

DEMOCRATIC REPUBLIC OF CONGO

MINISTRY OF PLANNING

NATIONAL INVESTMENT PROMOTION  
AGENCY

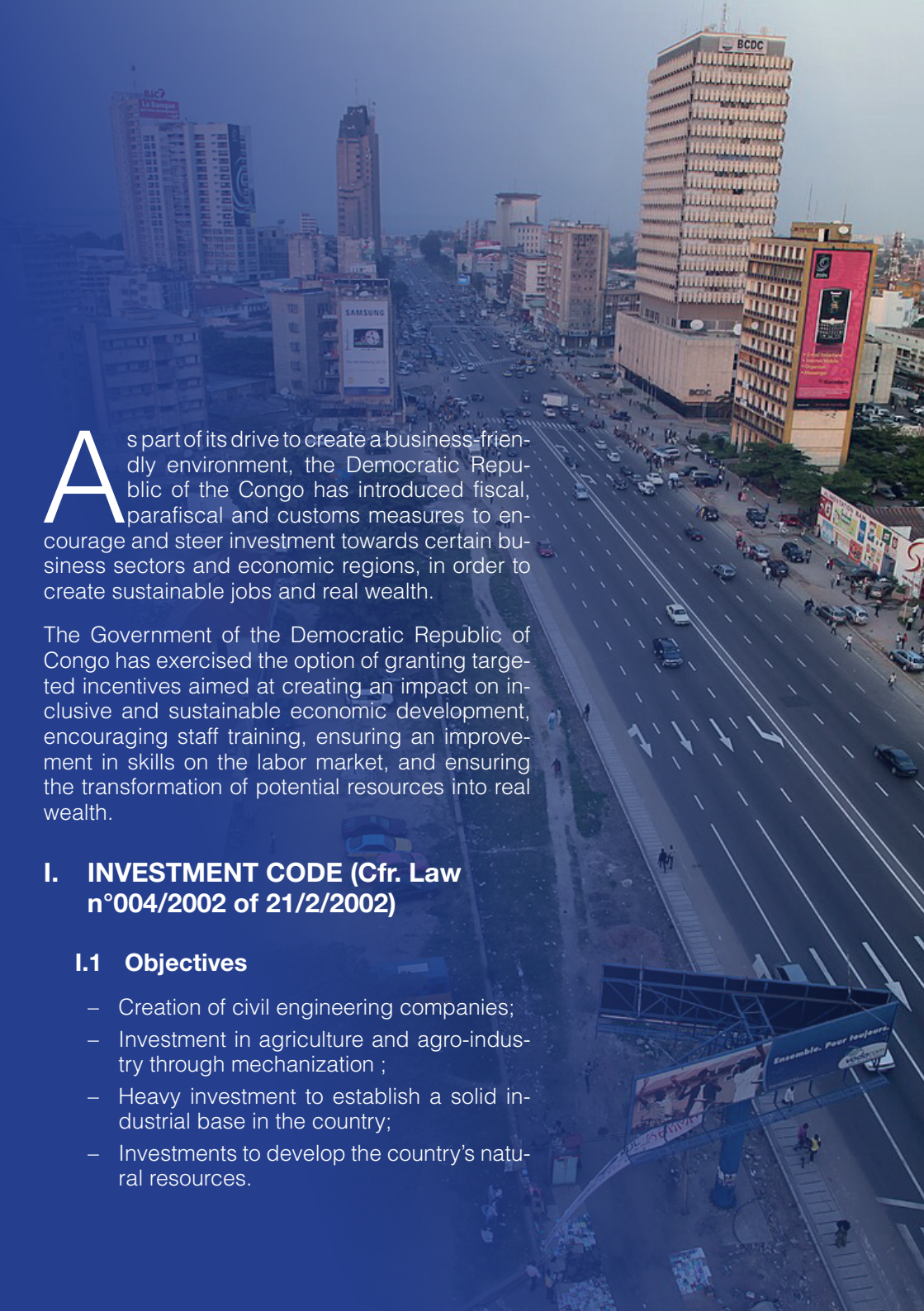
**ANAPI**

**MULTIPLE  
INCENTIVES  
FOR INVESTORS IN  
THE DEMOCRATIC  
REPUBLIC OF CONGO**

Agence Nationale pour la Promotion  
des Investissements  
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**A**s part of its drive to create a business-friendly environment, the Democratic Republic of the Congo has introduced fiscal, parafiscal and customs measures to encourage and steer investment towards certain business sectors and economic regions, in order to create sustainable jobs and real wealth.

