



REPUBLIC OF NIGER
MINISTRY OF COMMERCE, INDUSTRY
AND STANDARDIZATION

BROTHERHOOD LABOUR PROGRESS

CODE OF INVESTMENTS IN THE REPUBLIC OF NIGER

*Edited in April 2008 by the Chamber Of Commerce,
Agriculture, Industry and Handicraft of Niger*



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Industry and Handicrafts of Niger

Ordinance N° 89-19 dated December 1989, relating to the Code of Investments in the Republic of Niger, modified by the Ordinance N° 97-09 dated February 1997, the Ordinance N° 99-69 dated December 20th, 1999 and the Law N° 2001-20 dated July 12th, 2001.

**The President of the Higher Council for National Orientation,
Head of State**

In view of the National Charter,

In view of the Constitution dated September 24th, 1989,

The Council of Ministers agreed,

Orders:

TITLE I

PRELIMINARY PROVISIONS

Article 1 : The object of this Ordinance is to favour the development of the economic activity by stimulating investment in the Republic of Niger. It defines the different systems allowing the implementation of investments, determines guaranties, advantages as well as duties attached thereto. The whole of these provisions constitutes the "Code of Investments".

TITLE II

GENERAL GUARANTIES

Article 2 : The Republic of Niger ensures a constant protection, in both legal and judicial points of view, for all private investments contributing in the realisation of these economic and social development programs.

Article 3 : Natural persons or legal entities, performing an activity in any of the sectors mentioned in the article 9, whatever their nationality, receive the same treatment, in accordance with the provisions of treaties and agreements signed by the Republic of Niger and other states.

Article 4 : Natural persons or legal entities mentioned in the above article 3 may, in the framework of the laws in force, acquire and exercise all rights of any nature concerning the property of concession and administrative authorisations, as well as tender to public contracts.

Article 5 : Natural persons or legal entities non resident in terms of the exchanges regulation, who realise an investment in Niger financed in convertible foreign currencies, may obtain, according to this regulation, some transfers of revenues of any kind, issuing from the invested assets and the product of the investment's settlement. May also be operated any transfers to natural persons or legal entities, non resident corresponding to normal and current payments for the effective supplies and deliveries .

Article 6 : The settlement of disputes related to the validity, interpretation or the application of the deed of agreement and the possible determination of compensation due to the ignorance or violation of the commitments will be subject to one of the arbitration procedures hereinafter to be determined in the deed of agreement.

1°) The constitution of an arbitration board by :

- The appointment of an arbitrator by each of the parties ;
- The appointment of a third arbitrator by the two first arbitrators.

In case that one of the parties would not have appointed an arbitrator in the sixty (60) days of notification by the other party of his appointed arbitrator, and in case that the two first arbitrators could not come to an agreement on the choice of the third arbitrator in the thirty (30) days of the designation of the second arbitrator, the designation of the second or the third referee, as may be the case, will be done by the President of the Supreme Court on the initiative of the more diligent party.

The arbitrators will fairly give a verdict.

The sentence given by the majority of arbitrators will be final and binding.

2°) The possibility for the non national to remedy to International Centre for the Settlement of Disputes Related to Investments (ICSID) created by the convention dated march 18th, 1965 of the International Bank for Reconstruction and Development (IBRD).

Article 7 : Except in case of public utility provided by the law, Niger Republic shall guarantee to enterprises established or to be established that no measure of expropriation or nationalisation of investments will be taken.

The eventual measures of expropriation or of nationalisation give right to a just and equitable compensation.

TITLE III

SCOPE OF APPLICATION

Article 8 : For the application of this ordinance, are considered:

- 1) As small-scale enterprises, those whose investment is of twenty five (25) to one hundred (100) millions francs CFA, free from taxes and working capital.
- 2) As medium-scale enterprises, those whose investment is superior to one hundred (100) millions of francs CFA, free from taxes and working capital.
- 3) As large scale enterprises, those whose investment is superior to five hundred (500) millions of francs CFA, free from taxes and working capital.

