



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 02/L-33

ON FOREIGN INVESTMENT

The Assembly of Kosovo,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/9 of 15 May 2001, "On a Constitutional Framework for Provisional Self-Government in Kosovo, Chapter 5.1(d) and 9.1.26 (a);

Recognizing that the proper economic development and overall economic health of Kosovo depend on the existence of strong, diversified and competitive private sector, the establishment of which requires a modern market-oriented and business-friendly legal framework; and

Further recognizing that - given Kosovo's current state of economic and administrative development - such a legal framework must include, inter alia, a foreign investment law that promotes foreign investment in Kosovo by providing foreign investors with certain fundamental and enforceable legal rights and guarantees that will serve to ensure foreign investors that they and their investments will be protected and treated with fairness and respect in strict accordance with the rule of law and widely accepted international standards and practice;

Hereby adopts the following:

LAW ON FOREIGN INVESTMENT
CHAPTER 1
GENERAL PROVISIONS

Article 1
Purpose

1.1. The principal purpose of the present law is to promote and encourage foreign investment in Kosovo by providing foreign investors with a set of fundamental and enforceable legal rights and guarantees that will ensure foreign investors that they and their investments will be protected and treated with fairness and respect in strict accordance with the rule of law and widely accepted international standards and practice.

1.2. By promoting and encouraging foreign investment in Kosovo, the present law aims to advance the overall economic development of Kosovo, especially the development of a robust, diversified and competitive private sector. In this way the present law aims to:

- a. ensure Kosovo's full integration into the regional, European and world economies by encouraging the transfer of capital, modern technology, know-how, financial and intellectual services, management skills and information to Kosovo;

- b. improve and diversify Kosovo's ability to obtain and provide goods, services and capital from and to outside markets; and
- c. increase the predictability, stability and transparency of Kosovo's legal framework and its consistency with both European and international standards.

Article 2 Definitions

2.1. Whenever used in the present law, the following terms and phrases shall have the following meanings unless the context within which such term or phrase appears clearly intends another meaning:

"Foreign Investor" means a foreign person that has made an investment in Kosovo.

"Foreign Person" means and includes any of the following:

- a. a physical person who is a citizen of, or who has legal permanent resident status in, a foreign state or geographic territory outside Kosovo;
- b. a business or other organization, entity or association - with or without legal personality - that has been established under the law of a foreign state or geographic territory outside Kosovo;
- c. a governmental or public-administrative unit or agency of a foreign state or geographic territory outside Kosovo; and
- d. an organization, entity or other association - with or without legal personality - that is established by treaty or other agreement between or among states or that is otherwise a subject of international law.

"Investment" and **"investment in Kosovo"** mean any asset that has (i) been contributed to a Kosovo business organization in return for an ownership interest in that business organization; (ii) been leased, loaned or otherwise temporarily provided under contract to a Kosovo business organization for use in its business activities in Kosovo; or (iii) been contributed to, or leased or otherwise temporarily provided under contract to, any other type of organization lawfully established in Kosovo for use in such organization's business or other activities in Kosovo.

"Asset" means any item of value, whether tangible or intangible, and includes, but is not limited to, the following and similar items:

- a. movable and immovable property, including rights in and to such property such as a mortgage, lien, pledge, lease or servitude;
- b. intangible and intellectual property, including rights in and to such property, as well as goodwill, technical processes and know how;
- c. cash, securities, commercial paper, guarantees, shares of stock or other types of ownership interests in a Kosovo or foreign business organization; bonds, debentures, other debt instruments;
- d. claims or rights to money, goods, services, and performance under contract;
- e. concessions or licenses conferred by law, administrative action, or contract; and
- f. returns yielded by an investment in Kosovo or an investment elsewhere.

"Returns" means any amounts or items yielded by an investment and includes, but is not limited to: earnings, interest, capital gains, dividends, and royalties.

“**Kosovo business organization**” means a business organization that has been established under the law applicable in Kosovo.

“**Business activity**” means any activity involving the offering, providing or producing of goods, services, property and/or works to anyone in return for or in expectation of any type of payment or compensation.

“**Act of expropriation**” means any act or measure, any series of acts or measures, any failure to act or series of failures to act, if the direct or indirect effect thereof is to deprive the concerned foreign investor, foreign investment organization or foreign person of the ownership or control of, or a significant benefit or use of, an asset; provided, however, that the term “act of expropriation” shall not apply to the imposition by Kosovo of generally applicable taxes and duties.

