

THE LAW OF TURKMENISTAN ON FREE ECONOMIC ZONES

The present Law determines general legal and economic principles of the establishment and functioning of free economic zones, regulates the relations between the subjects of economic activity operating on the territory of a free economic zone. The Law aims at ensuring the development of the regional economic and scientific-technical potential with the involvement of foreign investors and subjects of economic activity from the private sector of the economy.

SECTION I. GENERAL PROVISIONS

Article 1. The concept of a Free Economic Zone

A free economic zone is a particularly separated territory with the fixed administrative borders to be governed by special regimen.

A free economic zone occupies the territory the borders of which are established by legislative acts of Turkmenistan.

On the territory of a free economic zone, subjects of economic activity from the private sector of the economy of Turkmenistan and foreign investors are allowed to carry out all kinds of economic, financial and other activity except those prohibited by the legislation of Turkmenistan.

Article 2. Legislation on Free Economic Zones

1. Legal relations within free economic zone are regulated by the present Law and other legislative acts of Turkmenistan.

2. If an international agreement with the participation of Turkmenistan contains the provisions different from the provisions of the present Law the former is applied.

Article 3. Setting up a free economic zone

Setting up a free economic zone and regulation of its operation are decreed by the President of Turkmenistan.

Article 4. Setting up and liquidation of an enterprise within the free economic zone

1. Enterprises set up within the free economic zone are registered in accordance with the procedure stipulated by the legislation of Turkmenistan.

Enterprises with foreign participation are registered by a body authorised by the Cabinet of Ministers.

The enterprise with foreign participation acquires the status of a legal entity from the date of obtaining the certificate of the state registration (re-registration) issued by the holder of the Unified State Register of Enterprises and Organisations of all forms of property and activity.

2. Enterprises operating in a free economic zone irrespective of their legal organisational forms are liquidated in accordance with the legislation of Turkmenistan.

Article 5. Guarantees of rights and interests of the subjects of economic activity

1. Turkmenistan guarantees the observance of the rights and legal interests of economic subjects in a free economic zone.

2. Nationalisation by the state of the property of the subjects of economic activity in a free economic zone is not permitted.

3. Any discrimination against enterprises with foreign investments as compared with other enterprises operating in a free economic zone as well as compulsory withdrawal of foreign investments (nationalisation, requisition, confiscation) or any other steps entailing similar consequences are not permitted in a free economic zone.

It is prohibited to sequester the invested property, except the temporary suspension of the right until the complete liquidation by an investor of his debts.

Compulsory withdrawals can only be carried out by the court verdict on the conditions of the payment of a compensation which is equal to the real (market) value of investments to be withdrawn including the lost profit as estimated at the time of the actual compulsory withdrawal or at the moment of taking the resolution to make such actions.

Compensation is made in the same currency as of the initial investment currency.

4. Foreign investors operating in a free economic zone are guaranteed the right to repatriate the after-tax earned foreign currency proceeds abroad.

In a free economic zone foreign investors have the unlimited right to transfer, convey, pawn, export and terminate the investment of hard currency.

5. Central and local government bodies cannot prevent the citizens of Turkmenistan travelling between a free economic zone and other regions of the country.

SECTION II. OPERATION OF A FREE ECONOMIC ZONE

Article 6. Basic principles of the activity of economic subjects

1. Economic relations between enterprises located in a free economic zone are based on the contracting principles. Enterprises form independently their production programs and sell their products (services). The output of enterprises is left at their complete disposal.

2. A free economic zone is formed and operated on the principles of self-financing including the one of foreign currency.

3. Subjects of economic activity operating in a free economic zone are entitled to raise credits from the foreign banks and attract the services of foreign insurance companies for conclusion of all types of insurance contracts.

4. The consumption funds of enterprises located in a free economic zone are not regulated by the state.

5. The terms of economic activity of foreign investors, related to the prospecting, exploration, exploitation and production of renewable and non-renewable natural resources including those of the off-shore economic zone, are not regulated by the proper legislative acts of Turkmenistan.

Article 7. Peculiarities of the export-import operations implementation

1. A free economic zone has a simplified procedure for export-import operations, providing for the following:

- the export of goods manufactured in a free economic zone is not subject to quotation and licensing except certain groups of products to be listed by the Cabinet of Ministers;
- goods are considered to have been manufactured in a free economic zone if the amount of the value added as a result of processing exceeds 30 percent of the total value;
- enterprises and organisations are entitled to perform barter and intermediary operations with goods and services produced in a free economic zone;
- the import of goods (services) into a free economic zone is not subject to quotation and licensing except those imported in accordance with the special regulations and inter-governmental agreements.

