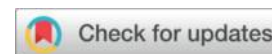




Enhancing the Attractiveness of Investment in Algeria in Light of Law No. 22-18



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Abstract:

Interest in the business climate has grown alongside the evolution of the global economy, making investment a key area that Algeria seeks to develop and attract. Investment plays a vital role in achieving economic growth, stimulating the labor market, and supporting economic recovery and development programs. Like nations worldwide, Algeria views these objectives as critical challenges and as a strategic choice for building long-term economic strength. This focus is exemplified by Investment Law No. 22-18, which establishes a range of guarantees, privileges, and incentives to encourage investment, while also prioritizing the improvement and promotion of investment performance. This article aims to highlight the law’s key provisions regarding investment support, the enhancement of the legal investment environment, and the incentivization of investors.

Keywords: Investment promotion, Investment Law No. 22-18, legal guarantees, business climate, incentive schemes, sustainable development.

Introduction:

There is no doubt that all countries of the world attach importance to reforming their economic systems and improving their investment environments in an effort to attract investment, which has become one of the pillars of economic globalization and one of the most important sources of external financing, given the advantages and potential it offers that many other international financial sources do not. From this standpoint, most states seek to attract investments of various kinds, owing to their pressing need to drive economic development and to benefit from the role that investment projects play in supporting economic activity, since such business ventures no longer mean merely profitable economic undertakings but have become a development engine for the state, with a considerable impact on the business climate.

In addition to foreign investors’ desire and drive to exploit the investment opportunities available, the issue of foreign investment has become, from the perspective of development economics, one of the essential elements closely bound up with strengthening economic growth, and one of the most important files in the context of economic reform, attracting keen interest from all countries, developed and developing alike. Algeria, like other countries concerned with economic development and with the present environment, and with strong

determination, is adopting a reform policy to put an end to the weakness of economic performance; it is also working with all seriousness to improve the business climate by encouraging foreign investment activity and by strengthening the protection of investors and their projects in various sectors, through the entrenchment of legal rules that support investment attractiveness and the attraction of foreign investment.

The reform agenda is clearly reflected in the various laws enacted by Algeria to attract foreign investment and improve the investment climate. These laws offer investors attractive fiscal and customs incentives, remove barriers that hinder access to key investment-attractive sectors, and provide appropriate guarantees to facilitate access to markets and encourage investment. The State's efforts to promote development and improve the conditions necessary for a balanced investment climate, in line with the objectives of sustainable development and global economic developments, should also be acknowledged.

In other words, the Algerian State is making sustained efforts to balance the interests of the contracting parties and raise investment performance to competitive levels. This would strengthen its negotiating position and enable it to require the participation of local labour, the transfer of technology, and the reinvestment of profits in new projects capable of attracting foreign investors. These efforts reflect the State's recognition that investment is one of the most important sources of external financing and plays a vital role in achieving the objectives of its economic plans and supporting their various dimensions.

In recent years, investment—particularly foreign direct investment—has become increasingly important as one of the main components of capital flows to host countries, especially amid resource volatility. There is therefore an urgent need not merely to improve or attract investment operations in themselves, but also to support sustainable development. This requires further efforts to establish an appropriate investment environment and adopt incentive policies that improve the investment climate, increase productivity and employment opportunities, and expand social capital, with the aim of reducing unemployment, a serious problem and persistent concern for the Algerian State.

Accordingly, this law is consistent with current economic transformations at both the domestic and external levels, thereby giving investment a new dynamism and improving the business climate. It also aims to remove the obstacles hindering the establishment of enterprises, notably those relating to the complexity, burden, and cost of administrative procedures, as well as to develop priority sectors with high added value, especially the start-up sector, and to enhance the value of local natural resources and raw materials. It further contributes to encouraging the creation of permanent jobs, upgrading human-resource skills, and strengthening the competitiveness of the national economy and its capacity to export.

In line with the title of the study, "Enhancing the Attractiveness of Investment in Algeria in Light of Law No. 22-18", the study poses the following research question: **To what extent has Law No. 22-18 on investment contributed to enhancing the attractiveness of investment?**

To answer this question, the study aims to highlight the manifestations of the Algerian State's interest in the field of investment by analyzing the legal framework governing it, identifying the most important mechanisms, incentives, and advantages established by Law No. 22-18, and assessing the extent to which they contribute to improving the investment climate and strengthening Algeria's attractiveness to investment, within the framework of economic reforms aimed at supporting development and achieving a more suitable investment environment.