Article 9 : (New) ord. 99-69 and Law 2001-20: this code is applicable to natural persons or legal entities exercising or desiring to exercise an activity in the following sectors, whatever their nationality:

a) Agro-pastoral activities

- Industrial agriculture (vegetable or animal speculation) ;
- Related transformation activities of vegetable or animal origin products;
- Production and/or packaging in view of the exportation of agriculture, rearing or fishing products;

b) Manufacturing activities of production or transformation;

c) Power generation;

d) Extraction and transformation of quarry products or of mineral substances to the exclusion of the extraction and transformation activities of mineral substances susceptible of concession that remain governed by the mining law and the oil code;

e) Implementation of a social housing construction program for sale or renting;

f) Industrial equipment maintenance activities;

g) Air transport;

h) Hotels construction and equipment;

i) Telecommunications (telephone and Internet);

j) Setting-up of semi finished products assembling units.

the aforementioned natural persons or legal entities are assured, pertaining to such activities, of general guarantees stipulated in title II of the ordinance n° 89-19 dated December 8th, 1989 on the investments Code in Niger Republic and subject to their eligibility for the benefit of one of the systems provided in title IV, of special advantages attached thereto.

Article 10: *(New) Ord. 97-09:* Without any prejudice of the provisions provided in the above article 9, the special advantages may be granted to natural persons or legal entities whatever their nationality exercising or desiring to exercise specific activities restrictively listed:

- Crafts of production;
- Cultural and artistic production;
- Construction of schools and health centres;
- Public transportations of travellers and goods;
- Technological innovation.

Article 11 : Are considered in the terms of articles 2 and 5 of this ordinance as investments:

- the contributions to Niger of capital in any kind and the reinvestment of the funds resulting from investments previously made if such investments are intended to the creation of new enterprises, to the extension, to the diversification, to the reconversion or modernization of existing units;
- the contributions in kind to a newly created enterprise or in the event of extension, diversification, reconversion or modernisation of an existing enterprise;
- the participations consisting in contribution of capitals or of properties to any enterprise established in Niger in exchange of the granting of social securities or of shares giving right to a participation to the profits and to the product of the liquidation;
- the loans comparable to participations, referring to the loans granted to any person other than the State, duly established in Niger when such loans, of minimum term of ten (10) years have come to complete the own funds and have allowed to obtain the bank loans necessary to the financing of the envisaged investment . Such loans cannot however represent more than the half of the own funds.

TITLE IV

PREFERENTIAL SYSTEMS

Chapter I: Common provisions

Article 12 : The investments code is composed of three privileged systems:

- 1° Systems A or promotional system;
- 2° Systems B or priority system;
- 3° Systems C or conventional system.

Article 13 : *(New) Ord. 97-09:* May benefit from a privileged system, any natural person or legal entity referred to in the above article 9 presenting a project giving the financial, technical and satisfactory economic profit guarantees and undertaking to:

- either create a new activity;
- either develop or to restructure by modernization, diversification, reconversion or extension, an existing activity.

Article 14 : *(New) Ord. 97-09:* Natural persons or legal entities applying for the profit of a privileged system mentioned in article 12 shall undertake to:

- employ in priority Niger citizens, and to present a permanent program of training, and perfecting of the staff in the perspectives of "nigerisation";
- use in priority materials, raw materials, products and services of Niger origin;
- conform to national or international quality standards applicable in Niger, to products or services resulting from their activities;
- have an accounting organisation allowing to conform to regulations and legal mechanism as well as to the existing usages thereto;
- provide information allowing to control the observance of the agreement modalities;

- pay the outstanding duties and taxes on the equipment acquired on exemption basis in case of resale of such equipment.

Article 15 : The profit of investments code is granted:

1° By joint order of the Minister in charge of industry and the Minister in charge of finance, for:

- The system A;
- The system B when investment total amount is equal to fifty (50) millions and inferior or equal to one hundred (100) millions of CFA francs, free from taxes and working capital.

2° By joint order of the Minister in charge of industry and the Minister in charge of finance, after the advice of investments commission for system B when the total amount of investment is superior to one hundred (100) millions CFA francs and inferior or equal to five hundred (500) millions CFA francs, free from taxes and working capital.

.3° By decree taken in Council of Ministers after advice of Investments Commission

- For the system C;
- For the system B, when investments total amount is superior to five hundred (500) millions CFA francs free from taxes and working capital.

