

LAW NO. 54
(De 22 de Julio de 1998)

Whereby provisions for the Legal Stability of Investments are Adopted.

THE LEGISLATIVE ASSEMBLY
DECREES:

Chapter I
Investment Protection

Article 1: The state promotes and protects investments within the country, in all areas of economic activity established in the Law, and in any enterprise or contractual form in accordance with national legislation.

For the purpose of this Law, an investment is the disposition of capital, in cash or credit facilities, capital goods or transfers of assets destined to the effective production of goods and services, in accordance with activities established in article 5 of this Law.

Article 2: Foreign investors and the enterprises in which they participate, have the same rights and duties as national investors and enterprises, with no other limitations than those established in the Political Constitution and the law, including those that refer to the freedom of trade and industry, and export and import.

Furthermore, the freedom to dispose of the profits obtained in their investments, the freedom to repatriate their capital, dividends, interests and profits produced by their investments and the freedom to commercialize their production is guaranteed hereby to said investors.

Article 3: Property rights for investors have no limitations other than those established by the Political Constitution and the law.

Article 4: Copyrights and trademark rights of foreign investors are subject to the same regulations as established for national investors.

Chapter II
Application Scope

Article 5: The present legal stability regulation is granted to individuals or private entities, foreign or domestic, who carry out investments within the national territory to develop the following activities: tourism, industrial, agricultural, exports, agroforestry, mining, processing zones, commercial, and petroleum free zones, telecommunications, constructions, port and railroad development, and all activities approved by the President's Cabinet, previously recommended by the Ministry of Commerce and Industries.

Article 6: The Ministry of Commerce and Industries is the authority in charge of enforcing this Law and regulations that develop it.

Article 7: Except for information protected by law, government entities and public offices have to provide the information and assistance required by the Ministry of Commerce and industries to enforce this Law.

Article 8: To receive the benefits of this Law, the investor must develop the investment in accordance with the investment plan presented for such purposes, must be duly registered in the entity in charge of promoting and supervising such investments, if it is the case, and must comply the other duties established in article 16 of this Law.

Said entity, on sight of the petition of party in interest, shall certify the existence of the investment and shall send copy of it the Ministry of Commerce and Industries, entity that shall decide to file or deny the file of the investment in the Registry, through a motivated opinion, within a term of six months.

Foreign and domestic investors who, previous to the promulgation of this Law, have been engaged in investments in accordance with the requirements as prescribed by article 16 and who are interested to receive the benefits of this Law, shall have a term of six months to do so, after the promulgation of this Law.

The legal and tax stability provisions in effect at the moment of their inscription in the Registry provided for in this article shall be guaranteed to these investors, in the event they were duly registered in the entity responsible for promoting and supervising the respective type of investment.

For the purposes of the previous paragraph, the entity responsible for promoting or supervising the activity, duly required by the interested party, must send to the National Board of Enterprise Development of the Ministry of Commerce and Industry, identified with the acronym "DINADE", copy of the inscription, in order that Board may file or deny the file of said investment in the Registry.

In the case of activities winch investment does not require to be registered in an entity in charge of promoting and supervising it, the investor request from DINADE the authorization for the corresponding inscription, which may be denied or accepted by Board, in order to obtain the benefits of this Law.

All inscription request must follow the guidelines established in this article.

Article 9: The following are not allowed to obtain the benefits of this Law.

1. Individuals or juridical entities who have been or might be convicted by domestic or foreign authority or court for tax or customs crime; those with outstanding, clear and due fiscal debts, or when a final judicial or administrative decision has been passed declaring the firm's failure to comply with customs, tax or social security statues.
2. Individuals who have been convicted or might be convicted by a foreign or domestic court for any of the crimes established in article 255,257,258,260,262,263^a,263B, 263C, 263E, and 263G, of the Criminal Code, which refer to crimes related to drugs, money laundering or legitimization; entities in which said individuals act as directors, officers or representatives; those who been convicted for crimes described in article 190,197,265 and 267

of the Criminal Code, receptively, which are related to fraud, misappropriation, and forgery of public and private documents.

To validate this numeral, a final judicial or administrative conviction declaring said persons criminally responsible must exist.

In the event that, after being registered in the DINADE, Registry, an investor protected by this legislation incurs in any of the crimes outlined in numerals 1 and 2 of this article, the registration will be cancelled after the corresponding verification process has been accomplished and a motivated resolution has been issued. The same treatment will be dispensed to investors who have incurred in the situations established in numeral 1 and 2 of this article, when these circumstances are made known to the corresponding authorities after the registration, even if the crimes were incurred before the inscription. The cancellation of the registration will produce the extinction of all benefits the present Law offers the investor and the latter will be punishable by law.

Chapter III Guarantees

Article 10: The individual or entity who develops investments in the activities prescribed in article 5 and who comply with the obligations set forth in article 16 of this Law, since its promulgation, shall receive the following benefits for the term ten years.

