

The Complementarity Between Customs and Investment Laws in Promoting Investment in Free Zones Under Executive Decree No. 24-168, Which Specifies the Modalities for Granting the Concession To operate Free Zones.

التكامل بين قانوني الجمارك والاستثمار في تشجيع الاستثمار في المناطق الحرة في ظل المرسوم التنفيذي رقم 24-168 المحدد لكيفيات منح امتياز تسيير المناطق الحرة.

Reguai ikram *
University of Setif 2, Algeria
i.reguai@univ-setif2.dz

Date of send:21/03/2025

Date of acceptance:20/05/2025

Date of publication;04/06/2025

Abstract:

The article aims to shed light on the role of both the Customs Law and the new Investment Law in encouraging investment in free zones after their re-dedication under Law No. 22-15, and the relationship of the latter to strengthening international relations and contributing to raising the movement of internal and external trade.

The article also aims to discuss Executive Decree No. 24-168 specifying the methods for granting the concession to manage free zones as one of the most important outcomes of the implementation of the Free Zones Law, and the results of its activation in establishing the "Tindouf" Free Trade Zone, in addition to discussing the content of Chapter Seven bis created by the Finance Law for the year 2025 amending the Customs Law on free zones.

Keywords: customs, Free zones, investment, law 22-15, Tindouf, 2025.

* *Corresponding author* : Laboratory of Modern Technology Applications to Law

Introduction

One of the most important determinants of economic development and success in a country is the ability to encourage investment within its territory, whether foreign or domestic, particularly through its integrated legislative system and the guarantees it provides to these investors.

Like many comparative legislations, the Algerian legislative system has gone through many stages with regard to the business climate in general and the investment climate in particular.

especially with regard to the system of “free zones” within the national territory between consecration, cancellation and re-consecration, in line with the requirements of various economic developments and its international obligations under the treaties it has ratified in this regard.

In commitment by the Algerian state to increase internal and external trade activity and its efforts to attract foreign investments that support the balance of payments in hard currency, Law No. 22-15 was issued regarding free zones, after the previous law regulating these zones was cancelled, as well as Law No. 22-18 regarding investment, which cancelled the previous law.

Given that investments in this type of zone require specificity, especially in view of the legislative texts related to the subject of activity in other zones, and related to the import or export of goods or services, Law No. 79-07 related to the Customs Law played a fundamental role in regulating these activities, whether in terms of facilities and legal procedures or in terms of the exemptions provided for that.

The importance of the study lies in shedding light on the analysis of the various new provisions related to the Free Zones Law, and the specificity of amending the Sellers Law in regulating the movement of products within these zones.

The problem arises in the extent of legislative integration between the Customs and Investment Laws, as they are the most important laws upon which the implementation of Law No. 22-15 regulating free zones is based, and their actual role in achieving the legislator's efforts to raise the level of the national economy and strengthen international relations in the field of business?

The analytical and descriptive approach was adopted to discuss the problem presented.

The above problem is discussed according to the following plan.

Firstly: Legal Framework for the Establishment of Free Zones in Algeria.

Secondly : Legal Safeguards Granted to Free Zone Operators.

Firstly: Legal Framework for the Establishment of Free Zones in Algeria.

This section addresses the development of the Free Zones Law between its abolition and consecration, and then the legal concept of free zones.

1. The Evolution of Free Zones Law Between Abolition and Enshrinement.

The legal framework for free zones in Algeria was first introduced through the Finance Law of 1993 under Legislative Decree No. 93-01. Article 93 of this decree amended Article 1 of the Customs Code, incorporating the concept of "free zones" as follows:

"Article 1 of Law No. 79-07 of July 21, 1997, establishing the Customs Code, is amended as follows: Article 1: The customs territory, where this law applies, includes the national territory, territorial waters, and the continental surface.

Zones may be established within the customs territory that are not wholly or partially subject to the legislation and regulations in force, under conditions determined by a special law.¹ "

Subsequently, Legislative Decree No. 93-12 on investment promotion, later repealed, formally addressed free zones for the first time under Title III on Special Regulations. This title specifically covered investments made within free zones, dedicating Chapter II to their legal framework².

To implement Article 34 of Legislative Decree No. 93-12, Executive Decree No. 94-320 was issued, establishing detailed provisions for free zones³.

Accordingly, based on the study conducted by the National Agency for Urban Planning at the request of the Agency for the Promotion, Support, and Follow-up of Investments, the Bellara region in the wilaya of Jijel was designated as a free industrial export zone. This designation led to the issuance of Executive Decree No. 97-106, establishing the Bellara Free Zone (Wilaya of Jijel)⁴.

