

# Newsletter

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**SPECIAL ECONOMIC ZONES IN BENIN:  
 A LEGALLY REGULATED INDUSTRIALISATION TOOL**



With a vision to make the Republic of Benin a country capable of transforming the raw materials produced on its territory, the Beninese authorities have implemented a large-scale industrialisation policy.

This political commitment to industrialisation is being put into practice through a variety of mechanisms, including the creation of Special Economic Zones (SEZs). A SEZ is defined as "*any specific area of national territory, allocated by the State to promote the development of a specific economic pole, for the implementation of a policy to encourage national and foreign investment, particularly through tax and customs benefits, start-up facilities and simplified administrative procedures*"<sup>1</sup>.

The government has undertaken to provide the SEZs with a certain number of infrastructures, commodities and services necessary for their operation. These include road, electricity, water, telecommunications, waste management and security infrastructures.

To achieve this industrialisation objective, an incentive legal and institutional framework has been set up in the Republic of Benin, both for the creation of SEZs and for the installation of investors, who benefit from various advantages within these SEZs.

**1. Legal framework for SEZs**

To reach their objectives, the Beninese authorities have adopted appropriate and necessary laws and implementing decrees.

To date, the regulations governing SEZs in the Republic of Benin are in particular the following:

- (i) Law No. 2022-38 of 03 January 2023 establishing the regime of special economic zones in the Republic of Benin<sup>2</sup> (the "**SEZ Law**");

<sup>1</sup> Article 2 of the SEZ Law.

<sup>2</sup> The SEZ Law repeals and replaces Law No. 2017-07 of 19 June 2017 establishing the regime of special economic zones in the Republic of Benin (the "**Law 2017-07** ").



- (ii) Decree No. 2023-116 of 29 March 2023 setting out the list of various infrastructures, commodities and public services to be set up by the State for the benefit of special economic zones ("**Decree 2023-116**");
- (iii) Decree No. 2023-117 of 29 March 2023 setting out the general conditions for carrying out activities in special economic zones ("**Decree 2023-117**");
- (iv) Decree No. 2023-118 of 29 March 2023 on the powers, organisation and operation of the administrative authority for special economic zones ("**Decree 2023-118**");
- (v) Decree No. 2023-119 of 29 March 2023 on the creation, powers, organisation and operation of the Special Economic Zones Approval Committee ("**Decree 2023-119**"); and
- (vi) Decree No. 2023-120 of 29 March 2023 on special provisions simplifying administrative formalities and procedures in special economic zones ("**Decree 2023-120**").

## 2. Institutional framework for SEZs

Various institutions have been set up for the management of SEZs in Benin. They are provided for in the SEZ Law and governed by various implementing decrees.

The institutional framework of SEZs in Benin is thus made up of institutions specific to each SEZ and institutions whose functions cover all SEZs.

### a. Institutions specific to each SEZ

Within each SEZ, a development and management company and a regulatory authority are created.

- (i) The development and management company

The development and management company is responsible for developing, organising, promoting and managing SEZs. It is created by the State, alone or in partnership, or entrusted by way of concession to a private company. It is responsible for the development, organisation, promotion, marketing, management and maintenance of infrastructure and common facilities in the zone for which it is responsible.



#### Illustration

For example, the *Société d'Investissement et de Promotion de l'Industrie (SIPI)* is responsible for developing and managing the Glo-Djigbé Industrial Zone.

- (ii) The regulatory authority

It is the advisory body responsible for ensuring that the administrative authority respects the rights and obligations of the various stakeholders in the zone. The regulatory authority issues opinions and recommendations in the event of conflicts between stakeholders and alerts the government to any situation that could compromise the achievement of the development objectives of the SEZ for which it was set up.

The regulatory authority has the power to address to the administrative authority opinions and recommendations to deal with irregularities identified within the SEZ, affecting people or their activities.

*b. Institutions common to all SEZs*

The administrative authority and the Approval Committee are the two institutions with responsibilities common to all SEZs created in Benin.

