

**I. RICARDO ALARCON DE QUESADA,**  
President of the Republic of Cuba's National  
Assembly of People's Power,

**LET IT BE KNOWN:** That the Republic of Cuba's  
National Assembly of People's Power, in session on  
September 5th, 1995, during the Fifth Regular Session  
of the Fourth Legislature, has approved the following:

**WHEREAS:** In today's world, without the existence  
of the socialist bloc, with a globalizing world  
economy and strong hegemonistic tendencies in the  
economic, political and military fields, Cuba, in order  
to preserve its accomplishments despite the fierce  
blockade to which it is subjected; lacking capital,  
certain kinds of technology and often markets; and in  
need of restructuring its industry; can benefit from  
foreign investment, on the basis of the strictest respect  
for national independence and sovereignty, given that  
such investment can usher in the introduction of  
innovative and advanced technology, the  
modernization of its industries, greater efficiency in  
production, the creation of new jobs, improvement in  
the quality of the products and services it offers, cost  
reduction, greater competitiveness abroad, and access  
to certain markets, which as a whole would boost the  
efforts the country must undertake in its economic and  
social development.

**WHEREAS:** The Constitution of the Republic, as it was modified in 1992, recognizes among other forms of property, joint ventures, companies and economic associations which are established in conformity with the law and, in regard to state property and in exceptional cases, when such action is deemed useful and necessary for the country, provides for the partial or total transference of ownership of economic objectives with the goal of developing them.

**WHEREAS:** The changes taking place in the national economy, aimed at actively promoting and boosting the investment of foreign capital in Cuba and broadening the possibilities in terms of the forms and areas of investment, among other essential factors, surpass the legal possibilities offered until now by Decree-Law No. 50, "On Economic Association among Cuban and Foreign Entities," approved on February 15, 1982.

**WHEREAS:** In order to broaden and facilitate foreign participation in the nation's economy, it is suitable to adopt new legislation which provides greater security and guarantees to the foreign investor and allows the country to obtain financial resources, technology and new markets in any productive sector and in the service sector, when mutual interests have been identified, for the fundamental purpose of achieving sustainable development in the country and a recovery of the national economy.

**THEREFORE:** The National Assembly of People's Power, making use of the authority conferred upon it by Article 75, paragraph b) of the Constitution of the Republic, resolves to issue the following

# **LAW NUMBER 77**

# **FOREIGN INVESTMENT**

# **ACT**

## **CHAPTER I**

## **PURPOSE AND CONTENT**

**Article 1.1.** This Act has the purpose of promoting and encouraging foreign investment in the territory of the Republic of Cuba., in order to carry out profitable activities which contribute to the country's economic capacity and sustainable development, on the basis of respect for the country's sovereignty and independence, and the protection and rational use of natural resources; and of establishing, for that purpose, the basic legal regulations under which this can be realized.

**2.** The norms contained in this Act comprise, among other elements, the guarantees granted to investors, the sectors of the economy which can receive foreign investments, the forms in which they can be utilized, the various types of investments, the procedure for their authorization, the regulations for these investments relating to banking, taxation, and labor,

and the norms related to the protection of the environment and the rational use of natural resources.

## **CHAPTER II**

### **GLOSSARY**

**Article 2.** This Act recognizes the following terms and their definitions:

- a) **International economic association:** Joint action by one or more national investors and one or more foreign investors within the national territory for the production of goods, the offering of services or both for profit, in its two forms, which consist of joint ventures and international economic association contracts.
  
- b) **Authorization:** Document issued by the Executive Committee of the Council of Ministers or a Government Commission, for the realization of one of the forms of foreign investment authorized by this Act, for a specified period.
  
- c) **Foreign capital:** Capital originating outside the country, as well as part of the profits or dividends belonging to the foreign investor which are reinvested in accordance with this Act.
  
- d) **Top management posts:** Positions belonging to members of the management and administration of the joint venture and totally foreign capital company, as well as the representatives of the parties to international

economic association contracts and the management personnel of totally foreign capital companies.

