

## LAW 16-95

### FOREIGN INVESTMENT LAW OF THE DOMINICAN REPUBLIC

#### THE NATIONAL CONGRESS ON BEHALF OF THE REPUBLIC

**WHEREAS:** The Dominican State recognizes that Foreign Investment and technology transfers contribute to the economic growth and social development of the country, in that they favor the generation of jobs and foreign currency, promote the process of capitalization and provide efficient production, marketing and management methods;

**WHEREAS:** It is advantageous for investors, whether foreign or national, to have similar rights and obligations in the investment fields;

#### THE FOLLOWING LAW HAS BEEN GRANTED

**Art. 1.** - For the purposes of the present law on foreign investment, the following shall be understood to be:

**a) Direct Foreign Investment:** Contributions originating from abroad, belonging to foreign individuals or corporations or national individuals residing abroad, to the capital of a company operating in national territory;

**b) Foreign Reinvestment:** Foreign investment made in whole or in part from the profits originating from a duly registered foreign company into the same company that generated them;

**c) New Foreign Investment:**

Foreign investment made completely or in part from the profits originated from a registered foreign investment into a company different from that which generated the profits;

**d) Foreign Investor:** The owner of a duly registered foreign investment;

**e) National Investment:** Those made by the State, municipalities and national corporations domiciled or resident in the National territory, as well as by foreign individuals residing in the National territory that do not qualify to obtain the foreign investor certificate ;

**f) Central Bank:** Is the Central Bank of the Dominican Republic.

**g) CEI-RD:** Is the Export and Investment Center of the Dominican Republic (*Item incorporated by Article 10 of Law 98-03, of June 18<sup>th</sup> 2003, which creates the Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21, 1971, which creates The Dominican Export and Promotion Center (CEDOPEX) and other dispositions*).

**Art. 2.** - Foreign Investment can assume the following forms:

a) Contributions in freely-convertible currency, exchanged in a financial mediation institution and/or exchange agents duly authorized by the Monetary Board of the Central Bank to make exchange intermediation. *(Item incorporated by Article 11 of Law 98-03, of June 18<sup>th</sup> 2003, which creates The Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21, 1971, which creates The Dominican Center of Promotion and Exportations (CEDOPEX) and other dispositions)*

b) Contributions in kind, such as industrial plants, new and re-conditioned machinery, new and reconditioned equipment, replacements, spare parts and parts, raw material, intermediate products and final goods, as well as intangible technological contributions; and

c) Those financial instruments to which the Monetary Board grants the category of foreign investment, except those that may be the result of contributions or internment of a reconversion operation of the Dominican foreign debt.

**Paragraph I:** Independently of the investments foreseen in item b) of this article, contracts for technology transfer can be signed with foreign individuals or corporations, such as license of technology, technical assistance, basic and detailed engineering contracts.

**Paragraph II:** Intangible technological contributions are understood to be funds originating from technology, such as trademarks, model products or industrial processes or services, technical assistance and technical knowledge, franchise and management assistance. The application regulation of this law shall rule the general framework applicable to technology, including those areas in which the capitalization of intangible technological contributions will be allowed.

**Art. 3. - Targets of Foreign Investment:**

a) Investments in the capital of an existing or new company, as per the provisions contained in the Commercial Code of the Dominican Republic, including the establishment of branch offices, pursuant to the conditions set by the laws. Foreign Investment in share companies must be represented in nominative shares.

b) Investments in real state properties located in the Dominican Republic, with the effective limitations applicable to foreigners; and

c) Investments towards the acquisition of financial assets, pursuant to the general norms issued on this matter by the monetary authorities.

**Art. 4.-** *( Modified by Article 12 of Law 98-03, of June 18<sup>th</sup> 2003, which creates The Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21, 1971, which creates The Dominican Promotion and Export Center (CEDOPEX) and other dispositions)*

As soon as the investor or foreign company has made their investment, it shall be registered at the Export and Investment Center of the Dominican Republic (CEI-RD). For these purposes, the following documents will be deposited:

- a) Registration form containing all the information relevant to the invested capital and the area in which the investment has been made;
- b) Proof of entry into the country of the currency or physical or tangible Goods.
- c) Charter documents of the commercial corporation or the authorization of the operation of branch offices through the establishment of a domicile.

