



Official Journal – Issue No. 3 (Bis) – Dated 17 January 2015

Arab Republic of Egypt
Presidential Decree-Law No. 5 of the year 2015
Regarding Preference of Egyptian Products
in Governmental Contracts

The President of the Republic,

After having perused the Constitution;

The Penal Code;

Criminal Procedure Code;

Law No. 21 of the year 1958 regarding Regulation and Promotion of Industry in the Egyptian Region;

Public Authorities Law No. 61 of the year 1963;

Public Sector Authorities and Companies Law No. 97 of the year 1983;

Public Business Sector Companies Law No. 203 of the year 1991;

Law No. 89 of the year 1998 Regulating Tenders and Auctions;

Small Enterprises Development Law No. 141 of the year 2004;

Law No. 67 of the year 2010, Regulating Partnerships with the Private Sector in Infrastructure Projects, Services and Public Utilities;

Presidential Decree No. 72 of the year 1995, Approving Arab Republic of Egypt Joining the World Trade Organization, and the conventions included in the closing document containing the Results of the Uruguay Round for Multilateral Trade Negotiations and the Appendix of Undertakings of the Arab Republic of Egypt in the fields of Trading in Weapons and Services, signed in Marrakesh in Morocco Kingdom on 15/4/1994; and

After the approval of the Cabinet of Ministers; and

Based on the view of the State Council;



HAS DECREED
THE LAW, THE TEXT OF WHICH IS SET OUT BELOW

(Article 1)

In applying the provisions of the present Law, the following phrases shall have the meaning assigned thereto:

Competent authority: shall mean the Minister – and any person exercising the Minister's powers and authorities – the Governor, the Chairman of the Board of Directors of the General Authority, the chairman of the board of directors of the company, or the managing director.

Competent minister: shall mean the minister concerned with industry affairs.

Purchase order: shall mean purchase orders of industrial products, including procedures of concluding such contracts.

Project contract: shall mean construction contracts, and contracts of establishing, outfitting and developing the projects of infrastructure and public utilities.

Industrial product: shall mean any item produced from the physical/chemical transformation of the raw material, and every product undergoes change processes, including assembling, classification, packaging, sorting, or recycling, or any other processes, conducted according to the standards and regulations to be specified by a decree of the competent minister.

Egyptian industrial product: shall mean every industrial product produced in the Arab Republic of Egypt, or in the free zones established pursuant to the governing laws.

Product meeting the requirement of Egyptian industrial component percentage: shall mean every industrial product in which the Egyptian component exceeds (40%) of the product price. The Egyptian component percentage is computed by deducting the value of imported components from the product price.



Controlling interest: shall mean that the State or any of the companies referred to in Article (2) owns any percentage in a company, and that percentage enables the State/company to appoint the majority of members of the company's board of directors, or to control, in any manner, the decisions made by the company's board of directors or its general assemblies.

(Article 2)

The provisions of the present Law shall apply to purchase contracts, and project contracts entered into by the administrative system units of the State - such as ministries, authorities, and bodies that have separate budgets, and shall also apply to local administration units, and services/economic public authorities.

Likewise, the provisions of the present Law shall apply to project contracts entered into by any of the following companies:

- a) Companies fully owned by the State, or to any public legal person;
- b) Public sector companies;
- c) Public business sector companies; and
- d) Companies where the State or any of the companies referred to above has a controlling interest therein.

The provisions of the present Law shall not apply to:

- 1- Contracts entered into by the ministries of defense, military production, and interior, as well as general intelligence agencies; and
- 2- Contracts entered into by other ministries, authorities or entities, the confidentiality of which is deemed necessary for national security considerations, in the cases to be specified by a decree from the Prime Minister.

Nor shall the provisions apply to partnership contracts with the private sector, or their related private consultancy contracts entered into by administrative entities, to carry out infrastructure projects, services and public utilities, and render their services available, as per Law No. 67 of the year 2010, referred to above.



(Article 3)

When inviting tenders for their projects, the entities subject to the provisions of the present Law, shall observe that the Egyptian industrial component, conforming to the approved standard specifications, is, under no event, less than (40%) of the estimated value of the project.

Release from this obligation may be effected by virtue of a Prime Minister decree, upon a proposal of the competent minister and the ministers of finance and planning, in accordance with the terms and conditions to be prescribed by the Executive Regulations.

The Prime Minister may, upon a proposal of the competent minister, reduce or raise the said percentage, so that it shall under no event exceed (10%) in the cases to be specified by the Executive Regulations.

