

DECREE No. 25.-

THE PRESIDENT OF THE REPUBLIC OF EL SALVADOR,

WHEREAS:

- I.** The Promotion of Innovation and Technology Manufacturing Act was issued by Legislative Decree No. 722, dated April 18th, 2023, published in the Official Gazette No. 81, Volume No. 439, dated May 4th of the same year.
- II.** In order to achieve the operability and application of the referred Act, with the objective of achieving the intended purposes, it is necessary to develop conceptual aspects and procedures that make its implementation feasible and that provide certainty to the beneficiaries of such regulations.
- III.** Pursuant to Article 168, paragraph 14 of the Constitution of the Republic, the President of the Republic is empowered to decree such regulations as may be necessary to facilitate and ensure the application of the laws whose implementation corresponds to him. Therefore, in compliance with the aforementioned constitutional mandate, as well as the mandate of Article 21 of the Act referred to in the first paragraph, it is necessary to issue the corresponding Regulations.

THEREFORE,

in use of constitutional powers,

DECREES the following:

**REGULATIONS OF THE PROMOTION OF INNOVATION AND TECHNOLOGY
MANUFACTURING ACT**

1

This is an unofficial English translation of the original Spanish text of the Regulation of the Act, Decree N° 25 of 2023 published in the Official Gazette No. 25, Volume 439, on June 2nd, 2023, approved by the Legislative Assembly of El Salvador. This unofficial English translation is only provided for guidance and the Spanish text is the only one which should be relied upon.

CHAPTER I

GENERAL PROVISIONS

Object

Art. 1.- The purpose of these Regulations is to develop and facilitate the application of the rules contained in the Promotion of Innovation and Technology Manufacturing Act, hereinafter referred to as the “Promotion Act.”

Implementation

Art. 2.- The Ministry of Economy, hereinafter referred to as “the Ministry,” shall be in charge of the application of these Regulations for the concession and preservation of the benefits granted by the Promotion Act.

The Ministry is empowered to carry out the inspections it deems necessary for the authorization of any procedure contemplated in the Promotion Act and these Regulations; as well as to request a technical opinion from any other governmental, autonomous or municipal entity that may be necessary due to its corresponding competencies.

The attributions corresponding to the Ministry of Finance in the surveillance and control of the customs and tax regime, shall correspond to the Directorate General of Customs, hereinafter referred to as DGA, and to the Directorate General of Internal Taxes, hereinafter referred to as DGII, as the case may be, who may coordinate their activities on an interinstitutional basis, in accordance with the corresponding customs and tax regulations.

Definitions

Art. 3.- The following definitions are established for the purposes of the Promotion Act and these Regulations:

- a) Innovation:** It consists in the introduction of a new product, service or process, both for existing and new markets.
- b) Advanced Technological Manufacturing:** It is the practice of using innovative technologies and methods that improve the capacity and competitiveness of a company to generate advanced technological products, services, and any other

that optimizes all aspects and stages of the value chain and production processes. This type of practice may also be referred to as “digital manufacturing.”

c) **New Investment:** Any investment made in a new project related to innovation or technological manufacturing activities included in Article 6 of the Promotion Act. A new investment shall be considered as that made in assets or resources, whether in tangible and intangible goods, property, plant, equipment or capital injection, which are destined to the implementation of the activities included in the aforementioned article.

The following will not be considered as new investments:

- I. Those made prior to the entry into force of the Promotion Act.
- II. Investments related to operations already established in the territory, which do not constitute a new project of the incentivized activities in Article 6 of the Promotion Act.
- III. Those derived from the increase of the patrimony as a result of merger, absorption, spin-off or any type of operational and administrative restructuring of assets.

d) **New project:** Any business activity or undertaking that is initiated or implemented by a natural or legal person after the entry into force of the Promotion Act and that is framed within the activities specified in Article 6 of said Act.

This must be a new service or product, different from those currently performed, executed, rendered or produced by the natural or legal persons requesting a Qualification Agreement. The new project may not be a continuation or expansion of pre-existing operations, nor shall the inclusion of new clients or markets to a service or product already offered by the applicant be considered a new project.

