



## EXTRACT

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32. On Approving the Investment Policy concept of the Republic of Armenia and the Timetable of Activities

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To approve the investment policy concept of the Republic of Armenia and the timetable of activities, in accordance with the Appendix.

The Prime Minister  
of the Republic of Armenia

Hovik Abrahamyan

October 12, 2015  
Yerevan



## **The Concept Paper of the Investment Policy of the Republic of Armenia**

### **Introduction**

The main purpose of this concept paper (hereinafter Concept) is to describe the investment environment in Armenia, to define the main goals of the state policy in the investment area and outline the necessary state policy principles, directions and measures for their implementation.

The investment policy of RA is one of the key areas of the economic policies of the RA Government, which is stated in its action plan.

### **Objectives and Goals of the Investment Policy of the Republic of Armenia**

The main objectives of the state policy in the investment area in Armenia are the following: improvement of investment environment, improvement of legal framework and promotion of investments in the economy of the Republic of Armenia, including foreign direct investments (hereinafter FDI).

The main goal of Armenia's investment policy is to create a favorable investment and business environment, increase transparency of regulatory environment, reveal the country's competitive advantages, increase investment sizes, develop market infrastructure, create high-quality and high-paid jobs, develop human capital and, based on all these, provide sustainable economic growth and population welfare, which is in line with the priorities of Armenia Development Strategy 2014-2025. To achieve these goals, this Concept intends to provide solutions to the main objectives.

The Government of the Republic of Armenia will follow the principles of “Open Doors” policy, liberalization of investment activities, reservation of national and most favorable treatment of foreign investors, proper protection of investors and other advanced international practices.

### **Recommended Solutions**

To solve problems and meet defined goals, the Government emphasizes the importance to encourage private sector investment in the Republic of Armenia. It recognizes that the efforts of domestic private sector only is not enough to solve this problem. Thus, the Government actively tries to attract foreign investment to achieve priority economic and social goals. At the same time, it accepts that foreign investment may contribute to the development of domestic economy through the transfer of know-how and capital, the creation of high-skilled jobs, and an improved access to international distribution networks and global value chains.

Thus, the Government will consistently implement the specific policy measures to support the formation of favorable investment environment for foreign and domestic investment through the creation of additional incentives. In this context, it is important that these measures are consistent with other policies, as the investment policy is extremely sensitive and undergoes a number of impacts:

Trade Policy. Simplification of trade, elimination of trade barriers, establishment of international trade agreements, and the implementation of trade policies could greatly contribute to the formation of an attractive investment environment.

Competitiveness. Creating and retaining a competitive environment, respecting principles of competitiveness, avoiding unnecessary restrictions require the relevant law to be in force and its correct application, which will ensure higher efficiency of the investment policy.

Fiscal Policy. The countries that have successfully developed the investment fiscal policy, have been able to confirm compliance between country's fiscal policy, national and local development objectives and the investment attracting strategy.

"Green Development". Ecologically safe development itself will stimulate investment and innovation, which, in turn, contributes to sustainable economic growth and provides new opportunities for poverty reduction and socio-economic development.

Thus, consistent and targeted work will be carried out towards the investment policy reform by providing an efficient, effective and transparent system for carrying out investment, enhancing and modernizing the legal framework for investment; and application of best international standards and practices regarding investment.