- e) **Government Commission:** Commission designated by the Executive Committee of the Council of Ministers with the authority to approve foreign capital investments in its area of competence, as stipulated in this Act.
- f) **Administrative concession:** Unilateral action on the part of the Government of the Republic, whereby an entity is granted the right to exploit a public service or a natural resource, or to build or utilize a public work under terms and conditions to be determined.
- g) **International economic association contract:**  
Pact or agreement among one or more national investors and one or more foreign investors, for the realization of actions fitting an international economic association, even without the establishment of a legal entity distinct from each of the parties.
- h) **Totally foreign capital company:**  
Commercial entity with foreign capital, without the involvement of any national investor.
- i) **Joint venture:** Cuban commercial company which adopts the form of a nominal share corporation, in which one or more national investors and one or more foreign

investors participate.

- j) **Employing entity:** Cuban organization with legal status, authorized to establish a contract with a joint venture or a totally foreign capital company, through which it supplies, at the company's request, the workers of various skills needed by the company, who are employed by that organization.
- k) **Assets:** Wages, income and other remuneration, as well as increases, compensations and other additional payments received by Cuban and foreign workers, with the exception of those stemming from the economic stimulation fund, if it exists.
- l) **Foreign investment:** Capital input by foreign investors, in any of the forms stipulated by this Act.
- m) **Foreign investor:** The person or corporation, with a foreign domicile and foreign capital, that becomes a shareholder in a joint venture or participates in a totally foreign capital company, or that is party to an international economic association contract.
- n) **National investor:** State company or entity with legal status, a corporation or other Cuban national entity whose address is in national territory and which becomes a shareholder of a

joint venture or is party to an international economic association contract.

## **CHAPTER III GUARANTEES FOR INVESTORS**

**Article 3:** The foreign investors within Cuban national territory enjoy full protection and security and their assets cannot be expropriated, except for reasons of the public good or in the interest of society, as declared by the Government, in accordance with the Constitution of the Republic, current legislation, and international agreements covering the mutual promotion and protection of investments undertaken in Cuba. In the case of expropriation, indemnification is made in freely convertible currency and is equal to the commercial value established by mutual agreement.

If an agreement is not reached, the price is set by an organization with internationally recognized prestige in the assessment of business assets, authorized by the Ministry of Finance and Prices and contracted for that purpose with the assent of all parties, or of the foreign investor and the Ministry of Foreign Investment and Economic Cooperation, if the affected party is a totally foreign capital company.

**Article 4.1.** The period of time granted for the development of operations by a joint venture, the parties to an international economic association contract or a totally foreign capital company, can be

extended by the same authority that authorized the entities, as long as it is requested by the interested parties before the end of the period.

**2.** If the period is not extended, at the time of its expiration the joint venture, international economic association contract or totally foreign capital company shall be liquidated, as stipulated in the constituent documents and existing legislation, and the portion due to the foreign investor shall be paid in freely convertible currency, except in the case of an express agreement to the contrary.

Article 5. Foreign investments are equally protected against third party reclamations which comply with the law and are in accordance with Cuban laws and rulings of national courts of justice.

Article 6.1. At any moment, subject to the consent of all parties, the foreign investor in an international economic association can sell or transfer its total or partial share of the company to the State or a third party, subject to government authorization, receiving the corresponding price in freely convertible currency, except in the case of an express agreement to the contrary.

2. The foreign investor in a totally foreign capital company can at any moment sell or transfer, in any form, to the State or a third party and subject to authorization by the Government, its total or partial share of the company, receiving the corresponding price in freely convertible currency, except in the case of an express agreement to the contrary.

Article 7. The corresponding price to be paid to the foreign investor, in the cases discussed in Articles 4 and 6 of this Act, is set with the consent of both parties, or when that is not feasible, by an organization with internationally recognized prestige in the assessment of businesses and authorized by the Ministry of Finance and Prices to operate in national territory, and contracted for that purpose jointly by all parties, or by agreement of the foreign investor in a totally foreign capital company and the Ministry of Foreign Investment and Economic Cooperation.

Article 8. The State guarantees the foreign investor the free transference abroad, in freely convertible currency, free from taxes or any fee related to such transference, of:

- a) Net profits or dividends obtained as a result of the investment; and
- b) The moneys due him or her in the cases discussed in Articles 3, 4 and 6 of this Act.

2. Foreign citizens working in a joint venture, for the parties in any other form of international economic associations or in a totally foreign capital company, as long as they are not permanent residents in Cuba, have the right to transfer abroad the income they receive, within stipulated amounts and according to the other regulations issued by the National Bank of Cuba.

Article 9. Joint ventures and the parties to international economic association contracts are obliged to pay taxes in line with the special regulations stipulated by this Act, until the expiration

of the period for which they were authorized.

