

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE INVESTMENT PROMOTION ACT

I hereby promulgate the Investment Promotion Act passed by the Croatian Parliament at its session on 8 December 2006.

Class: 011-01/06-01/83

No.: 71-05-03/1-06-2

Zagreb, 13 December 2006

**President
of the Republic of Croatia
Stjepan Mesić, m.p.**

INVESTMENT PROMOTION ACT

I – GENERAL PROVISIONS

Article 1

(1) This Act shall regulate the promotion of investment made by national and foreign legal or natural persons that carry out economic activities and participate in the trade of goods and services with the aim of fostering economic growth, facilitating development and implementation of the economic policy of the Republic of Croatia, its integration in the international trade and strengthening of the competitiveness of the Croatian economy.

(2) For the purposes of this Act, the investment promotion shall mean a system of incentive measures aimed at investment in economic activities in the territory of the Republic of Croatia and job creation linked to investment.

(3) The incentive measures regulated by this Act shall apply to investment projects covering:

- A. the manufacturing sector activities;
- B. technology centres;
- C. strategic business support services.

(4) The incentive measures regulated by this Act shall cover the investment projects which ensure environmentally friendly economic activities and pursue one or more of the following objectives:

- Introduction of new equipment and modern technologies;
- Introduction of new production processes and new products;
- Increase in employment and a higher level of training of employees;
- Modernisation and improvement of business activities;
- Development of production processes involving more value added products;
- Increase in international economic activities;
- Increase in economic activities in the parts of the Republic of Croatia where the economic growth and employment rate fall behind the state's average and in compliance with the regional aid map;
- Development in respect of the provision of new services;
- Energy saving;

- Enhancement of IT activities;
- Co-operation with foreign financial institutions;
- Adjustment of the Croatian economy to the European standards.

Article 2

For the purposes of this Act, the terms below shall have the following meanings:

1. *Investment or initial investment*: investment in fixed assets contributed to the property of the recipient of incentive measures amounting to a minimum of EUR 300 000 expressed in equivalent HRK value, and relating to the setting-up of a new company, the extension of an existing company or the starting-up of an activity involving a fundamental change in the product or production process of an existing company (through rationalisation, diversification or modernisation). Replacement investment is excluded from this definition and shall not be included in the amount of initial investment. Regional state aid, within the meaning of this Act, may not be granted to firms in difficulty. It may also not be granted to steel and synthetic fibres sector.

2. *Fixed assets*: tangible and intangible assets contributed to the property of the recipient of incentive measures, which remain in the recipient of incentive measures.

3. *Recipient of incentive measures*: a company registered in the territory of the Republic of Croatia which takes advantage of incentive measures or to which aid for initial investment is authorised. A company which is to benefit from aid for initial investment shall submit an application for aid to the Ministry of the Economy, Labour and Entrepreneurship before work on the project is started.

4. *Aid for initial investment*: total incentive measures granted which are calculated as a percentage of the investment's value. This value is established on the basis of eligible expenditure for investment.

5. *Eligible investment costs*:

A. The value of real estate/buildings and plant/machinery (standard base). In the transport sector, expenditure on the purchase of transport equipment (movable assets) may not be included in eligible expenditure for investment (standard base).

B. Eligible investment costs may include certain categories of intangible investment (patent rights, licences, know-how) up to a limit of 50% of the standard base in the case of large firms. To this end, eligible intangible assets will have to satisfy the following conditions:

- they must be used exclusively in the recipient of incentive measures,
- they must be regarded as amortisable assets,
- they must be purchased from third parties under market conditions,
- they must be included in the assets of the recipient of incentive measures and remain in the recipient of incentive measures for at least five years.

C. Eligible costs in respect of job creation linked to an investment shall be expressed as a percentage of the gross wage calculated over a period of two years.

6. *Intensity of aid*: the aid amount expressed as a percentage of eligible investment costs or as a percentage of the wage costs of employment created by the carrying-out of an investment.

The recipient's contribution to its financing must be at least 25 % of the investment's amount must be contributed and this contribution may not contain any state aid within the meaning of the State Aid Act.

7. *Gross grant equivalent (GGE)*: all aid intensities must be calculated in terms of gross grant equivalents (GGE) as the amounts of the final benefit which a recipient of incentive measures is deemed to derive from the value of the aid before tax.