## **Chapter 1. Investment Policy Principles**

1. The Government of the Republic of Armenia reaffirms its approach in the implementation of "Open Doors" policy to investments by liberalizing relations with regard to FDI entry, operation and exit.
2. With Armenia Investment Law (RA Law on Foreign Investment, the Law on Free Economic Zones and related decisions of the Government, RA Protocol No 46 from November 15, 2012, as well as other economy regulating legal provisions of investment) foreign investors are entitled to national and the most favorable treatment as well as to key rights and privileges of foreign investment.
3. The investment policy principles of the Republic of Armenia that aim to increase the attractiveness of the investment climate in Armenia and encourage investments are the following:
  - 1) Transparency. Make publicly available in a prompt, transparent, and readily accessible manner laws, regulations, administrative guidelines and policies pertaining to investment in Armenia. Allow private sector to participate in formulation of policy and legal texts.
  - 2) Most favorable treatment. Treat establishment, expansion and operation of investments by investors from one country not less favorably than that by investors from any other economy in similar situations.
  - 3) National treatment. With few exceptions as provided in domestic laws, treat establishment, expansion, implementation and protection of foreign investors not less favorably than that of domestic investors in similar situations.
  - 4) Investment incentives: If provided, link incentives to clearly specified national economic and social objectives, ensure transparency, effective governance and regular monitoring.
  - 5) Performance requirements: Do not introduce performance requirements that distort or limit the expansion of trade and investment.
  - 6) Expropriation and compensation: Do not expropriate foreign investments directly or indirectly, or take measures that will have a similar effect, except for a public purpose. The expropriation will be performed in accordance with the laws of the RA on a non-discriminatory basis.
  - 7) Currency convertibility and transfer. Ensure free and prompt transfer of funds related to foreign investment, including non-equity modes of investment as relevant, such as profits, dividends, royalties, loan payments and liquidations, in freely convertible currency.
  - 8) Settlement of disputes. Accept that investment-related disputes between the State and an investor, or between two private investors be settled promptly through consultations and negotiations

between the parties to the dispute or, in case of fail, through international or accepted by both parties arbitration procedures.

- 9) Entry and residence of personnel. Allow the temporary entry and residence of key foreign technical and managerial personnel for the purpose of engaging in activities connected to foreign investment, subject to relevant laws and regulations.
- 10) Exclusion of double taxation: Avoid double taxation related to foreign investment.

## **Chapter 2. Directions of Investment Policy Reforms**

4. Armenia will implement a comprehensive reform agenda to promote foreign investment in the country and use its benefits for the domestic private sector. Thus, it will take into account national economic and social development objectives and address key constraints to investment within the broader investment climate.
5. Investment policy reforms will be aimed at the following:
  - 1) Improve all important elements of the effective policy framework, including investment vision/strategy, measures/actions, and, by collaborating with other agencies, ensure their proper implementation.
  - 2) Maximize effectiveness of investment at different stages of the investment lifecycle by alleviating policy obstacles, starting with investment attraction and protection and ending with linkages to the domestic economy.
  - 3) Establish appropriate environment for efficiency-seeking investment, which is export-oriented by its nature, and is considered the most movable type of investment, which requires an efficient export-import operations, as well as the introduction of investors' protection standards.
6. Reforms will remove key impediments to the attraction and retention of foreign investment identified by the Government and International Finance Corporation, a member of the World Bank Group, through a jointly implemented investor perception survey and interviews with private sector. These include:
  - 1) Absence of a comprehensive investment strategy for foreign investment, that articulates a compelling national value proposition, identifies priority sectors for investment and maximizes synergies among the various actors involved in investment policy as well as the broader FDI agenda.
  - 2) Areas of the Investment Law of Armenia (1994) that are not clear or in line with international good practice, in particular on investor protection guarantees.
  - 3) Lack of transparency of economic activities and the frequent changes in laws and regulations, as well as unsatisfactory implementation of laws by different governmental agencies.
  - 4) Other investment climate barriers which impede investors' confidence, such as excessive and costly inspections, lengthy contract enforcement procedures, and other barriers.
  - 5) Findings from recognized international benchmarking reports were taken into account in the above-mentioned reform process.