In the case of existing technological manufacturing activities, they will only be considered as a “New Project” if they result in the creation of new products, different from those currently manufactured, fabricated or assembled by the

parties interested in being holders of a Qualification Agreement, which are within the activities mentioned in Article 6 of the Promotion Act.

- e) **Computer System:** It is a set of interconnected components that work together to process and store information. These components include hardware such as computers, printers, hard disks, among others, and software such as operating systems, applications, drivers, among others, communication networks that allow the transfer of data between the components and the person who manages them.
- f) **Software:** It is the intangible part of computer systems composed of the program or set of programs, as well as data, procedures and guidelines that allow the implementation of various tasks in a computer system. For example, operating systems, applications, web browsers, games or programs, among others.
- g) **Cloud Computing:** It is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.
- h) **Artificial Intelligence:** Automated processes that, through the development of algorithms or other models, allow computers to process large amounts of data and, from them, develop tasks such as learning, perception, reasoning and problem solving, autonomous decision making that influence real or virtual environments.
- i) **Massive Data Analysis:** Automated analysis of a wide variety of data sets, which are generated in large volumes and at an exponential rate, known internationally as Big Data.
- j) **Distributed Ledger Technology:** It is a database system in which information is consensually recorded, shared and synchronized in a multi-node network and in which most copies of databases are considered equally authentic.

- k) **Cybersecurity Solutions:** These are product and service solutions for the protection of networks and information systems against unauthorized access, use, disclosure, interruption, modification or destruction in order to provide confidentiality, integrity and availability.
- l) **Quantum Computing:** This technology is based on the principles of quantum mechanics to solve complex problems faster than traditional computers and includes hardware, software and application development for quantum computers and those that mimic quantum behavior in a traditional computer.
- m) **Hardware:** A set of tangible physical components of a computer system. It consists of a variety of electrical, electronic, electromechanical and mechanical components, such as wiring and lighting circuits, boards, memory, hard disks, peripheral devices and any other material in a physical state that is necessary to make the equipment work.
- n) **Semiconductors:** Materials that have an intermediate level of electrical conductivity between conductors and insulators.
- o) **Communications Technology:** Systems used to transmit information from one place to another that can be in different forms such as voice, text, images or data, transmitted through different media such as radio waves, fiber optic cables, satellites, among others.
- p) **Robotics:** Science and technology to design, build, develop, operate and/or program robotic machines capable of performing operations or tasks in an automated manner.
- q) **Nanotechnology:** Science that focuses on the use of materials at the nanometer scale and/or the control of properties of matter at the molecular and atomic level, seeking to develop materials, devices or systems with unique and improved properties compared to materials at a larger scale.
- r) **Unmanned Vehicles:** Also known as autonomous vehicles, in their different modalities, terrestrial, aerial or others, some of them known by their acronyms

such as UV, UGV or UAV, which are equipped with control and navigation systems that allow them to carry out specific tasks autonomously.

s) Systems Engineering and Technologies: It encompasses the design, development and maintenance of complex systems or platforms integrating industrial technologies to productive chains for their automation, taking into account software, data, processes, hardware and their interconnections and the environments in which they operate throughout their life cycle and their final dismantling.

CHAPTER II OF APPLICATIONS AND DOCUMENTS

Contents of the Application

Art. 4.- Interested parties may request a qualification agreement before the Ministry to access the benefits of the Promotion Act, in accordance with the procedures established in these Regulations, through the electronic means enabled for such purpose, by completing the corresponding form and attaching the documents required by the Promotion Act and these Regulations.

The application must contain at least the following information:

- a)** Name and general information of the applicant and its legal representative or attorney-in-fact, as well as the documents proving such condition, if applicable.
- b)** Tax Identification Number of the applicant.
- c)** If applicable, data of the legal person: Registration number of the articles of incorporation, company registration number and initial balance sheet deposit number.
- d)** Description of the activity to be carried out, in accordance with Article 6 of the Promotion Act.