However, this decree was later repealed by Executive Decree No. 05-01, which abolished the Bellara Free Zone and converted it into an industrial zone⁵.

The 1998 amendment of the Customs Code through Law No. 98-10 also modified Article 2, stating: "Customs laws and regulations shall be applied uniformly throughout the customs territory.

However, free zones may be established within the customs territory, provided that these zones are not subject to the applicable legislation and regulations in whole or in part, according to the conditions determined by law."⁶

In 2001, Legislative Decree No. 93-12 on investment promotion was repealed by Order No. 01-03 on investment development, without introducing new provisions for free zones. This created a legislative vacuum until the issuance of Order No. 03-02, which aimed to establish the general rules governing free zones and the incentive system applicable to investments⁷.

However, this order was later repealed by Law No. 06-10. The legal framework for free zones was only restructured with the adoption of Law No. 22-15, issued within the context of economic reforms and efforts to improve the business climate in Algeria⁸.

2. The Legal Concept of Free Zones

A free zone is a designated area within the territory of a host country, established outside the customs area. From a foreign trade perspective, it is treated as if it were a foreign territory.

This status allows for the unrestricted trade and movement of goods, including import, export, storage, processing, manufacturing, and service activities, without being subject to customs duties, taxes, or other regulations applicable within the customs territory. Free zones are typically isolated and uninhabited areas.

Legally, Law No. 22-15, which defines the rules governing free zones, provides the following definition in Article 2:

"Free zones are spaces defined within the customs territory where industrial, commercial, and/or service activities are practiced and are subject to the provisions of this law".

In this context, the customs territory refers to the geographical area where the customs administration exercises its authority in accordance with the customs law. A special control area is established along land and sea borders, forming what is known as the customs zone.

This concept is addressed in Article 29 of the Customs Law, which states:

1) The customs territory consists of:

a. A maritime area, including territorial waters, the contiguous zone, and internal waters, as defined by applicable legislation.

b. A land area extending:

- Along the maritime border, from the coast to a line 30 kilometers inland.

- Along the land border, from the edge of the customs territory to a line 30 kilometers inland.

2) To enhance fraud prevention, the land area may be extended from 30 kilometers to 60 kilometers where necessary. In the wilayas of Tindouf, Adrar, Tamanrasset, and Illizi, this distance may be further extended to 400 kilometers.

3) These distances are measured in a straight line, and the implementation of this provision is determined by a joint ministerial decision issued by the Ministers of Finance, National Defense, and Interior.

Secondly : Legal Safeguards Granted to Free Zone Operators

This section addresses the privilege of free zones in light of the 2025 Finance Law, and then the privilege of free zones in light of Law No. 22-15.

1. The Privilege of Free Zones Under the Finance Law of 2025

Customs authorities within the customs zone regulate the movement of goods, primarily enforcing legal prohibitions. Fishing and the exploitation of maritime resources within this zone are prohibited for foreign entities unless authorized by an agreement between Algeria and a third country.

Vessel masters must justify their legal possession of cargo, as recorded in the cargo manifest, when inspected by coast guard officers within territorial waters.

International transportation within the contiguous zone remains unrestricted, but the possession of goods within this zone is subject to strict regulations. Exporters and importers must⁹:

- Prove the origin of the goods in their possession.

- Submit purchase invoices or customs documents.

- Provide clearance of rights and fees.
- Submit a bail bond.
- Present a mobility license.
- Follow the legal route.

Goods and the means of transportation used for export or import, regardless of their nature, are subject to control, requiring justification of their possession. Any violation of customs laws and regulations within the customs territory is classified as smuggling and is strictly punished through seizure and prosecution¹⁰.

Customs laws apply uniformly across the entire customs territory, which includes the national territory, internal waters, the contiguous zone, and airspace beyond land and maritime borders.

However, two exceptions exist: a positive exception, which allows for enhanced customs control and deterrence within certain areas, and a negative exception, which establishes free zones where customs legislation and regulations may be partially or entirely excluded¹¹.

Given the significant role of the Customs Law in free zone activities, free zone operators are permitted to export and import goods and services freely, following the tax, customs, and exchange systems outlined in the law¹².

The supply of goods and services to free zone operators from the customs territory remains subject to foreign trade regulations, exchange control, and the tax and customs regime applicable to exports¹³.

A new Chapter VII bis, titled "Free Zones," was introduced in the Customs Law under Article 152 through the Finance Law of 2025¹⁴.