Article 8. Peculiarities of customs procedure

1. The following customs procedure shall be used on the territory of a free economic zone:

- goods and other assets imported into the territory of a free economic zone shall be exempt from customs duties;
- goods and other assets exported from a free economic zone to other countries shall be exempt from customs duties except for that part of goods, assets having foreign origin;
- goods and other assets imported to a free economic zone and exported from it shall be subject to mandatory declaration

2. Transit and resale of commodities that have not been processed in a free economic zone through the territory of a zone to another regions of Turkmenistan, as well as the export of goods from another regions of Turkmenistan through the territory of a free economic zone shall not be granted any customs and taxation privileges.

3. Control over the export from a free economic zone of goods and assets of foreign origin imported into it on a duty-free basis shall be exercised by the Main State Tax Inspectorate of Turkmenistan by checking the corresponding documents.

Article 9. Taxation

1. The following taxation procedure shall be used on the territory of a free economic zone:

- enterprises operating in a free economic zone shall be exempt from paying the tax on profit for the first three profit-generating years;
- the profit tax for enterprises with foreign investments, that have a foreign partner's share of more than 30 percent in the statutory fund, shall be decreased by 50 percent for the period of the following three years after the initial profit-generating three years; for the period of the following ten years the profit tax shall be decreased by 30 percent;
- for the enterprises, the term of operation of which has been less than five years, the exemption from profit tax during the initial three profit-generating years shall be considered a form of a tax credit to be paid at the time of an enterprise liquidation by the reasons other than bankruptcy;
- within the initial five years of operation in a free economic zone the property tax shall be decreased by 50 percent of the established rate;
- the profit reinvested in export-oriented and technologically advanced objects as well as in research and experimental-development works and for environmental protection, personnel training and retraining, in infrastructure and social objects of a free economic zone shall be tax exempt.

Export-oriented objects mean enterprises with at least 70 percent of their output being intended for export. Conclusions allowing to classify objects as technologically advanced ones shall be drawn up by the corresponding academies of sciences of Turkmenistan;

- citizens of Turkmenistan, foreign citizens and persons without citizenship shall be taxed on their income at the rates established by the legislation of Turkmenistan and in the currency income has been received in, except for investors of Turkmenistan and other countries who earn their income in the form of dividends, interest, copyright and licence royalties, rent, freight, participation, on a share basis, in other enterprises located in a free economic zone and taxed at a rate of 10 percent.

2. Amounts of income generated from freight and paid to foreign subjects of economic activity for the performance of international transportation shall be taxed at a rate of 3 percent.

3. Foreign partners in joint ventures located in a free economic zone shall be exempt from paying tax on the repatriation of their profit outside Turkmenistan.

4. If an international agreement signed by Turkmenistan contains provisions different from those stipulated by the present article the provisions of the international agreement shall prevail.

5. The present article shall not affect taxation privileges established by general provisions of international Law and specific agreements of Turkmenistan with other states.

6. Taxation of income and profits of foreign legal entities and physical persons may be terminated or limited on a mutual basis if in a corresponding foreign state the same measures are applied to the subjects of Turkmenistan concerning the similar taxes; this fact must be confirmed by the tax bodies of this state.

A foreign legal entity or physical person entitled by an international agreement to a full or partial exemption from the income tax from the sources of Turkmenistan shall submit an application for reduction or cancellation of the tax in the procedure established in Turkmenistan.

7. When making commercial transactions with foreign partners it is prohibited to include in a contract tax stipulations which provide that a subject of economic activity paying for a transaction and for dividends assumes an obligation to bear the expenses for paying taxes on income and profit of foreign partners.

SECTION III. FOREIGN CURRENCY AND MONETARY MECHANISM OF PRICING

Article 10. Monetary and foreign currency circulation

1. Investors operating in a free economic zone may have current and payment accounts (in foreign currency and in the currency of Turkmenistan) in banks of Turkmenistan with the right to spend the corresponding funds on the whole territory of Turkmenistan in accordance with the current legislation.

To transfer funds kept in their accounts out of the country, foreign investors may buy foreign currency by the rate established in the currency exchange of Turkmenistan.

2. In cases when foreign investors produce the import-substituting output that is of high importance to the national economy, the translation of a part of the profit belonging to the foreign investor into the currency of Turkmenistan may be done by a mutually agreed rate at the expense of currency funds of the parties concerned.

3. The registration of banks and other financial institutions in a free economic zone including branches of foreign banks and banks with foreign participation as well as the performance of financial operations and circulation of all currencies within the territory of a free economic zone shall be monitored by the Central Bank of Turkmenistan.