- e) List of goods required for the incentivized activity with its tariff classification number and their justification.
- f) Location and area of the facilities in which it will operate, when applicable.
- g) Amount of projected new investment and estimated time to execute it.
- h) Whether it will be dedicated to the domestic market, foreign market or both.
- i) Percentage dedicated to research, development and innovation, in accordance with the provisions of Article 10, paragraph f) of the Promotion Act, as well as a brief description of the activities or projects in which it will be used.
- j) Amount and type of employment to be created, if applicable.
- k) Estimated operational start date, which may not be more than four months from the filing of the application.
- l) Address, place or technical means, whether electronic, magnetic or any other, indicated to receive notifications.

Other applications made to the Ministry in accordance with the Promotion Act and these Regulations must have at least the general content included in a) and b) above, as well as any other information corresponding to the procedure being applied for.

The Ministry shall make information available for the reference of the interested persons.

Required Documentation

Art. 5.- Interested parties must attach the following documentation to the application established in the previous article:

I. Natural persons:

- a) Applicant's Single Identity Document. in the case of a foreigner, the applicant must present a valid passport or resident card. In both cases, when the

application is submitted through an attorney-in-fact, the document proving the capacity in which he/she is acting, and his/her respective identification document must be added;

- b)** Tax Identification Card, for the purposes of the provisions of Article 9, paragraph b) of the Promotion Act;
- c)** In the cases that the application states that the applicant will have an establishment, it shall attach a copy of the distribution plan of the facilities according to its activity, in which the location of offices, production area when applicable, shall be detailed;
- d)** Flow chart and description of the production or service process;
- e)** Executive summary of the investment project including the benefited activity developed and its relationship with those indicated in Article 6 of the Promotion Act, general information on the project, amount of projected new investment and time period for its execution, list of goods, equipment and supplies necessary for production, and;
- f)** In the case of a natural person already operating in the national territory, a report issued by a certified auditor must be submitted, indicating the activities and projects carried out or that have been carried out prior to the entry into force of the Promotion Act, according to the requirements of the Ministry.

II. Legal Person:

- a)** Single Identity Document of the legal representative. In the case of a foreigner, a valid passport or resident card must be presented. In both cases, when the application is submitted through an attorney-in-fact, the document proving the capacity in which he/she is acting, and his/her respective identification document must be added;
- b)** Valid documents proving the legal personality of the applicant and the legal representative;

- c) Tax Identification Card only of the legal person, for the purposes of the provisions of Article 9, paragraph b) of the Promotion Act;
- d) Document legitimizing the participation of the shareholders, in case it differs from what is expressed in the articles of incorporation;
- e) In the cases that the application states that the applicant will have an establishment, it shall attach a copy of the distribution plan of the facilities according to its activity, in which the location of offices, production area when applicable, shall be detailed.
- f) Flow chart and description of the production or service process;
- g) Executive summary of the investment project, including the benefited activity developed and its relationship with those indicated in Article 6 of the Promotion Act, general information on the project, amount of the projected new investment and time period for its execution, list of goods, equipment and inputs necessary for production, and;
- h) In the case of a legal person already operating in the national territory, a report issued by a certified auditor must be submitted, indicating the activities and projects carried out or that have been carried out prior to the entry into force of the Promotion Act, according to the requirements of the Ministry.

The documents that prove the information provided in the applications and forms, or that are required in the course of the procedure, may be submitted by the interested parties by means of a certified copy by a Notary Public, or may be submitted in original through the means made available by the Ministry. If the documentation has already been submitted for a previous procedure, it will not be necessary to submit it again, except if it has undergone changes or if it is no longer in force.

In the case of documents issued abroad, these must be duly authenticated or apostilled and accompanied by the respective translation, when applicable.

The Ministry, together with the pertinent institutions, shall establish interoperability mechanisms to avoid requesting accreditation documents that are in the national public registries.

The documents presented for a previous procedure will not need to be presented again, except if they have undergone changes or if they are no longer in force.

CHAPTER III PROCEDURES

Beneficiary Qualification Application

Art. 6.- Natural or legal persons, national or foreign, who comply with the requirements established in Article 9 of the Promotion Act and who wish to obtain a Benefit Qualification Agreement pursuant thereto, must submit the corresponding application attaching the required documentation as established in Articles 4 and 5 of these Regulations.