The Government of the Democratic Republic of Congo has exercised the option of granting targeted incentives aimed at creating an impact on inclusive and sustainable economic development, encouraging staff training, ensuring an improvement in skills on the labor market, and ensuring the transformation of potential resources into real wealth.

## **I. INVESTMENT CODE (Cfr. Law n°004/2002 of 21/2/2002)**

### **I.1 Objectives**

- Creation of civil engineering companies;
- Investment in agriculture and agro-industry through mechanization ;
- Heavy investment to establish a solid industrial base in the country;
- Investments to develop the country's natural resources.



## I.2 Types of exemption

- **Customs benefits :**

- Exemption from import duties on new equipment and materials (including second-hand equipment only for SMEs and SMIs);
- Exemption from export duties and taxes ;
- Import VAT exemption for new projects.

- **Tax benefits**

- Exemption from corporate income tax (IBP) ;
- Exemption from property tax.

- **Parafiscal advantages**

- Exemption from fixed or proportional duty.

In addition, SMEs and SMIs benefit from the following specific advantages:

- **Exemption from import duties for second-hand equipment** and other materials ;
- **Authorization** to deduct from their taxable profits sums spent on training, further training for the company director or his staff, and nature protection and conservation; and to calculate their depreciation on a declining-balance basis.

## I.3 Duration of benefits

- **Economic Region A** (Kinshasa): **3 years from the** date of signature of the Inter-ministerial Decree approving the project, for entry duty and property tax; and from the start of operations, for income tax;
- **Economic Region B** (Kongo-Central, Lubumbashi, Likasi and Kolwezi): **4 years ;**



- **Economic Region C** (the country's 21 other provinces and cities): **5 years.**

## I.4 Conditions of eligibility

- Be an economic entity under Congolese law (proof of the company's existence: notarized articles of association, RCCM no., National Identification no., Tax no., etc.);
- Guarantee a value-added rate of at least 35%;
- Guarantee the availability of investment costs: 10,000 to 200,000 USD for SMEs and over 200,000 USD for large corporations;
- Commit to training national staff in specialized technical functions;
- Undertake to comply with environmental and nature conservation regulations.

## I.5 Eligible sectors

- Infrastructure
- Agriculture, fishing, livestock, etc.
- Manufacturing industry ;
- Real estate ;
- Tourism ;
- Cultural industries ;
- Energy (water and electricity) ;
- Services provided in the following sub-sectors:
  - Health ;
  - Education and training ;
  - Assembly and maintenance of industrial equipment ;
  - Teleservices ;
  - Transportation ;
  - Construction of warehousing or distribution infrastructures for goods and services ;
  - Cyber-village and craft centers ;
  - Telecommunications and information technology ;
  - Assembly.



## I.6 Approval procedure

- Submit the file to ANAPI, with the following information:
  - Investment project (in triplicate), presented in accordance with the model set out in the Decree implementing the Investment Code, and also in electronic format (PDF);
  - A list of equipment and materials to be imported, initialed on each page and signed, in hard copy and electronic format;
  - Proof of the company's financial capacity to carry out the project ;
  - Proof of payment of ANAPI filing fees to the Bank;
  - Legalized commitment to comply with environmental protection and nature conservation regulations;

### Deposit fees

- 1,000 USD for a large company;
- 500 USD for SMEs and SMLs ;
- Examination of the application by the ANAPI's Approval Board, which decides whether or not to approve the project;
- A written letter is sent to the project promoter to inform him of the decision to approve or reject the project;
- In the event of approval, ANAPI will issue an interministerial approval order (Planning and Finance) within a maximum of 30 days from the date of submission of the application for approval;

- Application of the interministerial decree by the financial authorities, to ensure that investors enjoy all the advantages provided for in the Investment Code;
- Monitoring and evaluation by ANAPI of the implementation of the provisions of the Inter-ministerial Order.

## II. Law n°11/022 of December 24, 2011 on fundamental principles relating to agriculture

The Agricultural Law aims to promote and increase agricultural production in order to guarantee food security and rural development. It takes into account the objectives of decentralization and integrates both diversity and agro-ecological specificities.