“**Foreign investment organization**” means any Kosovo business organization or other type of organization lawfully established in Kosovo if: (i) at least twenty-five percent (25%) of its capital has been contributed, directly or indirectly, by a foreign investor; or (ii) it is controlled by one or more foreign investors on the basis of (a) a written contract, (b) rights to exercise a majority of the organization’s voting shares or similar ownership rights, or (c) rights to appoint the majority of its board of directors or other principal supervisory organ.

“**Freely convertible currency**” means any currency designated as such by the International Monetary Fund.

“**Kosovo**” means and includes Kosovo and each and every public authority in Kosovo.

“**Public authority**” means (i) any governmental executive authority, public body, ministry, department, agency, municipality or other such authority that exercises public executive, legislative, regulatory, administrative, enforcement or judicial powers within Kosovo; (ii) any public enterprise or any otherwise private or non-governmental organization or establishment to the extent it exercises any of the afore-mentioned powers pursuant to a grant of authority given by a normative or sub normative act or pursuant to a delegation of authority from another public authority; and (iii) any official, civil servant, employee or agent of any of the foregoing.

“**Public enterprise**” shall mean a public authority or an undertaking owned, controlled or administered, in whole or in part, by a public authority, if such public authority or undertaking is engaged in the conduct of business activity.

“**ICSID**” means the International Centre for Settlement of Investment Disputes.

“**ICSID Convention**” means the Convention on the Settlement of Disputes between States and Nationals of Other States.

“**ICSID Additional Facility Rules**” means the Arbitration (Additional Facility) Rules of the International Centre for Settlement of Investment Disputes.

“**UNCITRAL Rules**” means the Arbitration Rules of the United Nations Commission on International Trade law.

“**ICC Rules**” means the Rules of Arbitration of the International Chamber of Commerce.

“**New York Convention**” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

“**Court**” means the Supreme Court of Kosovo.

“**Agency**” means the Foreign Investment Agency, established pursuant to Article 19 of the present law.

“**Board**” means the Investment Promotion Advisory Board established pursuant to Article 22 of the present law.

“**Council**” means the Foreign Investment Council established pursuant to Article 24 of the present law.

“**Investment Dispute**” means any dispute between a foreign investor and a public authority relating (i) to an investment in Kosovo made by such foreign investor or (ii) to any Kosovo business organization or other Kosovo entity, organization or association in, through, or by virtue of which such foreign investor made, or seeks to make, an investment in Kosovo. An “investment dispute” includes, but is not limited to, such a dispute that relates to:

- a. any alleged inconsistency of an action or inaction of a public authority with any international agreement that is binding on Kosovo, the present law or any other law, regulation or normative or sub normative act of Kosovo;
- b. any agreement to which the foreign investor and a public authority are parties; or
- c. the making or attempt to make an investment in Kosovo.

“**Present law**” means the present law and any subsidiary normative acts and instruments issued pursuant to or under the authority of the present law.

2.2. All rights, guarantees, privileges, and protections accorded to a “foreign investor” by the present law are also hereby accorded to, and may be claimed and asserted with equal right and authority by, a “foreign investment organization.”

2.3. As used herein, the singular includes the plural and the plural includes the singular unless the context otherwise requires. The term "he" includes "she" and "it"; and the term "him" includes "her" and "it" unless the context otherwise requires.

CHAPTER 2 FUNDAMENTAL RIGHTS, GUARANTEES AND PRIVILEGES

Article 3 General Treatment

3.1. Kosovo shall accord fair and equitable treatment to foreign investors and their investments in Kosovo. Kosovo shall also provide foreign investors and their investments with full and constant protection and security. In no case shall the treatment, protection or security required by this Article 3.1 be less favorable than that required by international law or any provision of the present law.

3.2. Kosovo shall not impair by any unreasonable or discriminatory action or inaction, the operation, management, maintenance, use enjoyment or disposal of a foreign investment organization or other investment by a foreign investor in Kosovo. Kosovo shall in particular not interfere with the lawful activities, rights and legally recognized interests of a foreign investor.

