

# Implementing Regulations of Foreign Investment Promotion and Protection Act

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## Chapter One: Definitions

**Article 1.** All terms and expressions defined in Article (1) of the Foreign Investment Promotion and Protection Act (FIPPA) shall have the same meanings in these Regulations. Other terms and expressions used in these Regulations shall have the following meanings:

**Regulations:** The Implementing Regulations of FIPPA.

**Investee Firm:** A new and/or an existing Iranian company in which the Foreign Capital is utilized under one of the methods specified in FIPPA. Non-governmental

**Sector:** Private and cooperative sectors and nongovernmental public institutions and establishments.

**Center:** The Center for Foreign Investment Services, established in accordance with Article (7) of FIPPA at the premises of the Organization.

**Country's Official Monetary Network:** Banking system (the Central Bank and the banking network, being governmental or non-governmental) and non-banking credit institutions which, upon the permission of the Central Bank, are dealing with monetary and foreign exchange activities.

**Audit Firm:** An audit firm, selected by the Organization from amongst the audit firms which are members of Iran Association of Certified Accountants, subject matter of the "Law governing the Use of Specialized and Professional Services of Competent Accountants as Official Accountant", enacted in 1993, or the Auditing Organization.

## Chapter Two: Investment Methods and Criteria for Admission

**Article 2.** Foreign Investments admitted in the territory of the Islamic Republic of Iran on the basis of FIPPA, shall enjoy the facilities and protections available under FIPPA. Admission of such investments is subject to the general conditions for admission of Foreign Capital and submission of a written application by the Foreign Investor, and with due observance of the criteria set forth in these Regulations.

**Article 3.** Admission of Foreign Investment, based on FIPPA and the criteria set forth in these Regulations, may be carried out within the framework of the following methods. The table of investment methods, features and facilities available under FIPPA shall be prepared and published by the Ministry of Economic Affairs and Finance.

a. Foreign Direct Investment (FDI)

b. Foreign Investment within the framework of contractual arrangements including various types of "Build-Operate-Transfer" (BOT), "Buy-Back", and "Civil Participation" schemes.

**Article 4.** Methods of investment referred to in Article (3) of these Regulations, in respect of the procedure for investment and the protection coverage of FIPPA and these Regulations, have the following common or specific features and advantages:

a. Common features and advantages:

1. Foreign Investors enjoy the same treatment as accorded to domestic investors.
2. Import of Foreign Capital, being cash or non-cash (in kind), is only subject to the Investment License and does not require any other license.

3. The volume of Foreign Investment in each individual case shall not be subject to any limitation.
4. Foreign Capital is guaranteed against nationalization and expropriation, and in such cases the Foreign Investor shall be entitled to receive compensation.
5. Transfer of the principal capital, profit and capital gains derived from utilization of capital shall be effected in the form of foreign currency or, as the case may be, in the form of goods, as set out in the Investment License.
6. The freedom to export goods produced by the Investee Firm is guaranteed and, in the event of any prohibition on the export, the goods produced may be sold in the domestic market, and proceeds of sale shall be transferable abroad in the form of foreign currency through the Country's Official Monetary Network.

**b. Specific features and advantages:**

1. Foreign Direct Investment (FDI):

- 1.1. Investment may be made in all areas where the private sector activity is permitted.
- 1.2. There is no restriction on the percentage of foreign shareholding.

2. Investment within the framework of contractual arrangements:

- 2.1. Compensation for losses sustained by the Foreign Investment resulting from prohibition and/or interruption in the execution of financial agreements caused by enactment of law and/or Cabinet decrees, up to a maximum of matured installments, shall be guaranteed by the Government.
- 2.2. In "B.O.T." and "Civil Participation" schemes where a government agency is the sole purchaser and/or supplier of goods and services at subsidized prices, the purchase of produced goods and services resulting from an investment project by the government agency as a party to the contract, shall be guaranteed in accordance with the relevant regulations.

**Article 5.** Iranian natural and juridical persons applying for investment in the Country, for the purpose of enjoying the facilities and protections under FIPPA, are required to submit documentary evidences proving their economic and commercial activities outside the Country.