In this framework, and given the nature of the subject, the descriptive-analytical method was adopted, through the description and analysis of the various provisions and mechanisms established by Law No. 22-18 to enhance investment attractiveness, in addition to the inductive method, used to trace the most important legal provisions relating to the incentives and guarantees granted to investors.

Accordingly, the study is divided into two main sections: the first addresses the legal rules supporting investment attractiveness and the attraction of foreign investment, while the second is devoted to the readjustment of incentive schemes to support and promote investment.

First – Entrenching the Legal Framework Supporting Investment Attractiveness and the Attraction of Foreign Investment

Convinced of the importance of foreign investment and its role in driving economic growth, and given that it is one of the most important sources of external financing, supporting domestic sources of financing and complementing local investment, the Algerian State has undertaken economic and political reforms as well as legal reforms,¹ which were manifested in particular in the new efforts of the Algerian legislator through the enactment of Law No. 22-18 on investment,² which introduced clear provisions translating the legislator's desire to improve the investment environment on the one hand and, on the other, these provisions included a set of incentives that the investor looks for.³

This investment law is regarded as a sign of easing in the investment arena and as an economic launchpad both for the host State, namely Algeria, and for the investor, whether national or foreign, resident or non-resident,⁴ and it cannot be ruled out that it came after numerous readings and amendments intended to equip it with provisions effective in attracting foreign investment to the country.

A review of the provisions of this law shows that the Algerian legislator has taken a significant step towards implementing a carefully designed plan for economic recovery, addressing weak economic performance, and identifying the main obstacles to investment, particularly by supporting and encouraging investors through the benefits granted to them.

1- The Main Novelties Introduced by Law No. 22-18 on Investment:

Algeria is among the developing countries that seek to achieve economic progress and sustainable development within the limits of their capabilities. It has worked to prepare its investment climate by pursuing, within the framework of economic reforms, multifaceted policies that aim, on the whole, at integrated economic development, as is clearly evident from the new textual developments, the most important of which concern the adoption of a set of facilitations,

advantages, and varied guarantees in order to attract investment, thereby contributing to its participation in the development process.⁵

The notable matter that gives this law its particular distinctiveness is the abolition of the 51/49 rule of the investment law—the well-known and controversial economic rule in this field—since it was a clear obstacle, among the most prominent rules whose application hindered the field of investment in Algeria. This rule required an Algerian partner holding a majority stake in any foreign investment operation.

It is also noted in the body of Law 22-18 that it enshrines principles that stimulate and encourage the attraction of foreign investment, by setting out the major principles of investment, namely, in particular, freedom of investment, transparency, and equality of treatment. According to thinkers and specialists in development economics and in the orientation of the new policies linked to economic development, these principles are essential features that carry the Algerian authorities' affirmation of the formation or establishment of investments in complete freedom, without direction from the administration or bureaucratic restriction on its part. Nor does it escape us that, for the first time, the Algerian legislator has devoted a provision to the principles of investment.⁶

In other words, through the enactment of this new law in 2022, the Algerian legislator sought to encourage engagement with foreign investors and facilitate transactions and project implementation, while reducing the administration's growing intervention in investment. The National Agency for Investment Promotion is expected to intervene in ways that encourage investment, and its activities are supervised by the Prime Minister's Office.

2- Legal Guarantees Established for Investors:

The Algerian legislator sought to establish a law that essentially aims to set new, stimulating guarantees which, in general and without doubt, serve to provide a comfortable investment climate for all parties to the relationship,⁷ and which are capable of effectively contributing to the attraction of national and foreign investment, with a view to achieving the objectives sought from foreign investment under the current policy of correcting all gaps, not only in the investment path but also in the development path.⁸ These guarantees are set out specifically in Chapter Two of Law 22-18 and are covered by the provisions of Articles (6, 7, 8, 9, and 10 to 15).

In fact, these guarantees are among the essential elements for attracting foreign investors and motivating national investors. They are of great importance in strengthening the investment climate and developing the relationship between the two parties, the foreign investor and the State, and they also increase stability in the investment environment.