8. *Maximum intensity of aid*: gross grant equivalent not exceeding 50% of eligible investment costs increased by 10 percentage points gross in the case of medium-sized enterprises, or 20 percentage points gross in the case of small enterprises (until 31 December 2006 gross grant equivalent may be increased by 15 percentage points gross in the case of investment promotion measures granted to small and medium sized enterprises) and determined in accordance with the regional aid map, and as such represents the aid intensity ceiling for the overall cumulation of aid, i.e. cumulation of eligible incentive measures laid down under Articles 4, 6, 7, 8, 11 and 12 of this Act, also taking into account any other sources of aid. The maximum aid intensity may not exceed the ceiling for investment aid determined by the regional aid map.

9. *The Ministry*: the Ministry of the Economy, Labour and Entrepreneurship as the competent ministry in charge of investment promotion activities.

II – INCENTIVE MEASURES

Incentive measures

Article 3

The incentive measures are:

1. tax advantages;
2. tariff preferences;
3. aid to cover eligible costs of the job creation linked to an investment;
4. aid to cover eligible costs of training linked to an investment;
5. incentive measures for the establishment and development of:
 - A. technology and innovation centres, and
 - B. strategic business support services;
6. incentive measures for large investment projects - investment projects of significant economic interest.

Tax advantages

Article 4

(1) In the case of an investment amounting up to EUR 1.5 million expressed in equivalent HRK value, the recipient of incentive measures shall be eligible for reduction of the profit tax rate by 50% of the statutory profit tax within a period of up to 10 years from the year in which the investment was first made, provided that the recipient provides for the creation of at least 10 new jobs linked to the investment, within three years after the year in which the investment was first made and the establishment of the eligibility status of the recipient of incentive measures.

(2) In the case of an investment amounting from EUR 1.5 to 4 million expressed in equivalent HRK value, the recipient of incentive measures shall be eligible for reduction of the profit tax rate by 65% of the statutory profit tax within a period of up to 10 years from the year in which the investment was first made, provided that the recipient provides for the creation of at least 30 new jobs linked to the investment, within three years after the year in which the investment was first made and the establishment of the eligibility status of the recipient of incentive measures.

(3) In the case of an investment amounting from EUR 4 to 8 million expressed in equivalent HRK value, the recipient of incentive measures shall be eligible for reduction of the profit tax rate by 85% of the statutory profit tax within a period of up to 10 years from the year in which the investment was first made, provided that the recipient provides for the creation of at least 50 new jobs linked to the investment within three years after the year in which the investment was first made and the establishment of the eligibility status of the recipient of incentive measures.

(4) In the case of an investment exceeding EUR 8 million expressed in equivalent HRK value, the recipient of incentive measures shall be eligible for reduction of the profit tax rate by 100% of the statutory profit tax within a period of up to 10 years from the year in which the investment was first made, provided that the recipient provides for the creation of at least 75 new jobs linked to the investment, within three years after the year in which the investment was first made and the establishment of the eligibility status of the recipient of incentive measures.

(5) The total amount of the tax advantage to which the recipient of incentive measures is entitled within the period of use of the benefits, shall be expressed in an absolute amount resulting from the difference between the due amount of profit tax calculated pursuant to the Profit Tax Act and the amount calculated pursuant to this Act, thereby taking into account the maximum aid ceilings for the overall cumulation of aid as laid down in Article 2 item 8 hereof.

(6) If the recipient of incentive measures fails to fulfil the criteria concerning the creation of jobs specified by the provisions of this Article or reduces the number of new jobs specified under this Article, he shall be revoked the tax benefit in respect of the entire period in which it has been approved and shall be ordered recovery of aid derived from the use of the tax advantage increased by statutory interest on arrears.

(7) The recipient of incentive measures must retain his eligibility status and maintain the investment and new employment linked to the investment during a minimum period of 5 years which shall not be shorter than the period in which it makes use of the incentive measures.

Structure of investment

Article 5

The amount of investment in terms of eligible costs as referred to under Article 2 item 5 and Article 4 thereof shall not include the part of the investment in land, existing previously constructed buildings/facilities and used equipment/machinery, which is regarded as contributed equipment.

Tariff preferences

Article 6

(1) The equipment which is imported and constitutes a part of an investment shall not be subject to payment of customs duties in respect of goods specified in the Tariff Lines 84, 85, 86, 87 (with the exception of passenger cars above 1.5 litre engine), 88, 89 and 90 of the Customs Tariff Act.

(2) Tariff preferences intended for investment under this Act shall cease to be in effect on the day of the accession of the Republic of Croatia to the European Union.

Aid to cover eligible costs of job creation linked to an investment

Article 7

(1) The recipient of incentive measures who provides for the creation of new jobs linked to an investment in the areas (counties) of the Republic of Croatia where the registered unemployment rate according to the data of the Croatian Bureau of Statistics for the preceding year does not exceed 10%, shall be authorised a non-repayable grant in respect of the eligible costs of new employment linked to an investment of up to 10% of the eligible costs of new employment and the maximum aid amount shall not exceed EUR 1,500 expressed in equivalent HRK value per job created.