Article 16 : The attributions and the composition of investments commission referred to in article 15 shall be determined by decree taken in Council of Ministers.

Article 17 : The order or the decree granting the profit of investments code shall fix notably:

- The purpose, scope, location and the duration of the investments program implementation;

- The advantages granted to beneficiaries and their duration;
- Obligations that the company shall have to conform.

Article 18 : In the event of failure to fulfil the agreed commitments:

1° The agreement may be suspended if three months after a written notice, nothing has been done by the registered company to regularise its situation.

2° The agreement may be cancelled:

a) If in a time limit of six (6) months from the date of suspension of the agreement, the company has not regularised its situation;

b) If the company has not realised its investment program in the time limit of twelve (12) months from the expiration date of the period of equipments installation;

c) On proposal of investments commission, in case of fraud, serious or deliberate breach by the company in its obligations certified by the arbitration board. In this case, the cancellation entails the repayment to the Treasury, of customs and taxation advantages of the total amount obtained during the elapsed period.

3° The suspension or the cancellation of the agreement is pronounced in the same conditions than those applicable for its granting.

Article 19 : The partial or total assignment of the registered company shall first be notified to the Minister in charge of industry and to the Minister in charge of finance. The advantages related to the initial system could be replanned in increasing or in decreasing according to assignment impacts on the criteria that motivated the granting of the privileged system.

Article 20 : In case of exceptional turndown of the registered company activities, the company may ask for the suspension of the privileged system for a period that will not be inferior to one (1) year and superior to two (2) years.

The expiration date of the agreement system is modified consequently.

Chapter II - System A

Article 21: The system A may be granted to any natural person or legal entity fulfilling the conditions of articles 8, 9 and 13 of this ordinance.

Article 22: *(New) Ord. 97-09:* the duration of the system is fixed to five (5) years for the system A.

Article 23: *(New) Ord. 97-09:* the system A shall grant to companies the following advantages:

1) In investments realization phase, total exemption:

duties and Taxes collected by the government in the exclusion of the statical tax but including the Value Added Tax (VAT) on materials, tools and equipments of production and directly converging to the realization of the registered program.

However, in case of availability of equivalent local products, the importation of materials, tools, and equipments shall not give right to exemption.

- duties and taxes collected by the government and the VAT on services supply, on works and services directly converging to the realisation of the registered investment program.

2) In operation phase, total exemption for the total duration of the system.

- Trading tax;

- Land tax

- The tax on the commercial and industrial profit (CIP) and basic tax (IMF)

Article 24: Ord. 97-09: abrogate.

Chapter III - System B

Article 25: *(New) Ord. 97-09:* May benefit from the advantages of system B, the new following companies:

a) The Small-scale companies creating at least five (5) permanent employment for Niger citizens and realising at least fifty (50) millions CFA francs of investments free from taxes and working capital.

b) The medium-scale companies creating at least ten (10) permanent employment for Niger citizens and realising at least two hundred fifty (250) millions CFA francs of investments free from taxes and working capital.

c) The large-scale companies realising investment program on:

- either the creation of at least one hundred and fifty (150) permanent employment for Niger citizen;

- Or in a minimum amount of investments one (1) billion of CFA francs free from taxes and working capital.

The large-scale or medium-scale companies whose investment and employment creation remains below the fixed threshold are respectively considered, as may be the case, small or medium companies in the terms of this article. So, they benefit from the system B in condition to satisfy the conditions concerning the lower category.

Article 26 : *(New) Ord. 99-69:* The registered companies of system B benefit from the following advantages.

1° In investments implementation phase:

Total exemption of duties and taxes collected by the government including the Value Added Tax (VAT) on services supply, working and services directly converging to the realisation of the registered investment program.

Total exemption of duties and taxes collected by government in exclusion of the static annual fee by including the value added tax (VAT), on materials, tools and equipments of production and directly converging to the realisation of the registered program of investment.

However, in case of availability of equivalent local products, the importation of materials, tools and equipments shall not give right to exemption.

2° In operation phase, total exemption throughout the period of the system:

- Of the trading tax;

- Of real property tax or land tax;
- Of commercial and industrial profit tax (BIC);
- Of minimum basic tax;
- Of duties and taxes in the exclusion of the statistical fee and on the value added tax (VAT), on raw materials, consumable materials and packaging locally manufactured or imported in case of unavailability of similar products.

