

PROCLAMATION No. 280/2002
RE-ENACTMENT OF THE
INVESTMENT
PROCLAMATION
AS AMENDED BY PROCLAMATION NO.
375/2003

WHEREAS, the encouragement and promotion of investment has become necessary so as to accelerate the economic development of the country and to improve the living standards of its peoples;

WHEREAS, in addition to that of domestic investors, it is deemed essential to widen the scope of participation of foreign investors and to facilitate conditions thereof with a view to enhancing the country's investment activities;

WHEREAS, the system of administration of investment needs to be transparent and efficient;

WHEREAS, to these ends, it has become necessary to revise the existing law on investments;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE
General

1. *Short Title*

This Proclamation may be cited as the "Investment Proclamation No. 280/2002."

2. *Definitions*

In this Proclamation, unless the context requires otherwise:

- 1) "Investment" means expenditure of capital by an investor to establish a new enterprise or to expand or upgrade one that already exists;
- 2) "Enterprise" means an undertaking established for purposes of gaining profit;
- 3) "Capital" means local or foreign currency, negotiable instruments, machinery of equipment, buildings, initial working capital, property rights, patent rights or other business assets;
- 4) "Investor" means a domestic or foreign investor having invested in Ethiopia;

- 5) "Domestic investor" means an Ethiopian or a foreign national permanently residing in Ethiopia having made an investment, and includes the Government, public enterprises as well as a foreign national, Ethiopian by birth, and desiring to be considered as a domestic investor;
- 6) "Foreign investor" means a foreign or an enterprise, owned by foreign nationals, having invested foreign capital in Ethiopia, and includes an Ethiopian permanently residing abroad and preferring treatment as a foreign investor;
- 7) "Foreign capital" means capital obtained from foreign sources, and includes the re-invested profits and dividends of a foreign investor;
- 8) ***"Expansion/upgrading" means increasing in value, by more than 25%, the full production or service capacity of an existing enterprise, be it in variety, volume or both;***
- 9) "Appropriate investment organ" means the Ethiopian Investment Commission, (hereinafter referred to as the "Commission"), or the executive organ of a region empowered to issue investment permits;
- 10) "Public enterprise" means an undertaking, wholly owned by the Federal or Regional Government, established to carry out manufacturing, distribution, service rendering or other economic and related activities for gain;
- 11) "Government" means the Federal Government or a Regional Government;
- 12) "Region" means any of those specified under Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia and for the purpose of this Proclamation, includes the Addis Ababa City Administration and the Dire Dawa Administrative Council;
- 13) The phrase "export-oriented non-equity based foreign enterprise collaboration" means a 100% export-oriented contractual arrangement between a domestic investor and foreign enterprise in which the foreign enterprise provides, among others, all or some of the following:
 - a) guaranteed external market access;
 - b) export product and production know-how;
 - c) export marketing know-how;
 - d) export business management know-how;
 - e) raw materials and intermediate inputs needed for export production.

14) "Transfer of technology" means the transfer of systematic knowledge for the manufacture of a product, for the application of improvement of a process or for the rendering of a service, including management and marketing technologies, but shall not extend to transactions involving the mere sale or lease of goods.

3. Scope of Application

The provisions of this Proclamation shall not be applicable to investments in the prospecting, exploration and development of minerals and petroleum resources.

PART TWO

Investment Objectives, Areas and Incentives

4. Investment Objectives of the Federal Democratic Republic of Ethiopia

The objectives of the investment policy of the Federal Democratic Republic of Ethiopia are designed to improve the living standards of the peoples of Ethiopia through the realization of sustainable economic and social development; the particulars of which are the following:

- 1) to accelerate the country's economic development;
- 2) to exploit and develop the immense natural resources of the country;
- 3) to develop the domestic market through the growth of production, productivity and services;
- 4) to increase foreign exchange earnings by encouraging expansion in volume and variety of the country's export products and service and the improvement of their quality as well as to save foreign exchange through production of import substituting products;
- 5) to encourage balanced development and integrated economic activity among the Regions and to strengthen the inter-sectoral linkages of the economy;
- 6) to enhance the role of the private sector in the acceleration of the development of the country's economy;
- 7) to render foreign investment play its proper role in the country's economic development;
- 8) to create wide employment opportunities for Ethiopians and to foster the transfer of technical know-how, of managerial skills and of technology required for the progress of the country.

5. Areas of Investment Reserved for the Government or Joint Investment with the Government

- 1) The following investment areas are exclusively reserved for the Government;
 - a) Transmission and supply of electrical energy through the Integrated National Grid System; and
 - b) Postal services with the exception of courier services;
 - c) Air transport services using aircraft with a seating capacity of more than 20 passengers.
- 2) Investor shall be allowed to invest in the following areas only in joint venture with the government:
 - a) Manufacturing of weapons and ammunition; and
 - b) Telecommunication services.