**Article 6.** Foreign Investors who have already invested in Iran without the benefit of coverage of FIPPA may, upon completion of the admission procedure, benefit from FIPPA's coverage for the principal investment already made. Subsequent to the issuance of the Investment License, the investor shall be entitled to benefit from all privileges of FIPPA including, inter alia, the right to transfer profit. This type of investments shall be generally considered as existing investments to which the general criteria for admission of Foreign Capital is applicable.

**Article 7.** Foreign Investment in existing firms by way of purchasing shares and/or capital increase and/or a combination of the two, subject to completion of the admission procedure, shall benefit from the privileges of FIPPA provided that such investment creates added value. The added value so created may result from an increase in investment in the existing firm and/or achievement of certain objectives such

as enhancement of management, increase in exports, and/or improvement in the technology level of the existing firm.

**Article 8.** The Board, in the course of examining and issuing the License for any Foreign Investment application, shall investigate and verify the ratios set out in Para (d) of Article (2) of FIPPA in the following manner:

**a.** Specifications of the proposed project including the type and volume of goods and services to be produced, the time-schedule for the implementation and operation of the project, as well as projection for domestic or export sales will be set out in the application forms for investment.

**b.** The official statistics provided by the competent authorities relating to the value of goods and services supplied to the domestic market in every sector and sub-sector (field) at the time of issuance of the Investment License shall be obtained by the Deputy for Economic Affairs of the Ministry of Economic Affairs and Finance. The bases for the Board's decisions shall be the statistics made available to the Organization by the aforementioned deputy up to the end of the first quarter of each year.

**c.** Sectors and sub-sectors (fields) shall be distinguished on the basis of the list attached to these Regulations.

**d.** The volume of investment in each sector and sub-sector (field) shall be determined by the Board in accordance with the provisions of Paras (a), (b) and (c) of this Article, and the value of goods and services supplied to the domestic market, and with due observance of the exception from investment limitation on the export of goods and services derived from Foreign Investment, and, in the event of approval of the project, the Investment License shall be issued. Note. Changes in the ratio of the value of goods and services resulting from Foreign Investment and/or changes in the value of goods or services supplied to the domestic market, which at the time of issuance of the Investment License have constituted the bases for the Board's decision, shall not affect the validity of the Investment License once it is issued.

**Article 9.** Assignment of the proprietary rights to the Iranian party designated in "BOT" contracts may, on the basis of the agreement of the parties to the contract, be effected by way of gradual assignment of proprietary rights during the contract period, or single assignment of the acquired rights at the end of the contract period.

**Article 10.** In "BOT" contracts, the proprietary rights of the Foreign Investor may be assigned to the institution providing the financial facilities to the investment project upon the confirmation of the Board.

**Article 11.** With respect to those investment projects where a government agency is the exclusive purchaser of produced goods and services as well as cases where the goods and services produced by the investment project is supplied at subsidized prices, the government agency may, within the established legal framework, guarantee the purchase of the goods and services produced at the price and quantity determined in the relevant contract.

### Chapter Three: Admission Regime

**Article 12.** The Organization, while carrying out the duties relating to admission and protection of Foreign Investments within the framework of FIPPA, is in charge of performing and conducting foreign investment promotion activities inside and outside the Country as well as introducing legal grounds and investment

opportunities, carrying out studies and applied researches, organizing conferences and seminars, cooperating with the relevant international organizations and institutions, and establishing relations and coordination with other agencies in gathering, compiling and providing information related to Foreign Investment.

**Article 13.** The Board is responsible for investigating and making decision on all investment applications including applications for admission, importation and utilization of Foreign Capital as well as repatriation of capital and accrued profits.

**Article 14.** The permanent members of the Board are the four deputy ministers specified in Article 6 of FIPPA, and the Board's meetings require a quorum of at least three permanent members, and decisions shall be made with at least three positive votes. The deputies of other relevant ministries shall, upon invitation of the Chairman of the Board, attend the meetings with the right to vote. In such cases, decisions are made by the majority of votes cast.