3.3. Any public authority that violates or otherwise fails to respect the rights and guarantees provided by the present law to foreign investors and their investments shall be

liable to pay compensation, in accordance with Article 8.4, for losses and expenses incurred as a consequence of such violation or failure. No type of legal immunity shall serve as bar to the liability created by this Article 3.3.

Article 4 Non-discrimination

4.1. Kosovo shall accord to foreign investors and their investments treatment no less favorable than the treatment it accords to any domestic investor and/or domestic investment, including - but not limited to - treatment with respect to: (i) the provision of protection and security, (ii) the establishment of an investment, (iii) the economic and other activities in which an investment may be made, and (iv) the acquisition, expansion, management and disposal of an investment.

4.2. Without prejudice to reciprocal international agreements of Kosovo or by which Kosovo is bound, it shall be unlawful for Kosovo to discriminate in any manner among foreign investors on the basis of citizenship, origin, residency, place of establishment or business, or control.

4.3. Except for the specific rights, guarantees and privileges accorded by the present law to foreign investors and their investments, foreign investors and their investments shall comply with, and have the rights and obligations established by, the law applicable in Kosovo to the same extent as domestic investors and their investments.

Article 5 Compliance with Obligations

5.1. Kosovo shall promptly, routinely, and uneventfully comply in good faith with all obligations that it has to a foreign investor. This Article shall apply to any type of obligation, whether created by law, agreement, administrative act, or otherwise.

5.2. If any public authority issues an act or assumes an obligation with respect to a particular foreign investor, and the issuance of such act or the assumption of such obligation is beyond the authority of such public authority, the foreign investor shall have the right to compensation in accordance with Article 8.4 for losses and expenses incurred as a result of the foreign investor's good faith reliance on the validity of such act or obligation. However, this right to compensation shall not apply if the foreign investor knew or, through the exercise of reasonable diligence, could have known that the act issued or the obligation assumed was without authority.

Article 6 Stability of Investment Regime

6.1. No law, regulation or other normative act shall have retroactive force or be applied retroactively to the detriment of a foreign investor or the investment of a foreign investor.

6.2. If (i) a foreign investor has made an investment in Kosovo, and (ii) within the five year period immediately following the date such investment is made, any provision of the present law is changed or repealed, or if the value of any provision of the present law is affected by the subsequent promulgation of another normative act or an amendment to another normative act, and (iii) this has a detrimental impact on the foreign investor or the investment, then the foreign investor shall have a right to compensation from the

Government of Kosovo in accordance with Article 8.4 for losses and expenses incurred as a consequence of such change, repeal or promulgation. This right shall be vested in and irrevocably acquired by a foreign investor at the moment the foreign investor makes as investment in Kosovo.

CHAPTER 3 SPECIFIC RIGHTS, GUARANTEES AND PRIVILEGES

Article 7 Nationalization

The following shall not be subject to any form of nationalization: (i) an investment in Kosovo made by a foreign investor; (ii) a foreign investment organization; or (iii) an asset of a foreign investor, foreign investment organization or a foreign person, whether or not connected with an investment in Kosovo.

Article 8 Expropriation and Compensation

8.1. The items described in Article 7.1 shall also not be subject to any act of expropriation by or attributable to Kosovo.

8.2. Notwithstanding the prohibition contained in Article 8.1, Kosovo may take an act of expropriation affecting an asset of a foreign investor, foreign investment organization or foreign person, if the act of expropriation:

- a. is for a clearly defined and legitimate public purpose;
- b. is not inspired by any discriminatory objective;
- c. is carried out in a non-discriminatory manner;
- d. is carried out in accordance with due process of law; and
- e. is accompanied by the prompt payment of adequate and effective compensation.

8.3. The compensation required by Article 8.2.e shall:

- a. promptly be paid in full in a freely convertible currency;
- b. be equivalent to the fair market value of the concerned asset immediately before the act of expropriation was taken; provided, however, that the fair market value of the concerned asset shall be (i) adjusted to ensure that it does not reflect any change in value that can be attributed to the act of expropriation itself or to any prior knowledge or anticipation of the act of expropriation by private persons or the public, and (ii) established in terms of a freely convertible currency;
- c. include a rate of interest that is equivalent to the London Interbank Offered Rate [LIBOR] plus two percent (2%) for the period beginning on the date the act of expropriation occurred and ending on the date that all compensation required by this Article 8.3 has been paid.