6. Areas of Investment Reserved for Domestic Investors

Areas of investment exclusively reserved for Ethiopian nationals and other domestic investors shall be specified by regulations to be issued by the Council of Ministers.

7. Regarding Investments to be undertaken in Joint Venture with the Government

The Supervising Authority of Public Enterprises shall receive investment proposals submitted by any private investor intending to invest in joint venture with the Government; it shall submit same to the Ministry of Trade and Industry for decision and, upon approval, designate a public enterprise to invest as partner in the joint investment.

8. Areas of Investment Open for Foreign Investors

All areas of investment, other than those exclusively reserved under this Proclamation for the Government or joint venture with the government or for Ethiopian nationals or other domestic investors which shall be specified by regulations to be issued by the Council of Ministers, shall be open for foreign investors.

9. Investment Incentives

- 1) Areas of investment specified by regulations to be issued by the Council of Ministers pursuant to the investment objectives stated under Article 4 of this Proclamation shall be eligible for investment incentives.

- 2) The regulations to be issued pursuant to sub-article (1) of this Article shall determine the type and extent of entitlement to incentives.

PART THREE
Forms of Investment and Capital Requirements for Foreign Investors

10. Form of Investment

- 1) Investments may be effected in one of the following forms:
 - (a) Sole proprietorship;
 - (b) Business organizations incorporated in Ethiopia or abroad;
 - (c) Public Enterprises established in accordance with the relevant law;
 - (d) Cooperative Societies formed in accordance with the relevant law.
- 2) Any business organization specified under sub-Article (1) (b) of this Article shall be registered in accordance with the Commercial Code or any other relevant law.

11. Capital Requirements for Foreign Investors

- 1) Any foreign investor, to be allowed to invest pursuant to this Proclamation, shall be required to allocate a minimum capital of 100,000 US dollars for a single investment project.
- 2) Notwithstanding the provision of sub-Article (1) of this Article, the minimum capital required of a foreign investor investing jointly with domestic investors should be 60,000 US dollars.
- 3) The minimum capital required of a foreign investor investing in areas of engineering, architectural, accounting and audit services, project studies or business and management consultancy services or publishing shall be:
 - a) 50,000 US dollars if the investment is made wholly on his own;
 - b) 25,000 US dollars if the investment is made jointly with domestic investors.
- 4) A foreign investor:
 - a) re-investing his profits or dividends; or
 - b) exporting at least 75% of his outputs

shall not be required to allocate a minimum capital.

- 5) Any foreign investor having brought investment capital into the country shall have registered same at the National Bank of Ethiopia and obtain a certificate of registration.

PART FOUR

Investment Permit

12. Requirement of Permit

- 1) The following investors shall be required to obtain investment permits;
 - a) Foreign investors;
 - b) Foreign nationals, excluding Ethiopians by birth, taken for domestic investors pursuant to Article 2 (5) of this Proclamation;
 - c) Domestic investors investing in areas eligible for incentives;
 - d) Domestic and foreign investors making investments in partnerships.

- 2) ***Notwithstanding the provision of sub-Article (1) of this Article, a foreign investor intending to buy an existing enterprise in order to operate it as it stands or to buy shares of an existing enterprise shall obtain prior approval from the Ministry of Trade and Industry.***

- 3) ***Upon receipt of an application made in accordance with sub-Article (2) of this Article, the Ministry of Trade and Industry shall, after examining the matter in light of the relevant laws within two working days:***

- a) ***register the share transfer or replace the business license upon receipt of the appropriate fee, where the application is found acceptable; or***
- b) ***notify to the investor its decision and the reason thereof in writing, where the application is found unacceptable.***

- 4) The provisions of this Article shall not affect the right of an investor of Ethiopian national or foreign national, an Ethiopian by birth, taken for domestic investor intending to invest, in conformity with the relevant laws of the country, in areas not eligible for incentives or, waiving his right of entitlement in those areas eligible for incentives.

13. Application for Investment Permit by a Domestic Investor

1) *An application for investment permit by a domestic investor shall be made in a form designed for such purpose and submitted together with the following documents:*

- a) *Where the application is signed by an agent, a photocopy of his power of attorney;*
- b) *Where the investment is to be made by an individual person, a photocopy of his identity card, or a photocopy of the certificate evidencing his domestic investor status and his recent two passport size photographs;*
- c) *Where the investment is to be made by a business organization, photocopies of its memorandum of association and articles of association; or where the business organization is to be newly established, in addition, it shall submit photocopies of the shareholders' identity cards or photocopies of certificates evidencing their domestic investor status;*
- d) *Where the investment is to be made by a public enterprise, a photocopy of the Regulation under which it is established or a photocopy of its memorandum of association and articles of association; and*

e) *Where the investment is to be made by a cooperative society, a photocopy of its Articles of Association.*

2) *The application form and documents stipulated under sub-Article (1) of this Article shall be made:*