1. The commitment to transfer profits abroad enjoys, from a financing standpoint, a measure of flexibility, since the profits transferred abroad rise and fall with boom and slump; there is no obligation to repatriate the funds flowing in from abroad, and the investment does not involve onerous conditions, as is the case with external debt or foreign aid.⁹

2. The recognition of the granting of many incentives and investment facilitations in order to attract more investment inflows, with the aim of achieving development and building a sustainable economy.
3. The provisions governing the handling of the appeals and complaints submitted by investors, through the establishment of a High Committee for Investment-Related Appeals at the level of the Presidency of the Republic, as is clear from the text of Article (11). These provisions may be regarded as reflecting great concern for investors' interests and the authorities' desire to respond to all the observations and complaints that investors submit.¹⁰
4. Among the important guarantees enshrined by Law No. 22-18 on investment is the guarantee of the protection of intellectual property rights, as these are among the rights linked to the investor and to the results of his investment activity, particularly in light of the growth of investments based on innovation, knowledge, and technology. In this context, Article 9 of Law No. 22-18 expressly provides that: "The State guarantees the protection of intellectual property rights in accordance with the legislation in force." This provision reflects the Algerian legislator's concern to provide legal protection to the investor with respect to the intellectual property rights associated with his investment, thereby contributing to a safer and more stable investment environment and strengthening the investor's confidence in the protection of the fruit of his intellectual and creative activity against the various forms of infringement or unlawful exploitation.

Moreover, the reference made by the said article to the legislation in force confirms that this protection is exercised within the framework of the national legal system governing the various intellectual property rights, including literary and artistic rights and industrial property rights, which makes the protection of intellectual property one of the legal guarantees supporting investment attractiveness in Algeria.

Second – Readjusting Incentive Schemes to Enhance and Promote Investment:

There is no doubt that the subject of attracting foreign investment to Algeria within the business environment has become one of the important subjects that cannot be ignored within sound economic policies, given the effects that such investments may generate for the national economy and that contribute to meeting the challenge Algeria faces in achieving comprehensive development,¹¹ and their clear impact on supporting the dimensions of this development in Algeria during the period 2015–2019 is also apparent, through the construction of an econometric model estimated using the statistical software EViews 10, and the autoregressive distributed lag (ARDL) model,¹² as well as other models that have a real impact on achieving development in the country and on determining the course of its economic and political relations at the international level.

Law No. 22-18 on investment was issued to bring about a qualitative leap in improving the investment climate in Algeria, whether by strengthening investment guarantees or by establishing incentive schemes to direct investment, to support certain sectors or to uplift marginalized regions, or to encourage large

projects that create jobs and constitute a driving force for economic activity,¹³ out of the State's awareness and conviction that economic development and sustainable development in all fields are an important matter closely tied to attracting investment and improving the investment environment, since the latter is among the requirements of development and has an effect in stimulating economic growth.

The President of the Republic has given particular attention to this law and closely monitored its implementation, with considerable interest, across various government departments and economic institutions. This law has been reinforced by a comprehensive set of guarantees and incentives designed to ensure its effective implementation. This is evidenced by the numerous specialized bodies that have been expressly and rigorously entrusted with monitoring compliance with its provisions¹⁴.

It is important to point out in this context that it cannot be denied that the Algerian investment law went through a long course within the corridors of power and underwent numerous amendments, as the President of the Algerian State, Mr. Tebboune, paid close attention to every stage of the law's preparation and requested on more than one occasion that some of its provisions be redrafted or drafted, and this Algerian endeavor clearly shows the importance that Algeria attaches to this law at this sensitive stage of the country's economic life.¹⁵

The interest in the investment sector and the genuine openness aimed at the localization of investments are clearly shown by the issuance of the new Law No. 22-18, which carries in its essence a distinctive character through its provisions, which serve as attractive indicators not only for attracting foreign investment in itself but also as evidence of the State's capacity to receive these investments, with the aim of raising their rates through the contribution of investment to increasing national income and wealth, bringing about societal progress, expanding foreign trade, creating jobs, and accelerating integration into global markets.¹⁶

This new and exceptional orientation reflected in the said legislation represents a qualitative leap in Algeria's legal and political reforms in general and in the economic and investment field in particular. It is undoubtedly an important indicator of improved security and political conditions, as well as of the stability of certain economic and social indicators, in addition to carrying positive effects for Algeria's economic recovery and growth support programs.¹⁷ The aim is to attract more foreign investment inflows, to secure the integrated package of advantages that the law contains, to involve these in the development path, and to draw on them to support and build a sustainable economy.