**PARAGRAPH I:** Once the document filing requisites have been met, the Export and Investment Center of the Dominican Republic will immediately issue to the applicant, a Direct Foreign Investment Registration Certificate.

**PARAGRAPH II:** Foreign Re-Investment and New Foreign Investment, described in article 1 of law 16-95, shall also be registered with the Export and Investment Center of the Dominican Republic, meeting the requisites provided by the regulation for applications.

**PARAGRAPH III:** In the case of companies operating in Industrial Free Zones, the registration and delivery of information shall be made in the National Export Free Zones Council, which shall have the obligation to communicate this immediately to the Export and Investment Center of the Dominican Republic (CEI-RD).

**PARAGRAPH IV:** CEI-RD will have the obligation to provide permanently to the Central Bank of the Dominican Republic all the information related to registered companies, pursuant to the monetary and financial law.

**Art. 5.-** Foreign Investment will not be allowed in the following issues:

- a) Disposal and wastes of toxic, dangerous or radioactive material not generated in the country;
- b) Activities affecting public health and the balance of the environment of the country, pursuant to the norms that apply in this regard and;
- c) Production of materials and equipment directly linked to national defense and security, except for an express authorization from the Executive Power.

**PARAGRAPH I:** When the Foreign Investment affects the eco-system in its area of influence, the investor must present a project with the provisions for recovering the ecological damage that could occur.

**PARAGRAPH II:** The competent authorities linked to the subject matter, shall be responsible to comply with the provisions contained in this article.

**PARAGRAPH III:** Foreign investments shall be made in each area of the national economy, pursuant to the conditions and limitations imposed by the laws and regulations governing such areas.

**Art. 6.-** Investors and the companies or corporations in which foreign investors may participate or be owners, shall have the same rights and obligations that the laws confer upon national investors, with the exceptions foreseen in this law or in special laws.

**Art. 7.-** The individuals or corporations that make investments defined in article 1 of this law, shall have the right to remit abroad, in freely-convertible currencies, without the need for prior authorization, the total amount of invested capital and the dividends declared during each fiscal period, up to the total amount of the net current profits of the period, upon payment of income tax, including the capital gains made and registered in the books of the company according to generally accepted accounting practices.

They can also repatriate, under the same conditions, the obligations resulting from Technical Service Contracts where fees are established for the purposes of technology transfers and/or contracts for the local manufacture of foreign brands, which include clauses for the payment of "royalties", provided said contracts and the amounts or procedures for the payments involved have been previously approved by the Export and Investment Center of the Dominican Republic (CEI-RD). *(Modified paragraph by article 13 of Law 98-03, of June 18<sup>th</sup> 2003, which creates The Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21<sup>st</sup> of 1971, which creates the Dominican Promotion and Export Center (CEDOPEX) and other dispositions)*

**Art. 8.-** *(Modified paragraph by article 14 of Law 98-03, of June 18<sup>th</sup> 2003, which creates The Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21<sup>st</sup> of 1971, which creates the Dominican Promotion and Export Center (CEDOPEX) and other dispositions)*

Within the following 60 days, the foreign investor must convey to the Export and Investment Center of the Dominican Republic (CEI-RD), so that CEI-RD, transmits to the Central Bank of the Dominican Republic the following:

- a) Statement of profits contained in the fiscal year, duly certified by a Certified Public Accountant (CPA), specifying the percentage of said profits that were subject to remittance;
- b) Documentary proof of settlement of tax commitments.

**Art. 9.-** *(Modified paragraph by article 14 of Law 98-03, of June 18<sup>th</sup> 2003, which creates the Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21<sup>st</sup> of 1971, which creates the Dominican Promotion and Export Center (CEDOPEX) and other dispositions)*

Non-compliance with this obligation will carry the applicable sanctions contained in the Financial and Monetary Law that establishes the obligation to supply information to the Central

Bank of the Dominican Republic.

The Export and Investment Center of the Dominican Republic (CEI-RD) must annually inform the National Congress of everything related to the foreign investment flows in the country.