The stipulations made in the previous paragraph are not applicable to the rates, contributions (with the exception of social security contributions) and formal duties established in current legislation, nor to the payment obligations included in the Mining Act of December 21, 1994, or other legal provisions which may be issued in regard to natural resources, which shall be observed in the manner and extent stipulated in those laws.

## **CHAPTER IV SECTORS OPEN TO FOREIGN INVESTMENT**

Article 10. Foreign investments may be authorized in all sectors, excluding health and education services for the population and the armed forces institutions, with the exception of the latter's commercial system.

## **CHAPTER V FOREIGN INVESTMENTS**

### **FIRST SECTION MANIFESTATIONS AND FORMS OF FOREIGN INVESTMENT**

Article 11. For the purposes of this Act, foreign investments are defined as:

- a) Direct investments, through which the foreign investor participates in an effective manner in the management of the joint venture or totally foreign capital company, and through which the foreign investor makes his or her own contributions in international economic association contracts; and
  
- b) Investments in stocks or other securities or bonds, either public or private, which do not fit the definition of direct investments.

Article 12. Foreign investments shall adopt one of the following forms:

- a) Joint venture;
- b) International economic association contract; or
- c) Totally foreign capital company.

## **SECOND SECTION JOINT VENTURES**

Article 13.1. Joint ventures imply the establishment of a legal status distinct from that of any one of the parties. They adopt the form of nominal share corporations and current legislation in this field applies to them.

2. The proportions of capital stock which should be contributed by the foreign investor and the national investor are agreed upon by both partners and defined as part of the authorization.

3. The establishment of a joint venture must take the form of a public document, and annexes to this notarized document include the agreement of economic association, the bylaws governing the company and the authorization.

The agreement of economic association contains the fundamental pacts between the partners for the realization and development of the joint venture's operations, and for the achievement of its objectives, among them the guarantees of Cuban participation in the administration or joint administration of the company and the assurances of a market for the company's products or services; the bases of its accounting system and the estimate and distribution of profits.

The joint venture's bylaws shall include provisions related to the corporation's organization and operation, which must cover the general shareholder's meeting, its characteristics and organization; the necessary quorum and the requirements for exercising the right to vote at the general shareholders' meeting; the structure and characteristics of the management and administrative body; the method by which these bodies make their decisions, both in the general shareholders' meeting and within the management and administrative body, which could range from a simple majority to unanimity; provisions for dissolution and the procedure for liquidating the company; as well as other stipulations resulting from the current legislation in the field, this Act and the agreements between the parties.

4. If the public document does not designate the person or persons who shall administer the joint

venture, the first general shareholders' meeting can be held and the members of the management and administrative body can be designated, in line with the bylaws.

5. Once the joint venture is created, the partners cannot be changed except with the consent of the parties and the approval of the authority that granted the authorization.

A change of partners is defined as the substitution of the foreign partner by another person or company, or of the Cuban partner by another person or company.

6. Joint ventures can establish offices, representations, branch offices and affiliates, in national territory and abroad, as well as participating in entities abroad.

7. A joint enterprise acquires legal status when it is included in the Registry maintained by the Republic of Cuba's Chamber of Commerce regarding these activities.

### **THIRD SECTION INTERNATIONAL ECONOMIC ASSOCIATION CONTRACTS**

Article 14.1. International economic association contracts have the following characteristics, among others:

a) They do not imply a legal entity separate from

those of the contracting parties.

- b) They may have the objective of carrying out any activity authorized by the contracting parties.
- c) The contracting parties are free to stipulate all the pacts and clauses that they deem to be in accordance with their interests, as long as they do not infringe on the authorized objective, the conditions of the authorization or current legislation.
- d) Each contracting party makes separate contributions, which constitute a cumulative amount which they own at all times, and even though they do not constitute capital stock, it is in their interest to establish a common fund, as long as the portion of ownership belonging to each of the parties is well defined.

2. The text of the contract states the proportion of taxes to be paid by each party and the times of the year in which profits are distributed among them, after meeting their fiscal obligations, as well as the responsibility for losses, if there are any.

3. In an international economic association contract, the party which carries out an act of management which benefits all parties is fully responsible to third parties, but among the parties each one is responsible to the extent or proportion stipulated in the contract.

4. Once an international economic association

contract is granted, the participants cannot be changed, except with the agreement of the parties and the approval of the authority that granted the authorization.