- a) *in two copies, where they are to be submitted to the Commission; or*
- b) *in one copy, where they are to be submitted to Regional Investment Organs.*

14. Application for Investment Permit by a Foreign Investor

Application for investment permit by a foreign investor shall be made in a form designed for such purpose and submitted to the Commission together with the following documents in two copies:

- 1) *where the application is signed by an agent, a photocopy of his power of attorney;*
- 2) *where the investment is to be made by an individual person, a photocopy of the pages of a valid passport showing his identity and his recent two passport size photographs;*

- 3) *where the investment is to be made by a business organization incorporated in Ethiopia, photocopies of its memorandum of association and Articles of association; or where it is to be newly established, in addition, it shall submit photocopies of the pages of a valid passport of each shareholder showing his identity;*
- 4) *where the investment is to be made by a branch of a foreign business organization in Ethiopia, photocopies of its memorandum of association and Articles of Association or a similar document of the parent company; and*
- 5) *where it is a joint investment by domestic and foreign investors, in addition to the documents provided under (c) above, photocopies of identity cards or photocopies of certificates evidencing the domestic investor status of the domestic investors, as the case may be.*

15. Application for Investment Permit for Expansion or Upgrading

- 1) *An application for investment permit to expand or upgrade an existing enterprise shall be made in a form designed for such purpose and submitted together with the following documents:*

- a) *where the application is signed by an agent, a photocopy of his power of attorney;*
 - b) *where the investment is made by a business organization, photocopies of its memorandum of association and Articles of Association; and*
 - c) *photocopy of a valid business license of the existing enterprise.*
- 2) *The application form and documents stipulated under sub-Article (1) of this Article shall be made:*
 - a) *in two copies, where they are to be submitted to the Commission; or*
 - b) *in one copy, where they are to be submitted to Regional Investment Organs.*

16. Issuance of Investment Permit

- 1) *Upon receipt of an application made in accordance with Article 13, 14 or 15 of this Proclamation, the appropriate investment organ shall, after examining the intended investment activity in light of the Proclamation, Regulations and directives issued thereunder within five working days;*
 - a) *issue the investment permit upon receipt of the appropriate fee, where the application is found acceptable; or*

- b) notify to the investor its decision and the reason thereof in writing, where the application is found unacceptable.*
- 2) *The appropriate investment organ shall, after issuing the investment permit, notify the concerned government institutions so that the latter could conduct the necessary follow up.*
- 3) An investment permit shall contain the following:
 - a) the name, nationality and address of the investor;
 - b) the investment activity; and
 - c) the region in which the investment is to be made.
- 4) A holder of an investment permit shall not be required to obtain a business license until completion of project implementation and the commencement of production or rendering of service.
- 5) An investment permit may not be transferred to another person without the prior authorization of the appropriate investment organ.
- 6) Where an investment permit is transferred to another person or where any change occurs in its content, it shall be submitted to the appropriate investment organ and amended accordingly.

17. Renewal of Investment Permit

- 1) An investment permit shall be renewed annually until the investor commences the marketing of his output or services; provided, however, the investor shall submit progress reports on the implementation of the project, to the appropriate investment organ, at the end of every six months.
- 2) An application for renewal of an investment permit shall be submitted at least a month before the end of a period of one year for which the permit remains valid.
- 3) The appropriate investment organ shall renew the investment permit, where satisfied, as to the existence of sufficient cause for the delay in the commencement or completion of the project.

18. Suspension or Revocation of Investment Permit

- 1) Where an investor violates the provisions of this Proclamation or regulations or directives issued to implement this Proclamation, the appropriate investment organ may suspend the investment permit until the investor takes due corrective measures.
- 2) The appropriate investment organ may revoke an investment permit where it is ascertained that:

- a) the investor obtained the permit fraudulently or by submitting false information or statements;
 - b) the investor has transferred the permit to another person without the authorization of the appropriate investment organ;
 - c) incentives granted are misused or illegally transferred to another person;
 - d) the investor has failed, without good cause, to renew the permit in accordance with Article "17" of this Proclamation;
 - e) *if the investor is found engaged in a commercial activity without obtaining a business license.*
- 3) The appropriate investment organ shall, prior to suspending or revoking a permit, notify the investor in writing as to the causes for taking such action and allow him a period of one month to present his views thereon.
 - 4) The appropriate investment organ shall suspend or revoke the permit where the investor fails to respond within the time limit prescribed in sub-Article (3) of this Article or presents unacceptable justification.
 - 5) Upon suspension or revocation of an investment permit, the investor shall immediately lose entitlement to all benefits.

- 6) Upon revocation of an investment permit, the investor shall return within 6 months all the benefits he was granted.
- 7) An investment permit may not be suspended or revoked by any organ other than the appropriate investment organ having issued same.

19. Right to Appeal

An investor who has a grievance against a decision of an appropriate investment organ may, within 30 days from receipt of the decision, appeal to the Federal Investment Board or to concerned organ of a Regional government, as may be appropriate.