**Art. 10.-** Article 12, added to Law 622, of 28 December 1973 to Law 173, of 6 April 1966, is modified, so that hereinafter it reads in the following manner:

**“Art. 12.-** Foreign individuals and corporations, as well as nationals, can engage in the Dominican Republic in the promotion or handling of the importation, sale, rental or any other kind of marketing or operations of merchandise and products of foreign origin that may be produced abroad or in the country, whether acting as agent, representative, receiver of commissions, exclusive distributor, licensee or under any denomination. However, if the individual or corporation that is to engage in this activity has maintained a commercial relationship with local licensees, he or it must agree to and deliver beforehand and in writing the fair and complete indemnities for the losses and damages produced by such cause, on the basis of the factors and in the manner described in article 3 of this law”.

**Art. 11.-** The present law derogates Law Number 861, dated 22 July 1978, and Law No. 138 dated 24 June 1983. In like manner, it derogates item d) of article 3 of Law No. 251 of 11 May 1964 on International Fund Transfers.

**Art. 12.-** *(Modified paragraph by article 14 of Law 98-03, of June 18<sup>th</sup> 2003, which creates the Export and Investment Center of the Dominican Republic (CEI-RD) and derogates Law 137 of May 21<sup>st</sup> of 1971, which creates the Dominican Promotion and Export Center (CEDOPEX) and other dispositions)*

The reassessment surpluses registered in the capital accounts of companies that have reassessed their assets will not be regarded as foreign investment for the purposes of repatriation of capital, except when said revaluation profits have been converted into liquid assets for the sale to third parties not related to the company.

**Art. 13. -** The present law derogates any other expressed legal provision contrary to it. **Dictated** in the Sessions Chamber of the House of Representatives, Palace of the National Congress, in Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on the twenty fourth day of the month of October of the year nineteen hundred and ninety five; year 152 of the Independence and 133 of the Restoration.

**Given** in the Session Chambers of the House of Representatives of the National Congress, in Santo Domingo, National District Capital of the Dominican Republic, on the twenty fourth day of the month of October of the year nineteen hundred and ninety five; year 152 of the Independence and 133 of the Restoration .

**Jose Ramon Fadul Fadul L.**  
President

**Altagracia Guzman Marcelino**  
President

**Nelson de Js. Sanchez Vazquez**  
Secretary

**DICTATED** in the Meeting Hall of the Senate, Palace of the National Congress, in Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on this eighth day of the month of November of the year nineteen hundred and ninety-five; year 152 of the Independence and 133 of the Restoration.

**AMABLE ARISTY CASTRO**  
President.

**ENRIQUE PUJALS,**  
Secretary

**RAFAEL OCTAVIO SILVERIO**  
Secretary

In the exercise of the powers conferred upon me by article 55 of the Constitution of the Republic I DICTATE this Law and order that it be published in the Official Gazette, for it to be known and complied with.

**ISSUED** in Santo Domingo de Guzman, National District, Capital of the Dominican Republic on this twentieth (20th) day of the month of November of the year nineteen hundred and ninety-five; year 152 of the Independence and 133 of the Restoration.

**JOAQUIN BALAGUER**  
President of the Dominican Republic

In exercise of the attributions conferred to me by article 55 of the Constitution of the Republic, I hereby

Promulgate the present Law and I order it to be published in the Official Gazette for its acknowledgment and fulfillment.

**GIVEN** in Santo Domingo de Guzmán, National District, and Capital of the Dominican Republic on the twentieth (20) day of the month of November of the year nineteen hundred ninety five, 152 years of the Independence and 133 of the Restoration.

**JOAQUIN BALAGUER**

**REGISTRATION OF FOREIGN INVESTMENT APPLICATION REGULATION IN  
THE DOMINICAN REPUBLIC.**

**NO. 214-04**

**WHEREAS:** the Dominican Government recognizes that foreign investment and technology transfer contribute to the economic growth and social development of the country, in that they favor the creation of jobs and the inflow of foreign currency, promote the capitalization process, and contribute efficient methods of production, commercialization and management;

**WHEREAS:** By virtue of the established in articles 9 and following of Law 98-03, of June 17<sup>th</sup>, 2003, the Export and Investment Center of the Dominican Republic (CEI-RD) will assume all the attributions regarding the Foreign Investment Registry, which to the date had been assumed by the Central Bank of the Dominican Republic, according to the regime established by Law No. 16-95 of Foreign Investment, from November 20<sup>th</sup>, 1995.

**WHEREAS:** Such law requires in its texts the drafting of an application regulation and that it is necessary for the transfer of the attributions regarding the Investment Registry from the Central Bank of the Dominican Republic in favor of the Export and Investment Center of the Dominican Republic (CEI-RD).