Once the application and its annexes have been received, the Ministry will analyze it, and must admit it within a maximum term of five (5) business days or warn the applicant, if necessary, to comply with the missing requirements. Once the application is admitted, the Ministry shall request the opinion of the Ministry of Finance, through the DGA and DGII, in order to verify that the applicant, partner or shareholder of the applicant has no pending formal or substantive tax obligations, which shall have a term of ten (10) business days from the notification of the Ministry to issue the favorable opinion when applicable, and if no notification is received from any of the above mentioned Directorates, it shall be understood that the applicant of the benefit of the Act does not have any pending tax obligations. When the authorization of the List of goods is requested, the DGA shall issue an opinion within the term indicated in this subsection. If no opinion is issued on the List of goods within the aforementioned term, the Ministry shall resolve as it deems appropriate.

The Ministry will make a technical report on the technological innovation or manufacturing project to be developed by the applicant and its inclusion within the activities mentioned in Article 6 of the Promotion Act, within a term not to exceed ten (10) business days counted as from the following business days of the admission of the

¹⁰
This is an unofficial English translation of the original Spanish text of the Regulation of the Act, Decree N° 25 of 2023 published in the Official Gazette No. 25, Volume 439, on June 2nd, 2023, approved by the Legislative Assembly of El Salvador. This unofficial English translation is only provided for guidance and the Spanish text is the only one which should be relied upon.

application. The Ministry may require any additional information it deems necessary to prepare such opinion.

Upon expiration of the above mentioned term, the Ministry shall resolve within a maximum term of five (5) business days, issuing the Qualification Agreement granting the benefits or denying them, in the latter, stating the reasons for its decision.

The Qualification Agreement shall contain as a minimum: name of the beneficiary, activity or activities to be developed, benefits conferred by the Act and its terms, authorized customs tariff items, as well as the reference to the provisions that regulate the rights and obligations of the beneficiary under the Promotion Act and these Regulations.

The Ministry will electronically notify the DGII and DGA, sending a copy of the Qualification Agreement within three (3) business days after its issuance.

Modifications to the Qualification Agreement

Art. 7.- The beneficiary who wishes to modify the Qualification Agreement to incorporate changes in its corporate name, transfers, expansions or reductions in its facilities, List of authorized goods or changes in the authorized activity, may submit a request to the Ministry, which shall contain the information and documents referred to in Articles 4 and 5 of these Regulations, as applicable.

In the case of requests for modification in the authorized activity, the beneficiary shall also submit the flow chart and description of the process of the new activity, as well as the List of goods with its tariff classification number that shall be included in the agreement. The Ministry shall prepare a technical opinion according to the terms and deadlines established in Article 6 of these Regulations.

When the authorization of a new List of goods is requested, the Ministry shall request an opinion from the DGA, which shall issue its opinion within ten (10) business days as of the next business days following the date the opinion was requested. If no opinion is issued on the list of goods within the aforementioned term, the Ministry shall decide as it deems convenient.

Once the application and required annexes have been received, the Ministry will review them and if there are no observations or if they have been corrected, it will resolve within a maximum period of ten (10) business days, issuing, if favorable, the modified Qualification Agreement; in case of denial, it will give the reasons for its decision. In the case of modifications to the incentivized activity or customs tariff items, the Ministry shall resolve within a term not to exceed five (5) business days counted as of the business day following the date of issuance of the technical opinion or receipt of the opinion of the DGA, as the case may be.

The Ministry shall electronically notify the DGII and DGA, sending a copy of the Modification Agreement within a maximum term of three (3) business days after its issuance.

Voluntary Suspension of Benefits

Art. 8.- The beneficiary may request that the Qualification Agreement be temporarily suspended because it is not operating due to a duly justified cause, acts of God or force majeure, and must justify in the request the reasons and the term for which the benefits are to be suspended, which may not exceed three (3) months. The aforementioned suspension must be requested thirty days before the three (3) months of inactivity referred to in Article 20 of the Promotion Act.