8.4. Where the present law requires the payment of compensation for losses and expenses arising from an act or failure to act that does not constitute an act of expropriation, the amount of such compensation shall be equal to the fair market value of the concerned losses and expenses, determined as of the date they were incurred. Such compensation shall be paid in a freely convertible currency and include a rate of interest that is equivalent to the London Interbank Offered Rate [LIBOR] plus two percent (2%) for the

period beginning on the date the losses and expenses were incurred and ending on the date that the compensation required by the present law has been paid.

8.5. The payment of any compensation required by the present law shall be guaranteed by the Government of Kosovo even if the act giving rise to compensation obligation is attributable to another public authority. The payment of such compensation shall therefore become an obligation of, and shall be due and payable by, the Government of Kosovo if such public authority does not promptly comply with the payment obligations established by the present law. The Government shall thereafter have the right to obtain reimbursement from such other public authority through the established legal and administrative processes.

8.6. Due process of law, as required by Article 8.2.d, includes, in particular, the right of the foreign investor, foreign investment organization or foreign person that claims to have been affected by an act of expropriation to obtain a prompt review of its case, including a determination of the compensation due, by the Court or an arbitral body selected by the foreign investor or foreign person in accordance with Article 16.

Article 9 Currency Conversion and Guaranteed Transfers

9.1. A foreign investor shall - with respect to any and all payments, obligations, returns and proceeds relating to or arising from or in connection with a foreign investment organization or other investment in Kosovo - have the right to convert any local currency lawfully in use in Kosovo into a freely convertible currency, and to convert any freely convertible currency into any local currency lawfully in use in Kosovo.

9.2. A foreign investor shall the right to transfer freely convertible currency in and out of Kosovo, including, but not limited to, amounts received in a conversion transaction covered by Article 9.1.

9.3. The conversion and transfer rights established by Articles 9.1 and 9.2 shall be exercisable without restriction whenever the foreign investor determines, in his sole discretion and judgment, that such a conversion and/or transfer is necessary or advisable to:

- a. make contributions to the stated or operating capital of a foreign investment organization or other investment in Kosovo;
- b. protect the value of or repatriate returns, earnings, payments or proceeds received in connection with or generated by a foreign investment organization or other investment in Kosovo;
- c. make payments under any contract;
- d. protect the value of or repatriate proceeds from the sale or liquidation of an asset or any part of an interest in a foreign investment organization or other investment in Kosovo; and
- e. protect the value of or repatriate any payments of compensation arising from the settlement of a dispute or received as a result of the operation of the present law.

9.4. Kosovo shall permit all such conversions and transfers to be effectuated without delay in accordance with normal and customary banking procedures in general use by the banking industry in the EU.

9.5. All conversions shall be made at a market rate of exchange.

9.6. If a public authority interferes with or diminishes the rights established by this Article 9, such public authority shall, in accordance with Article 8.4, compensate the concerned foreign investor for any losses and expenses incurred as result.

9.7. The transfer rights established by this Article 9 may be made subject to reasonable regulations if such regulations are (i) in accordance with generally accepted practices in EU member countries, and (ii) clearly and directly related to facilitating the control of criminal activity, the enforcement of tax or similar fiscal obligations, and/or legitimate creditor rights.

Article 10 Illegal Action or Inaction

Without prejudice to any other rights or remedies that a foreign investor may have, a foreign investor shall have a right to compensation in accordance with Article 8.4 of the present law for losses and expenses incurred as a consequence of any action or inaction that (i) is a violation of the law applicable in Kosovo or international law; and (ii) is attributable to Kosovo.

Article 11 Armed Conflict and Civil Disturbance

11.1. If a foreign investor or foreign person suffers a loss of an asset or an investment in Kosovo as a result of violence that is related to the political or economic situation (including war, other armed conflict, revolution, rebellion, riot, protest, civil disturbance, act of terrorism or other similar event), Kosovo shall accord such foreign investor or foreign person - as regards compensation or other settlement - treatment that is no less favorable than that required by Articles 3 and 4 of the present law.

11.2. A foreign investor or a foreign person shall have the right to obtain compensation in accordance with Article 8.4 in the event of:

- a. A requisition of an asset by a public authority, any official or civil servant of a public authority, or any forces of or lawfully operating within Kosovo;
- b. A destruction of or damage to an asset by forces of or lawfully operating within Kosovo, if such destruction or damage was not required by the necessity of the situation; or
- c. A failure by Kosovo to provide the protection and security protection in accordance with its obligations under Articles 3 and 4.