4. The Central Bank of Turkmenistan shall be authorised to give a permission for the operations with cash (non-cash) foreign currency and to determine a special procedure of its spending on the territory of a free economic zone and its transfer abroad; the procedure shall be set up with the purpose of stimulating the development of free entrepreneurship in a zone.

5. Banks of a free economic zone shall have the right to open accounts for legal entities and physical persons of Turkmenistan and foreign countries in the currency of Turkmenistan and foreign currency.

Article 11. Pricing

The procedure of free pricing shall be applied to all goods manufactured and services rendered in a free economic zone.

Article 12. Rent

1. Legal entities and physical persons of Turkmenistan and other states operating on the territory of a free economic zone shall be exempt for three years from paying rent for land starting from the moment of signing a rent agreement.

Upon expiration of the exemption period the rate of the rent payment for land shall be decreased: for enterprises with a foreign share in the statutory fund not less than 30 percent the rate shall be decreased by 50 percent; for physical persons and legal entities of Turkmenistan the rate shall be decreased by 20 percent.

2. Investors of Turkmenistan and foreign states have the right for a sublease of property and assignment of rights for use by a mutual agreement of the parties which have signed a lease agreement or, their legal successors. The rights for use may be used by an investor as pledge.

3. The terms of agreements on rent of land lots, buildings constructions and other objects may be changed in accordance with the legislation of Turkmenistan by a mutual agreement of the parties or by the decision of Economic court.

Article 13. Foreign economic activity

All legal entities and citizens operating in a free economic zone shall independently participate in foreign economic activity including commercial intermediary operations.

Participants of foreign economic activity shall be registered by the Committee on foreign economic affairs at the President of Turkmenistan.

Article 14. Labour relations

1. Labour relations in enterprises located in a free economic zone shall be regulated by collective and individual agreements (contracts) in accordance with the legislation of Turkmenistan. When regulating wages salaries the pay tariff system shall be referred to as recommendation source only.

2. Minimum wages, salaries, student grants, pensions, benefits and other social allowances set in a free economic zone can not be established at rates lower than the amounts of similar payments specified in the legislation of Turkmenistan.

3. Enterprises of a free economic zone are entitled to pay employees' wages and salaries in foreign currency.

4. Labour terms with respect to foreign personnel shall be stipulated in individual contracts. The after-tax foreign currency income of these employees may be freely repatriated abroad.

5. No limitations on signing contacts with the citizens of Turkmenistan on the grounds related to their places of residence shall be permitted in a free economic zone.

Article 15. Procedure for resolving disputes

Disputes of the subjects of economic activity in a free economic zone with the state agencies, other legal entities and citizens of Turkmenistan, as well as disputes of between the subjects of economic activity shall be considered in Law courts of Turkmenistan.

**PRESIDENT OF TURKMENISTAN
SAPARMURAT TURKMENBASHY**

**Ashgabat, October 8, 1993
With change and amendments
by Medjlis , September 23, 1994**

**LIST
of free economic zones in Turkmenistan**

A S H G A B A T - B U Z M E Y I N

The export-oriented industrial zone - it covers the interval of the circuit highway from Ashgabat to Buzmein with the width of 5 km to the north of the railway.

The sectors of priority development are: agroindustrial processing, construction industry, research- and energy-consuming industries, as well as manufacture of consumption goods.

M A R Y - B A I R A M A L Y

It covers the interval of the highway from Mary to Bairamaly with the width of 5 km along the road. The sectors of priority development are: agro-industrial processing, agricultural machinery construction, energy-consuming production, manufacture of consumption goods.

C H E L E K E N - O K A R E M

It covers the Cheleken peninsula and the Caspian coast up to Okarem.

The sectors of development are: petrochemical industry, fishing industry, tourism and vacation industry.

D A S H K H O V U Z - A I R P O R T

It covers the interval of the highway Dashkhovuz - Airport 5 km wide.

The sectors of priority development are: production and processing of agricultural products, labour-consuming industrial production, folk crafts, tourism, manufacture of consumption goods.

C H E R D J E V - S E Y D I

It covers the interval of the highway from Cherdjev to Seidi 1 km wide. The sectors of priority development: light and food industry, device construction, machinery construction.

BAKHERDEN - GYZYLARBAT

It covers the interval of the highway from Bakherden to Gyzylarbat with the width of 3 km to the north and south along the road. The sectors of priority development are: agro-industrial processing, construction industry, recreation, traditional crafts and manufacture of consumption goods.

ASHGABAT - ANNAU

Industrial zone - it covers the interval of the highway from Ashgabat to Annau with the width of 5 km to the north of the railway.

The sectors of priority development are: agro-industrial processing, research and energy-consuming productions and manufacture of consumption goods.