

What is a Collaboration Agreement?

Description

By Mahlet Mesganaw, Partner at DMLF

Introduction

Growing export-oriented services and products is essential to the economy of Ethiopia. Foreign currency generating export businesses have to be encouraged to narrow down the import and export in-balance. As a result, the Ethiopian government has introduced export-oriented non-equity based foreign enterprise collaboration with a domestic investor. This concept of collaboration agreement was there in the previous Investment Proclamation No 769/2012. And now the same concept is incorporated in the current Investment Proclamation No 1180/2020 and Investment Regulation No 474/2020. What collaboration agreement is and the requirements for registration shall be the focus of this brief article.

Collaboration Agreement

Collaboration agreement is an agreement entered by and between a domestic investor and a foreign enterprise. The wording i.e. 'foreign enterprise' refers to the foreign company or sole proprietor with a registered business and not a natural person. The purpose of the agreement is, among others, for the foreign enterprise to provide guaranteed external market access, production know-how of products for export market, export business management know-how, export market know-how and strategies for the supply of raw materials and intermediate inputs needed for export products. The foreign enterprise is not required to contribute capital. Thus any domestic investor who enters in respect of export a collaboration agreement with a foreign enterprise shall have the agreement registered with the Ethiopian Investment Commission (EIC). A collaboration agreement that is not registered with EIC shall have no legal recognition.

Requirements for Registration

A collaboration agreement registration request needs to be accompanied with an application form signed by a domestic investor. With the application, the domestic investor shall submit a copy of a collaboration agreement signed in front of a notary between the domestic investor and foreign enterprise, a copy of valid business license or investment permit of the domestic investor and an authenticated copy of the commercial registration certificate or business license of the foreign enterprise.

Decision on the Application

EIC shall pass a decision of approval or rejection within 30(thirty) working days having conducted the necessary review. A deadline has been included in the current proclamation as opposed to the previous Investment Proclamation No 769/2012. Where EIC approves the agreement, then EIC shall issue a certificate of registration and hand the certificate to the domestic investor. In addition to that,

the approval shall be communicated to the National Bank of Ethiopia(NBE) and other relevant federal executive government organs. Specific mention of the NBE is included in the current proclamation, as opposed to the previous investment proclamation, where service fee for the foerign enterprise requires allotment approval of foreign currency by the NBE. Where EIC rejects the application for registration of the collaboration agreement, EIC shall notify the domestic investor of its decision in writing. In the previous investment proclamation, the concept of rejection and communication of the same in writing has not been included. The current investment proclamation made improvements in this regard and included written communication detailing reasons why the registration request has been denied.

Conclusion

Collaboration agreement is created with the sole aim of growing export trade. The agreement entered between a domestic investor and foreign enterprise is required to be registered to have a legal effect. The foreign enterprise is not required to contribute equity. Rather the foreign entity renders service in guaranteeing export market access and know-how for the domestic investor in consideration of service fee. The importance of export-oriented non-equity based foreign enterprise and domestic investor collaboration is essential in generating the much needed foreign currency for Ethiopia from export trade.

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dmethiol_admin