

Libyan Transitional Government
Ministry of Economy

Decision of the Minister of Economy no. 103/2012 concerning the participation of foreigners in the joint-venture companies and the opening of branches and representation offices for the foreign companies in Libya
(13/05/2012)

Minister of Economy:

After perusal of:-

- Constitutional Proclamation issued on 03/08/2011
- Resolution of the National Transitional Council no. 174/2011 concerning the determination of the government structure.
- Resolution of the National Transitional Council no. 184/2011 concerning the accreditation of the transitional government.
- Law no. 7/2004 concerning tourism and executive regulation thereof.
- Law no. 9/2010 concerning the furtherance of investment and executive regulation thereof
- Law no. 11/2010 concerning the stock market
- Law no. 12/2010 concerning the passing of Labor Relation Law and executive regulation thereof
- Law no. 15/2010 concerning the lease financing and executive regulation thereof
- Law no. 23/2010 concerning the commercial activity
- The statute of the National Transitional Council
- Decision of the General People's Committee no. 544/2010 for issuing the regulation for the registration and classification of the executive tools
- Meeting of the advisory committee of the Ministry of Economy held on 12/03/2012

Decided

Chapter (1)
Joint-venture companies
Article (1)

With observance of the unity of objective and specialty, the incorporation of joint-venture companies between the Libyan natural persons and body corporate and foreign natural persons and body corporate shall be according to their specializations entered in the official circles in the country where are located their headquarters provided that the joint-venture company is not a holding company.

Article (2)

The joint-venture companies shall take the form of the joint-stock company according to the provisions of commercial activity Law no. 23/2010 provided that its subscribed capital is not less than one million Dinar and one third of the cash capital shall be paid up during incorporation.

The joint-venture company may also take the form of a limited liability company, from natural persons (Libyans or foreigners) and provided that the capital in this case shall not be less than fifty thousand Dinars.

These companies may exercise the economic activities in all the fields in Libya in accordance with the effective legislations, with the exception of the fields specified in Article (6) of this resolution.

Article (3)

The participation of foreigners in the joint-venture company shall not exceed 65% (sixty-five percent) throughout its duration.

However, the participation of the foreign partner may, by virtue of a causative decision by the Ministry of Economy, for special consideration related to the nature of the activity or its location, artistic or technical requirements, exceed the mentioned share, provided that it shall not exceed 80% (eighty percent).

On the condition that the Libyan partner shall be represented in the Company's Board of Directors in proportion to his participation rate.

Article (4)

When concluding memorandums of association of joint-venture companies, the following documents have to be made available:-

1. Decision of the Board of Directors of the national and foreign company that approves participation in the incorporation of the joint-venture company and the value of their participation therein.
2. Copy of the memorandum and articles of association of the national and foreign company.
3. Recently dated extract of the entry of the national and foreign company in the commercial register or a substitute.

4. Statement issued by one of the banks operating in Libya that indicates the full settlement of what has to be paid up from the company's cash capital in such a way that it shall not be less than three tenth of the cash capital and indicating herein the financing, by the foreign partner of the due part from his cash share in the company's capital, to Libya.

5. A statement for submitting and evaluating the share in kind in accordance with the provisions of Article (104) of Law no. 23/2010 whether this share is advanced by the national or foreign partner.

The documents mentioned in items (1-2-3) of this Article shall be certified by the competent official circles in the headquarters' state regarding the foreign partner and by the Libyan embassy or its substitute in such state, provided that the legal translation of the documents shall be done in Arabic inside Libya.

In case the foreign partner is a natural person, the following condition shall be met in his concern:-

1. Evidence of identity by virtue of valid passport
2. Evidence of legal age necessary for the practice of the commercial activity in accordance with the Personal Status Law.
3. He had not been judged for a felony or honor or trust breaching offense unless if he was rehabilitated.
4. He had not declared his bankruptcy unless rehabilitated
5. He shall present a statement to be issued by one of the banks operating in Libya testifying full payment of his whole share in the cash capital.
6. In case of the share in kind, the share in kind has to be submitted and evaluated in accordance with the provisions of Article (104) of Law no. 23/2010, on the condition that the equipment object of the share shall be new.

Article (5)

The provisions related to the joint-stock companies shall be applied on the joint-venture companies for other than provided for in this resolution and they shall comply, in practicing their activities, with the following rules and conditions:-

1. Transfer and settlement of knowledge and technology
2. Lay out annual programs to train the national labor and qualify them for the professions occupied by foreign elements.
3. Lay out annual programs to replace the foreign labor by the national labor.
4. Utilization of equipment, machines, raw materials and production requirements available in the local market.