PART FIVE

Transfer of Technology, Loans, Utilization of foreign Currency, and Remittance of Funds

20. Technology Transfer Agreement

- 1) *Where an investor concludes a technology transfer agreement related to his investment, he shall submit the same to the Commission for approval and registration.*

- 2) *Upon receipt of an application for registration as per sub-Article (1) of this Article, the Commission shall issue the registration certificate within two working days.*
- 3) *A technology transfer agreement which is not registered in accordance with this Article shall have no legal effect.*

21. Loans and Utilization of Foreign Currency

- 1) An investor who acquires an external loan shall have such loan registered with the National Bank of Ethiopia in accordance with the directives of the Bank.
- 2) For transactions related to their investment, foreign investors shall be allowed to open and operate foreign currency accounts in authorized local banks in accordance with directives of the National Bank of Ethiopia.

22. Remittance of Funds

- 1) Any foreign investor shall have the right, in respect of an approved investment, to make the following remittances out of Ethiopia in convertible foreign currency at the prevailing rate of exchange on the date of remittance:
 - a) Profits and dividends accruing from investment;

- b) Principal and interest payments on external loans;
 - c) Payments related to a technology transfer agreement registered in accordance with this Proclamation;
 - d) Proceeds from the sale or liquidation of an enterprise;
 - e) Proceeds from the transfer of shares or of partial ownership of an enterprise to a domestic investor.
- 2) Expatriates employed in an enterprise may remit, in convertible foreign currency, salaries and other payment accruing from their employment in accordance with the foreign exchange regulations or directives of the country.

PART SIX

Investment Guarantees and Protections

23. Investment Guarantees and Protections

- 1) No investment may be expropriated or nationalized except when required by the public interest and then, only in compliance with the requirements of the law.
- 2) Adequate compensation, corresponding to the prevailing market value, shall be paid in advance in

case of expropriation or nationalization of an investment for public interest.

- 3) Any foreign investor may remit compensation paid to him, pursuant to this Article, out of Ethiopia in convertible foreign currency.

PART SEVEN

Investment Administration

24. Investment Administration Organs

The administration of investment shall be carried out through the following organs:

- 1) The Ministry of Trade and Industry;
- 2) The Investment Board;
- 3) The Commission;
- 4) Regional investment organs to be defined by the laws of the respective region.

25. Jurisdiction

- 1) The administration of investment in respect of the following shall be under the jurisdiction of the Commission:

- a) Investment made by foreign investor;
- b) *Investment made by a foreign national permanently residing in Ethiopia taken for a domestic investor*
- c) Investment made, in areas eligible for incentives by domestic investor who is required to obtain business license from concerned federal organs;
- d) Joint investment by domestic and foreign investor.

2) Notwithstanding the provision of sub-Article (1) of this Article, the issuance, renewal and cancellation of investment permits for air transport services and for generation of transmission or supply of electrical energy shall be carried out by the Ethiopian Civil Aviation Authority and the Ethiopian Electric Agency respectively, representing the Commission.

- 3) Investments other than those referred to in sub-article (1) of this Article shall fall under the jurisdiction of regional investment organs.

- 4) The granting of incentives by way of exemptions from import taxes and customs duties shall fall under the exclusive jurisdiction of the Ministry of Revenues.

26. One-Stop Shop Service

- 1) *The Commission or Regional Investment Organs shall provide the following services, as required under the relevant laws, to investors they have given investment permits, representing the competent Federal or Regional executive bodies, as appropriate:*
 - a) Notarization of memorandum of association and Articles of association;
 - b) Effecting commercial registration;
 - c) Issuance of work permits to expatriate employees;
 - d) Grading of construction contractors; and
 - e) Issuance of business licenses
- 2) The Commission shall register and render a one-stop service to export-oriented non-equity base foreign enterprise collaborations.
- 3) The Commission and regional investment organs shall carry out their functions under sub-Article (1) of

his Article in compliance with the relevant laws thereof.

- 4) *Upon receipt of an application for a business license in accordance with sub-Article (1) (e) of this Article, the appropriate investment organ shall, after examining the matter in light of the relevant laws within five working days:*
 - a) *Issue the business license upon receipt of the application fee, where the application is found acceptable; or*
 - b) *Notify to the investor its decision and the reason thereof in writing, where the application is found unacceptable.”*
- 5) *Notwithstanding the provision of Article 22 sub-Article (2) (a) of Commercial Registration and Business Licensing Proclamation No. 67/1997, the appropriate investment organ shall issue the business license upon signing, by the investor, of an undertaking to respect the relevant laws and directives of the land.*
- 6) *Notwithstanding the provision of sub-Article (1) of this Article, the Commission shall issue business licenses representing only the Ministry of Trade and Industry.”*
- 7) *Notwithstanding the provision of sub-Article (1) of this Article, amendments, notarization, renewal,*

replacement or cancellation to be made in relation to documents stated therein shall be effected by the relevant Federal or Regional executive bodies.