### It also aims to :

- Promote the sustainable development of agricultural potential and space, integrating social and environmental aspects;
- Stimulate agricultural production by introducing a special customs and tax regime to achieve, among other things, food self-sufficiency;
- Boost exports of agricultural products to generate substantial resources for investment;
- Promote local processing of agricultural products;
- Attracting new renewable energy technologies;
- Involve the Province, the decentralized territorial entity and the farmer in promoting and implementing agricultural development.

## II.1 Eligibility requirements and procedure

- **Be an individual** of Congolese nationality or a legal entity under Congolese law;
- **Have** a known **residence**, domicile or registered office in the DRC;
- **The benefits of the** aforementioned **Code are** subject to authorization by the Minister of Agriculture.

## II.2 Benefits granted

- **Deduction from taxable income of expenses relating to the maintenance of** the stretch of road linking the farm concession to the public highway ;
- **Preferential rates for farmers** on water, electricity and petroleum products;
- **Authorization to set aside** a tax-exempt provision not exceeding 3% of sales for the year, for the purpose of rehabilitating arable land and preventing major risks and agricultural disasters;
- **Exemption from import duties and taxes** on agricultural inputs ;
- **Limit of 0.25% of the value** of exported products for fees and charges for services rendered by public bodies operating at border crossings;
- **Exemption from property tax** on built and unbuilt areas used exclusively for farming;
- **Tax exemption** on all rolling stock used exclusively for farming.

## III. Leasing (Law no. 15/003 of February 12, 2015 on leasing)

Leasing is organized as a means of financing businesses, particularly small and medium-sized enterprises, to encourage and further promote economic growth supported by the private sector.

### III.1 Tax treatment of leasing

- **Depreciation of fixed assets** used for professional purposes, and of fixed assets leased by a leasing institution, are considered as deductible business expenses for the lessor;
- **The changes in determining** the increase in assets that may be taxable do not apply to assets leased by a **leasing institution**;
- To be deductible from taxable profits, depreciation must meet the following conditions:
- **Be applied to fixed assets**, including those leased by a leasing institution, that are included in the company's assets and are actually subject to depreciation;
- **Be applied on the basis of and within the limit of the** original value of the assets or, where applicable, their revalued value; they cease when the total annual instalments reach the amount of this value.
- **The amount of depreciation** incurred during each financial year is calculated on the basis of the duration of the leasing contract in the case of goods leased by a specialized institution duly ap-

proved by the Central Bank of the Congo;

- **Expenses relating to** leased assets, including depreciation, are deductible only when the assets are leased by a leasing institution.

## **IV. Law No. 14/005 of February 11, 2014 on tax, customs, parafiscal, non-tax revenue and foreign exchange regimes applicable to collaboration agreements and cooperation projects**

### **IV.1 Eligibility requirements and procedure**

- The value of investments must not be less than the equivalent in Congolese francs of one billion US dollars;
- Social and environmental clauses;
- The presentation of an offer in the form of a financial package for the project;
- Commitment to technology transfer;
- A commitment to use foreign labor only when skills and competencies are not available locally.
- Approval by the Minister of Finance of the list of goods to be imported, after consultation with the Ministers of Mines and Energy respectively, when these goods are imported by the holder of the mining rights;
- Approval by the Minister of Finance of the list of goods to be imported, after consultation with the Minister of Energy, when said goods are imported by a person other than the holder of the mining rights.

## **IV.2 Benefits granted**

- Exemption from national, provincial or municipal taxes, duties, levies and fees, whether direct or indirect, on domestic, import or export sales;
- Suspension of customs duties and value-added tax on imports of capital goods, equipment, tools and spare parts intended exclusively for the production of electrical energy;
- Suspension of customs duties and value-added tax on imported electrical energy ;
- Payment of one percent in customs duties on the export of electrical energy.

## **IV.3 Duration of benefits**

The benefits granted depend on the life of the project.

**NB:** These exemptions do not apply to fees for services rendered and IT; road traffic tax, tax on the vehicle used to carry out work relating to the collaboration agreement and cooperation projects, as well as tax on profits at the end of the repayment of financing, etc.

## **V. Law no. 14/023 of July 07, 2014 laying down the rules relating to the conditions and procedures for rescuing a distressed industrial company.**

### **V.1 Eligibility requirements and procedures**

- Be the subject of collective preventive settlement or receivership proceedings aimed at :



- Guarantee direct and indirect employment;
- Adding value to local raw materials;
- Guaranteeing tax contributions to the revenues of central government, the provinces and decentralized territorial entities
- Maintain socio-economic impacts on the local and national environment;
- To be filed on or after the opening of collective proceedings, at the latest before the preventive composition (agreement between creditors and the company to prevent bankruptcy) or reorganization composition (agreement between creditors and the company to reorganize).