Article (6)

It is prohibited to incorporate joint-venture companies to practice the activities mentioned in the following items and these activities are confined to none other than the Libyan individuals:-

1. Retail and wholesale trade
2. Importation activities
3. Catering services
4. All types and fields of commercial agencies' activities
5. Land transport services
6. Inspection activity on all the imported and exported commodities and goods unless by virtue of a prior permission of the Minister.
7. Activity of handling, shipment and discharge in the airports.
8. Legal and financial audit works.
9. Packing and packaging activity
10. Stone crushing (breakers)
11. Contracting and civil works including the activity of construction and building with regards to the contract whose value is less than (30,000,000) thirty million Dinars.
12. Any other fields whose exercise is limited to the Libyans by virtue of special laws.

Chapter (2)

Foreign companies' branches

Article (7)

After taking permission from the Minister of Economy, the foreign companies shall be entitled to open branches for them in Libya in the fields specified in Article (9) of this decision, provided that the participation shall not be in a joint-venture company that operates in the same field or activity and work duration of the branch shall be five (5) renewable years.

Article (8)

Permit request provided for in the previous article shall be enclosed with the submission of the following documents:-

1. Decision of the Board of Directors of the company involving the approval to open a branch for the company in Libya while indicating herein the following:-
 - A. Determination of the branch's activity, provided that it is included in the activities allowed by the permit for the foreign companies' branches to be exercised in Libya.
 - B. Amount allocated for the establishment of the branch and its management on condition that it shall not be less than (250,000) two hundred fifty thousand Dinars.
 - C. Nomination of the branch's manager and his deputy.
2. A copy of the memorandum and articles of association of the company and the last ratified annual balance sheet
3. A statement of the company's experience and its classification
4. Recently dated extract of the foreign company's entry in the commercial register or a substitute.
5. Undertaking by the foreign company to draft an annual balance sheet for the branch to be ratified by a Libyan legal auditor and the account of its profits and losses so that its financial position in Libya is indicated.
6. A certificate to be issued by one of the banks operating in Libya, indicating herein the transfer by the company of the due financial amount to Libya and refer a bank statement to be approved by the competent bank.

The documents mentioned in items (1-2-3-4) of this Article shall be certified by the competent official circles in the state of the company's headquarters and by the Libyan embassy or its substitute in such state, provided that the legal translation of the documents shall be done in Arabic inside Libya.

Article (9)

The fields and activities for which foreign companies are permitted to open their branches in Libya are determined as per the following:-

Firstly: Contracting and civil works sector

- 1- Construction and building
- 2- Roads extension and erection of bridges and dams.
- 3- Maritime constructions as maritime quays, wave's barriers, construction of shipyards and stoking and deepening of harbors.
- 4- Construction of airports and runways.
- 5- Extension of railways and the construction of their stations.

Secondly: Field of Electricity

- 1- Set up and maintenance of power plants and reducing and increasing tension stations of all types.
- 2- Establishment and maintenance of cables networks for electricity transmission.
- 3- Establishment of desalination stations that rely on the thermal and cloudiness ways

Thirdly: Oil sector

- 1- Oil exploration including geological survey works of the earth layers by different geological, geophysical and geochemical means and others.
- 2- Testing and analysis of data and presentation of geological and reservoir studies.
- 3- Drilling of oil wells and maintenance thereof, installation and maintenance services for oil wells drilling equipments as well as the submerged and immersed pumps.
- 4- Azimuth works and mud services and drilling liquids
- 5- Construction of tanks and extension of pipes and pipelines stations for the transport and pumping of oil and gas and maintenance thereof and protection works necessary for their destination site.
- 6- Construction of floating maritime platforms for oil and gas drilling.
- 7- Installation and maintenance of oil refineries and petrochemical plants.
- 8- Offering maritime transport services for the products, equipment and machines related to the drilling operations in the maritime areas.
- 9- Removal of mines from oil fields and from other sites.

Fourthly: Communication sector:-

- 1- Installation and maintenance of telecommunication systems and stations.
- 2- Construction of stations, towers and aerials related to wireless communications and air navigation stations and maintenance thereof.

Fifthly: Industry sector

- 1- Electrical, mechanical, electromechanical and technical works necessary in installation of plants machines and their maintenance.
- 2- Mining works, minerals exploration and their extraction, excluding oil materials therefrom.
- 3- Construction, erection and maintenance of thermal furnaces necessary for the different plants.
- 4- Installation and maintenance of safety and industrial security system.

Sixthly: survey and planning

- 1- Survey and air mapping by different means and for various objectives.
- 2- Offering necessary engineering consulting in the planning of cities and architectural and urban areas.

Seventhly: Environment protection sector

- 1- Establishment of stations for the purpose of environment correction.
- 2- Treatment of wastes and their recycling and establishment of wastes treatment stations and operating thereof.
- 3- Environment pollution treatment and installation and maintenance of the relevant equipment.
- 4- Treatment of seawater and groundwater interpenetration, maintenance of transport and water sewage and lifting stations.

Eighthly: Computer sector

- Installation of computer control systems, manufacture and drafting of software and maintenance thereof.

