					r ₁ such as B ₁ > 0	r ₂ such as B ₂ < 0
0						
1						
2						
3						
n						
					<i>B₁ > 0</i>	<i>B₂ < 0</i>

With n = the number of years representing the period of entitlement to the benefits of the Code + 5 years

$$\text{IRR} = r_1 + \frac{B_1 \times |r_2 - r_1|}{B_1 - B_2} \times 100$$

OR

$$\text{IRR} = r_2 - \frac{B_2 \times |r_2 - r_1|}{B_2 - B_1} \times 100$$

VI - CONCLUSION

It is up to the promoter to introduce an application for approval to the Minister of National Planning, Economic Restructuring and Job Engineering, Chairman of the Technical Commission on Investments (CTI) by specifying the treatment applied for under the Code of Investments as well as the zone where the project is going to be established and by attaching a payment slip of application fees.

The promoter should also undertake to fulfil all the obligations stipulated in the law N° 90-002 dated 9th May 1990 relating to the Code of Investments and connected with the benefits of the treatment applied for.

Part two : REQUIREMENTS FOR DOCUMENTS CONTAINED IN THE FILES OF APPLICATION FOR SPECIAL TREATMENT

Files to be introduced In respect of approval for a special treatment under the Code of investments shall comprise twenty (20) copies containing each the following documents :

- An application introduced to the Minister of National Planning ;
- An identification form of the promoter ;
- The installation permit issued by the Minister responsible for this business ;

- Commitment of the applicant to regularly keep accounts in Benin in compliance with the provisions of the West African Book-keeping System (SYSCOA) ;
- The complete list of machineries, equipment, implements and spare parts required for the installation with reference to quantities, duty-free costs and all tax inclusive, life expectancies and ages ;
- Payment slip of expenses incurred for file processing ;
- Description of the manufacturing process as regards goods and method of stock appreciation utilised in processing industries.

The above-mentioned application should state :

- * The registration number in the trade register ;
- * The number of job created.

GENERAL CONCLUSION

Whatever the treatment applied for, the promoter should, in case the file is approved, get in touch with the Minister of National Planning, Economic Restructuring and Job Engineering, Chairman of the Technical Commission on Investments (CTI) order to inform the latter on the completion of installation works (achievement of investments made).

Tiré sur les Presses de l'ONIP Tél : 21 30 11 52