Article 12 Respect of Rights

Kosovo, as well as every public authority, public official and civil servant shall fully, routinely and uneventfully recognize and respect all rights of a foreign investor relating to a foreign investment in Kosovo, especially where such rights relate to immovable and movable property, intellectual property and other assets, contract rights, and the rights established by the present law.

Article 13 Environment Protection

A foreign investor carrying out its activities in Kosova, shall act in compliance with the regulation and laws approved in the environmental protection area.

Article 14 Expatriate Personnel

14.1. A foreign investor shall have the right to execute employment and other contracts with physical persons who are citizens or permanent residents of a foreign state or a geographic territory outside Kosovo for the purpose of engaging such persons to provide or perform, in Kosovo, professional, management, administration, supervision, or consultancy services or skilled technical functions.

14.2. Without prejudice to any reasonable procedure that may be imposed by the law applicable in Kosovo to the entry of such physical persons, they shall be permitted to enter and remain in Kosovo for the period required by their contract with the foreign investor. Where necessary, Kosovo shall ensure and facilitate the availability of visas and residence permits for such physical persons.

14.3. Except for the specific rights, guarantees and privileges accorded by the present law to foreign investors and their investments, which may be claimed - *mutatis mutandis* - with equal right and authority by foreign physical persons engaged under contract in accordance with Article 14.1, such physical persons shall, while in Kosovo, be subject to and shall comply with all aspects of the law applicable in Kosovo to the same extent as a local physical person.

Article 15 Liquidation of an Investment

15.1. A foreign investor shall have the right freely to liquidate or otherwise terminate investment activities, subject to the terms of any agreement concerned with such liquidation or termination.

15.2. Upon liquidation or other termination of an investment activity, foreign investors shall have the right freely to repatriate all physical and non-monetary assets received as a result thereof.

15.3. Upon liquidation or other termination of an investment activity, foreign investors shall have the right to convert and transfer in accordance with Article 9 all currency and money received as a result thereof.

CHAPTER 4 RESOLUTION OF INVESTMENT DISPUTES

Article 16 Mechanisms for the Resolution of Investment Disputes

16.1. A foreign investor shall have the right to require that an investment dispute be resolved in accordance with any applicable requirements or procedures that have been agreed upon in writing between the foreign investor and Kosovo.

16.2. In the absence of such an agreed procedure, a foreign investor shall have the right to require that the investment dispute be settled through arbitration in accordance with the procedural rules chosen by the foreign investor. The foreign investor may choose any of the following procedural rules to govern the arbitration of the investment dispute:

- a. the ICSID Convention, if the foreign investor is a citizen of a foreign country and that country and Kosovo are both parties to that convention at the time of the submission of the request for arbitration;

- b. the ICSID Additional Facility Rules, if the jurisdictional requirements “ratione personae” of Article 25 of the ICSID Convention are not fulfilled at the time of the submission of the request for arbitration;
- c. the UNCITRAL Rules, in such case the appointing authority referred to therein shall be the Secretary General of ICSID; or
- d. the ICC Rules.

16.3. The consent of Kosovo to the submission of an Investment Dispute to arbitration under this Article 16 is hereby given under the authority of the present law. The consent of the foreign investor may be given at any time either by filing a request for arbitration or by providing to the Agency a written statement expressing such consent.

16.4. The consents referenced above shall be deemed to satisfy the requirements for the forms of consent under Chapter II of the ICSID Convention, the ICSID Additional Facility Rules, the UNCITRAL Rules, and the ICC Rules, as well as the New York Convention. In particular, if an arbitral award is issued by a foreign or international arbitration body under a procedure authorized by this Article 16, such award shall be enforceable in accordance with the New York Convention, regardless as to whether or not that convention is otherwise binding on Kosovo.

16.5. The rights created by Articles 16.1 - 16.4 shall not be deemed to have been waived or impaired by a foreign investor’s prior use or pursuit of a procedure or remedy provided for under another element of the law applicable in Kosovo.

16.6. Unless the concerned foreign investor and Kosovo agree otherwise in writing, any arbitration under the present law shall be held in an EU member country that is also a party to the New York Convention.