**HAVING VIEWED:** Law No. 16-95 dated November 20, 1995 on Foreign Investment in the Dominican Republic;

**HAVING VIEWED:** Law No. 98-03 from June 17<sup>th</sup>, 2003, which modified the Law No. 137, which creates the Dominican Promotion and Export Center (CEDOPEX);

**HAVING VIEWED:** The Application Regulation No. 380-96, dated August 28<sup>th</sup> of 1996, of Law No. 16-95 on Foreign Investment.

In the exercise of the powers conferred upon me by Article 55 of the Constitution of the Republic, I hereby promulgate the following:

**REGISTRATION OF FOREIGN INVESTMENT APPLICATION REGULATION IN  
THE DOMINICAN REPUBLIC.**

**ARTICLE 1** - in addition to those contained in Law No. 16-95 and No. 98-03 the following definitions are introduced as an integral part of this regulation:

**CEI-RD:** Export and Investment Center of the Dominican Republic, created through Law No. 98-03, dated June 17<sup>th</sup>, 2003.

**Certificate of Foreign Investment Registration:** document to be issued by the CEI-RD in favor of a foreign investor to evidence that his investment has been duly registered.

**Company:** an economic unit, whether a single proprietorship, partnership, limited partnership or corporation.

**Law No. 16-95:** On foreign investment approved by the National Congress on November 8<sup>th</sup>, 1995.

**Export Free Zone:** Any national or foreign company licensed under Law No.8-90 January, 15<sup>th</sup> 1990 or any other legislation which supersedes it:

**Financial assets:** instruments exchanged in financial markets, such as promissory notes, bonds, certificates, shares, drafts, and others, which the Monetary Board characterizes as foreign investment under regulations to be issued for this purpose.

**Repatriable or remittable capital:** the fully paid-in capital owned by registered foreign investors, less the net losses suffered by the company, if any.

**Fiscal year:** the period of one year in which the results of a company's business are presented in its financial statements.

**Freely convertible currency:** Free convertible currency; those foreign currencies that can be exchanged in the local exchange market according to the effective dispositions.

## **ARTICLE 2.- ATRIBUTIONS AND OBLIGATIONS OF THE EXPORT AND INVESTMENT CENTER OF THE DOMINICAN REPUBLIC (CEI-RD)**

According to the established by article 9 of Law No. 98-03, dated June 17<sup>th</sup> , 2003, all the attributions regarding to the Foreign Investment Registry are transferred to the **CEI-RD**, which to the date had been assumed by the Central bank of the Dominican Republic, according to the regime established by Law No.16-95 of Foreign Investment dated November 20<sup>th</sup> , 1995. These will be attributions of the Export and Investment Center of the Dominican Republic (CEI-RD):

**a)** Receive and analyze applications for registration in relation to direct foreign investments, foreign reinvestment, new foreign investments, and licensing agreements for the transfer of technology, and to proceed with their registration after having determined compliance with all legal and regulatory preconditions.

**b)** Receive information from the National Export Free Zone Council regarding the registration of foreign companies authorized by said Council to operate as export free zone, to grant the corresponding foreign investment registration;

**c)** Request from applicants for foreign investment registration the necessary information and documents to support their applications, as established in Law No. 16-95 and this Regulation;

**d)** Issue Foreign Investment Registration Certificates or on Transfer of Technology accordingly.



e) Provide upon request information concerning the requirements to obtain a Foreign Investment Registration Certificate or of Transfer of Technology;

f) Make an annual report to the National Congress, via the Executive Power, on the flow of foreign investment in the country, as a part of the annual Export and Investment Center's (CEI-RD) report.

g) Verify that the values remitted abroad as earnings, the payments derived from contracts for technology transfer or repatriation of capital are made pursuant to Law No. 16-95 and this Regulation;

h) Permanently provide the Central Bank of the Dominican Republic all the information related to the registered companies, for statistical purposes and according to the Monetary and Financial Law.

### **ARTICLE 3.- FORMALITIES FOR THE REGISTRATION OF FOREIGN INVESTMENTS.**

Within the period of one hundred and eighty (180) calendar days foreseen in Law No. 98-03, starting from the date on which each investment has been made in the country, the foreign investor, natural or juridical person, must file the registration form at the Export and Investment Center of the Dominican Republic (CEI-RD) with all the information required for the issuance of the Registration Certificate.