- 8) *The appropriate investment organ shall, after rendering the service listed under sub-Article (1) of this Article, notify the concerned government institutions so that the latter could conduct the necessary follow up.*

27. Transmission of Information on Investment

Each regional investment organ shall transmit to the Commission information compiled with respect to the resource potential and investment opportunities of the Region as well as periodic reports on investment activities therein.

PART EIGHT

The Investment Board

28. Members of the Board

- 1) The number of members of the Investment Board shall be determined by Government.

- 2) The Minister of Trade and Industry shall be the Chairperson of the Investment Board.
- 3) The members of the Board shall be drawn from Government and the private sector.
- 4) The “Commissioner” of the Commission shall be a member of the Board.
- 5) The Board shall have its own Secretariat. The powers and duties of the Secretariat shall be determined by the internal rules of procedures of the Board.

29. Powers and Duties of the Board

The Board shall:

- 1) Supervise and follow up, as the superior authority, the implementation of this Proclamation and the activities of the Commission;
- 2) Decide on policy issues arising in connection with the implementation of this Proclamation.
- 3) Issue directives necessary for the implementation of this Proclamation and regulations issued hereunder;
- 4) Submit, as necessary, amendments on investment incentives, to the Council of Ministers for approval;

- 5) Decide on appeals submitted to it by investors against decisions of the Commission;
- 6) Determine service fees to be charged by the Commission
- 7) Approve the annual work program and budget of the Commission;
- 8) Publicly notify investors of directives issues from time to time;
- 9) Whenever it deems necessary, decide on new or additional incentives, other than what is provided for under the Investment Incentives Regulations and submit same to the Council of Ministers for approval.

30. Meeting of the Board

- 1) The Board shall meet regularly once in a month. However, it may hold extra-ordinary meetings at any time when necessary.
- 2) There shall be a quorum where more than half of the members are present at meetings of the Board.
- 3) Decisions of the Board shall be passed by a majority vote, however, the chairperson shall have a casting vote in case of a tie.

- 4) Without prejudice to the provisions of this Article, the Board shall draw up its own rules of procedure.

PART NINE

The Investment Commission

31. Re-establishment

- 1) The Commission is hereby re-established as an autonomous public institution having legal personality.
- 2) The Commission shall be accountable to the Investment Board.

32. Powers and Duties of the Commission

The Commission shall:

- 1) Serve as a nucleus for matters of investment and promote, coordinate and enhance activities thereon:
- 2) Initiate and submit to the Board policy and implementation measures needed to create a conducive investment climate for both domestic and foreign investors and follow up the implementation of same upon approval;

- 3) Collect, compile, analyze and disseminate information on the resource potential of the country and on the investment opportunities it offers, promote concrete investment projects, provide, upon request, match-making service of possible joint investment partners;
- 4) Organize, with a view to helping promote investment, such activities as exhibitions, training and seminars locally or abroad as may be appropriate, give advisory support to investors;
- 5) Realize liaison and coordination between investors, public offices, Regional governments and other relevant organs, with a view to enhancing investment;
- 6) Prepare and distribute pamphlets, brochures, films and other materials that help enhance investment;
- 7) Issue investment permits in accordance with Article “25” of this Proclamation;
- 8) Monitor the implementation of investment projects for which it has issued permits and ensure that the terms of the investment permits are complied with;
- 9) Approve and register technology transfer agreements related to investments;**
- 10) Negotiate bilateral investment promotion and protection treaties for conclusion between Ethiopia and other countries and sign same upon approval by the Council of Ministers;

- 11) Give advice and technical support to regional investment organs with a view to building up their capacity; and
- 12) Perform such other functions as may help to promote and enhance investment.

33. Organization of the Commission

The Commission shall have:

- 1) *a Commissioner to be appointed by the Government; and*
- 2) *the necessary staff*

34. Power and Duties of the “Commissioner”

- 1) The “Commissioner” shall be the Chief Executive Officer of the Commission and, as such shall, subject to the general directives of the Board, direct and administer the activities of the Commission.
- 2) Without limiting the generality of sub-Article (1) of this Article, the “Commissioner” shall:
 - a) exercise the duties of the Commission specified in Article “32” of this Proclamation;

- b) employ and administer the personnel of the Commission in accordance with the Federal Civil Service Law;
 - c) prepare and submit to the Board the work program and budget of the Commission and implement same upon approval;
 - d) effect expenditure in accordance with the budget approved for the Commission;
 - e) represent the Commission in all its dealings with third parties; and
 - f) prepare and submit to the Board reports on the performance and Financial operations of the Commission.
- 3) The “Commissioner” may, to the extent necessary for the efficient performance of the functions of the Commission, delegate part of his powers and duties to others officials as well as employees of the Commission.