(2) The recipient of incentive measures who provides for the creation of new jobs linked to an investment in the areas (counties) of the Republic of Croatia where the registered unemployment rate according to the data of the Croatian Bureau of Statistics for the preceding year is from 10% to 20%, shall be authorised a non-repayable grant in respect of the eligible costs of new employment linked to an investment of up to 15% of the eligible costs of new employment and the maximum aid amount shall not exceed EUR 2,000 expressed in equivalent HRK value per job created.

(3) The recipient of incentive measures who provides for the creation of new jobs linked to an investment in the areas (counties) of the Republic of Croatia where the registered unemployment rate according to the data of the Croatian Bureau of Statistics for the preceding year exceeds 20%, shall be authorised a non-repayable grant in respect of the eligible costs of new employment linked to an investment of up to 20% of the eligible costs of new employment and the maximum aid amount shall not exceed EUR 3,000 expressed in equivalent HRK value per job created.

Aid to cover eligible costs of training linked to an investment

Article 8

(1) The recipient of incentive measures who provides for the creation of new jobs linked to an investment shall be granted a non-repayable grant for training in respect of new job creation linked to an investment

(2) Training aid to cover the eligible costs of training linked to an investment may be granted in the form of:

- a. aid for general training: "general training" shall mean training involving tuition applicable to the employee's present or future position in the assisted eligible recipient of incentive measures which provides qualifications that are largely transferable to other firms or fields of work and thereby substantially improve the employability of the employee. Training shall be considered "general" if:
 - i. it is jointly organised by different independent enterprises, or if employees of different enterprises may avail themselves of the training,
 - ii. it is recognised, certified or validated by public authorities or bodies or by other bodies or institutions of the Republic of Croatia.
- b. aid for specific training: "specific training" shall mean training involving tuition in theoretical knowledge and practical skills applicable to the employee's present or future position in the assisted eligible recipient of incentive measures and providing qualifications which are not or only to a limited extent transferable to other firms or fields of work.

(3) Aid to cover the eligible costs of training shall not exceed the following maximum aid intensities:

- a. where aid is granted for specific training, its intensity shall not exceed 35% for large enterprises and 45% for small and medium-sized enterprises;
- b. where aid is granted for general training, its intensity shall not exceed 60% for large enterprises and 80% for small and medium-sized enterprises;
- c. in cases where the aid project involves both specific and general training components which cannot be separated for the calculation of the aid intensity, and in cases where the specific or general character of the training aid project cannot be established, the maximum intensities applicable to specific training shall apply.

(4) The eligible costs of a training aid project shall be:

- a. trainers' personnel costs,
- b. trainers' and trainees' travel expenses,
- c. other current expenses,
- d. depreciation of tools and equipment, to the extent that they are used for the training project,
- e. cost of counselling services with regard to the training project,
- f. trainees' personnel costs up to the amount of the total of the other eligible costs referred to in (a) to (e). Only the hours during which the trainees actually participate in the training, after deduction of any productive hours or of their equivalent, may be taken into account.

Article 9

(1) When determining the eligibility of aid referred to in Article 7 and Article 8 hereof, the following conditions shall in particular be taken into account:

- a new job and the related training, must be linked to the carrying-out of an initial investment project, that is, the job must be created following an increase in the utilisation rate of the capacity created by the investment and it must be opened within the period in which the recipient of incentive measures is the given status which makes him eligible for taking advantage of the measures, and made conditional on the maintenance of the employment created, during a period of five years starting from the year in which it was created;
- aid for job creation and training linked to an investment shall be authorised for new employment opened within the period of three years starting from the year in which the investment was first made and the establishment of the eligibility status of the recipient of incentive measures;
- should the recipient of incentive measures not maintain the new jobs created under the provisions thereof over a minimum period of five years, the eligibility for aid for job creation and training shall be revoked and the funds derived from the use of the advantages increased by statutory interest on arrears shall be subject to recovery;
- an initial investment project must result in a net increase in the number of jobs in the recipient of incentive measures compared with the average over the past 12 months, whereby any jobs lost during that period must be deducted from the gross jobs created during the same period.

Incentive funds

Article 10

(1) Non-repayable grants referred to in Articles 7 and 8 of this Act shall be allocated from the State Budget according to the relevant item accorded to the Ministry.

(2) The Ministry shall maintain a record of authorised grants referred to in Articles 7 and 8 of this Act.