5. An international economic association contract must be presented in the form of a public document in order to be approved and goes into effect the moment it is included in the Registry maintained by the Republic of Cuba's Chamber of Commerce regarding these activities.

#### **FOURTH SECTION TOTALLY FOREIGN CAPITAL COMPANY**

Article 15.1. In the totally foreign capital company, the foreign investor manages the company, enjoys all the rights pertinent to it and is responsible for all the obligations described in the authorization.

2. The foreign investor involved in a totally foreign capital company may act as an individual or a corporation within Cuban national territory:

- a) Through the creation of a foreign entity of which the investor is the owner, within the form of a stock corporation and by being included in the Registry of the Republic of Cuba's Chamber of Commerce; or
- b) By being included in the Republic of Cuba's Chamber of Commerce and acting independently.

## **CHAPTER VI REAL ESTATE INVESTMENTS**

Article 16.1. Under the authorization of this Act, investments can be made in real estate and acquire ownership and other property rights over that real estate.

2. The investments in real estate discussed in the previous paragraph can be utilized for:

- a) Housing and other structures destined for private residence or tourism activities of persons who are not permanent residents in Cuba;
- b) Housing or offices of foreign companies;
- c) Real estate development for use in tourism.

Article 17. Investments consisting of the purchase of real estate which constitute corporate activity are considered direct investments.

Article 18. The conditions and terms under which the purchase and transfer of real estate discussed in Article 16 of this Act are determined in the authorization and must be in accord with current legislation.

## **CHAPTER VII CONTRIBUTIONS AND THEIR VALUATION**

Article 19.1. For the purposes of this Act, contributions are defined as the following:

- a) Freely convertible currency;
- b) Machinery, equipment or other physical or tangible goods;
- c) Intellectual property rights and other rights over intangible goods;
- d) Property rights over personal items and real estate, and other rights over these, including usufruct and surface rights; and
- e) Other goods and rights.

The contributions which do not consist of freely convertible currency shall be assessed in that currency.

2. Transfer in favor of national investors of property and other rights over state property, for the purposes of contributions by them, shall be carried out under the principles established in the Constitution of the Republic, and under the prior certification of the Ministry of Finance and Prices, in consultation with the corresponding agency and with the approval of the Executive Committee of the Council of Ministers.

The payments of intellectual property rights and other rights over intangible goods shall be covered by current legislation on the matter.

3. Payments in freely convertible currency are set according to their value on the international market and conversion into the national currency, for accounting purposes, shall be realized according to the National Bank of Cuba's exchange rates. The freely convertible currency which constitutes payment of foreign capital should enter the country through the authorized banking entity for use in operations in the national territory.

4. The payments which are not made in freely convertible currency, except those consisting of intellectual property rights and other rights over intangible goods, and which are destined for the capital stock of joint enterprises, or which constitute payments in international economic association contracts, are valued according to the methods freely agreed upon by the investors. Their value can be determined with the aid of the corresponding expert certifications drawn up by entities under the authority of the Ministry of Finance and Prices.

5. The evaluation of the contributions that are not made in freely convertible currency, except for those in payment for intellectual property rights and other rights over intangible goods, is always made with the aid of expert certifications drawn up by entities under the authority of the Ministry of Finance and Prices.

6. Payments consisting of intellectual property and other rights over intangible goods shall be assessed by methods freely agreed upon by all the national and international investors and between the

foreign investor and the Ministry of Foreign Investment and Economic Cooperation, in the case of payments to a totally foreign capital enterprise.

## **CHAPTER VIII**

### **NEGOTIATIONS AND AUTHORIZATION OF FOREIGN INVESTMENT**

Article 20.1. For the creation of an international economic association, the national investor must negotiate with the foreign investor every aspect of the investment, including its economic feasibility, the respective payments, the association's form of management and administration, as well as the legal document needed for its formalization.

2. In the case of a totally foreign capital company, the Ministry of Foreign Investment and Economic Cooperation indicates to the investor the responsible Cuban entity in the sector, subsector or economic activity for which the investment is planned, and the investor must analyze its proposition with that entity and obtain the corresponding written approval.

Article 21.1. Authorization for foreign investments in national territory is granted by the Executive Committee of the Council of Ministers, or by a commission designated for that purpose.