(Article 4)

Entities referred to in the first paragraph of Article (2) of the present Law may not enter into purchase contracts of industrial products not meeting the Egyptian industrial component percentage, unless any of the following cases occur:

- a) If the industrial products meeting the Egyptian industrial component percentage do not conform to the approved standard specifications;
- b) If the products meeting the Egyptian industrial component percentage are not, or insufficiently, available;
- c) If the price of the product meeting the Egyptian industrial component percentage is (15%) higher than that of the competitive product; and
- d) If the public interest dictate that in the cases to be specified by a decree from the Prime Minister.

The executive regulations shall state the rules and procedures of applying these exceptions.



(Article 5)

Certificates proving the fulfillment of the Egyptian industrial component percentage shall be issued by the Federation of Egyptian Industries, after approval of the General Authority for Industrial Development, in accordance with the regulations and procedures to be set out in the Executive Regulations.

The Executive Regulations shall determine the amount of fee to be collected against the issuance and approval of said certificate, provided such fee shall not exceed two thousand Egyptian pounds.

(Article 6)

Entities to which the provisions of the present Law apply, shall fulfill the following obligations:

- a) Excluding from contracts that are subject to the provisions of the present Law, the technical specifications and conditions of tenders, including evaluation methods, as this may deem a discrimination against the Egyptian industrial products; and
- b) The method of payment of the prices of Egyptian industrial products and products meeting the Egyptian industrial component percentage should be the same as those of any other non-Egyptian industrial products. The Executive Regulations shall set out the terms, regulations and procedures of applying these obligations.

(Article 7)

Small and micro enterprises shall be exempted from half of the bid security and half of performance security, if the industrial product, subject matter of the contract, meets the Egyptian industrial component percentage.

Such an exemption shall not apply to any new contracts entered into with these enterprises, upon their violation of the contractual terms or the provisions of the current Law.

This shall be done in accordance with the regulations and procedures to be prescribed in the Executive Regulations.



(Article 8)

All entities to which the provisions of the present Law apply, shall announce on the Government Procurement Portal the following data:

- 1- Method of contracting, and the reasons justifying the adoption of this method;
- 2- Contractual terms and the rules of technical and financial evaluations and the results of the two respective evaluations;
- 3- Results and reasons for the decisions of awarding, cancellation, or rejection of tenders;
- 4- Reasons for rejecting the Egyptian industrial product, if any;
- 5- Lists of registered persons with these entities, such as contractors, suppliers, experts, consultants, and others, and those debarred or blacklisted, and the causes for, and data on, such lists, and any other data to be prescribed in the Executive Regulations.

(Article 9)

A committee named "Committee for Preference of the Egyptian Industrial Product" shall be established in the Cabinet of Ministers. The Committee aims to ensure that competitiveness and preferential benefits are available to the Egyptian industrial products and to the products meeting the Egyptian industrial component percentage which conform to the specifications set out in the contracts that are subject to the provisions of the present Law. The Committee shall be formed under the chairmanship of the competent minister, and the membership of:

- Chairman of the General Authority for Industrial Development;
- A deputy of the Chairman of the State Council, to be elected by the president of the Council;
- Head of the General Authority for Government Services;



- Three representatives of the entities concerned in the Ministry of Industry, to be elected by the competent minister;
- A representative of the National Investment Bank, to be elected by the Minister of Planning;
- A representative of the Ministry of Planning, to be elected by the Minister of Planning;
- A representative of the Ministry of Investment, to be elected by the Minister of Investment;
- A representative of the Ministry of Military Production, to be elected by the Minister of Military Production;
- Chairman of the Federation of Egyptian Industries;
- Chairman of the Federation of Egyptian Chambers of Commerce; and
- Two experts, to be elected by the competent minister.

The Committee may seek the assistance of any specialists in its field of work, as it deems necessary to perform its duties. A representative of the ministry/entity concerned with the issue submitted to the Committee may be invited to attend its meeting, when appropriate.

Upon a proposal of the competent minister, the Committee's modus operandi and remuneration of its members shall be determined by a decree from the Prime Minister.

The Committee shall have a technical secretariat, the formation, functions, and location, of which, as well as the financial compensations of its members shall be issued by a decision of the competent minister. Such compensations shall be disbursed from an entity affiliate to, or supervised by, the Ministry of Industry.