## **Chapter 3. Reform Action Plan**

7. To address the broad areas of investment policy barriers identified above, the Government will implement the following action plan in the short- and medium-term to fulfill its long-term vision for investment.
8. The reforms were determined through a participatory process, at the core of which were regular consultations between investors and the Government. The International Finance Corporation, a member of The World Bank Group, through its Armenia Investment Climate Project II has served as a facilitator throughout the process. In the beginning, this action plan aimed at strengthening the Armenia's policy framework for attracting foreign investment. However, as all countries compete for investment, they need to continuously modernize their policy frameworks. Therefore, the reforms below does not indicate the end

of the process, but instead mark the beginning of a continuous effort by the Government to respond quickly to the changes in the global economy and to increase international competitiveness.

### **3.1. Improvement of Investment Legislation**

9. A stable, simple and transparent legal framework is an important precondition for the rapidly developing investment environment. To ensure a stable legal framework it is necessary to clarify the content of the laws, enhance transparency and predictability of laws' development and adoption process.
10. It is important to improve the legal and sub-legal frameworks regulating investment in Armenia, taking into account the importance of legally established equal, non-discriminatory and predictable conditions for foreign and domestic investors.
11. To minimize gaps in investment-related laws and make them closer to international best practices, it is necessary to implemented a number of activities, in particular:

#### **3.1.1. Review Armenia Foreign Investment Law**

12. Since 1994 business and investment environment has been expanded and undergone substantial changes, but the law has not changed since its adoption. Although the current law indicates "Open Doors" policy that the Government runs towards foreign investments and investors, however, some areas, especially those related to the protection of investors, need serious improvement.

Therefore, in the law mentioned above there is a need to:

- 1) Incorporate the Fair and Equitable Treatment (FET) standards;
- 2) Strengthen the protection against expropriation;
- 3) Strengthen the currency convertibility and transfer guarantee;
- 4) Clarify the dispute settlement provisions on access to international arbitration for Investor-State dispute;
- 5) Clarify the provisions dealing with the absence of restrictions, if necessary, use a system of "negative list" to enumerate these restrictions very clearly.

#### **3.1.2. Review RA Law on Free Economic Zones and other related legal acts**

13. The main purpose of creation of free economic zones is to attract foreign direct investment, and, as a result, to promote the export through introduction of advanced technologies, creation of new jobs and sustainable economic development. An appropriate legal framework was established to ensure the functioning of free economic zones. Thus, the main regulatory document is the RA Law on Free Economic Zones adopted on 25 May 2011, which provides a number of tax and customs privileges. However, after Armenia has joined EEU, it became necessary to revise the existing legislation to bring it in line with EEU legislation.

#### **3.1.3 Develop Public-Private Partnership**

14. The Government of Armenia emphasizes the importance of development of public-private partnership as one of key areas of its operations, which will enhance the quality of public services, develop infrastructure and promote the effective implementation of national and local key projects. Today there are a number of successful examples of such cooperation.
15. The Government has adopted Protocol Decree No 4 on Approval of Public-Private Partnership dated January 29, 2009; and with Decree No 1241-N dated September 20, 2012, it has approved evaluation and approval procedure of public-private partnership projects. However, there are a number of gaps.

16. Therefore, it is necessary to consolidate the achievements and, based on international best practices, continue working in this direction, focusing on improvement of the legislation regulating public-private partnership.

### **3.2. Develop foreign direct investment attraction strategy**

17. Armenia is currently lack a formal foreign investment strategy and examination of competitiveness at the sector level.

18. The Government will design and put in place a systemic and systematic strategy for FDI, which will be implemented in two stages:

#### **3.2.1 Develop foreign direct investment attraction and retention strategy**

19. For this purpose, a strategy document will be drafted and adopted, which will:

- 1) Articulate the role of foreign investment and its contribution towards overarching policy goals;
- 2) Define roles and responsibilities of key governmental agencies in the field of attraction, entry, retention and promotion of foreign investment;
- 3) Identify priority target sectors for investment attraction;
- 4) Define FDI attraction targets and expected benefits (\$ invested, jobs created, technology attracted, etc.);
- 5) Introduce a mechanism for the development of a yearly implementation plan with key performance indicators (KPI) and targets;
- 6) Establish a Monitoring and Evaluation system and an Investor Tracking system (ITS). This allows the Government tracking and monitoring progress against key performance indicators and strategic foreign investment goals and to measure the efficiency and effectiveness of government expenditures on investment attraction.