35. Source of Fund

The sources of the fund of the Commission shall be:

- a) budgetary allocations made by the Federal Government;

- b) income, assistance and grants obtained from any other sources.

36. Books of Accounts

- 1) The Commission shall keep complete and accurate books of accounts.
- 2) The accounts and financial documents of the Commission shall be audited annually by the Auditor General or by auditors designated by him.

PART TEN ***Miscellaneous Provisions***

37. Allocation of Land

- 1) Where a Regional Government receives an application for the allocation of land for an approved investment, it shall, on the basis of the Federal and its own laws, deliver within 60 days the required land to the investors.
- 2) The Region shall allocate land for investment activities and transmit information on such allocations to the appropriate investment organ.

- 3) Each Region shall, in the allocation of land give priority to approved investments.
- 4) The appropriate investment organ shall, in cooperation with the concerned regional executive organs, facilitate and follow up the allocation of land for approved investments.

38. Employment of Expatriates

- 1) Any investor may employ duly qualified expatriate experts required for the operation of this business.
- 2) An investor who employs expatriates pursuant to sub-Article (1) of this Article, shall be responsible for replacing, within a limited period, such expatriate personnel by Ethiopians by arranging the necessary training thereof.
- 3) Notwithstanding the provisions of sub-articles (1) and (2) of this Article, a foreign investor upon obtaining the prior consent of the Commission shall, without and restriction, have the right to recruit expatriate employees on top management positions of an enterprise of which he is the sole or major owner of shareholder.

39. Foreign Nationals Taken for Domestic Investors

- 1) Rights and privileges as well as restrictions solely relating to foreign investors shall not be applicable to a foreign national who invests in Ethiopia is being taken for a domestic investor.
- 2) ***A foreign national permanently residing in Ethiopia to be taken for a domestic investor shall fill a form designed for such purpose and submitted together with the following documents to the Commission:***
 - a) ***Where the application is signed by an agent, his power of attorney;***
 - b) ***A photocopy of his valid business license;***
 - c) ***A photocopy of principal registration certificate;***
 - d) ***A photocopy of valid residence permit;***
 - e) ***Where the business license is that of a business organization, photocopies of its memorandum of Association and Articles of Association;***
 - f) ***Where the applicant is dependent or heir of a person taken for a domestic investor and permanently residing in Ethiopia, in addition to the above mentioned documents pertaining to the supporting person or the deceased, a***

photocopy of the dependent's valid residence permit or a court decision declaring his status as an heir; and

g) The applicant's recent three passport size photographs.

40. Ownership of Immovable Property

- 1) Notwithstanding the provisions of Articles 390-393 of the Civil Code, a foreign national taken for a domestic investor or a foreign investor shall have the right to own a dwelling house and other immovable property requisite for his investment.
- 2) The provisions of sub-Article (1) of this Article shall include those who have invested prior to the issuance of this proclamation.

41. Power Delegated to the Ethiopian Civil Aviation Authority and the Ethiopian Electric Agency.

The Ethiopian Civil Aviation Authority and the Ethiopian Electric Agency shall:

a. Carry out functions delegated to them under Article 25 sub-Article (2) in compliance with this Proclamation and Regulations and Directives issued thereunder.

b. Forward to the Commission photocopies of the investment permits they issued and the relevant documents.

42. Duty to Provide Information

Any executive organ of the Federal or a Regional Government shall have the duty to provide information relating to investment whenever so requested by appropriate investment organ.

43. Repealed Laws

- 1) The Investment Proclamation No. 37/1996 (as amended) is hereby repealed.
- 2) No law, regulation, directive or practice inconsistent with this Proclamation shall have effect with respect to matters provided for in this Proclamation.

44. Transitory Provisions

- 1) Notwithstanding the provisions of Article "43" incentives provided for in the Investment Proclamation No. 37/1996 (as amended) and in regulations and directives issued thereunder shall remain applicable in respect of investment approved prior to the issuance of this Proclamation.

- 2) Where an investor, eligible for incentives under Investment Proclamation No. 37/1996 (as amended), opts instead to be a beneficiary of incentives provided for in this Proclamation and in regulations to be issued hereunder, he may notify the appropriate investment organ and be entitled thereby.

45. Effective Date

This Proclamation shall come into force as of 2nd day of July, 2002.

Done at Addis Ababa, this 2nd day of July, 2002.

**GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA**

***PROCLAMATION No. 375/2003
A PROCLAMATION TO AMEND THE
INVESTMENT RE ENACTMENT
PROCLAMATION
No. 280/2002***

WHEREAS, the system of administration of investment needs to be transparent and efficient;

WHEREAS, to this end, it has become necessary to amend the existing law on investments;

NOW, THEREFORE, in accordance with Article 55 (1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

1. Short Title

This Proclamation may be cited as the “Investment (Amendment) Proclamation No.375/2003.”