Article 17

Law Applicable to Investment Disputes

The court or arbitral tribunal considering an Investment Dispute shall determine the issues in dispute in accordance with the substantive rules or laws agreed upon by the parties in writing. In the absence of such an agreement, the court or arbitral tribunal shall apply the substantive law applicable in Kosovo - excluding the private international law rules thereof - and such rules of public international law as may be applicable to the issues in dispute.

Article 18

Final and Binding Nature of Arbitral Awards

Any arbitral award rendered in connection with an Investment Dispute covered by the present law shall be deemed final and binding on the parties to the dispute, including Kosovo. Such award shall be enforceable within Kosovo to the same extent and degree as if it were a final decision of the highest court of competent jurisdiction in Kosovo. No type of legal immunity shall be claimed or serve as bar to the enforcement of such an award.

CHAPTER 5
FOREIGN INVESTMENT INSTITUTIONS

Article 19
Investment Promotion Agency

The Investment Promotion Agency (the “Agency”) is hereby established as an executive agency under the Ministry of Trade and Industry.

Article 20
Functions

20.1. The Agency shall have the responsibility and authority to:

- a. assist foreign investors, upon their request, in ensuring that other public authorities respect and facilitate the observance of the rights, guarantees and privileges created by the present law, and otherwise deal with matters relating to the establishment, implementation, operation and liquidation of an investment in Kosovo in a routine, facilitative and uneventful manner;
- b. provide advice to public authorities regarding their obligations and other matters relating to foreign investment;
- c. receive, on behalf of Kosovo, the consents of foreign investors to arbitration under Article 16;
- d. develop and make policy recommendations to the Government of Kosovo for the purpose of promoting the creation of a favorable investment climate in Kosovo;
- e. undertake the following activities to improve the perception of Kosovo as an attractive place for investment: the conduct of targeted advertising campaigns, the organization of public relations events (exhibitions, investor forums and seminars), and the providing of information to and liaising with public media;
- f. support initiatives that seek to improve the quality of the investment climate by, inter alia, conducting market surveys, feasibility studies and research, and participating in governmental and non-governmental working groups and task forces;
- g. provide information and advisory services to investors for the purpose of facilitating investment decisions, the establishment of businesses and the establishment of business contracts;
- h. undertake activities that promote Kosovo’s exports by, inter alia, researching and identifying export opportunities, marketing local products in activities abroad, providing technical assistance to exporting business organizations, and collecting, processing and distributing export-related information inside and outside of Kosovo; and
- i. carry out any other task conferred upon it by the present law or by any other primary normative act of Kosovo.

20.2. All public authorities of Kosovo shall cooperate with the Agency in the furtherance of its objectives and the objectives of the present law.

20.3. The Agency shall at all times ensure that its recommendations are consistent with international agreements or rules that Kosovo is required to comply with or that Kosovo is aligning its legislation with.

Article 21
Director

21.1. The Agency shall be headed by the Director who shall report and be accountable to the Government of Kosovo.

21.2. The Director shall be nominated by the Minister of Trade and Industry and appointed by the Government. The Director shall serve for a three (3) year term.

Article 22
Investment Promotion Advisory Board

22.1. The Investment Promotion Advisory Board (the “Board”) is hereby established as a consultative body of the Agency.

22.2. The Board shall, at the request of the Director or acting its on initiative, give advisory opinions and recommendations to the Agency on matters related to all activities and function of the Agency.

22.3. The Director shall consider all recommendations of the Board and may decline to adopt or modify such recommendations on reasonable grounds only, providing written explanations to the Board why those recommendations are not followed. When determining whether and to what extent to adopt a Board recommendation, the Director shall be required to ensure that the implementation of such recommendation will not result in a violation of any law or international agreements or rules that are binding on Kosovo or that Kosovo is aligning its legislation and practices with.

Article 23
Organization of the Investment Promotion Advisory Board

23.1. The Board shall consist of:

- a. The Minister of Trade and Industry;
- b. The Minister of Finance and Economy;
- c. The President of the Kosovo Chamber of Commerce; and
- d. Two (2) leading members of the private domestic investment community who hold no position in a public authority or the Kosovo Chamber of Commerce, who shall be appointed by the Government; and
- e. Two (2) leading members of the private foreign investment community who hold no position in a public authority or the Kosovo Chamber of Commerce, who shall be appointed by the Government.