(i) The administrative authority

It represents "*the legal entity under public law set up or appointed to organise and manage the one-stop shop for SEZs and, more generally, to represent the State*"<sup>3</sup>.

The *Agence de Promotion des Investissements et des Exportations (APIEx)* is appointed as the administrative authority for the SEZs. As the administrative authority, it is headed by a General Manager and has a one-stop shop.

It should be noted that within each SEZ, the one-stop shop brings together a number of government departments or public bodies with which companies complete the formalities and procedures required to obtain the administrative authorisations they need to set up or operate in a SEZ.

The administrations and public bodies represented at the one-stop shop include: the General Directorate of Taxes, the General Administration of Customs, the *Guichet Unique de Formalisation des Entreprises* and the *Port Autonome de Cotonou*.

(ii) The Approval Committee

In its role as a body for assessing the eligibility of companies and projects that have applied for admission to the SEZ regimes, it is responsible particularly for approving companies, assessing the zone's development programme in order to define, with the management and development company, the public investments to be made as well as their financing arrangements, and deciding on applications for withdrawal of approval and requests for extension of the investment deadline.

**3. The creation of SEZs in Benin**

SEZs are set up by a decree issued by the Council of Ministers. This decree creates and defines the boundaries of these SEZs, specifying the type of companies that must set up there, the eligible activities and the regime that applies to them.

**i** **Illustration**

The Glo-Djigbé Industrial Zone, a geographical enclave of 1,640-hectare, was created by Decree no. 2020-062 of 05 February 2020 creating the Glo-Djigbé Special Economic Zone ("**Decree No. 2020-062**"), pursuant to Law No. 2017-07.

Under the provisions of Decree No. 2020-062 and of the SEZ Law, only authorised legal entities may set up there, and they may only carry out some specific activities. It includes:

- (i) industrial, agri-food or agro-industrial production, assembly activities, activities of major or strategic interest to the national economy;
- (ii) logistics, warehousing and the development of infrastructure for industry or commerce for certain targets; and

<sup>3</sup> Article 6 of the SEZ Law.

- (iii) commercial or service activities linked to the main production activity under specific conditions.

#### 4. Setting up companies in SEZs

Under the SEZ Law, any legal entity under private or public law, whether Beninese or not, which carries out investment operations in a special economic zone under the conditions defined in the Law, is considered to be an investor eligible to set up in a SEZ.

The setting up of any investor is subject to its admission to one of the regimes provided for SEZs and therefore to obtaining approval.

To this end, an approval committee is set up in each zone. One of its tasks is to assess the eligibility of investors and their projects. This committee also defines the actions that should contribute to the attractiveness of these zones. It is assisted by a technical committee.

The admission of any investor to the zone is subject to a check by the Approval Committee to ensure that their investment project complies with the zone's objectives. Investors must therefore:

- (i) undertake to invest primarily in industrial production or processing, industrial assembly and the development of national resources for export; and
- (ii) undertake to create at least 80% of permanent direct jobs for nationals.

In addition to these so-called general conditions, there may be other specific conditions, which are set out in the decree creating the SEZ and the clauses of the specifications.

In certain cases where the investment programme contributes to the achievement of strategic development objectives for the government, a full or partial waiver of one or more general conditions may be granted to the investor with the authorisation of the Council of Ministers.

In any event, the application for approval is addressed to the development and management company. Although the application procedure is complex, it is still subject to fairly tight deadlines.