#### **3.2.2 Develop an explicit annual investment promotion implementation plan**

20. For this purpose, the Government will draft and adopt annual implementation plan for the foreign investment strategy, which will:

- 1) Target individual sectors, in particular efficiency-seeking sectors;
- 2) Be based on sector benchmarking work for selected sectors for investment;
- 3) Strengthen sector teams, including the ability to hire new staff with private sector experience.

### **3.3. Investment Promotion**

21. The Government of the Republic of Armenia pursues a consistent investment promotion policy and applies to investments "investor-driven" approach.

22. In Armenia the promotion of investments will be made as follows:

- 1) Ensure the availability of funds;
- 2) Promote investment in SMEs;
- 3) Promote investment from transnational corporations;
- 4) Establish free economic zones;
- 5) Promote investment in energy-saving and high-technology;
- 6) Promote proportionate territorial development programs.

23. To achieve the above-mentioned activities, the following measures should be implemented:

- 1) Develop accessible export financing tools for companies (export insurance).
- 2) Create free economic zones and attract new operators.
- 3) Develop a benefit package for investment programs taking into account:

- a) the number of jobs created;
  - b) the presence of a large network abroad or being a provider for any foreign network;
  - c) focus on reconstruction and development of problematic business;
  - d) regional peculiarities (average salary, unemployment rate, the distance from the capital, the potential of the area).
- 4) Develop venture financing institute;
  - 5) Implement mapping of state real estate attractive for investment;
  - 6) Implement recording of country's investment programs, bringing to a single format and publication work, create a single database of investment programs.

### **3.3.1. Develop specific functions to ensure proactive investment promotion**

24. The Government will take actions to develop specific functions in investment promotion, such as:

- 1) Marketing and outreach;
- 2) Research;
- 3) Investor tracking system;
- 4) Aftercare services;
- 5) Programs fostering linkages from FDI;
- 6) Incentives administration;
- 7) Other functions.

### **3.3.2. Develop an investment promotion incentive package taking into account existing mechanisms**

25. For this purpose, it is necessary to implement the following actions:

- 1) Develop and publish a list of incentives currently offered to investors;
- 2) Assess the effectiveness of existing incentives in reaching their intended objectives (such as employment creation, investment inflows, exports, etc.);
- 3) Consider developing new incentives schemes to attract efficiency-seeking investors;
- 4) Develop an incentive package dependent on activity size for recognized organizations that have established head office in Armenia;
- 5) Develop incentives for large (\$10 mln and/or 300 jobs created) and strategic investment programs.

### **3.3.3 Diaspora Investment Potential**

26. The Government of Armenia emphasizes the importance of cooperation with Diaspora investors. For this purpose, it will create conducive environment for the maximum involvement of the Diaspora in Armenia's economy and investment promotion, which will assist competitive and development promoting investment programs.

27. Thus, the main efforts will be directed towards Diaspora's investment potential analysis and development of a cooperation mechanism.

### **3.3.4 Investment Attraction for Knowledge-based and Innovative Economy**

28. The Government of the Republic of Armenia will encourage any initiative focusing on establishment of a knowledge-based and innovative economy and investments for it.

29. From this point of view, it makes important investments for provision of "science-production" chain, foreign investments in research, investments in human capital and public infrastructure, especially in the processing industries, information technologies, energy and tourism.