Ninthly: Technical consulting, studies and training:-

- 1- Training and drafting studies in the field of information technology, wireless communications, control devices and the offering of necessary consulting in this concern and supervision of execution thereupon.

Tenthly: Health sector

- Installation and maintenance of medical machines and equipment and standardization thereof.
- Management of hospitals and medical units

Eleventh: Air transport sector: according to the legally determined rules and conditions.

Article (10)

The decision to permit the opening of a branch is not allowed for more than one of the fields provided for in Article (9) and the company that intends to practice more than one fields shall be entitled to obtain a permit to open a branch for every field separately.

Article (11)

It is prohibited to all the national and foreign authorities operating in Libya to enter into contracting with foreign companies for the execution of works inside Libya if they are not in possession of the permit stipulated in Article (7) of this resolution.

Article (12)

The branches of foreign companies shall be committed to deposit the final accounts and the balance sheet certified and ratified by a legal audit as well as a copy of their concluded contract in the competent administration of the Ministry.

Article (13)

The foreign companies in possession of branches inside Libya at the time of issue of this decision and which entered into contract for the execution of projects are ruled out of this decision till termination of the duration specified in the contract provided that they settle their legal situations right after completion of execution of such contracts.

Chapter (3)

Representation offices of foreign companies

Article (14)

The foreign company not in possession of a branch or a joint-venture company in the required field shall after taking permission from the Minister of Economy open a representation office for it in Libya for the purpose of studying the market, collect information, prepare the studies and facilitate the procedures of exercising its activity in the future without having the power to conclude contract under its name.

The work duration of the office shall be two years, renewable once for the same period.

Article (15)

The permit application provided for in the (previous) article shall be enclosed with the submission of the following documents:-

1. Decision of the Company's Board of Directors involving the approval to open the representation office in Libya.
2. A copy of the Memorandum and articles of association of the company.
3. A recently dated extract of the company's entry in the commercial register or a substitute.
4. Nomination of the manager of the representation office whether within the decision of the Board of Directors for the opening of the representation office in Libya or by a separate decision.
5. Open an account in Libyan Dinar or foreign exchange in one of the banks operating in Libya and cover its balance with transfers from the company it represents in such a way that it shall remain sufficient to cover the minimum limit of the incorporation expenses and its current disbursements and in all cases, the balance in the account shall not be less than (LYD 150,000) one hundred fifty thousand Dinars.

The documents mentioned in items (1-2-3-4) of this Article shall be certified by the competent official circles in the state of the company's headquarters and by the Libyan embassy or its substitute in such state, provided that the legal translation of the documents shall be done in Arabic inside Libya.

Article (16)

The permit granted to the representation office shall be cancelled and it shall be closed in case it exercises any commercial activity inside Libya.

Chapter (4)

Joint and conclusive provisions

Article (17)

The foreign company that intends to open a branch or representation office for it in Libya shall submit a request thereby to the Administration of Companies and Commercial Registrations in the Ministry of Economy.

The application shall include a statement of the name of person who is authorized to complete the application requirements, his profession and the address where letters related thereby shall be sent.

Article (18)

The Administration of Companies and Commercial Registrations shall assume to examine and study the submitted applications and refer them, accompanied with the point of view of the Minister, within fifteen working days from the date of receiving the application or the from the date of fulfilling the missings. The Administration shall notify the concerned person of the decision taken concerning the application whether by rejection or approval within fifteen working days from the date of issue of the decision.

Article (19)

In addition to the data provided for in Article (491) of Law no. 23/2010, the following documents have to be enclosed in the application for registration in the competent commercial register regarding the joint-venture companies or the branch of a foreign company or representation office:-

1. Memorandum of association of the joint-venture company and the authorization decision with regards to the opening of a branch or representation office of the foreign company in Libya according to cases.
2. A statement to be issued by one of the banks operating in Libya by indicating herein the transfer by the foreign partner or the foreign company of the necessary amount to Libya in order to open the branch or the office or pay the participation in the joint-venture company and be confirmed by a ratified bank account statement.

The legal representatives of the joint-venture company, the branch manager and the manager of the representation office shall deposit the forms of their linear signatures in the commercial register.

Article (20)

The foreign companies that intend to extend the work duration of the branch or the representation office shall submit an application thereby to the Administration of Companies and Commercial Registrations three months before termination of the duration of their granted permit.

Article (20)

The judicial investigation officers whose nomination is the object of a decision by the Minister shall the authority to inspect and peruse the registers of the joint-venture companies and branches and representation offices of foreign companies in order to investigate the implementation of the provisions of this resolution.

Article (21)

This resolution shall be published in the official gazette and shall be operative from the date of issue and the competent authorities shall implement it. The joint-venture companies shall make their situations compatible in accordance with the provisions of this resolution within one year from the date of validity thereof.

Issued in Tripoli on 13/05/2012

Sealed & signed:
Ahmed Salem Alkoshli
Minister of Economy