2. The Executive Committee of the Council of Ministers has the exclusive power to authorize foreign investments in any of the sectors listed below or those with the following characteristics:

- a) When the total sum of payments made by foreign and national investors is greater than the equivalent of ten (10) million U.S. dollars in freely convertible currency;
- b) In the case of totally foreign capital companies;
- c) Investments made in public services such as transportation, communications, aqueducts, electricity, or for the construction or exploitation of a public work;
- d) When a foreign company with capital shares owned by a foreign state is involved;
- e) When the investment involves the exploitation of a natural resource, in accordance with legislation for the protection of the environment and rational use of natural resources;
- f) Investments which include the transference of state property or of a real right which is the property of the State; and
- g) In the case of the armed forces' commercial system.

3. The Government Commission has the power to authorize foreign investments not mentioned in the previous paragraph.

Article 22. The foreign investor who expects to obtain authorization for a totally foreign capital company shall present its request, jointly with the corresponding Cuban entity, to the Ministry of

## Foreign Investment and Economic Cooperation.

Article 23.1. To set up a joint venture or establish an international economic association contract, the written request should be presented jointly to the Ministry of Foreign Investment and Economic Cooperation by the foreign investor and the national investor.

2. The investment request is presented along with the following documents.

- a) For the establishment of joint ventures and the granting of international economic association contracts: draft versions of the economic association agreement and the bylaws of the proposed joint venture or the contract to be granted, as well as an economic feasibility study, in both cases.
- b) In regard to the foreign investor: documentation attesting to his or her identity and solvency, as well as proof that he or she is a legitimate representative of the corporation, when applicable.
- c) In regard to the national investor, in the case of a state enterprise or entity: express written acceptance granted by the maximum authority in the sector, subsector or economic activity in which the foreign investment is being made; in the case of a commercial association or civilian service organization based on totally Cuban capital, express authorization of the general shareholders' meeting, which grants the specific

authority to sign the corresponding documents with the foreign investor.

- d) When the foreign investor proposes the constitution of a totally foreign capital company: acceptance by the maximum authority of the sector, subsector or economic activity for which the investment is planned, the text of the bylaws, an economic feasibility study, documentation attesting to the foreign investor's identity and solvency, and in the case of a corporation, proof that the foreign investor is a legitimate representative authorized to make the specific investment.
- e) The document accompanying the investment request must be duly authenticated, when pertinent.

3. In order for the Ministry of Foreign Investment and Economic Cooperation to accept the request, it must be presented with the formalities described in the present Article.

4. Once the request is accepted by the Ministry of Foreign Investment and Economic Cooperation, it shall be submitted for consultation to all the corresponding agencies and institutions, in order to obtain their report on matters pertinent to them.

5. Once the above procedures are completed, the Ministry of Foreign Investment and Economic Cooperation shall refer the accumulated

documentation and its evaluation to the Executive Committee of the Council of Ministers or the Government Commission, as the case may be, so that it may make the pertinent decision.

6. The decision denying or approving the foreign investment is handed down within a period of sixty (60) days from the date on which the request was presented, and the applicants are notified.

Article 24.1. The authorization contains the conditions under which is it granted and the objective and time period of the form of investment in question.

2. If the objective of the approved investment is the exploitation of a public service or a natural resource, or the construction and exploitation of a public work, the Executive Committee of the Council of Ministers may grant the corresponding administrative concession, under the terms and conditions it establishes.

Article 25. The conditions established in the authorization can be clarified through the Ministry of Foreign Investment and Economic Cooperation, at the request of the parties.

## **CHAPTER IX THE BANKING SYSTEM**

Article 26.1. Joint ventures, foreign investors and national investors which are party to international economic association contracts, jointly or individually, and totally foreign capital companies shall open

accounts in freely convertible currency in any bank in the National Banking System, through which they shall receive and make payments related to their operations.

2. Joint ventures and national investors who are parties to international economic association contracts may open and maintain accounts in freely convertible currency in banks located abroad, with the authorization of the National Bank of Cuba.

Article 27. Joint ventures, parties to international economic association contracts and totally foreign capital companies can be authorized on an exceptional basis by the Executive Committee of the Council of Ministers to effect certain charges and payments in nonconvertible national currency.

Article 28. Joint ventures, foreign investors and national investors who are parties to international economic association contracts, and totally foreign capital companies can arrange loans in foreign currency:

- a) With a bank in the National Banking System or a financial entity approved by the National Bank of Cuba;
- b) With banks or financial entities abroad, in accordance with existing legal regulations covering this matter.