Incentive measures for establishment of technology centres and strategic business support services

Article 11

(1) In the case of projects concerning establishment and development of technology and innovation centres, as well as establishment and development of strategic business support services, incentive measures shall be granted for the following types of projects:

A. TECHNOLOGY CENTRES

Development and innovation of high-tech products and production processes which enable the exploitation of the development and innovation activities concerned and promote the production providing for the enhancement of:

- products,
- production series,
- production processes, and
- production technologies.

B. STRATEGIC BUSINESS SUPPORT SERVICES

1. *Customer Contact Centres*

All types of call-centres, multi-media contact centres and other types of customer/client contact centres focused on technical support and customers' or clients' problem solving.

2. *Shared Services Centres*

Focused on outsourcing and pooling of corporate activities of multinational companies, in the areas of: finances, accounting, marketing, development of human resources and IT services.

3. *Logistics and Distribution Centres*

Focused on establishment and construction of high-technology logistic and distribution centres providing intermodal transportation of product, warehousing, material packaging and handling in order to significantly improve logistics and distribution activities within business process and delivery of orders to local and international customers.

4. *ICT Expert Solutions Centres*

Development and application of information systems at a corporate level, outsourcing of IT management operations systems, and development of telecommunications network operation centres.

5. *Software Development Centres*

Development and application of new software solutions for local and international clients.

(2) For the projects concerning establishment and development of technology and innovation centres the recipient of incentive measures shall be granted an increase in the incentive measures provided for in this Act, whereby the aid intensities to cover the costs of job creation linked to an investment specified in Article 7 hereof shall be increased by 50 %.

(3) For the projects concerning establishment and development of strategic business support services the recipient of incentive measures shall be granted an increase in the incentive measures provided for in this Act, whereby the aid intensities to cover the costs of job creation linked to an investment specified in Article 7 paragraphs (1), (2) and (3) hereof shall be increased by 25 %.

(4) For the projects concerning establishment and development of technology and innovation centres, the allowable non-repayable grant shall not exceed 5 % of the actual eligible costs of investment in fixed assets, or in the case of the purchase of equipment for the technology and innovation centre in question the maximum aid amount shall not exceed EUR 500,000 expressed in legally equivalent HRK value, provided that the purchased equipment for the technology and innovation centre constitutes high-tech equipment.

(5) The non-repayable grant referred to in paragraph 4 hereof shall be provided from the State Budget according to the relevant item accorded to the Ministry.

Incentive measures for large investment projects - investment projects of significant economic interest

Article 12

(1) In the case of large investment projects of significant economic interest, the following shall be taken into account:

- the level and importance of investment for the overall economic development and employment;
- uniform and balanced regional development;
- development of areas in which the registered unemployment rate exceeds the national average;
- development of the industry in which the investment is made.

(2) A large investment project or investment project of significant economic interest shall mean an investment project which involves a large economic activity, such as construction of a new factory or industrial plant, starting-up of a new economic activity, as well as development of new technologies, with the value of investment in fixed assets of the recipient of incentive measures of not less than EUR 15 million expressed in equivalent HRK value, provided that a minimum of 100 new jobs linked to the investment are created, starting from the end of the first year of investment.

(3) For large investment projects, in the regions (counties) of the Republic of Croatia where the registered unemployment rate according to the data of the Croatian Bureau of Statistics for the preceding year exceeds 20%, the recipient of incentive measures shall be granted an increase in the incentive measures provided for in this Act not exceeding 5 % of the actual eligible costs of investment in fixed assets:

- a. for the costs of setting up of a new establishment or plant,
- b. for the costs of purchase of new machinery or manufacturing equipment, whereby the maximum total aid amount shall not exceed EUR 1 million expressed in legally equivalent HRK value, provided that at least 40 % of the total value of investment is apportioned to the machinery or manufacturing equipment and at least 50 % of the purchased machinery or manufacturing equipment constitutes high-tech machinery or equipment.

(4) For the large investment projects referred to in paragraph 2 of this Article, the carrying-out of which implies the construction of new or extension or enlargement of the existing infrastructural facilities and installations linked to the investment, a non-repayable grant not exceeding 5 % of the actual costs of the construction of new or extension or enlargement of the existing infrastructural facilities and installations shall be awarded, subject to a maximum amount of EUR 500,000 expressed in legally equivalent HRK value.

(5) The non-repayable grants referred to in paragraphs 3 and 4 hereof shall be provided from the State Budget according to the relevant item accorded to the Ministry.