This chapter establishes the conditions for creating free zones to ensure optimal customs control. These conditions include¹⁵:

- Constructing facilities in a manner that prevents the unauthorized removal of goods.
- Enclosing the free zone and placing its entrances under customs surveillance.
- Equipping the area with detectors for inspecting containers and vehicles.
- Installing weighing equipment.
- Providing administrative offices furnished with management tools and communication equipment for customs authorities.

This area is designated for receiving goods from abroad or the customs territory¹⁶. However, goods subject to restrictions or prohibitions due to considerations of morality, public order, security, hygiene, health, veterinary regulations, plant disease prevention, or the protection of patents, trademarks, copyrights,

and reprint rights are prohibited, regardless of their quantity, origin, or destination. Additionally, the law allows for the discretionary exclusion of certain goods from the free zone through a joint decree issued by the Minister of Finance and

the Minister of Trade, following consultation with the relevant ministers when deemed necessary¹⁷.

Goods entering the free zone from abroad require an entry permit, along with accompanying documents and proof of origin. Goods imported from a customs office outside the free zone's jurisdiction must be transferred through the transit system. Locally traded goods from the customs territory are accepted into the free zone based on a temporary export permit¹⁸.

The law also addresses the privileges granted to goods traded within free zones under the third section of the Free Zone provisions.

These include exemptions from financial guarantees and export-related benefits, such as exemption from duties and taxes, in accordance with this section¹⁹.

The final section introduced in the 2025 Finance Law amendment to the Customs Law is covered in Articles 196 bis16 and 196 bis17. It regulates the exit of goods from the free zone, which may be exported or re-exported outside the customs territory.

Goods can also be introduced into the customs territory under one of the customs procedures outlined in the Customs Law.

When goods enter under the consumption or customs warehouse system, their quantities must comply with applicable legislation and regulations²⁰.

For goods leaving the free zone for consumption, the applicable duties and fees are those in effect on the date of the detailed consumption declaration.

However, Algerian-origin goods returning to the customs territory benefit from tax privileges upon re-entry²¹.

2. The Concession of Free Zones in Light of Law No. 22-15

Article 06 of Law No. 22-15 on Free Zones states: "The concession to operate a free zone shall be granted in return for a royalty payable to the National Property Administration, and the modalities for applying the provisions of this article shall be determined by regulation."²²

Free zone operators must comply with customs, drainage, and environmental regulations, as well as employment and social security laws²³.

A key advantage of operating within these zones is the exemption from all taxes, duties, fees, and deductions of a tax, quasi-tax, and customs nature.

However, this does not apply to duties and fees on tourist vehicles and cars, except for those used for operational purposes, nor to contributions to the Algerian social security system²⁴.

In this context, Executive Decree No. 24-168 was issued to define the modalities for granting free zone concessions²⁵.

According to Article 02 of Law No. 22-15, free zones comprise all real and movable properties, including facilities, buildings, and land allocated to economic operators. They also include public facility premises.

The decree establishing a free zone specifies its geographical location, boundaries, area, nature, and authorized activities²⁶. Within free zones, industrial,

commercial, and/or service activities are conducted, with a particular focus on export activities²⁷.

The Executive Decree includes an annex outlining key elements related to the concession agreement. This annex covers the components of the free zone subject to concession, the duration of the concession, entry into utilization and exploitation, and financial conditions.

It specifies the state royalty to be paid by the concessionaire, rental royalties, and the rights and duties of economic operators within the free zone.

It also addresses contracting, maintenance obligations, property preservation, insurance, concession monitoring, termination of management rights, and the transfer of concessioned facilities and equipment to the state²⁸.

In line with Article 03 of Law No. 22-15, Executive Decree No. 24-169 was issued to establish the Tindouf commercial free zone. This decree defines its geographical location, borders, area, components, operational framework, and authorized activities, as detailed in the annex²⁹.

The Algerian Agency for International Cooperation for Solidarity and Development is responsible for carrying out the necessary work to enable the temporary operation of the Tindouf Commercial Free Zone.

This will continue until a public industrial and commercial enterprise is established, as stipulated in Article 05 of Decree No. 24-169³⁰.

Article 20 of Law No. 22-15 outlines the guarantees provided to facilitate free zone operations. It states that operators benefit from protections under agreements on mutual investment protection, guarantees, and dispute resolution ratified by Algeria, as well as relevant legislation³¹.

Before the enactment of the Free Zones Law, Algeria had already taken steps toward economic integration. On March 21, 2018, in Kigali, Rwanda, it signed the African Continental Free Trade Area Agreement, along with three protocols on trade in goods, trade in services, and dispute resolution.

Algeria officially began the ratification process for this agreement on February 28, 2020, and on December 29, 2020, issued a law approving its establishment³².