Upon completion of the required documentation for registration purposes, the Export and Investment Center will have a period of fifteen (15) working days in which to process and to issue the Registration Certificate.

**PARAGRAPH I:** All applications for foreign investment registration must contain the following information:

a) In the case of a natural person: name, address, telephone and fax number, and nationality of the foreign investor and of the person acting on his behalf, if any;

b) In the case of juridical person: corporate name, domicile, telephone and fax number, and names of the members of its board of directors;

c) Amount of the investment, expressed in a freely convertible currency;

d) Name and incorporation papers of the local company which will receive the investment

e) Branch of economic activity in which the local company is or will be engaged;

f) Evidence of the authorization to operate a branch thru the establishment of a domicile, of the company in which the investment will be made, if corresponds;

g) When the foreign investment impacts the environment in its area of influence, the foreign investor must submit a certificate from the competent ministry or agency which describes the manner in which any damage to the environment will be repaired, and;

h) In the case of capitalization of technology, the foreign investor must additionally submit the subscribed contract between the parties, in which is specified the amount of currency for such capitalization.

**PARAGRAPH II:** In the case of a direct foreign investment, made in freely convertible foreign currency, the investor must submit:

a) Evidence of the entry of the foreign currency into the country through copy of the check(s) or wire transfer(s) from the foreign financial institution (s) and

b) Exchange receipt issued by an entity authorized by the Monetary Board to negotiate foreign currency.

In the case of direct foreign investment in cash, whose destiny has been established in Art. 3 of Law 16-95, and it is agreed in currency of free exchange in addition to the documents stipulated in item a) a written notarized copy of the contract must be presented, where it indicates that the currencies were used (in its totality) for such purposes.

**PARAGRAPH III:** In the case of a direct foreign investment in kind, the following documents must be submitted, whenever pertinent:

a) In case of investments in imported goods and/or services

- Commercial invoice
- Bill of lading, and
- Customs clearance documentation

b) In cases involving investments in kind made in installments over a given period of time, the investor must submit an affidavit describing the goods to be imported, the estimated amount of the customs duties, as well as the period of time in which the imports will be received. In such a case, a provisional certificate of registration will be issued for the estimated value of the imports, based on the proof of payment, credit or purchase order for the goods or services to be received from abroad.

Upon completion of the foreign investment, the foreign investor shall submit to the Export and Investment Center of the Dominican Republic (CEI-RD) the documents referred to in literal a) of this paragraph and the provisional registry certificates issued, in order to proceed with the replacement for definitive Foreign Investment Registration Certificates.

c) In the case of foreign loans or financing, the investment will only be registered if the loan or financing is given to the foreign investor, and not to the company in which the investor makes

the investment, and;

**d)** In the case of intangible technological contributions, the foreign investor must submit a copy of the agreement with the company receiving the investment, as well as the evidence of ownership.

**PARAGRAPH IV:** In cases of new investment or of reinvestment of profits, which, after being registered, will receive equal treatment as direct foreign investments. For these purposes, the foreign investor must, within a period of ninety (90) calendar days from the date on which the company declares the dividends, submit the following:

**a)** Copy of the audited financial statement of the company declaring the dividend;

**b)** Minutes of the shareholders' meeting in which the dividend was declared, if required;

**c)** Documentary evidence of the tax payment of the foreign investor in Dominican Republic.

**d)** In the case of a reinvestment of earnings, the documentation mentioned in section c), Paragraph I, of this Article will also have to be submitted and;

**e)** In the case of a new investment, the documentation mentioned in sections c), d), e), f), and g) of Paragraph I of this Article will also have to be submitted.

**PARAGRAPH V:** Foreign natural or juridical persons as well as nationals, may engage in the Dominican Republic, in the promotion or procurement of imports, sale, distribution, leases or any other form of traffic or exploitation of foreign or national merchandise or products, whether such person acts as an agent, representative, exclusive distributor, concessionaire or under any other denomination. However, if the natural or juridical person that will engage in these activities has maintained commercial relations with a local concessionaire, it must enter into a written agreement and previously pay a fair and complete indemnity of the damages arising these based on the factors and in the form described in Article 3 of Law No. 173 dated April 6<sup>th</sup>, 1966.