23.2. No Board member shall receive any compensation for performing his/her duties on the Board.

23.3. The Board shall be chaired by the Minister of Trade and Industry. The Minister shall convene meetings of the Board at least twice a year and may at any time convene additional meetings and shall do so at the request of at least two (2) members of the Board. The procedures of the Board shall be set forth in written rules of procedure, which shall not become effective unless approved by a majority of all Board members.

23.4. A member of the Board shall not participate in or be physically present at any meeting of the Board where matters are discussed in which he or she, or an immediate

family member or business associate, has a personal or financial interest. The members of the Board are required to immediately and fully disclose all conflicts of interests in writing to the other Board members and the Agency.

23.5. Secretariat support services for the Board shall be provided by the staff of the Agency designated for this purpose by the Director.

Article 24 Foreign Investment Council

24.1. The Office of the Prime Minister shall establish a Foreign Investment Council (the "Council"). The Council shall be a voluntary advisory body of the Office of the Prime Minister. No compensation shall be paid to any person for participating in the Council.

24.2. The Council shall be chaired by the Prime Minister. The other members of the Council shall be seven (7) foreign physical persons (i) who have made investments in Kosovo or (ii) who represent substantial foreign investment organizations operating in Kosovo. These persons shall be chosen by the Prime Minister with a view to ensuring an adequate and balanced representation of the foreign investment community in Kosovo. In choosing these persons, the Prime Minister shall attempt to ensure that the Council represents a broad variety of foreign investors based on country of origin or affiliation, sector of investment and size.

24.3. The Council shall meet once every three months and shall have the task of providing advice to the Prime Minister on proposed ways and means for strengthening the present law, improving the investment climate and otherwise promoting foreign investment. In particular the Council shall:

- a. identify major obstacles to the flow or operation of foreign investment;
- b. initiate and develop proposals for overcoming these obstacles;
- c. provide comments on draft legislation and other policy initiatives and projects affecting foreign investors and foreign investment;
- d. provide strategic advice relating to foreign investment policy; and
- e. support efforts of Kosovo towards improving its access to international markets.

24.4. The issues, proposals and recommendations identified or made by the Council shall be recorded in writing and distributed to the Board, the Agency and the Assembly Committee on Economy, Trade, Industry, Energy, Transport and Telecommunications.

CHAPTER 6 FINAL MATTERS

Article 25 Repeal of Previous Normative Acts

Upon entry into force of the present law, UNMIK Regulation No. 2001/3 and UNMIK Administrative Direction 2005/10 shall be repealed.

Article 26
Conflicts with other normative Acts

26.1. In the event of any conflict between any provision of the present law and a provision of the Constitutional Framework or a provision of an international agreement binding on Kosovo, the Constitutional Framework or international agreement shall prevail.

26.2. In the event of any conflict between any provision of the present law and a provision of any other normative act applicable in Kosovo, the provisions of the present law shall prevail; provided, however, the provisions of such other normative act shall prevail if (i) such other normative act has a legislative status at least equal to the present law and (ii) such normative act contains a clearly expressed intention to avoid the application of a provision of the present law or an analogous provision contained in its legislative predecessor, UNMIK Regulation No. 2001/3.

26.3. Nothing in this Article 26 shall be interpreted or applied in any manner that impairs or obstructs the right to compensation created by Article 6 of the present law.

Article 27
Sub normative Acts

27.1. The Government shall have the authority and responsibility for developing and approving any proposed sub normative acts necessary for the proper understanding, operation and implementation of the present law, the Agency, the Board or the Council. All such sub normative acts shall be consistent with the objectives and substance of the present law, and no such sub normative act shall alter, diminish or restrict the rights, guarantees, privileges and protections established by the present law.

27.2. Every proposed draft of such a sub normative act shall be submitted to the Agency, the Board and the Council for review and comment during its development. The Government shall be provided with and shall review all such comments before taking action on the proposed sub normative act.

Article 28
Application to Pre-existing Investments

The present law - and the rights, guarantees, privileges and protections established by the present law - shall apply equally to foreign investors that invested in Kosovo prior to the effective date of the present law; provided, however, that the five year period specified in Article 6.2 shall be deemed to have commenced on the actual date that such prior investment was made.

Article 29
Entry into Force

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-33
21 November 2005

President of the Assembly

Academic Nexhat Daci