Investment Law No. 22-18 was issued immediately after Law No. 22-15 on free zones, primarily to establish guarantees for investors.

These guarantees include financial incentives, freedom of investment, transparency, and equal treatment. The law also ensures capital transfer rights, protection of investor property and intellectual property, legal security, and structured investment incentives, particularly for priority sectors and strategically significant areas³³.

Regarding dispute resolution, Law No. 22-18 provides that any disputes between a foreign investor and the Algerian state, whether caused by the investor or state actions, fall under the jurisdiction of Algerian judicial authorities.

However, exceptions apply when bilateral or multilateral agreements ratified by Algeria provide for conciliation, mediation, or arbitration.

Additionally, the National Investment Development Agency, representing the state, may enter into agreements with investors allowing arbitration as a dispute resolution mechanism³⁴.

Conclusion

There is no doubt that the issuance of Law No. 22-15 on free zones is a positive step in revitalizing investment in these zones, and thus a clear expression of the Algerian state's intention to strengthen its international relations, given that this law is one of the most important outcomes of the ratification of the African Continental Free Trade Area Agreement, in addition to the issuance of Law No. 22-18 on investment.

The establishment of the Tindouf Free Trade Zone is also the most important outcome of the implementation of Law No. 22-15 and a practical demonstration of the law's readiness for implementation.

Among the most important outcomes of the issuance of the Free Zones Law is the amendment of the Customs Law by creating a seventh bis chapter under Article 152 of the 2025 Finance Law, entitled "Free Zones." The conditions for developing these zones were determined to provide the best conditions for customs control.

Especially determining the privileges that goods dealt with in the free zones obtain within the provisions of the third section, naming the operation of the free zone, in terms of exemption from financial guarantees and the same export privileges in the field of exemption from rights and fees, in accordance with the provisions of the third section of this chapter.

However, some concerns remain in the context of achieving the objectives of the overall program of the Algerian state's efforts to compete with the international economy, with regard to activating the various roles of establishing free zones at the national and international levels, especially in benefiting from the advantages of mutual international agreements.

To this end, we have some recommendations:

- _ Providing legal security for various investors in free zones and avoiding unnecessary repeal and amendment of laws.
- _ Enhancing the role of digitization in the business sector and IT investments in accordance with international standards.
- _ Strengthening the banking system with legal procedures consistent with the movement of foreign capital into Algeria.

Including search results, recommendations or suggestions, not a summary Legislative Decree No. 93-01 dated January 19, 1993, containing the Finance

.Law for the year 1993, (Official Gazette No. 04, dated January 20, 1993)

Margins:

- Legislative Decree No. 93-12 dated October 5, 1993, related to the Promotion of Investment, (Official Gazette No. 64, dated October 10, 1993), repealed.

- Executive Decree No. 94-320 dated October 17, 1994, related to Free Zones, (Official Gazette No. 67, dated October 19, 1994).
- Executive Decree No. 97-106 dated April 5, 1997, establishing the Bellara Free Zone (Jijel Province), (Official Gazette No. 20, dated April 6, 1997), repealed.
- Executive Decree No. 05-01 dated January 3, 2005, repealing Executive Decree No. 97-106 establishing the Bellara Free Zone (Jijel Province), (Official Gazette No. 04, dated January 9, 2005).
- Law No. 98-10 dated August 22, 1998, amending and supplementing Ordinance No. 79-07 on the Customs Code, (Official Gazette No. 61, dated August 23, 1998).
- Ordinance No. 03-02 dated July 19, 2003, on free zones, (Official Gazette No. 43, dated July 20, 2003), repealed.
- Law No. 06-10 dated June 24, 2006, repealing Ordinance No. 03-02 on free zones, (Official Gazette No. 42, dated June 25, 2006).
- Samira Ben Ahmed, Nadhir Hedaji, "Dawr al-manatiq as-sinaiya wa al-manatiq al-hurra ka-manatiq istithmariya khassa fi taaziz an-namou al-iqtisadi li-mujtamaat Arabiya maa al-ishara ila sharikat Kondor Elektronik bi-Bordj Bou Arreridj wa al-mintaqa al-hurra Jabal Ali" [The Role of Industrial Zones and Free Zones as Special Investment Areas in Enhancing the Economic Growth of Arab Societies, with Reference to Condor Electronics in Bordj Bou Arreridj and the Jebel Ali Free Zone], *Ecofine Journal*, vol. 2, no. 02 (2020).
- Article 152 of Law No. 24-08 of November 24, 2024, on the Finance Law for 2025, (Official Gazette No. 84 of December 26, 2024).
- Executive Decree No. 24-168 of May 28, 2024, establishing the procedures for granting the concession for the management of free zones, (Official Gazette No. 36 of May 28, 2024).
- Annex to the Standard Specifications Book applicable to the granting of the free zone management concession from Executive Decree No. 24-168, *ibid*.
- Executive Decree No. 24-169 of May 28, 2024, establishing the "Tindouf" commercial free zone and defining its geographical location, boundaries, area, components, operation, status, and the activities authorized within it, (Official Gazette No. 36 of May 28, 2024).
- Free Trade Zones, Official Website of the Ministry of Foreign Affairs and National Community Abroad, available at: <https://www.mfa.gov.dz/ar>, accessed on 01/03/2025 at 12:55 AM.