#### **ARTICLE 4. REMITTANCE OF EARNINGS**

A foreign investor shall have the right to remit without the prior authorization of the Central Bank, all earnings accrued during the fiscal years concluded after the entry into force of Law No. 16-95, as well as dividends paid in anticipation within the current fiscal period, provided that the corresponding tax obligations have been fulfilled.

After the remittance abroad of dividends declared during any given fiscal year, the investor will be required to submit the documentation referred to in Article 3, Paragraph IV, sections a), b), and c), as well as a copy of the foreign currency sales form duly stamped by the financial mediation entity or exchange agency duly licensed by the Monetary Board, to deal in foreign currency.

Regarding anticipated dividends remitted within the current fiscal period, the documentation referred to in Article 3, paragraph IV, sub-clause C) shall be presented, in addition to a copy of the Resolution of the Board of Directors where the dividends paid in advance during the current fiscal year were declared. Once the Stockholder's meeting has ratified the dividends for said period, the minutes must be remitted to the Export and Investment Center of the Dominican Republic (CEIRD), or whichever document applies, as well as the audited financial statements.

**PARAGRAPH:** In case a foreign investor remits abroad an earnings amount exceeding the benefits produced by his investment, as evidenced by the Stockholders Minutes, referred to in Article 3, Paragraph IV, section b), the Export and Investment Center shall proceed as if a repatriation of capital had taken place and shall reduce the amount of the registered investment accordingly and amend the corresponding certificate, in this regard will be duly notified to the foreign investor.

## **ARTICLE 5. REMITTANCE OR REPATRIATION OF CAPITAL.**

The foreign investor whose capital is registered at the Export and Investment Center of the Dominican Republic (CEI-RD) shall have the right to remit or repatriate same upon the sale of his shares, interests or rights, to national or foreign investors or when the company in which he has made his investment is liquidated, provided compliance with his tax obligations and statistical information supply, according to the Monetary and Financial Law.

He will also be allowed to remit abroad, without prior authorization of the Central Bank, the capital gains made and accounted in the books of the company, as set forth in Article 12 of Law No. 16-95.

The sale transfer or assignment of shares or interests from a foreign investor to another national or foreign investor must be reported to the Export and Investment Center (CEI-RD) within sixty (60) calendar days from the date in which the sale or assignment of the ownership takes place on which the company is liquidated.

**PARAGRAPH I:** The foreign investor must deliver to the Export and Investment Center (CEI-RD) the original certificate of registration for purposes for its cancellation before repatriating the foreign capital.

**PARAGRAPH II:** For the purpose of a joint registration of transactions involving the sale and purchase of foreign capital, the buyer shall be granted a period of sixty (60) calendar days to obtain the new certificate of registration and shall thereafter enjoy the same rights and obligations as his transferor.

Within the foreseen sixty (60) day period, the following documents must be filed with the Export and Investment Center (CEI-RD):

- a) The original certificate of foreign investment registration involved in the transaction;
- b) Documentary evidence of the tax payment in the Dominican Republic by the foreign investor

who is transferring his investment;

c) Satisfactory documentation to the Export and Investment Center of the Dominican Republic (CEI-RD) evidencing the transfer of ownership of the foreign capital;

d) The application for the expedition of the new foreign investor of the foreign investment registration certificate and

e) The information referred to in Article 3, Paragraph I, sections a), b), c), and f) of this Regulation..

**PARAGRAPH III:** It is a condition for the new registrations that the repatriation has not taken place. If the repatriation of capital has been effected, the purchasing foreign investor will be subject to the provisions contained in Article 3, Paragraph II, of these Regulations.

#### **ARTICLE 6. TRANSFER OF TECHNOLOGY.**

Applications for registration of contracts for the transfer of technology must be accompanied by a copy of such contracts and documentary evidence that the assignor is the owner of such technology. Further, the requirements established in Article 3, Paragraph I, section g) of this Regulation must be met.

**SOLE PARAGRAPH:** Within sixty (60) days of having remitted a royalty payment abroad, the concessionaire must submit to the Export and Investment Center of the Dominican Republic (CEI-RD):

a) A copy of the foreign currency sales form duly stamped by the financial mediation institution or exchange agency authorized by the Monetary Board, to serve as currency exchange agencies;

b) Documentary evidence of compliance with the tax obligations of the assignor in the Dominican Republic;

c) A communication from the conceding corporation containing the calculations made for the determination of the amount of royalty paid;

d) Evidence that the foreign assignor of the technology received the royalty payment being documented.