In addition to the foregoing, within the framework of the policy of attracting investment, the texts of the investment law show indications of an incentivization process designed to attract foreign investment and strengthen the performance of the Algerian economy, by focusing on important incentives and guarantees that confirm the State's endeavor to promote foreign investment and to put an end to all attempts aimed at obstructing investment transactions.

1- Introducing New Incentive Schemes and Advantages for Investment:

The advantages and incentives granted to the investor differ according to the laws and legislation governing them. The assessment of the investment climate in Algeria has been reconsidered by international bodies and organizations: in 2019, Algeria was ranked 157th globally out of 190 countries owing to the absence of tangible progress in the investment path, and this is attributable, according to evaluative and statistical studies of various indicators, to the difficulty of performance as well as to different conditions related to the climate and systems of investment in Algeria.¹⁸

It suffices to note in this regard that the government has moved steadily to establish a business climate built on solid rules and foundations to achieve a genuine economic renaissance, laying the groundwork for a sustainable Algerian economy that creates wealth and provides jobs and that is centered on attracting investment. For this reason, the Algerian legislator took the initiative of issuing Investment Law No. 22-18, through which it seeks to improve the investment sector, and it was more encouraging in this field by establishing important and flexible incentive schemes to attract and protect investors,¹⁹ set out in Article 24 and, pursuant to the concept of Article 4 of the same law,²⁰ consisting of:

1. The incentive scheme for priority sectors, called the “**sectors scheme**”, which covers, for example, activities relating to quarries, mines, agriculture, tourism, and others.
2. The incentive scheme for the zones to which the State attaches special importance, called the “**zones scheme**”, which essentially covers investments carried out in the High Plateaus and in the southern regions, in addition to zones whose development requires State support.
3. The incentive scheme for investments of a structuring nature, the “**structuring investments scheme**”.

The legislator also set out, in Articles 25 to 33 of the same law, the procedures and rules specific to benefiting from the various advantages defined for each type of these schemes provided for by law.

The importance of these incentive schemes lies in the fact that they represent a new orientation in the Algerian legislator’s policy, aimed at linking the incentives and advantages granted to the investor more closely to the nature, location, and economic importance of the investment, thereby allowing investment to be directed towards the sectors and regions that enjoy priority in the State’s economic policy, in addition to encouraging structuring investments owing to their impact in supporting economic development and creating wealth and jobs. Consequently, the diversity and flexibility of these schemes constitute one of the mechanisms adopted by Law No. 22-18 to improve the investment climate and enhance its attractiveness, by providing advantages and incentives that respond to the investor’s requirements and encourage him to carry out his investment projects in Algeria.

2- Attention to Improving and Promoting Investment Performance:

It is evident from a close reading of the provisions of the new investment law that the Algerian legislator has adopted a new reform policy covering the various

incentives and guarantees established for investment, an orientation consistent with those of legislators in countries seeking to attract as much investment as possible by granting investors numerous legal advantages and guarantees, which together constitute the various incentives, inducements, and encouragements that States grant for the purpose of promoting foreign investment.²¹

The Algerian legislator's efforts appear more clearly in the new investment law through its endeavor to raise investment performance and improve its returns, and to address the various obstacles that limited the attractiveness of the investment climate in Algeria. In this context, the abolition of the 49/51 rule emerged as one of the most important manifestations of the reform introduced by the new law, being a rule that provoked wide controversy in economic circles and was regarded for years as among the most significant restrictions that limited the attraction of foreign investment, which meant that its abolition drew great attention from thinkers, officials, and actors in the economic field.

Algeria is making every effort to create a favorable investment environment capable of attracting foreign investors and their capital, with a view to promoting the development of the national economy. Accordingly, through legal amendments and reforms in the field of investment, the country seeks to address existing gaps and shortcomings, establish a solid foundation that meets development requirements, and encourage the participation of foreign economic operators and investment companies by reviewing the legislative framework and adapting it to changing circumstances²², especially as this rule required an Algerian partner holding a majority stake in any foreign investment operation in Algeria.