2. Renaming

The Ethiopian Investment Authority, which has been re-established under Proclamation No.280/2002, is hereby renamed as the Ethiopian Investment Commission.

3. Amendment¹

4. Power to Issue Regulation

The Council of Ministers may issue Regulations to amend the list of documents stipulated under Articles 13, 14, 15 and 37 of this Proclamation.

5. Repealed Law

Transfer of technology Council of Ministers Regulations No.121/1993 is hereby repealed.

6. Effective Date

This Proclamation shall enter into force as of 28th day of October 2003. Done at Addis Ababa, this 28th day of October, 2003.

¹ Since provisions issued under this Article are amendment provisions, they are included or are taken as a guide to amend the legal provisions of the investment proclamation No. 280/2002 as it is produced in this document.

**GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA**

***COUNCIL OF MINISTERS
REGULATIONS NO. 84/2003***

***COUNCIL OF MINISTERS
REGULATIONS ON INVESTMENT
INCENTIVES AND
INVESTMENT AREAS RESERVED
FOR DOMESTIC INVESTORS***

These regulations are issued by the Council of Ministers pursuant to Article 5 of the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No.4/1995 (as amended) and Articles 6 and 9 of the Re-enactment of Investment Proclamation No.280/2002.

Part One
General

1. Short Title

These Regulations may be cited as the “Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulations No.84/2003”.

2. Definitions

Unless the context requires otherwise, in these Regulations:

- 1) “Authority” means the Ethiopian Investment Authority;
- 2) “Board” means the Federal Investment Board;
- 3) “Capital Goods” means machinery, equipment and accessories, needed to produce goods or render services;
- 4) “Customs Duty” includes taxes levied on imported goods.
- 5) “Income Tax” means tax levied on profits from business and categorized as the revenue of the Federal Government, Regional Governments or as their joint revenue;
- 6) “Proclamation” means Investment Proclamation No.280/2002;
- 7) The definitions provided for under Article 2 of the Proclamation shall apply to these Regulations.

3. Investment Areas Reserved for Domestic Investors

Areas of investment listed in the schedule attached to these Regulations are exclusively reserved for domestic investors.

Part Two

Exemption from Income Tax

4. Investment Activities Eligible for Income Tax Exemption

- 1) Where an investor engaged in manufacturing or agro-industrial activities or the production of agricultural products to be determined by directives to be issued by the Board;
 - a. exports at least 50% / (fifty percent) of his products, or
 - b. supplies at least 75% / (seventy five percent) of his product to an exporter as a production input;he shall be eligible for income tax exemption for 5 years.
- 2) Notwithstanding the provisions of sub articles 1 of this Article the Board may, under special circumstances, grant income tax exemption for a period not longer than 7 years. However, the granting of income tax exemption for a period longer than 7 years requires the decision of the Council of Ministers.

- 3) An investor engaged in activities mentioned under sub article 1 of this Article who exports less than 50% / (fifty percent) of his products or supplies his products only to the domestic market shall be eligible for income tax exemption for 2 years.
- 4) Notwithstanding the provision of sub article 3 of this Article, the Board may, under special circumstances, grant income tax exemption for a period not longer than 5 years.
- 5) Notwithstanding the provision of sub article 3 of this Article, directives issued by the Board may prohibit exemption from income tax with respect to an investor who supplies his products only to the domestic market.
- 6) Notwithstanding the provision of sub article 1 and 3 of this Article, an investor who exports hides and skins after processing up to crust level may not be entitled to incentives provided therewith.
- 7) Notwithstanding the foregoing provisions of this Article, where the investment is in relatively under developed regions such as Gambella, Benishangul and Gumz, South Omo, in Afar Zones to be determined by the Board, Somali and other regions to be determined by the Board, the investor shall be eligible for income tax exemption for an additional 1 year period.
- 8) The income tax exemption under the foregoing provisions of this Article shall be effective when the

investor provides the information for the relevant revenue collection institution and its validity is ascertained for each income tax period.

5. Income Tax Exemption for Expansion or Upgrading of an Existing Enterprise

An investor engaged in activities mentioned under sub article 1 of Article 4 who exports at least 50% / (fifty percent) of his products and increases, in value, his production by 25% shall be eligible for income tax exemption for 2 years.

6. Commencement of Period of Exemption from Income Tax

The period of exemption from income tax shall begin from the date of commencement of production or the date of provision of services, as the case may be.

7. Carry Forward of Losses

An investor who has incurred loss within the period of income tax exemption shall be allowed to carry forward his loss for half of the income tax exemption period, after the expiry of such period.