However, the exemption of the above mentioned duties and taxes is not applicable on raw materials, consumable materials, packaging of sectors mentioned in points e), f), g), h), and j) of article 9 (New).

Article 27 : In addition to advantages mentioned in article 26, the registered companies entitled to benefit from system B are exempted from duties and taxes when exporting their products.

Article 28 : (New) Ord. 97-09: The period of system B is fixed to five (5) years whatever the size of the company (small, medium or large scale).

Article 29 : (New) Ord. 97-09: The investments entitled to system A or B of this Code, may be promoted to a more advantageous system if before the end of the system in place, the concerned promoters bring the proof that the investments total amount reaches the required level to benefit from this system.

CHAPTER IV - SYSTEM C

Article 30 : (New) Ord. 97-09: The System C is granted to major enterprises presenting an exceptional importance for the execution of national programs of economic and social development and answering to one of the two (2) following criteria:

- minimum investment amount equal to two (2) billions of francs CFA free from taxes and working capital;

- minimum number of permanent employment created for Niger citizens equal to four hundred (400).

It is granted on request of the enterprise for a period fixed to five (5) years.

Article 31 : The System C is granted by a convention passed between the State and the beneficiary enterprise.

Article 32 : The convention is approved in Council of Ministers after advice of the commission of investments. It comes into force on the date of its signature that intervenes after the publication of the decree referred to in article 15.

Article 33 : in addition to the advantages provided in articles 26 and 27, the enterprises admitted for the benefit of System C may be entitled to:

- the possibility to reduce 50% from the rate of the duties and taxes on hydro-carbon (gas oil, fuel oil) and any other source of energy used in fixed installations. This exemption is granted in the limits of a quota annually fixed and recognized by the relevant administrative authority as consumable in these installations and will be applied in conformity with the provisions in articles 24 and 26.

- The administrative authority will have a power of control on the utilization of the granted quota.

Article 34 : The convention shall guarantee to the beneficiary enterprise that any modification shall not be made to the basis rules and collection of all taxes and duties as well as to tariffs provided in favour of the enterprise if it resulted in an aggravation of its burden. Similarly, the taxes and duties of fiscal nature to be afterwards decided shall not be applicable thereon.

The stability of taxation shall not be applicable:

- to para-fiscal deduction made for a specific social interest;
- to taxes and duties paid or deducted at the source by the beneficiary enterprise on behalf of a third person.

Article 35 : The convention shall not include commitments from the State having for effect to discharge the enterprise from losses, charges or shortfall due to the technical evolution, economic situation, natural factors or inherent to the enterprise, or to limit the conditions of loyal competition.

Article 36 : The convention defines notably:

- a) the object, the scope, the location and the duration of investment program;
- b) the fiscal System guaranteed to the enterprise;
- c) the commitments that the beneficiary enterprise subscribes in compensation;
- d) the controls that the administration may perform in the beneficiary enterprise and the conditions of these controls;
- e) the conditions in which the convention shall be amended ;
- f) the procedure of arbitration that will be applied in case of dispute between the parties.

Chapter V - (New) Ord. 97-09

Program of Extension, Diversification, Renovation or Modernization of an Existing Enterprise

Article 36.1 : *Ord. 97-09* : The programs of extension, diversification, renovation or modernisation that fulfil the following conditions without being necessarily cumulative may benefit from the advantages of the Code of Investments:

- the creation of an important added value;
- the creation of additional employment ;

- the substitution of an imported raw materials or in general manner the valorisation of a local raw material.

The enterprises registered in the terms of an extension program, diversification, renovation or modernisation may only benefit from advantages provided in articles 23 and 26 for the phase of the realisation of investments.

TITLE V

SPECIAL PROVISIONS

TITLE V

SPECIAL PROVISIONS

Article 36.2 : *Ord. 97-09*: Investment programs related to the industrial projects and considered to have the priority by the Minister in charge of industry in these programs of action may directly benefit from a special System upon simple request by the promoters.

The advantages, as well as the obligations, of the investor will be jointly specified by order of the Minister in charge of industry and the finance Minister.