The suspension period may be extended for the same period only in the event of an act of God or force majeure, provided that the beneficiary proves that the situation that led to the suspension still exists.

The request shall contain the information and documents established in articles 4 and 5 of these Regulations, as applicable. The Ministry shall issue the Agreement authorizing the voluntary temporary suspension of benefits or its extension within ten (10) business days after the admission of the request.

The interested parties who intend to enjoy again the benefits before the expiration of the authorized suspension period must submit a request to the Ministry, which will issue a new Agreement within the term of the previous paragraph.

During the suspension period, the taxes applicable to the imports made and other related taxes must be paid. The voluntary suspension of the benefits does not interrupt the computation of the term of the benefits granted in the authorization agreement.

The Ministry shall electronically notify the DGII and DGA, sending a copy of the Suspension Agreement or its extension within a maximum term of three (3) business days after its issuance.

Voluntary Cancellation of Benefits

Art. 9.- The beneficiary may request the cancellation of its Qualification Agreement and registration as beneficiary. The request must contain the information and documents established in Articles 4 and 5 of these Regulations, as applicable. The Ministry shall issue the Agreement whereby the benefits are cancelled within ten (10) business days after the request is filed.

The Ministry will electronically notify the DGII and DGA, sending a copy of the Cancellation Agreement within a maximum period of three (3) business days after its issuance.

The Cancellation Agreement issued by the Ministry does not exempt the applicant from complying with the obligations or procedures that correspond by virtue of other laws on tax, customs, financial, environmental, labor or social laws, among others.

Issuance of Certificates

Art. 10.- The Ministry shall be empowered to issue certificates, documents and others to the beneficiaries, in order to accredit the existence of a procedure or the condition of beneficiary of this Act.

Subsequent Control

Art. 11.- The beneficiary who holds a Qualification Agreement in force and wishes to import the goods, supplies, machinery, equipment, or tools through the list of authorized goods in its Agreement, must complete the import procedure in accordance with the procedures established by the DGA.

In order to verify compliance with the obligations set forth in Article 8 of the Promotion Act regarding installed capacity, the Ministry may request the information it deems necessary. For the purpose of evaluating the installed capacity, the Ministry will take as parameters the infrastructure, personnel and investment made, among others, as established in the technical regulations to be issued.

The beneficiaries must keep an electronic inventory register and an online system at the disposal of the Ministry and the DGA, in accordance with the provisions established by the latter, and for such purposes must issue the documents of entry and exit of the goods in compliance with the corresponding tax and customs legislation.

The DGA shall immediately notify the Ministry of any non-compliance with the Promotion Act and these Regulations, which is determined in the implementation of its control processes to initiate the respective sanctioning procedure.

Deadline to Transfer Imported Goods

Art. 12.- Goods that have been imported exempt from import duties and taxes in accordance with the benefit set forth in Article 7, letter e) of the Promotion Act may not be transferred to third parties before the term of five years in the case of machinery, and two years for equipment and tools or other goods, as of the date of their introduction into the country. Otherwise, the referred goods must be re-exported or pay the applicable taxes at the time of importation.

Such goods must be duly identified by their owners as being of exclusive use for the incentivized activity. Notwithstanding the foregoing, such goods may be transferred before their corresponding terms if the third party is another beneficiary that has a Qualification Agreement in force in application of the Promotion Act.

Prior to making a transfer to a third party, the beneficiary must file the corresponding merchandise declaration and comply with the corresponding customs and tax obligations.

CHAPTER IV

ON THE OBLIGATIONS OF BENEFICIARIES

Verification of Obligations

Art. 13.- In order to verify compliance with the obligations of the beneficiaries regulated in the Promotion Act and these Regulations, the Ministry may require documentation of compliance with operating permits, authorizations, registrations, among others, related to such obligations, through monitoring or inspections that may be conducted during the term of the Qualification Agreement.

Budget for Research, Development and Innovation

Art. 14.- The percentage stipulated in Article 10, paragraph f) of the Promotion Act may be used for innovation development projects within the company, or to support innovation initiatives or programs of government institutions, startups or academic institutions, making it known to the Ministry. The beneficiaries must accredit the destination of the funds in the reports required by the Ministry.