30. For this purpose, it is intended to create institutional structures providing "science-production" link.

#### **3.4. Introduce mechanisms to address investor concerns and grievances**

31. Investors in Armenia face a variety of investor protection issues. Most concerns are a consequence of imperfect implementation rather than flawed laws or regulations.
32. These problems carry negative consequences for investment attraction and retention in Armenia. In addition, they may constitute a violation of Armenia's international investment commitments accepted through its network of international investment agreements.
33. To avoid potential investor-state disputes, the Government will assess investor tracking and monitoring mechanisms for grievances, in order to evaluate the impacts of such grievances on investment and to identify the root and cause of concern.
34. To ensure the above-mentioned, it is necessary to record and analyze the following information for each grievance/problem:
  - 1) Value of investment at risk;
  - 2) Other impacts of grievance on investment (such as costs of dealing with grievance, jobs affected, etc.);
  - 3) Investor profile;
  - 4) Issue sector;
  - 5) Government agencies involved;
  - 6) Existence of a domestic/international court case relating to grievance and current status of case.
35. The Government may also implement more improved investor mechanism such as a Mechanism for Investor Retention and Confidence (MIRC).
36. Implementation of MIRC would require designation of an independent lead agency, such as an Ombudsman office or of another appropriate solution, to execute the following grievance-related functions:
  - 1) Information sharing;
  - 2) Early alert;
  - 3) Best practices on problem solving techniques;
  - 4) Implementation of solution.

**Timetable  
of the Investment Policy Concept of the Republic of Armenia**

<b>No:</b>	<b>Activity</b>	<b>Responsible state body</b>	<b>Deadline</b>	<b>Source of funding</b>	<b>Result</b>
1.	<p><b>Improvement of investment legislation, including:</b></p> <ol style="list-style-type: none"> <li>1) Review of RA Law on Foreign Investment</li> <li>2) Development of a reforms roadmap for RA Law on Foreign Investment</li> <li>3) draft of Policy and new Foreign Investment Law, if necessary, development of relevant legal acts</li> <li>4) RA Law on Free Economic Zones and, if necessary, development of legal acts' amendments</li> <li>5) RA Law on Public-Private Partnership and, if necessary, development of legal acts</li> </ol>	<p>RA Ministry of Economy</p> <p>Development Foundation of Armenia (by agreement)</p>	September 2016	No funding required	Drafts of relevant laws and amendments to the legal acts submitted to the Government

2.	<p><b>Development of foreign investment attraction strategy, including:</b></p> <ol style="list-style-type: none"> <li>1) Develop FDI attraction and promotion strategy</li> <li>2) Develop an explicit annual FDI strategy plan</li> <li>3) Develop sector-focused incentives to support the attraction of efficiency-seeking FDI</li> </ol>	<p>Ministry of Economy</p> <p>Development Foundation of Armenia (by agreement)</p> <p>Ministry of Finance</p> <p>Ministry of Agriculture</p> <p>Ministry of Energy and Natural Resources</p>	November 2017	No funding required	FDI attraction strategy program submitted to the Government
3.	<p><b>Investment promotion, including:</b></p> <ol style="list-style-type: none"> <li>1) Implementation of investment promotion measures</li> <li>2) Review and assessment of current incentives</li> </ol>	<p>Ministry of Economy</p> <p>Development Foundation of Armenia (by agreement)</p> <p>Ministry of Finance</p>	December 2017	Donor organizations	The package of investment incentives submitted to the Government
4.	<p><b>Introduction of mechanisms to address investor concerns and grievances, including:</b></p> <ol style="list-style-type: none"> <li>1) Assessment of the feasibility of an investor tracking and monitoring mechanism for grievances</li> <li>2) Implementation of the investor tracking and monitoring mechanism for grievances</li> </ol>	<p>Ministry of Economy</p> <p>Development Foundation of Armenia (by agreement)</p>	October 2017	Donor organizations	Introduction and implementation of the appropriate mechanism

	(or a Mechanism for Investor Retention and Confidence) 3) Establishment of a mechanism to raise awareness among investors, including potential investors, about investment environment.				
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