Article 36.3 : *(New) Ord. 99-69*: Any natural person or legal entity who has benefited from the advantages of the investments' code, must require the opinion of the Minister in charge of industry, before any transfer of his/her plant out of the territory of the Republic of Niger.

Article 37 : The duration of the advantages concerning the different systems is of a 3 years subsidy for the companies setting themselves in the departments of Agadez, Diffa, Tahoua or Zinder.

Article 38 : in addition to the advantages provided in the different special systems, companies working on activities among the domains mentioned in article 9 a, are subsidized by a total exemption of the value added tax on the turnovers made during the System.

The exemption also concerns the VAT which has burdened all the acquisition of properties and services gained during the same period, and normally giving the right to the deduction in accordance to the provisions of the internal revenue code.

Article 39 : *Ord. 99-09*: *Abrogate*.

Article 40 : *(New) Ord. 99-69*: notwithstanding the provisions of the article 9 (New), 23 (New) and 26 (New) of the *Ord. 97-09* dated 27th/02/1997, projects for the creation of bakery or patisserie shall benefit only from the advantages related to the investments realisation.

Article 41 : *(New) Ord. 97-09:* Any natural person or legal entity wishing to invest in film production may be exempted from duties and taxes, the VAT included, except the statistic tax on:

- production devices (sound, recording, projection, sound and image reproduction devices, their accessories and spare parts);
- construction materials, tools and equipment, local or imported products of single usage, in case of unavailability of the equivalent local products and a directly converging to the investment realisation.

Article 42 : *(New) 97-09*

a) Are considered for the enforcement of this code as exercising in a production craft activity, Individual entrepreneurs or craftsmen groups exercising in the following fields :

- traditional production of agricultural, breeding, fishing and hydraulic tools and equipments;
- traditional production, processing and/or preserving of the products issued from agriculture, breeding, fishing, mines and quarrying
- traditional production of materials and equipments used in the processing and preserving of the agricultural, breeding and fishing products.
- traditional extraction and/or processing of ores, mines and quarrying (salt, potassium, pottery, talc store, carpentry, jewellery, cassiterite, gypsum, gold, etc);
- traditional manufacturing of useful tools (carpentry, basketwork);
- traditional activities in textiles weaving and clothing industry;
- any other traditional manufacturing activity using process for developing the national resources.

b) The entitlement to the special provisions of the investments code benefits only individual or associative companies which totally meet the following criteria:

- the holding of a permanent workshop;
- the existence of a status or legal registration;
- the control of an accountability;

The realisation of an investment program with the view either the creation of a new activity, or the modernisation, diversification, reconversion or expansion of a current activity;

- to invest two (2) millions minimum and twenty five millions maximum in the activity.

c) Any natural person or legal entity wishing to invest in crafts of production in Niger, and meeting the criteria specified in b) above, may be exempted from the following duties for a period of five (5) years:

- franchise tax;
- tax on industrial and trading profits (BIC);
- minimum composition tax (IMF);
- tax and duties, VAT included, except statical duties on the materials and plant bought locally or imported in case of equivalent local products unavailability.

Article 43 : (*New*) *Ord. 97-09*: Any physical person or legal entity wishing to invest a minimum of fifty (50) millions of CFA francs in school and health centers building may be exempted from the tax and duties in the implementation of their investment program, the VAT included, but excluding the statistical duties on the materials and tool equipments locally produced or imported in case of equivalent local products unavailability.

Article 43.1: *Ord. 97-09*:

a) According to the current code any company meeting at least one of the following conditions is considered to be a company developing the technological innovation:

- investing at least 1% of its turnover in researches in contract form with a research company or institution of Niger.

- presenting a program aiming at capitalisation the results of researches realized by a Niger company or institution or by some Individual researcher(s).

b) Any company which develops the technological innovation is liable to a tax deduction on the 2/3 of the expenses engaged in the acquisition or the implementation of the aforementioned innovation, the taxable income on industrial and trading profits (BIS) of the current tax year during which the innovation has been introduced.

c) Companies which conclude training program contracts with Universities, Institutes, Specialized School, consulting firms, and engineering and design departments with a plan to employ young graduates shall be entitled to the incentive System of the technological innovation.