There are likewise, according to experts, strong indications of the seriousness of the Algerian authorities' desire to attract foreign investment, clearly evident in the legislator's embodiment and entrenchment of distinctive and important rules, particularly in this new law, by regulating investment, investors' rights, and the regimes applicable to investments in economic activities carried out by natural or legal persons, national or foreign, all with a view to developing and encouraging investment and reforming and improving economic conditions. This is in addition to the term **"freedom of investment"** appearing in the body of Article 3 of Law 22-18 as the most important encouraging principle for activating investment and ensuring development,²³ especially those provisions that stress the need to expedite the transfer of the invested capital and the proceeds arising from it,²⁴ in order to reduce bureaucracy and the obstacles, forms, or types of obstructive interventions that may confront the investor in investment activities.

Accordingly, it is clear that the Algerian legislator's concern for improving and promoting investment performance was not limited to merely attracting foreign investment, but extended to providing a legal framework better suited to the conduct of investment activity, ensuring its continuity and raising its returns. This is embodied in the entrenchment of freedom of investment, the support and strengthening of the investor's rights and guarantees, and the facilitation of the transfer of capital and proceeds, in addition to the removal of certain restrictions that limited the openness of the national economy to foreign investment, which reflects a legislative orientation aimed at improving and promoting the investment

environment and raising Algeria's attractiveness as an investment destination, in service of the objectives of economic development.

Conclusion:

In conclusion, it is evident that the Algerian legislator has accorded particular importance to enhancing investment attractiveness by establishing a new legal framework under Law No. 22-18 on investment, which reflects a clear will to improve the investment environment, strengthen its attractiveness, and consolidate investors' confidence, through the entrenchment of the principles of governance and transparency and the provision of the guarantees and incentives capable of facilitating investment activity and improving its performance. This orientation comes within a vision that seeks to make investment a fundamental lever for supporting growth and achieving economic development, by providing a more stable and flexible investment climate, capable of attracting national and foreign investment.

The analysis of the various provisions and principles contained in Law No. 22-18 has shown that enhancing investment attractiveness is no longer linked solely to the incentives and advantages granted to the investor; rather, it has come to rest on an integrated system comprising freedom of investment, the protection of the investor's rights and guarantees, and the provision of a clearer and more stable legal framework, in addition to simplifying procedures and improving and promoting investment performance, thereby strengthening confidence in the Algerian investment environment and serving the objectives of economic growth.

First: Findings

From what has been reached in this study, the following findings can be drawn:

1. Law No. 22-18 enshrined a clear orientation towards strengthening freedom of investment, as one of the fundamental principles on which the new legal framework rests, thereby supporting freedom of initiative and enhancing Algeria's attractiveness to national and foreign investors.
2. The enshrinement of a set of guarantees and rights for the benefit of the investor contributed to strengthening confidence in the investment environment, notably by ensuring the conduct of investment activity within a clearer and more stable legal framework and by guaranteeing the transfer of the invested capital and the proceeds arising from it.
3. The abolition of the 49/51 rule reflects an orientation towards providing greater flexibility and openness to foreign investment, thereby enhancing the national economy's capacity to attract foreign capital, expertise, and technology.
4. There is a clear orientation on the part of the Algerian legislator towards improving and promoting investment performance by diversifying the incentives and advantages granted to the investor and linking them to the objectives of economic development, which makes investment a means of contributing to growth rather than a merely independent economic activity.
5. It is evident that enhancing investment attractiveness is also linked to the enshrinement of the principles of governance, transparency, and effectiveness in the management of the investment process, as these are

essential elements in building investor confidence and ensuring the stability of the investment environment.

Second: Recommendations

1. Continue developing the legal and regulatory framework for investment so as to keep pace with economic transformations and to strengthen the stability and clarity of legal rules.
2. Strengthen governance and transparency in the field of investment by ensuring the clarity of the procedures and criteria adopted in processing investment projects, and by curbing all practices that may affect the transparency of the investment process.
3. Continue simplifying and digitizing administrative procedures and improving logistical services, so as to shorten deadlines and facilitate the completion of investment projects, and to enhance the effectiveness of the relationship between the investor and the various bodies and administrations involved in the investment process.
4. Encourage communication and strengthen coordination among the various bodies responsible for investment, so as to ensure the unification of procedures, improve the speed of processing files, and accompany the investor throughout the various stages of completing his project.
5. The need to subject the incentives and advantages established for investment to periodic evaluation, in order to determine their effectiveness in attracting investment and achieving the economic, social, and developmental objectives sought from them.
6. Strengthen mechanisms for supporting the investor after project completion, so as to contribute to the continuity of projects and improve their performance and their capacity to create value and employment opportunities.

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