(6) The overall aid intensities thresholds for large investment projects, subject to the level of investment are as follows:

- for an investment not exceeding EUR 50 million expressed in legally equivalent HRK value the maximum overall aid intensity is 100 % of the aid coverage ceiling determined by the approved regional aid map;
- for an investment in the amount from EUR 50 to 100 million expressed in legally equivalent HRK value the maximum overall aid intensity is 50 % of the aid coverage ceiling determined by the approved regional aid map;
- for an investment exceeding EUR 100 million expressed in legally equivalent HRK value the maximum overall aid intensity is 34 % of the aid coverage ceiling determined by the approved regional aid map.

Authorisation and monitoring

Article 13

(1) Legal and natural persons who intend to benefit from the incentive measures within the meaning of this Act shall submit the application for the approval of the status of a recipient of incentive measures i.e. the notification to qualify for incentive measures. The notification in question shall be submitted to the Ministry prior to the commencement of investment operations.

(2) On the basis of the submitted notification, the Ministry shall, in co-operation with the Ministry of Finance and the ministries in whose competence of jurisdiction the proposed investment falls, as well as other competent authorities, establish whether the submitted notification complies with the provisions of this Act and shall inform the notifying party thereof and issue a Certificate on the eligibility status of the recipient of incentive measures not later than 60 days from the day of the receipt of the notification in question.

(3) Legal persons who plan to use the advantages of the incentive measures as laid down under this Act, as well as other legal persons who are engaged in the activities relating to the investment promotion at the level of local self-government units, shall be provided administrative, professional and technical support relating to the completion of the notification referred to under paragraph 1 hereof from the Agency for the Promotion of Exports and Investment within its competence.

(4) For the purpose of monitoring and determining the maximum intensity of aid which has been granted, the Ministry shall be authorised to request from the competent ministries the data and information on all state aid granted within the meaning of the State Aid Act.

(5) During the period in which incentive measures are used, the recipients of incentive measures shall submit written annual reports to the Ministry and the Tax Administration of the Ministry of Finance, on the use of the incentive measures in question.

(6) The annual reports referred to in paragraph (5) hereof shall be submitted together with the tax return in accordance with the time limits as laid down by the Profit Tax Act.

(7) If the recipient of incentive measures, tax advantages and tariff preferences does not submit the annual report within the time limit specified in paragraph (6) hereof, his eligibility for the approved incentive measures shall be revoked and the status of a recipient of incentive measures withdrawn.

(8) The standard application form for the approval of the status of a recipient of incentive measures, the standard notification form, the procedure for application, approval and use of incentive measures within the meaning of this Act, as well as the form and content of the report on the use of incentive measures referred to in paragraphs (1) and (5) shall be prescribed, by virtue of a regulation, by the Government of the Republic of Croatia upon the proposal of the Ministry.

(9) The Ministry shall in co-operation with the Ministry of Finance and other competent ministries monitor the use of incentive measures by the recipient of incentive measures in order to detect and penalise possible irregularities and unlawful use of aid.

(10) The Ministry shall monitor the use of incentive measures stipulated under Articles 7, 8, 11 and 12 hereof, whereas the Ministry of Finance shall monitor the use of incentive measures stipulated under Articles 4 and 6 hereof.

III – PENAL PROVISIONS

Penal provisions

Article 14

(1) The recipient of incentive measures shall be fined an amount ranging from HRK 100,000 to 1,000,000 for the infringement if he:

- uses the incentive measures contrary of the provisions of Articles 4, 6, 7, 8, 9, 11 and 12 of this Act;
- does not submit the written annual report on the use of the incentive measures to the Ministry and the Tax Administration of the Ministry of Finance pursuant to the provisions of Article 13 par (4) and (5) of this Act.

(2) For the infringement referred to in paragraph (1) hereof the responsible person of the recipient of incentive measures in question shall also be fined an amount ranging from HRK 10,000 to 100,000.

IV – TRANSITIONAL AND FINAL PROVISIONS

Article 15

(1) The Government of the Republic of Croatia shall be obliged to adopt the regulation referred to in Article 13 par (8) of this Act within the period of 60 days following the date of entry into force of this Act.

(2) On the day of entry into force of this Act, the Investment Promotion Act (Official Gazette No. 73/00) shall cease to be in effect.

(3) The companies which are recipients of incentive measures and use tax advantages and tariff preferences for investment pursuant to the Investment Promotion Act (Official Gazette No. 73/00) shall retain the right to use the granted incentive measures, tax advantages and tariff preferences until the expiry of the period in respect of which they have been granted.

Article 16

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2007.

Class: 404-01/06-01/01

In Zagreb, 8 December 2006

CROATIAN PARLIAMENT
President of the Croatian Parliament
Vladimir Šeks, m.p.