Article 43.2 : (New) 99-69:

a) By public or good transportations, allusions are made to any activity which is permanently done by a profit making legal entity which has the transportation of people or goods as its purpose.

b) Any natural person or legal entity wishing to invest a minimum of one hundred (100) millions FCFA in public or good transportations shall be exempt from tax and duties at the importation, statistical duties excluded, but the VAT on means of transportation bought is included.

However, the entrepreneurs will have to pay the tax and duties uncollected on these means of transportation in case of surrender before a minimum period of three (3) years.

Article 44 : (New) Ord. 97-09: Repeat

An advantages provided in articles 41, 42 and 43 are jointly granted by order of the Minister in charge of industry and the finance Minister.

Article 45 : The order provided in the article 44 specifies in particular:

- the list and quantity of the items to be acquired;
- the acquisition deadline;
- the kind of advantages.

TITLE VI

FINAL PROVISIONS

Article 46 : (*New*) *Ord. 99-69*: Unless or otherwise provided, prior assents given to companies before the current Ordinance come into effect remain in force till their time limit.

Article 47 : Any prior provisions opposite to the current Ordinance are repealed, particularly the Law 68-24 dated July 31st, 1968 on the Investments Code in Niger, Laws N° 71-02 dated January 29th, 1971 and N° 74-19 dated March 11th, 1974 on the Investment Code in favour of Niger company.

Article 48 : This Ordinance to be implemented as a State Law, shall be published in the Official Journal of the Republic of Niger.

Done in Niamey, on December 8th, 1989

Signed : **Brigadier General ALI CHAIBOU**

Decree N°2007 - 374/PRN/MCI/N dated September 6th, 2007 modifying Decree N° 90-123/PRN/MPE dated May 3rd, 1990 determining the modes of enforcement of the Ordinance N° 89-18 / PCSON dated December 8th, 1989, on the Investments Code in the Republic of Niger.

THE PRESIDENT OF THE REPUBLIC

In view of the Constitution of August 9th, 1999,

In view of the Ordinance N° 89-19 /PCSON dated December 8th, 1989 on the Investments Code of the Republic of Niger, modified by ordinances N° 97 - 09 of February 27th, 1997 and N° 99 - 69 of December 20th, 1999 and the Law N°2001 - 20 of July 12th, 2001;

In view of the decree N° 90-123/PRN/MPE dated May 3rd, 1990, determining the modalities of enforcement of the ordinance N°89-19 /PCSON dated December 8th, 1989 on the Investments Code of the Republic of Niger;

In view of the decree N°2005 - 105 /PRN/MC/MSP dated April 22nd, 2005 referred to the organisation of the Ministry of Commerce, Industry and Private Sector Promotion;

In view of the decree N°2007 - 214 /PRN dated June 3rd, 2007 referred to the appointment of Prime Minister;

In view of the decree N° 2007 - 216 /PRN dated June 9th, 2007 referred to the appointment of the members of Government;

In view of the decree N° 2007 - 194 /PRN/MCI/N dated May 25th, 2007 determining the attribution of the Minister of Commerce, Industry and Standardisation;

On the report of the Minister of Commerce, Industry and Standardisation,

The Council of Ministers having stated its case:

ORDERS

TITLE I

GENERAL PROVISIONS

Article 1 : The natural persons or legal entities desirous to benefit from the advantages provided by the Ordinance N° 89-19 dated December 8th, 1989 related to the Investments Code in Niger Republic shall, without prejudice to the observance of the conditions of consent specific to each System, submit a request to the Minister in charge of Industry. This request shall be accompanied by a file of technical, financial and economic stuffy of the project of investment elaboration in conformity with the type elaborated by statutory mechanism, as the bank attestations on the financing.

Article 2 (*New*) : The Minister in charge of Industry in relation with the Minister in charge of Finance examines the file referred to under the proceeding article within a maximum time limit of thirty (30) days from its reception date.

The observations made on the file of the project are brought to the knowledge of the promoter or of his representative duly mandated who shall provide the justifications, and/or the amendment to the said file.