## **CHAPTER X**

### **EXPORT AND IMPORT SYSTEM**

Article 29. Joint ventures, national and foreign investors who are parties to international economic association contracts, and totally foreign capital companies have the right, in accordance with established legislation in the field, to export their products directly and to import, also directly, whatever is needed for their purposes.

## **CHAPTER XI LABOR SYSTEM**

Article 30. Foreign investment activities must observe the labor and social security legislation in effect in Cuba, with the adjustments included in this Act.

Article 31.1. The workers in activities corresponding to foreign investments shall be, as a rule, Cubans or foreigners permanently residing in Cuba.

2. However, the management and administrative bodies of joint ventures or totally foreign capital companies, or the parties to international economic association contracts, may determine that certain top administrative positions or some posts of a technical nature shall be filled by persons who are not permanent residents in the country and, in those cases, determine the labor conditions to be applied and the rights and obligations of those workers.

Nonpermanent residents in the country who are contracted are subject to the country's current legislation covering immigration and foreigners.

Article 32.1. Joint ventures, the parties to

international economic association contracts and totally foreign capital companies may be authorized to create an economic stimulus fund for Cubans or permanent residents in Cuba who are working in activities corresponding to foreign investments.

2. The contributions to the economic stimulus fund shall be made out of earned profits. The amount of these contributions shall be agreed upon between the joint ventures, foreign investors and national investors who are party to international economic association contracts, and totally foreign capital companies, on the one hand, and the Ministry of Foreign Investment and Economic Cooperation, on the other hand.

Article 33.1. The workers in joint ventures who are Cuban or permanent residents in Cuba, with the exception of the members of the management or administration, are contracted by an employing entity proposed by the Ministry of Foreign Investment and Economic Cooperation, and authorized by the Ministry of Labor and Social Security.

The members of the management or administration of a joint venture are designated by the general shareholders' meeting and hired directly by the joint venture.

Only in exceptional cases, with the proper authorization, may a joint venture directly employ all the persons who work in that company, and always in accordance with current legal provisions in the field of hiring.

2. The persons working for the parties to international economic association contracts are contracted by the Cuban party, in accordance with current legal provisions in the field of employment.

3. In totally foreign capital companies, the services of Cuban workers and foreign workers residing permanently in Cuba, with the exception of the members of the management and administrative body, shall be hired through a contract between the company and an employing entity proposed by the Ministry of Foreign Investment and Economic Cooperation, and authorized by the Ministry of Labor and Social Security.

The members of the management and administration of the totally foreign capital company are designated by the company and directly hired by it.

4. Payments to Cuban workers and foreign workers residing permanently in Cuba are made in national currency which must be obtained beforehand from convertible foreign currency, except in the case described in Article 27 of this Act.

Article 34.1. The employing entity discussed in the previous Article individually contracts and directly hires Cuban workers and permanent residents. This employing entity pays those workers their wages.

2. When a joint venture or totally foreign capital company considers that a specific worker does not meet the requirements of the job, it can request that the employing entity replace that worker with another. Any labor dispute is settled with the employing entity, which pays the worker, at its own expense, the

indemnification to which he or she is entitled, determined by the competent authorities. In pertinent cases, the joint venture or totally foreign capital company compensates the employing entity for such payments, in accordance with the procedure established, and always in compliance with existing legislation.

Article 35. Notwithstanding what is stipulated in the preceding articles of this Chapter, the authorization approving the foreign investment can in exceptional cases establish special labor regulations.

Article 36. The technological advances consisting of innovations and other tangible goods which are covered by intellectual property law and which are developed within the framework of an international economic association or by Cuban workers in a foreign capital company are covered under current legislation in the field.

Article 37. The Ministry of Labor and Social Security is empowered to issue as many complementary legal provisions as it considers necessary for the best application of what is described in this Chapter, especially in the fields of hiring and labor discipline.

## **CHAPTER XII SPECIAL TAXATION AND DUTIES SYSTEM**

Article 38. Joint ventures, foreign investors and

national investors who are parties to an international economic association contract are subject to the following fiscal obligations:

- a) Income tax;
- b) Tax covering the utilization of the labor force and contributions to social security;
- c) Customs duties and other payments;
- d) Land transportation tax, covering the ownership or possession of land motor vehicles; and
- e) Documents tax, which covers rates and payments when applying for, obtaining or renewing certain documents.