Margins:

¹ Legislative Decree No. 93-01 dated January 19, 1993, containing the Finance Law for the year 1993, (Official Gazette No. 04, dated January 20, 1993).

² Legislative Decree No. 93-12 dated October 5, 1993, related to the Promotion of Investment, (Official Gazette No. 64, dated October 10, 1993), repealed.

³ Executive Decree No. 94-320 dated October 17, 1994, related to Free Zones, (Official Gazette No. 67, dated October 19, 1994).

⁴ Executive Decree No. 97-106 dated April 5, 1997, establishing the Bellara Free Zone (Jijel Province), (Official Gazette No. 20, dated April 6, 1997), repealed.

⁵ Executive Decree No. 05-01 dated January 3, 2005, repealing Executive Decree No. 97-106 establishing the Bellara Free Zone (Jijel Province), (Official Gazette No. 04, dated January 9, 2005).

⁶ Law No. 98-10 dated August 22, 1998, amending and supplementing Ordinance No. 79-07 on the Customs Code, (Official Gazette No. 61, dated August 23, 1998).

⁷ Ordinance No. 03-02 dated July 19, 2003, on free zones, (Official Gazette No. 43, dated July 20, 2003), repealed.

⁸ Law No. 06-10 dated June 24, 2006, repealing Ordinance No. 03-02 on free zones, (Official Gazette No. 42, dated June 25, 2006).

⁹ Articles 220/2,1 of Law No. 79-07, *ibid*.

¹⁰ Article 220/3 of Law No. 79-07, *ibid*.

¹¹ Article 02 of Law No. 79-07, *ibid*.

¹² Article 13 of Law No. 22-15, *ibid*.

¹³ Article 14 of Law No. 22-15, *ibid*.

¹⁴ Article 152 of Law No. 24-08 of November 24, 2024, on the Finance Law for 2025, (Official Gazette No. 84 of December 26, 2024).

¹⁵ Article 196 bis 5 of Law No. 79-07, *ibid*.

¹⁶ Article 196 bis 6 of Law No. 79-07, *ibid*.

¹⁷ Article 196 bis 8 of Law No. 79-07, *ibid*.

¹⁸ Article 196 bis 9 of Law No. 79-07, *ibid*.

¹⁹ Articles 196 bis 10 to 196 bis 15 of Law No. 79-07, *ibid*.

²⁰ Article 196 bis 16 of Law No. 79-07, *ibid*.

²¹ Article 196 bis 17 of Law No. 79-07, *ibid*.

²² Article 06 of Law No. 22-15, *ibid*.

²³ Article 07 of Law No. 22-15, *ibid*.

²⁴ Article 08 of Law No. 22-15, *ibid*.

²⁵ Executive Decree No. 24-168 of May 28, 2024, establishing the procedures for granting the concession for the management of free zones, (Official Gazette No. 36 of May 28, 2024).

²⁶ Article 2 of Executive Decree No. 24-168, *ibid*.

²⁷ Article 3 of Executive Decree No. 24-168, *ibid*.

²⁸ Annex to the Standard Specifications Book applicable to the granting of the free zone management concession from Executive Decree No. 24-168, *ibid*.

²⁹ Executive Decree No. 24-169 of May 28, 2024, establishing the "Tindouf" commercial free zone and defining its geographical location, boundaries, area, components, operation, status, and the activities authorized within it, (Official Gazette No. 36 of May 28, 2024).

³⁰ Article 06 of Executive Decree No. 24-169, *ibid*.

³¹ Article 20 of Law No. 22-15, *ibid*.

³² Free Trade Zones, Official Website of the Ministry of Foreign Affairs and National Community Abroad, available at: <https://www.mfa.gov.dz/ar>, accessed on 01/03/2025 at 12:55 AM.

³³ Law No. 22-18, *ibid*.

³⁴ Article 12 of Law No. 22-18, *ibid*.