Article 3 : For the files considered satisfactory and, concerning the System A, or the System B when the amount of the investments is equal to fifty (50) millions of francs CFA and inferior or equal to FCFA one hundred (100) millions free from taxes and working capital, the profit of the investments code is granted by joint decree of the Minister in charge of Industry and the Minister in charge of Finance in the time limits provided in the article 2.

Article 4 (*New*) : In conformity with the time limit provided in the article 2 above, the files accepted satisfactory are, concerning the System B when the amount of the investments is superior to FCFA one hundred (100) millions free from taxes and working capital and the System C, submitted for consideration to the commission of investments; the commission of investments dispose of thirty (30) days time limit to express its view on the application.

Article 5 : In case of rejection of the file by the commission of investments, a motivated opinion is presented to the Minister in charge of Industry. If he accepts this proposition, he informs the promoter without time limit.

Article 6 : In case of favourable consideration from the commission of investments, notification is made to the Minister in charge of Industry who, in the fifteen (15) days following the notification, prepares according to the case a draft decree or of order on entitlement to the Investments Code.

TITLE II

THE COMMISSION OF INVESTMENTS

Article 7 : The commission of investments referred to in article 15 of the Enactment 89-19 of 8 December 1989, relating to the code of investments in Niger Republic is entitled to:

- examine the files of consent demand to the benefit of the code of investments and propose the System to agree as its content, conformly to the dispositions of the article 17 of the Enactment 89-19 of 8 December 1989;
- propose in the limit of the competences the sanctions against failing enterprises that can go to the deferment at the retreat of the privileged System;
- do to the Minister in charge of Industry any suggestion that can be improved upon the efficiency of the code of Investments.

Article 8 : decree N°92-135 (Repeat)

The commission of investments is constituted of:

President: principal private Secretary of the Prime Minister or his assistant;

Members:

- General Secretary of the Ministry in charge of Finance;
- The General Secretary of the Ministry in charge of Industry or his assistant;
- The General Secretary of the Ministry in charge of labour;

- The General Secretary of the Ministry in charge of Equipment;
- The General Secretary of the Chamber of Commerce, Agriculture, Industry Handicraft Industry of Niger;
- The General Secretary of the Ministry in charge of Commerce;
- The General Secretary of the Ministry of Tourism;
- The Economic Advisor of the Prime Minister;
- One representant of the Association of the Professional of Banks;
- One representant of the National Syndicate of Entrepreneurs and Industrialists of Niger;
- The Director of the Promotion of Industries.

Article 9 : The methods of functioning as the policies and procedures of the commission will be defined by order of the Minister in charge of Industry.

Article 10 : The commission of investments may require the presence of any person for her competencies at the time of the examination of the file of investment.

The commission may also listen to the investor or the representative duly authorised.

Article 11 : Decree N° 90-105 (Repeat): Abrogated.

TITLE III

APPLICATION OF PRIVILEGED SYSTEMS

Article 12 : The Materials list, materials and equipments necessary for the realisation of the registered program should be obligatory appended to texts of the privilege.

Article 13 : During all the period of the system and at the beginning of each year, the registered company at the profi ustry the list of new materials, extern materials and package equivalent of the yearly production in the measure that it benefits from an exemption.

The list aimed by the minister in charge of Industry is transmitted to the Minister in charge of Finance.

Article 14 : The Minister in charge of Industry is to sign the conventions:

- to control the good execution of contracting obligations;
- to carry out installations and injunctions by article 18 of ordinance 89-19 dated December 8th, 1989;

To give the time limit of regularisation by the said article of ordinance 89-19 dated December 8th, 1989;

To subject to exam of the commission of investments files related to the delay of declined companies;

- to postpone by order of the agreement effects;
- to appoint the arbitrator representing the administration in the procedures of various rules related to the implementation of the privileged system.

Article 15 : Any arrangement prior to the provisions of this decree is abrogated, particularly the decree N° 75-121/SEP/AECI dated July 17th, 1975 setting the conditions of enforcement of the Law N° 74-18 dated March 11th, 1974, on the investments code in Niger, and the decree N° 75-122/PCMS/SEP/MAECI of 17th July 1975 determining the terms and conditions of enforcement of the Law 74-19 dated March 11th, 1974 on the investments code in favour of the Niger company.