Article 39. For the purpose of this Act, the payment of taxes by the persons and companies mentioned in the previous Article carries the following characteristics:

- a) Income taxes are levied at a rate of thirty percent (30%) of net taxable income. In cases considered in the nation's interest, the Executive Committee of the Council of Ministers can exempt all or part of the tax on net income that is reinvested in the country.
- b) When the exploitation of renewable or nonrenewable natural resources is involved, the income tax rate can be raised by decision of the Executive Committee of the Council of Ministers. In that case, the taxation rate can be

raised as high as fifty percent (50%).

- c) In regard to the tax on utilization of the labor force and social security contributions, the following is established:
  1. For utilization of the labor force, a discount is granted in the current taxation rate, to a rate of eleven percent (11%).
  2. Social security contributions are covered by a taxation rate of fourteen percent (14%).
  3. The taxation rates expressed in the two previous clauses are applied on the total wages and other income from any source received by the workers, except what is turned over to them as economic stimulus.
  
- d) Foreign investors who are partners in joint ventures or parties to international economic association contracts are exempted from paying taxes on personal income obtained from the businesses' profits.

Article 40. The totally foreign capital company is obliged throughout the duration of its operations to pay taxes in accordance with the current tax legislation.

Article 41. For the purposes of this Act, persons and companies discussed in the present Chapter may be granted special customs dispensations, in accordance with existing legislation.

Article 42. The payment of customs tariffs, duties and other fees shall be realized in freely convertible currency, even in those cases in which the amount is

expressed in national currency, discounting the exceptional cases which may be established by the Executive Committee of the Council of Ministers.

Article 43. The Ministry of Finance and Prices, after consulting with the Ministry of Foreign Investment and Economic Cooperation and taking into account the benefits and size of the investment, the recovery of capital and the indications made by the Executive Committee of the Council of Ministers for priority sectors of the economy and the benefits that could be accrued by the national economy, may grant total or partial exemptions, on a temporary basis, or grant the benefits within its jurisdiction, in relation to the special taxation system.

Article 44. Joint ventures, the parties to international economic association contracts and totally foreign capital companies are subject to the "Norms for Assessing the Most Significant Assets and Liabilities" issued by the Ministry of Finance and Prices. Such persons can freely determine the accounting system which most suits them, as long as the adopted system conforms to universally accepted accounting principles and meets fiscal demands.

### **CHAPTER XIII RESERVES AND INSURANCE**

Article 45.1. Joint ventures, foreign and national investors party to international economic association contracts and totally foreign capital companies are obliged to establish reserves, charged to profits, to cover contingencies that may arise in their operations.

2. The procedure for establishing, utilizing and liquidating the reserves foreseen in the previous clause is regulated by the Ministry of Finance and Prices.

Article 46. Without detriment to the reserves discussed in the previous Article, joint ventures, foreign and national investors party to international economic association contracts, and totally foreign capital companies may establish other reserves on a voluntary basis, in accordance with the regulations of the Ministry of Finance and Prices.

Article 47.1. Joint ventures, foreign and national investors who are parties to international economic association contracts, and totally foreign capital companies should establish insurance policies, with companies authorized by the Ministry of Finance and Prices to operate in the country, for the protection of goods, properties, operations and any other activities or against any risks as necessary, on the basis of premiums and other contractual conditions which are competitive internationally.

2. Industrial, tourism or other installations or lands leased by state enterprises or other national organizations are insured by the leasee in favor of the lessor, in accordance with the conditions foreseen in the previous clause.

## **CHAPTER XIV REGISTRY AND FINANCIAL INFORMATION**

Article 48. Joint ventures, national and foreign

investors party to international economic association contracts, and totally foreign capital companies before commencing their operations, shall be inscribed in the Registry maintained on these activities by the Republic of Cuba's Chamber of Commerce, within a period of thirty (30) days following the date of authorization.

Article 49.1. Persons and companies mentioned in the present Chapter shall present to the Ministry of Foreign Investment and Economic Cooperation, within a period of ninety (90) days following the end of their fiscal year, an annual report of their operations in that period.

2. The presentation of an annual report by the persons and companies covered by the present Chapter is independent from their obligations to provide information to the Ministry of Finance and Prices, the corresponding tax administration and any others that may be established for statistical purposes.

## **CHAPTER XV DUTY-FREE ZONES AND INDUSTRIAL PARKS**

Article 50. With the goal of stimulating exports and international trade, the Executive Committee of the Council of Ministers may authorize the establishment of duty-free zones and industrial parks, in delimited areas of national territory.