#### **ARTICLE 7. - REQUIREMENTS FOR THE EXCHANGE OF FOREIGN CURRENCY**

Only financial institutions authorized to operate in foreign currency will be allowed to exchange foreign currency for the remittance abroad of earnings, repatriations of capital and capital gains, and for the payment of royalties derived from contracts for the transfer of technology. For such sales, the prior authorization of the Central Bank will not be required.

To this end, the mentioned institutions shall request to be shown the original Certificate of

Foreign Investment Registration and shall request the filing of one copy of said certificate together with the following documentation:

a) An affidavit by the foreign investor or his authorized representative expressing the right under Law No. 16-95 to exchange the foreign currency being sought in the amount and for the concept stated and, furthermore, that he has complied with his tax obligations in the Dominican Republic. Regarding the remittance of dividends paid in advance during the current fiscal year, a copy of the corresponding Resolution of the Board of Directors must be included;

b) When a repatriation of capital is involved, the foreign investor shall be required to submit a proof from the Export and Investment Center of the Dominican Republic (CEI-RD) attesting that it has received the original certificate of registration. This proof shall substitute the requirements of exhibiting the original certificate and submitting a copy thereof, and;

c) In cases involving the purchase of foreign currency to make payments derived from contracts for the transfer of technology, a copy of the Certificate of Registration issued by the Export and Investment Center of the Dominican Republic (CEI-RD) and the affidavit of the transferee mentioned in section a) of this Article will be required.

**PARAGRAPH I:** All the cases of sale of currency foreseen in this Regulation by the authorized institutions by the Monetary Fund to negotiate in foreign currency, shall be handled according to the procedures established, and are not subject to limitations as to the amounts, according to the stipulated in Art. 7 of Law 16-95 and Law 183-02, of November 21, 2002.

**PARAGRAPH II:** The currency exchange agencies duly authorized, by the Monetary Board, in virtue of Law 183-02, to negotiate with foreign currency, will issue to the Central Bank, all the pertinent documentation they receive, from those who acquire the currency described in the present article, together with the daily operations report, according to the effective exchange norms and information requirements.

## **ARTICLE 8.- MISCELLANEOUS**

The following procedures shall be applicable to the cases set forth below:

**PARAGRAPH I:** In case of loss of a Certificate of Foreign Investment Registration, the foreign investor shall request the Export and Investment Center of the Dominican Republic (CEI-RD) to issue a duplicate upon submission of an affidavit of loss.

**PARAGRAPH II:** Upon evidence of a foreign investment registration certificate or transfer of technology obtained in obtained through fraudulent means, it shall be revoked. Upon making this determination, the Export and Investment Center of the Dominican Republic (CEI-RD) shall notify the owner of the registration.

Further, if through indirect information received by the Export and Investment Center of the Dominican Republic (CEI-RD), it is determined that the foreign investor does not appear in the list of stockholders of the company registered as the recipient of his investment or if his share in

the capital does not coincide with the information submitted for registration, the Export and Investment Center of the Dominican Republic (CEI-RD), prior notification to the foreign investor, shall proceed to cancel or adjust the amount of the registration, as may be required.

**PARAGRAPH III:** When there is a change of address and/or business name and/or of the authorized representative, the foreign investor shall provide the Export and Investment Center of the Dominican Republic (CEI-RD), with the new data, since the most recent information will be the valid data for any notification the Export and Investment Center of the Dominican Republic may remit to the foreign investor.

**PARAGRAPH IV:** In the case of a foreign investment made in several currencies, the registrations at the Export and Investment Center of the Dominican Republic (CEI-RD) of new foreign investment, reinvestment or earning or changes in the amount of direct foreign investment shall be adjusted proportionately to the currencies of the original registration, using the exchange rate in effect at the time of each application.

**ARTICLE 9.** The present decree annuls Application Regulation No. 380, dated August 28<sup>th</sup>, 1996 of Law No. 16-95 on Foreign Investment in Dominican Republic, and repeals any other express legal provisions contrary to it.

**GIVEN** in Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on this 11th day of the month of March of the year nineteen hundred four (2004), year 160 of the Independence and year 141 of the Restoration.

**HIPOLITO MEJIA**