Article 16 : The enforcement of this decree which will be published in the Official Journal of the Republic of Niger is incumbent on the Minister in charge of Industry and the Minister in charge of Finance in their respective attributions.

Done in Niamey on May 3rd, 1990

The Brigadier General ALI CHAIBOU

ANNEXE

MODEL PLAN OF THE INDUSTRIAL PROJECT PRESENTATION

ANNEXE

MODEL PLAN OF THE INDUSTRIAL
PROJECT PRESENTATION

ANNEXE

MODEL PLAN OF THE INDUSTRIAL PROJECT PRESENTATION

I. GENERAL INTRODUCTION

N.B : The introduction shall present the study plan

II. LEGAL DOCUMENT

A. General Information on the Enterprise (new enterprise, modernisation or enterprise expansion).

1. Name or Corporate Name
2. Object
3. Eventual activities in other regions of the country or abroad
4. Legal Status
5. Composition of the capital

N.B. : A copy of the statutes shall be enclosed to the document as well as the Certificate of the capital full payment.

III. TECHNICAL DOCUMENT

A. Commercial Aspect

1. Market Study

a) Current Market and Evolution

- Home Market
- Foreign market, particularly the sub-regional one

b) Level of Competition in the market

■ Identical or similar products

- Quantity

- Quality

- Price

- Origin and source

c) Potential Market

■ Volume (including the exportation opportunities)

■ scheduled prices and their structure

■ Production program

■ Marketing

- Introduction of the product

- Commercial channels

B. Technical and Technological Aspects

1. Applied technology

a) Description

b) Type of power used

c) Production process

d) Origin and source

e) Technical partners

N.B : To specify whether the technology used is registered or whether it

involves the signature of a contract of know-how communication.

f) Raw materials and consumable materials used :

- Quantity
- Origin
- Substitution possibility

IV. FINANCIAL DOCUMENT

A. General informations

1. Investments to realize

N.B : In case of an expansion or modernization, the realized investments and the related depreciation table shall be specified.

2. Financing Structure

- a) Nominal Capital
- b) Short, medium and long-term loan

N.B : In case a loan has been supplied, its amount and conditions shall be specified. Contribution of partners or shareholders shall also be specified. The same contribution shall be at least equal to 1/3 of the investment total amount including the working capital. Specify the conditions and sources of the loans.

B. Project Financial Analysis

1. Projected Accounts of Exploitation

N.B : 1) Specify the detail of any charges and products, including the table of paying off estimated in current francs.

2) Determine the capacity of auto-financing.

2. Table of Employment - Resources (Table of projected treasury)

In this table, stand out the annual salaries and cumulated salaries.

- 3) Plan of projected financing
- 4) Determination of the project's TRI (introduce the table)
- 5) Determine the capital rate of profit
- 6) Determine the threshold of profitability

C. Project Economic Incidences

1. Interest of the Project for the National Economy

N.B : Support the elaboration of the principal ratios and economic indicators such as the number of employment created, Investments/employment, the added value of the first (1) year, that of the cruiser year.

- a) Direct effects obtained due to the project;
- b) Indirect effects obtained due to the project.

V. GENERAL CONCLUSION

The study shall make appear the necessity for the project to be entitled to a system of the investments code, and if possible the duration;

N.B : - All the calculations, all the expectations shall be scheduled on at least 5 years;

- The financial calculations should be done on the basis of two hypothesis :

System of the Fiscal Common Law and System of the Investments Code wished by the Company.

TABLE EMPLOYMENT / RESOURCES

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
EMPLOYMENT						
Investment acquisition of consolidated assets						
Charges to share out on many financial year						
Dividends						
Reduction of own capitals						
Taxation BIC						
Variation of working capital						
Payment of loans						
TOTAL OF EMPLOYMENT						
RESOURCES						
Assignment of real property						
Capacity of self-financing						
Increase of own Capitals						
Loans						
Recuperation of needs in working Capital						
Residual values						
Subvention of equipment						
TOTAL RESOURCES						
PAY						
CUMULATED PAY						

TABLE EMPLOYMENT / RESOURCES

Part of the project	Year 1				Total
	Year 1	Year 2	Year 3	Year 4	
1. Investment in the project					
2. Investment in the project					
3. Investment in the project					
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Conception : CCAIAN