CHAPTER V

NATIONAL REGISTRY OF TECHNOLOGY INNOVATION AND MANUFACTURING INDUSTRIES COMPANIES

Of the Registry

Art. 15.- For the purposes set forth in Article 4, paragraph i) of the Promotion Act, the Ministry will keep an electronic registry in which it will register the holders of the Qualification Agreements issued under the Promotion Act and these Regulations, and it will not be necessary for the beneficiaries to make any additional request.

The Registry will include the general information of the beneficiaries and their Qualification Agreement number, which will be available for consultation electronically.

The Ministry will periodically update the registry to include the corresponding modifications, suspensions, cancellations or revocations.

CHAPTER VI

REPORTS AND INSPECTIONS

Reports

Art. 16.- The beneficiaries must electronically submit the four-monthly report in the format and media provided by the Ministry, in accordance with the following terms:

15
This is an unofficial English translation of the original Spanish text of the Regulation of the Act, Decree N° 25 of 2023 published in the Official Gazette No. 25, Volume 439, on June 2nd, 2023, approved by the Legislative Assembly of El Salvador. This unofficial English translation is only provided for guidance and the Spanish text is the only one which should be relied upon.

1. The first report shall cover the months of January through April, the second report shall cover the months of May through August, and the third report shall cover the months of September through December. Reports must be submitted by the fifteenth day of the month following the month covered by the report.
2. The report shall contain at least the following information:
 - a. Amount of the investment made, which in the case of legal persons shall be reflected in the financial statements duly filed with the Registry of Commerce.
 - b. Detail of the projects together with the amount and date of the disbursements destined to Innovation, Research and Development.
 - c. Value and origin of imports, detailing on a monthly basis the corresponding goods, supplies, tools, machinery and equipment.
 - d. Number of jobs during each of the months included in the report, according to the payroll of the Salvadoran Institute of Social Security, if applicable.
 - e. Sales to the foreign market, detailing the amount and destination of exports.
 - f. Sales to the local market, detailing the amount.
 - g. Any other information required by the Ministry for the exercise of its powers, the Act and the Regulations.

The Ministry may request special reports from the beneficiaries to verify compliance with the obligations established in the Act and these Regulations, which must be submitted by the beneficiaries within ten (10) business days of being requested, unless, due to the nature of the information required, the Ministry establishes a longer period for submission.

The corresponding supporting information shall be attached to the reports, which must comply with the formal obligations applicable to each type of beneficiary, in accordance with the tax laws and other applicable laws.

The Ministry may require that the reports be certified by qualified auditors, in order to comply with Article 10 of the Promotion Act and 11 of these Regulations, according to the technical guidelines to be issued.

Surveillance, Delegates and Inspections

Art. 17.- The Ministry of Economy and the Ministry of Finance, in compliance with the powers attributed in the Promotion Act, may carry out verifications and inspections through their duly accredited delegates; the beneficiaries must allow their entry, and facilitate the review of the books, also providing the documentation evidencing compliance with their tax, accounting, social security and pension obligations and other information required to determine compliance with the law.

The result of the inspection shall be recorded in the minutes detailing everything that was done, the facts that were verified and, if possible, the documentation collected shall be attached. The same shall be signed by the delegate and by the person who hosted the inspection on behalf of the beneficiary duly identified, but if he/she refuses to do so, it shall be stated in the minutes and the data that allow, as far as possible, to identify him/her shall be included.

In the case of natural or legal persons that do not have an establishment or facilities, they must submit the information requested by the Ministry of Economy and the Ministry of Finance within the terms and conditions indicated in the request.

CHAPTER VII

FINAL PROVISIONS

Technical Standards

Art. 18.- The Ministry of Economy and the Ministry of Finance, through the DGII and DGA, may issue the necessary instructions, technical standards and administrative provisions for compliance with the Act and these Regulations.

Entry into force

Art. 19.- This decree shall enter into force eight days after its publication in the Official Gazette.

ISSUED IN THE PRESIDENTIAL HOUSE: San Salvador, on the second day of the month of June of the year two thousand and twenty-three.