Article 51.1. Duty-free zones are defined as areas in

which, by decision of the Executive Committee of the Council of Ministers, a special system can be established covering customs duties, exchange rates, taxation, labor, migration, public order, capital investment and foreign trade, and in which foreign investors can participate for the purposes of financial operations, importing, exporting, storage, productive activities or reexporting.

2. Industrial parks are defined as areas in which, by decision of the Executive Committee of the Council of Ministers, a special system can be established covering customs duties, taxation, labor, capital investment and foreign trade, for the development of productive activities with the participation of foreign capital.

Article 52. The authorizations of foreign investments, if pertinent, may consign particular facilities and incentives offered to foreign investors in the duty-free zones and industrial parks.

Article 53. The establishment and norms related to the operation of duty-free zones and industrial parks shall be regulated by special legislation issued for that purpose.

## **CHAPTER XVI ENVIRONMENTAL PROTECTION**

Article 54. Foreign investment is conceived and

stimulated in the context of the country's sustainable development, which implies that during the course of the investment, environmental conservation and the rational use of natural resources shall be carefully undertaken.

Article 55. The Ministry of Foreign Investment and Economic Cooperation, in pertinent cases, submits the investment proposals it receives for the consideration of the Ministry of Science, Technology and the Environment, so that the latter may evaluate the investment's suitability from the environmental point of view and determine whether an environmental impact evaluation is required, as well as the suitability of granting the pertinent environmental licenses and establishing a control and inspection program in accordance with current legislation.

Article 56.1. The Ministry of Science, Technology and the Environment institutes the measures which may be required to properly control situations that could lead to damage, dangers or risks for the environment and the rational use of natural resources.

2. The person or company responsible for the damage or harm is obliged to reestablish the previous environmental situation, repair the material damage and indemnify the injured parties.

## **CHAPTER XVII SOLUTION OF CONFLICTS**

Article 57.1. The conflicts which may arise in relations between partners of a joint venture, or

between foreign investors and national investors party to an international economic association contract, or between partners in a totally foreign capital company in the form of a nominal share corporation shall be resolved in accordance with the founding documents.

2. The same rule applies when the conflict arises between one or more of the foreign partners and the joint venture or totally foreign capital company to which the partner or partners belong.

Article 58. Litigation over the execution of economic contracts between joint ventures, foreign investors and national investors party to international economic association contracts or totally foreign capital companies, on the one hand, and state enterprises or other national entities are the jurisdiction of the economic division of the People's Courts established by the Governing Council of the People's Supreme Court.

## **SPECIAL PROVISION**

Joint ventures, national and foreign investors party to international economic association contracts, and totally foreign capital companies are subject to any regulations that may be established concerning protection against catastrophes and natural disasters.

## **TEMPORARY PROVISIONS**

**FIRST:** On the date this Act goes into effect, it applies to the existing and operating joint venture and other forms of international economic association.

Nonetheless, the benefits granted by Decree-Law No. 50, issued February 15, 1982, shall remain in effect during the whole period in which an existing international economic association is authorized.

SECOND: On the date this Act goes into effect, it applies to the requests for foreign investment authorization which are being processed. The Ministry of Foreign Investment and Economic Cooperation and the current applicants shall determine how to proceed.

THIRD: The complementary provisions issued by the various central state administrative agencies for the proper application and execution of the norms contained in Decree-Law No. 50 of February 15, 1982, shall continue to be observed on an individual basis, as long as they do not conflict with this Act. The aforementioned agencies, in a period of no more than three months from the date this Act goes into effect, shall review the aforementioned norms and bring them into harmony with the provisions of the Act.

## **FINAL PROVISIONS**

FIRST: Decree-Law No. 50, "On Economic Association among Cuban and Foreign Entities," issued on February 15, 1982, as well as any other legal provisions contrary to the contents of this Act, are hereby repealed, and this Act shall be in force as of its publication in the **Gazeta Oficial de la República**.

SECOND: The Executive Committee of the Council of Ministers and the central state administrative

agencies are authorized, in accordance with their jurisdictions, to issue whatever provisions they consider necessary for the proper fulfillment of this Act.

APPROVED on the floor of the National Assembly of People's Power, International Conference Center, City of Havana, on the fifth day of the month of September of the year nineteen ninety-five.

(signed) RICARDO ALARCON DE QUESADA

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