1. Legal stability in such a manner, that even though new regulations that might vary its acquired rights herein be enacted, said new regulations shall not affect its constituted regimen, unless public utility or social interest causes shall exist.
2. Tax stability within the national territory, subject only to existing tax laws at the time of its registration at the from the tax stability contemplated herein.
3. Municipal tax stability, to the extent that possible changes to the regulation on how to determine and municipal taxes could only affect investments protected under this Law every five years.
4. Stability in customs statutes derived from special laws, when these are enacted for special tax refund situations, exonerations, temporary admissions and similars. The President's Cabinet faculty to modify all customs legislations, shall not constitute a violation of this guarantee.
5. Stability in labor statutes in relation to the laws in force at the time of the contract, pursuant to the Panamanian law and to the international pacts and agreements on the matter, ratified by the Republic of Panama.

Article 11: To assure the effects of the previous article, the DINADE shall send to the pertinent municipal and government authorities, a copy of the filed registry, which shall act as a proof in favour of the investor.

Article 12: If, during the enforcement of the law for the legal stability of investments, any exoneration or modification of the national taxes, which constitute part of the guaranteed tax statutes, should expire, the investor shall pay

taxes in accordance with the tax statute in effect at the time of its registration in the DINADE, unless the modification answers to public or social interests.

If the abolishment of any of the taxes that form part the guaranteed tax statute result from its substitution which a new tax, the investor shall pay the new tax up to an amount that he would have had to pay annually under the abolished law.

Exonerations and their enforcement period will regulated by the legal norms that enacted them.

Article 13: At any moment, investors registered in the DINADE shall elect, only once, to, to benefit from the tax statute applied to the investors not protected by this Law. In that case, said statute will constitute, for the investor, the new parameter, and the same shall remain in force without modification, unless public or social interest mediate, for the rest of the ten year period provided by article 10 of present Law.

The investor who elect to change the tax statute, in accordance with the aforementioned, shall notify such change o the DINADE, who shall issue the respective resolution, which shall be notified to the Ministry of Finance and Treasury.

Likewise, investors who have elected to receive the benefits guaranteed by this law, shall, at any time, after duly having notified DINADE, waive such guarantees and thus become bound to normal conditions that, in legal and tax matters, are in force to other investors not protected by this Law.

Chapter IV Counsel Board

Article 14: The Counsel Board for Investment Legal Stability herein named as the Counsel is created under the jurisdiction the Ministry of Commerce and Industries, and shall be integrated as follows:

1. The President of the Panamanian Association of Corporation Executives (APPEDE), or a designated representative of that association.
2. The President of the Panamanian Chamber of Commerce, Industries and Agriculture, or designated representative of that association.
3. The president of the National Council of Private Enterprise (CONEP), or a designated representative of association.
4. The President of the Panamanian Syndicate of Industrialists (SI), or a designated representative of that association.
5. The President of National union of Agricultural producers (UNPAP), or designated representative of that association.
6. The President of the Panamanian Food Merchants Association (ACOVIPA), or a designated representative of that association.

7. The President of the Panamanian Association of Exporters (APEX) or a designated representatives of that association.
8. A representative of any other association or body determined by the Counsel. The members of the Counsel shall not receive remuneration for services rendered.

Article 15: The duties of the Counsel Board shall be as follows:

1. To advise the Ministry of Commerce and Industries on investment matters related to the interest of the investors protected.
2. To support, through recommendation, opinions and analysis of the repetitive groups, all efforts conducted by DIANDE.
3. To recommend to the Ministry of Commerce and Industries the inclusion of new activities in the present stability regulation, pursuant to article 5 of this Law.

Chapter V Investor's Obligations

Article 16: All investors interested in receiving the benefits of this Law shall comply the following procedure:

1. To present to the competent authority in charge of regulation and supervising the investment, whichever the case may be, an investment plan which includes the obligation to invest two million dollars (\$2,000,00.00), which shall be developed in the period established by the law that regulates the respective activity, or , in other cases, in :
 - a. The amount of the planned investment.
 - b. Number of employments planned to be created.
 - c. Any additional information that DINADE might require, based on the nature of the pertinent activity, as long as it necessary to evaluate the viability of the potetion.
2. Execute, maintain and develop the pertinent investment, during the agreed term and according the investment plan.
3. To faithfully fulfill the group of norms, strategies and actions, established by or to be established by the Government, to orient, condition and determine the conservation, use administration and utilization of the environment and natural resources, taking the necessary provisions, as ordered by the pertinent authorities, in order to avoid any negative effect on the environment.
4. To strictly comply the laws and regulations, regardin of the activity linked to the of activity in reference to pay on time the taxes, fees and contributions and other social and labor charges to which the business may be finded.

5. To waive to any diplomatic claim, whenever the enterprises are totally or partially held by capital or wherever foreigners are the owners or control the stock or participation in them, with the exception of cases of denial of justice.
6. To fulfill all tax and labor laws and regulations obligations assumed pursuant to the provisions of this Law.