Part Three

Exemption from the Payment of Customs Duty

8. General

- 1) An investor shall be allowed to import duty free capital goods and construction materials necessary for the establishment of a new enterprise or for the expansion or upgrading of an existing enterprise.
- 2) In addition, an investor granted with a customs duty exemption privilege shall be allowed to import duty free capital goods necessary for his enterprise.
- 3) Notwithstanding the provision of sub article 1 and 2 of this Article the Board may, by its directives, bar the duty-free importation of capital goods and construction materials where it finds that they are locally produced with competitive price, quality and quantity.
- 4) An Investor eligible for duty-free importation of capital goods pursuant to these Regulations shall be given the same privilege for spare parts whose value is not greater than 15% (fifteen percent) of the total value of the capital goods to be imported.

9. Conditions for Importing Vehicles Duty Free

The Board shall determine, by its directives, conditions for importing vehicles duty free depending on the type and nature of the project. However, any investor may import duty free:

- a. ambulances for employees that are needed for emergency cases.
- b. buses for tour operation services.

10. Areas of Investment Not Eligible for Customs duty exemption

- 1) Notwithstanding the provision of Article 8 of these Regulations, the following areas of investment are not eligible for exemption from the payment of customs duty.
 - a. hotels (excluding star-designated hotels), motels, tea rooms, coffee shops, bars, night clubs and restaurants which do not have international standards;
 - b. wholesale, retail and import trade;
 - c. maintenance services;
 - d. commercial road transport and car-hire services;

- e. postal and courier services;
 - f. real estate development;
 - g. business and management consultancy services;
 - h. advertisement services;
 - i. cinematography and similar activities;
 - j. radio and television broadcasting services;
 - k. theatre and cinema hall operations;
 - l. customs clearance services;
 - m. laundry services;
 - n. travel agency, trade auxiliary and ticket-selling services;
 - o. lottery and games of a similar nature;
- 2) Notwithstanding the provision of sub-article 1 of this Article, the Board may, where it finds appropriate, issue directives providing for additional areas of investment which may not be eligible for exemption from the payment of customs duty.

11. Transfer of Capital Goods Imported Free of Customs Duty

Capital goods imported free of customs duty shall not be transferred to third parties not entitled to similar duty free privileges, unless prior payment of the customs duty is effected thereon.

Part Four

Miscellaneous Provisions

12. Penalty

Any investor who acts contrary to Article 11 of these Regulations shall be punishable in accordance with Article 73 of the Re-establishment and Modernization of Customs Authority Proclamation No.60/1997.

13. Repealed and Non-effective Regulations and Directives

- 1) Investment Incentives Council of Ministers Regulations No.7/1996 (as amended) and Investment Areas Reserved for Domestic Investors Council of Ministers Regulations No.35/1998 are hereby repealed.

- 2) Any regulations or directives inconsistent with these Regulations shall not have effect with respect to matters provided for in these Regulations.

14. Transitory Provision

- 1) Notwithstanding the provision of Article 13 of these Regulations, incentives granted pursuant to the Investment Incentives Council of Ministers Regulations No.7/1996 (as amended) and the directives issued thereunder, shall continue to take effect.
- 2) Where an investor granted with incentives under Regulations No.7/1996 (as amended) opts instead to be a beneficiary of incentives provided for in these regulations, he may notify the appropriate investment organ and be entitled thereby.

15. Effective Date

These regulations shall come into force on the date of publication in the Federal Negarit Gazzeta.

Done at Addis Ababa, this 7th day of February, 2003

Meles Zenawi,
Prime Minister,
Federal Democratic Republic of Ethiopia

Schedule
Areas of Investment Reserved for Domestic Investors

1. The following areas are exclusively reserved for domestic investors:

- 1) retail trade and brokerage;
- 2) wholesale trade (excluding supply of petroleum and its by-products as well as wholesale by foreign investors of their products locally produced);
- 3) import trade (excluding LPG, bitumen and upon approval from the Council of Ministers, material inputs for export products);
- 4) export trade of raw coffee, chat, oil seeds, pulses, hides and skins bought from the market and live sheep, goats and cattle not raised or fattened by the investor;
- 5) construction companies excluding those designated as grade 1;
- 6) tanning of hides and skins up to crust level;
- 7) hotels (excluding star-designated hotels), motels, pensions, tea rooms, coffee shops, bars, night clubs and

restaurants excluding international and specialized restaurants;

- 8) travel agency, trade auxiliary and ticket selling services;
- 9) car-hire and taxi-cabs transport services;
- 10) commercial road transport and inland water transport services;
- 11) bakery products and pastries for the domestic market;
- 12) grinding mills;
- 13) barber shops, beauty salons, and provision of smith workshops and tailoring services except by garment factors;
- 14) building maintenance and repair and maintenance of vehicles;
- 15) saw milling and timber making;
- 16) customs clearance services;
- 17) museums, theaters and cinema hall operations;
- 18) printing industries.

2. Notwithstanding the provision of paragraph 1 of this schedule, the following areas of investment are exclusively reserved for Ethiopian nationals:

- 1) banking, insurance and micro credit and saving services;
- 2) forwarding and shipping agency services;
- 3) broadcasting services
- 4) using aircraft with a seating capacity of up to 20 passengers.