## VI. Benefits granted

- Total import exemption for inputs, with the exception of the related administrative fee;
- Total exemption from import duties and taxes for new machinery, tools and equipment, and first-time spare parts not exceeding 10% of the CIF value of said equipment;
- Application of declining-balance

depreciation, the rate of which is determined in the program contract, for capital goods acquired.

### VI.1 Duration of benefits

- **Law no. 18/016 of July 09, 2018 on Public-Private Partnerships**

The public-private partnership is an innovative solution that brings together the respective interests of the partners: on the one hand, for the State, preserving the general interest by providing a quality public service to the population, and on the other, for the private sector, return on investment and profit.

This law establishes a secure legal framework that guarantees private partners a return on their investments.

#### Benefits granted

15% PBI relief for **private partners making major investments.**

#### Duration :

First 3 years from start of operation

- **Ordinance-law n°22/0030 of September 08, 2022 on the promotion of entrepreneurship and startups**





This ordinance-law sets out the rules for the creation, exercise, promotion and development of entrepreneurship and startups in the Democratic Republic of Congo.

Micro, small and medium-sized enterprises and start-ups benefit from all the tax advantages provided by current tax legislation and the Investment Code.

#### **The benefits are as follows:**

- Priority access to the Fonds de Garantie de l'Entrepreneuriat au Congo (FOGEC) or any other fund set up by the public authorities;
- The direct granting of private financing, on terms that benefit from the supervision and guarantee of the public authorities;
- The establishment of a dedicated point of contact between the startup and the platform of financial organizations;
- Benefit from the advantages provided by the Investment Code for SMEs;
- Half-price access to the one-stop business start-up center for all registration formalities, on presentation of a pre-labeling certificate;
- Priority access at a reduced cost to the National Agency for the Development of Congolese Entrepreneurship (ANADEC);

A tax exemption for the entire period of validity of the label, on the amount invested in a startup by any investor, either as a donation or as an equity investment. (art 95).

- **Decree no. 18/054 of December 27, 2018 on tax and customs relief measures applicable to the production, import and export of electrical energy**

This decree aims to promote and facilitate private investment in the electricity sector.

#### **Benefits granted**

- Suspension of customs duties and Value Added Tax (VAT) on imports for :
- imported electrical energy to ensure the public electricity service and to cover the needs of local industry;
- imported materials, equipment, tools and spare parts for the development and maintenance of infrastructures for the production, transmission and distribution of electrical energy;
- electrical energy-saving materials and equipment, in particular reactive energy compensation equipment, harmonic filters and electrical energy meters;
- materials and equipment for solar energy and other renewable energies;
- inputs for the manufacture and local assembly of materials and equipment covered by this decree (Art.2)
- Customs duties reduced to 1% for electricity exports

#### **Conditions of eligibility**

**The following are eligible for these benefits:**

- electricity sector operators in compliance with current regulations;
- holders of mining rights in compliance with regulations;
- promoters of industrial investment projects (Art.7)

## Duration

These benefits are granted for a renewable period of 4 years (Art.5).

- **Law n°18/001 of March 09, 2018 amending and supplementing law n°007/2002 of July 11, 2002 on the mining code.**

The purpose of this law is to increase the level of control over the management of the State's mining estate, mining titles and quarries, to clarify the social and environmental responsibility of mining companies towards the communities affected by their projects, and to balance the tax, customs and foreign exchange regime within the framework of the partnership between the State and mining operators.

## Benefits granted

**The benefits granted are as follows:**

### **a. Customs**

- Exemption from customs duty on the export by a holder of samples intended for industrial analysis and testing, on condition that the

tax on the export of samples is paid (art.226 al.1);

- Goods and equipment used strictly for mining purposes prior to actual exploitation of the mine are subject to a 2% rate (Art.232);
- Capital goods with a strictly mining vocation from the date of commencement of exploitation are subject to an entry duty at the rate of 5% (List of goods previously approved by joint order of the Ministers of Mines and Finance) Art.232 ;
- Fuels and lubricants intended for mining activities are subject to the 5% rate (Art.232);
- All intermediate goods and other consumables are taxed at a rate of 10% customs duty (Art. 232);
- The benefit of preferential customs treatment at the preferential rate in the case of imports as part of expansion work, provided that the production capacity of the mine or approved processing and/or transformation entity in question is increased by at least 30% (art.233);
- Exemption on exit from all customs duties and other contributions of



any kind for exports related to the mining project (art.234).