(Article 10)

The Committee prescribed in the preceding Article, shall be responsible for monitoring the compliance of the entities to which the present Law applies, with enforcing the provisions set forth therein. To do so, the Committee may in particular:

- 1- Prepare a database of material data on the contracts that are subject to the provisions of the present Law, including the payments disbursed from the state budget to purchase non-Egyptian industrial products, and the reasons for that, pursuant to the provisions of the present Law;
- 2- Request all data on the contracts entered into by these entities;
- 3- Receive, examine and express opinion about, complaints filed by individuals and entities regarding any violations of the provisions of the present Law;
- 4- Notify the entities concerned of the results of the complaints submitted thereto, and request them to take disciplinary actions in cases necessitating that;
- 5- Communicate the recommendations regarding tender conditions and method of contracting, to the entities to which the provisions of the present Law apply, in a manner that ensures the achievement of the objectives of the present Law;
- 6- Follow up the preparation of databases on the Egyptian industrial products, by the entities concerned; and
- 7- Submit a quarterly report to the Prime Minister, and the House of Representatives on the findings and statistics related to government procurement percentages of Egyptian industrial products and of products meeting the Egyptian industrial component percentage, and on the extent of compliance of entities to which the present Law applies, with enforcement of its provisions, and with the measures taken by the Committee in this regard, in addition to assess the impact of applying the present Law on the growth of the Egyptian industry.



(Article 11)

Entities to which the provisions of the present Law apply, shall notify the Committee for Preference of the Egyptian Industrial Product of the conditions and specifications of the tenders/contracts that are subject to the provisions of the present Law, should their estimated value exceed ten million Egyptian pounds. The Committee shall be notified at least fifteen days before the announcement procedures of such tenders/contracts, or their assignment by direct agreement. The Committee has to provide these entities with its remarks, if any, within fifteen days from the date of receiving the tender/contract specifications and conditions. During said period, these entities may not enter into contracts.

These entities shall cooperate with the Committee, and shall provide it with:

- 1- Any data or statistics the Committee may request, pertaining to its powers and duties, and the disciplinary measures the entity has taken against those violating the provisions of the present Law; and
- 2- A quarterly report on the contracts that are subject to the provisions of the present Law, which these entities have entered into on non-Egyptian industrial products. The report shall contain such data as may be determined by the Executive Regulations.

(Article 12)

Contracting procedures shall be cancelled before adjudication, if the Committee for Preference of the Egyptian Industrial Product finds that the conditions of tenders for contracts prescribed in the first paragraph of Article (11) violate the provisions of the present Law.

The cancellation decision shall be issued by the competent authority in the entities to which the provisions of the present Law apply, whether such decision is taken by its own volition, or upon a request of said Committee.

(Article 13)

A special database containing the Egyptian industrial products, and their relevant data, and the companies and enterprises manufacturing them,



including the products meeting the Egyptian industrial component percentage, shall be established in the General Authority for Industrial Development.

(Article 14)

All entities to which the provisions of the present Law apply shall provide the General Authority for Industrial Development with any data, statistics, research, studies, it may request about industrial products, as well as with all information necessary for enforcing the present Law.

(Article 15)

Violation of Articles (3, 4, 6, 8, 11 and 12) of the present Law by a public official or an employee in the entities to which the provisions of the present Law apply, shall be deemed a gross breach of the duties of his work.

(Article 16)

Without prejudice to any severer penalty provided for in any other Law, the following penalties shall apply:

First:

A fine not less than five thousand Egyptian pounds and not more than one hundred thousand Egyptian pounds shall be imposed on any person who has refrained from providing the Committee for Preference of the Egyptian Industrial Product with the data, papers, or documents set out in Article (11) of the present Law.

Second:

A fine not less than five thousand Egyptian pounds and not more than one hundred thousand Egyptian pounds shall be imposed on any person who has failed to make the required announcement on the Government Procurement Portal as prescribed in Article (8) of the present Law.

Third:

A fine not less than fifty thousand Egyptian pounds and not more than (10%) of the total price of a contract shall be imposed on any person who has willfully and knowingly provided false data,



certificates, or documents, in violation of Articles (3 and 4) of the present Law.

If such violation arises out of omission or negligence, the penalty shall be a fine not less than five thousand Egyptian pounds and not more than one hundred thousand Egyptian pounds.

(Article 17)

Investigation procedure/criminal proceedings shall be initiated in the offences prescribed in the present Law, only upon the request of the competent minister or whomever he delegates.

(Article 18)

The competent minister shall issue the Executive Regulations of the present Law, within three months from the date of enforcement thereof.

(Article 19)

This Decree Law shall be published in the Official Journal, and shall come into force three months after the day following the date of its publication.

Issued at the Presidency of the Republic on 26 Rabi I, 1436 (Islamic Calendar), corresponding to 17 January 2015 (Gregorian Calendar).

Abdel Fattah El Sisi