Article 17: The investor's default of whichever of the obligations outlined in the previous articles, shall produce the loss of the protection system a term that shall not exceed a two years term, computed from the time of the registration, except that nature of the investment demands a term extension, that DINADE shall determine it.

Once the term for the investment have elapsed, the investor must accredit the amount invested and the activity developed, which shall be done through an affidavit, the certification of certified public accountant and the corresponding evidence annexes. The affidavit certification shall be presented to the authority in charge of supervising the investment, or to the DINADE in the case of activities that does not require to be registered with an authority in charge of promoting and supervising their investment .

For the purposes of this Law, with the exception of those activities where the authority in charge of supervising the investment has disposed the content of the respective investment plan, the plan should contain at least the following information:

- a. If the investor is an individual, the name and personal description of the investor, including the number of the personal identity card or passport number.
- b. If the investor is a juridical entity, foreign or domestic, it must include a copy of the Article of Incorporation and a certification signed by the Public Registry certifying the names of directors, officers, legal representative, resident agent, authorized capital stock and any other information of the corporation. This certification is valid for two months.
- c. A detailed and precise description of the activity, including the feasibility studies, blueprints and any technical studies the project might require or need.

Guaranteed by this Law, unless force majeure can be proven.

This decision shall only be adopted after the investor's default has been proven, through a summary proceeding and it shall be decreed through a motivated resolution issued by DINADE, who might appeal in the manner provided in article 20.

Article 18: The Government shall indemnify the investor in the event that, for social or public interest, an investment protected by this Law be expropriated, as long as that decision causes damages which can be proven. The indemnity shall be determined in their manner provided in article 22 of this Law.

The investor will not receive said indemnity if the investment have been insured against country risk by foreign government, by the World Bank Multilateral Guarantee Agency (MIGA) or any other local insurance company. The Government will encourage local insurance companies to offer investment insurance for the activities described in this Law.

Article 19: When, in accordance with this Law, a foreign government, an international organization or a foreign or domestic insurance company, has issued the investor any insurance or financial guarantee against country risk, the Governments shall recognize the investor's subrogation rights, when that insurance or financial guarantee has been paid out.

Chapter VI General Rules

Article 20: Any controversies, claims and difference that arise between the Government and investors with regard to the application, execution or interpretation of this Law, will be settled in a direct and friendly manner through conciliation, in accordance with the Conciliation Rules of the Panamanian Center of the Conciliation and Arbitration. Supervisory actions from national and municipal tax administrations and administrative acts of interpretation and tax collection other public order rules are excluded from the conciliatory and arbitration process referred to herein.

If no solution is reached within the days after the conciliatory process has been promoted and after the corresponding claim has been presented, the investor might elect to refer.

1. Through a decision of the competent governmental or judicial authority, or
2. Through judgement, in accordance with the Arbitration Rules of the Panamanian Center of Conciliation and Arbitration. Arbitration judgement shall be definite and obligatory for the litigating parties and shall be executed in accordance with national legislation.

These cases in which exist the causes of cassation based on form or annulment based on prevarication exists, as provided in articles 1151 and 1441 of Judicial Code, respectively are excluded from the above paragraph.

Article 21: The Government shall not take direct or indirect measures of modification or derogation of law which carry the same effect, against investments developed under the protection of this Law, unless such measures the adopted under following criteria:

1. That said measures be adopted based on public utility or social interest and in accordance with the Political Constitution.
2. That said measures not be discriminatory.
3. That said measures imply the payment of adequate indemnity.

Article 22: The indemnity referred to in the previous article shall be based on the market value, according to fiscal laws, of the investments affected on the date immediately previous to that which adopted measure be communicated to the affected party.

When there is a difficulty to determine said value, the indemnity may be fixed according to the principles of evaluation generally applied, taking into account the amount of capital invested, its depreciation, the amount of repatriated capital up to date, replacement value another relevant factors.

In any of the cases deserved in the previous article the, procedure for payment of the indemnity shall adjust to that established in Part II, Title XVI, Book II of the Judicial Code.

Article 23: this Law shall not affect the rights, conditions or benefits granted the to investments by virtue of treaties for the promotion and protection of investments undersignes by the Republic of Panama.

Article 24: The Executive Branch will regulate the precision contained in this Law.

Article 25: This Law shall be effective as of its promulgation and it revokes law regulation which contravenes it.

PROMULGATE IT AND COMPLY WITH:

Approved on third debate at the Justo Arosemena Palace, Panama city, on the 18th day of July, nineteen hundred and ninety eight.

ALBERTO MAGNO CASTILLERO
Acting President

HARLEY JAMES MITCHELL D.
Secretary General

National Executive Branch
-Presidency of the Republic -

Panama, Republic of Panama, July 22, 1998

ERNESTO PEREZ BALLADARES
President of the Republic

ASCAR CEVILLE
Acting Chief of Staff