## b. On the tax front

- Tax exemption for vehicles used to transport people or materials, or for handling or towing, used exclusively within the mining perimeter. (Art. 237) ;
- Exemption from movable property tax of interest paid by the holder to affiliates under loans contracted in foreign currency abroad, provided that the interest rate does not exceed the annual average of the effective rates charged by credit institutions in the country where the lending company is established, according to data provided by the Central Bank of the Congo (Art.254);
- Payment of income tax at a rate of 10% on dividends and other distributions paid by the holder to its shareholders (Art.246).
- **Ordinance-Law n°23/020 of September 11, 2023 amending and supplementing Law n°14/022 of July 07, 2014 establishing the regime of Special Economic Zones.**

### The objectives of the Act are to

- **Improve the legal and institutional framework** likely to attract and safeguard domestic and foreign private investment, with a view to promoting the country's development;
- Simplify **administrative procedures** to further improve the business climate and attract investment;
- **Strengthening mechanisms** for resolving investment disputes ;
- To provide **an** attractive, transpa-

rent and coherent **business environment**, with a view to encouraging domestic and foreign private investment to generate growth and jobs, and to increase competition in the Democratic Republic of Congo;

- Set **the rules for the organization and operation** of special economic zones, their missions and their boundaries;
- **Determine the supervisory powers of** the Special Economic Zones Agency, including its exclusive and proprietary powers;
- **Clarify the regime applicable to companies operating in special economic zones, except for tax and customs provisions, which will be set out in the Finance Act.**

### In addition, the government is moving towards :

- The establishment of special economic zones with a direct impact on job creation;
- Legal certainty for investments ;
- Modernizing the function of the State in relation to the regional groups to which the country belongs;
- Revitalizing the country's industrialization policy;
- The guarantee of clear, simplified procedures.

## Benefits granted

### Tax and social security benefits

- **For developers :**
- A total exemption from taxes on rental income and on the surface area of built and unbuilt properties **for 10 years, renewable once;**



- A **50%** reduction in the applicable rates of the above-mentioned taxes in **year 21<sup>ème</sup>** ;
- **50%** discount on vignettes for commercial vehicles;
- Reduction from 25% to 15% of the exceptional tax rate on the remuneration of expatriate staff;
- Application of the exceptional depreciation system for business income tax ;
- 50% reduction in the rate of non-tax and parafiscal revenues.
- **SEZ companies** ;
- A total exemption from taxes on rental income and on the land area of built and unbuilt properties **for 5 years, renewable once**;
- For companies, a 50% reduction in the applicable rates of the above-mentioned taxes in the 21st year;
- A 50% reduction in the applicable rates of the above-mentioned taxes in the 11th year;
- 50% discount on vignettes for commercial vehicles;
- Reduction from 25% to 15% of the exceptional tax rate on the remuneration of expatriate staff;

- Application of the exceptional depreciation system for business income tax ;
- 50% reduction in the rate of non-tax and parafiscal revenues;
- Suspension of VAT

### a. Customs benefits

- Total exemption from payment of import duties and taxes on machinery, spare parts, inputs or raw materials, intermediate goods, finished products, semi-finished products, goods or equipment, materials and other necessary supplies from the rest of the world **for the duration of their stay in the SEZ.**

#### Duration

These benefits are granted for a renewable period of 10 years (Art.32 decies).

#### Benefits granted

Approval of the equipment list by the Minister of Finance.

- Exemption from duties and taxes on the export of finished or se-



mi-finished products when they leave the SEZ territory for the rest of the world;

- All investors have free access to foreign currency. They have the right to transfer funds freely, without delay and without restriction, including transactions in foreign currencies.

## **Conditions for the developer (Art 4)**

Developers applying for the designation of a special economic zone must meet the following economic and financial criteria:

- Demonstrate technical and financial capabilities;
- Take part in the project ;
- Back its commitment with solid financial guarantees;
- Present the project's business and financial feasibility plan;
- Indicate the return on investment ;
- Specify the project's contribution to national economic development and job creation.









**Avec l'ANAPI,  
bien investir pour une RD Congo prospère**

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