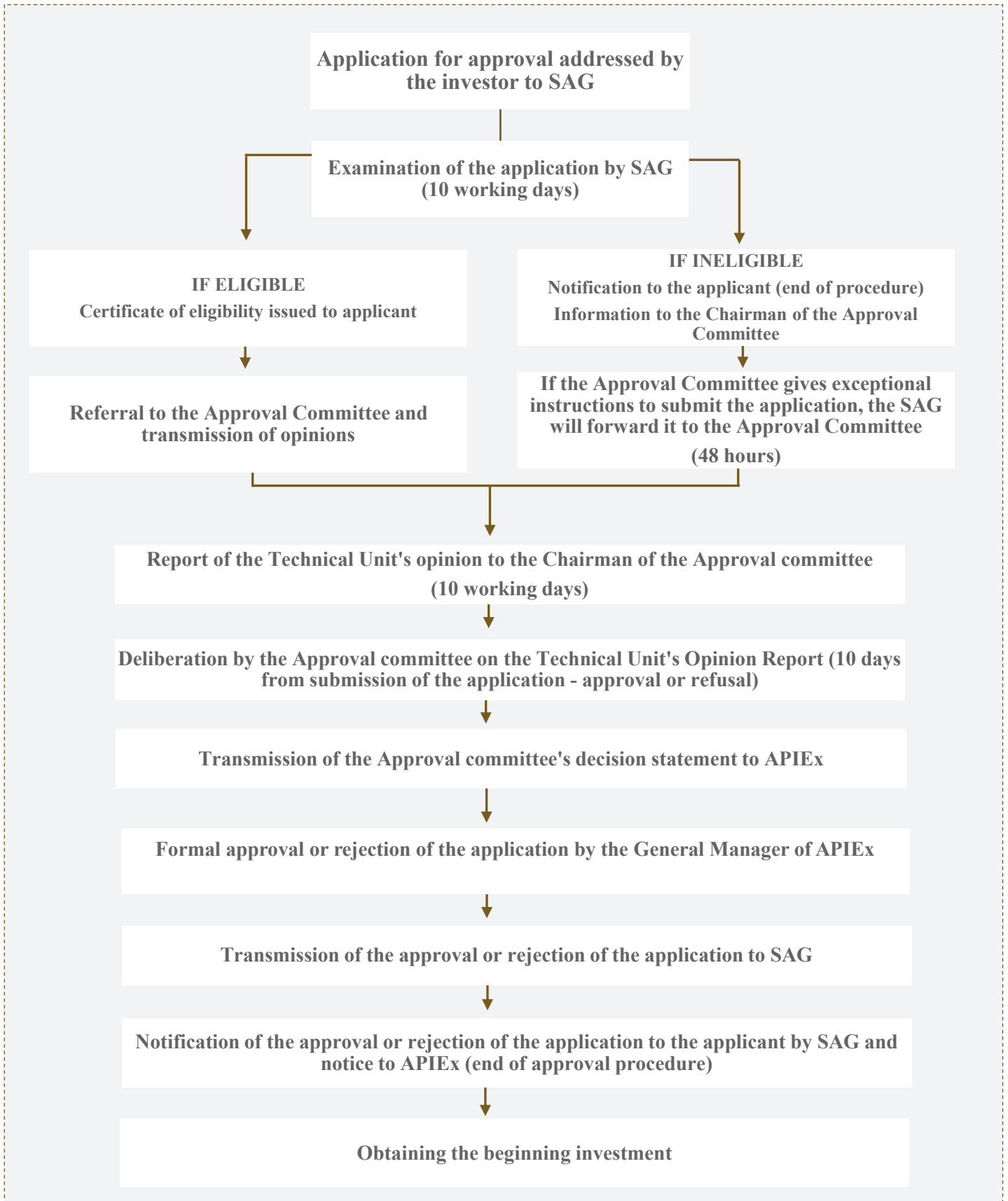
As regards the content of the approval, it indicates, inter alia, (i) the investor's status, the investment periods and the estimated amount of the investment for which the authorisation is granted, (ii) the tax and customs benefits, (iii) the deadline for carrying out the studies and obtaining the administrative documents, (iv) the investment start-up certificate, and (v) the effective date of the authorisation. The approval sets the deadlines by which the projects covered by the application must be completed and the specific conditions for carrying out the investment.

However, the SEZ Law specifies that if the content of the approval is not complied with, it will be withdrawn by the Approval Committee within thirty (30) days of the referral by the development and management company<sup>4</sup>. As soon as approval has been granted, the investor will be issued with a certificate of the beginning of investment, which certifies the beginning of the investment period.

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<sup>4</sup> The acronym SAG refers to the development and management company in the diagram on the following page.

The diagram below gives an overview of the approval process.



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5. The benefits granted to companies set up in SEZs

Companies located within SEZs benefit from a certain of advantages which vary relatively according to the regime to which they are subject. As shown in table 1 below, the SEZ Law provides for two types of regimes, (i) the type 1 or export regime and (ii) the type 2 or intra-community trade promotion regime, which is itself subdivided into three sub-categories (A, B and C) depending on the amount of investment contemplated.

The incentives provided for under the SEZ Law cover both the investment period (table 2) and the operating period (table 3). It should be noted that during the operating period, the incentives cover both the normal exemption periods specific to each regime and even go beyond them.

**Table 1 - Overview of the different regimes provided for under the SEZ Law**

	EXPORT REGIME	REGIME TO PROMOTE INTRA-COMMUNITY TRADE		
		Category 2A	Category 2B	Category 2C
<b>Amount excluding tax of planned investments</b>	No investment threshold  Obligation to export 80% of its production	Equal to or more than FCFA 10 billion and Equal to or less than FCFA 20 billion	More than FCFA 20 billion and less than FCFA 50 billion	More than or equal to 50 billion FCFA

**Table 2 - Overview of incentives planned for the investment period**

	EXPORT REGIME	REGIME TO PROMOTE INTRA-COMMUNITY TRADE		
		Category 2A	Category 2B	Category 2C
<b>Entry duties and taxes, with the exception of road tax, statistical tax, customs stamp, Community levy, Community solidarity levy and solidarity levy on certain equipment</b>	Full exemption	Full exemption	Full exemption	Full exemption

<sup>5</sup> This includes (i) equipment, tools and utility vehicles intended exclusively for production, as part of the investment programme, as well as (ii) spare parts specific to imported equipment, up to an amount equal to 15% (with no limit for category 2-C) of the cost of insurance and freight value of the equipment (CIF value).

**Table 3 - Overview of incentives planned for the operating period**

	EXPORT REGIME	REGIME TO PROMOTE INTRA-COMMUNITY TRADE		
		Category 2A	Category 2B	Category 2C
<b>During the normal exemption period</b>	<b>0 - 15 years</b>	<b>0 - 12 years</b>	<b>0 - 15 years</b>	<b>0 - 17 years</b>
Customs duties on raw materials	Full exemption	No tax exemption	No tax exemption	No tax exemption
Corporation tax, interim tax on profits and flat-rate minimum tax	Full exemption	Full exemption	Full exemption	Full exemption
Contribution from patents and licences	Full exemption	Full exemption	Full exemption	Full exemption
Registration fees for capital increases	Full exemption	No tax exemption	No tax exemption	Full exemption
Employers' payment on salaries	Full exemption	50% discount	80% discount	Full exemption
Transfer duties, registration duties and capital gains tax on the sale, transfer or contribution of assets between companies <sup>6</sup>	Full exemption	Full exemption	Full exemption	Full exemption
<b>Beyond the normal exemption period</b>	<b>Beyond 15 years</b>	<b>Beyond 12 years</b>	<b>Beyond 15 years</b>	<b>Beyond 17 years</b>
Customs duties on raw materials	Full exemption	No tax exemption	No tax exemption	No tax exemption
Corporate tax	Discounted rate of 15%	Discounted rate of 15%	Ordinary regime	Ordinary regime

Finally, it should be noted that in addition to the various incentives mentioned above, companies benefiting from the SEZ regime benefit from other advantages, such as the possibility of obtaining a residence permit and, where applicable, a work permit for both investors and foreign employees. Similarly, the repatriation of income has been improved by the introduction of the issue of foreign exchange authorisations to investors within 24 hours from the submission of the required file.

<sup>6</sup> We would point out that, under the terms of Article 43 of the SEZ Law, this advantage only applies to companies admitted to the type 1 regime of a SEZ.



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