**Article 15.** Investors shall submit to the Organization their written application together with the documents specified in the relevant form. After conducting necessary investigations and taking the viewpoints of the ministry responsible for the related sectors, the Organization shall bring the investment application along with its expert advice before the Board within a maximum period of 15 working days. Enquiries remained unanswered by the relevant ministry, after 10 days from the date of receipt of the enquiry shall be considered as agreement of that ministry with the investment concerned. On the basis of the decisions adopted by the Board for which the acceptance of the Foreign Investor has already been obtained, the Investment License shall be drafted and, upon confirmation and signature by the Minister of Economic Affairs and Finance, shall be issued.

**Note:** The Investment License shall include the particulars of the investor(s), type and method of investment, the manner for transfer of dividend and profit gained as well as other terms and conditions relating to the approval of every investment project.

#### Chapter Four: The Center for Foreign Investment Services

**Article 16.** For the purpose of facilitating and accelerating the fulfillment of the Organization's legal duties in the areas of promotion, admission and protection of Foreign Investment in the Country, the "Center for Foreign Investment Services" shall be established at the premises of the Organization where the representatives of the relevant agencies will be stationed. This Center shall be the focal point for all referrals by Foreign Investment applicants to the relevant organizations.

**Article 17.** The Ministry of Economic Affairs and Finance (State Organization for Tax Affairs, Customs of the Islamic Republic of Iran), the Ministry of Foreign Affairs, the Ministry of Commerce, the Ministry of Labor and Social Affairs, the Ministry of Industry and Mines, the Ministry of Jihad-e-Agriculture, the Central Bank of the Islamic Republic of Iran, the General Directorate for Registration of Companies and Industrial Property, the Organization for Protection of the Environment, and other executive agencies determined by the Minister of Economic Affairs and Finance shall introduce their fully authorized representatives to the Organization with the signature of the highest executive authority of the agency. The designated representatives, from the standpoint of the employment regulations, shall be considered as the employees of their respective agencies, and, as situation requires and in proportion to the volume of Foreign Investment applications and enquiries by the investors, shall, upon the Organization's request,

be present in the Center in order to respond to the enquiries in accordance with the duties assigned to them under this Article.

**Article 18.** The representatives introduced to act on behalf of the relevant agencies shall have authority over all executive and service issues related to their respective agencies in respect of Foreign Investments. The relevant executive agency, for the purpose of good performance of the duties assigned to the representative under FIPPA and these Regulations, is required to notify the duties, responsibilities and authorities of the representative to other departments of its organization and, simultaneously, to conduct a review on the administrative procedures relating to Foreign Investments under its authority in a manner to facilitate the fulfillment of the duties assigned to the representative in the Center.

**Article 19.** The relevant executive agency, in order to maintain the continuation of its executive and service activities in the Center, may, in addition to the designated representative, introduce another person with the same qualifications to represent as the alternate to perform the duties in the absence of the representative of the agency. If necessary, the relevant executive agency may place in the Center a maximum of two more persons at senior level for issues related to that agency.

**Article 20.** The functions of the “Center for Foreign Investment Services” are determined as follows:

1. Provision of information and necessary advice to Foreign Investors.
2. Coordination required in respect of affairs related to securing necessary licenses, including, but not limited to, the declaration of establishment, the license of the Organization for Protection of the Environment, the permits for subscriptions relating to water, electricity, fuel and telephone, exploration and exploitation licenses for mines, etc. from the relevant agencies, prior to the issuance of the Investment License.
3. Coordination required in respect of affairs related to issuance of visa, residence and work permits for individuals related to Foreign Investment.
4. Coordination required in respect of affairs related to Foreign Investment subsequent to the issuance of the Investment License including registration of Joint Venture Company, registration of orders, and issues related to importation and repatriation of capital, customs and tax affairs, etc.
5. Coordination required to be established by representatives of the agencies among executive departments of their respective agencies in respect of applications for Foreign Investment.
6. Monitoring the good performance of decisions made in respect of Foreign Investments.

## **Chapter Five: Provisions for Importation, Valuation and Registration of Foreign Capital**

**Article 21.** The procedure relating to the importation, valuation and registration of Foreign Capital, being cash or non-cash (in kind), is set forth as follows:

#### **a. Capital in cash**

1. Cash funds in foreign exchange referred to in Para (a) of Article (11) of FIPPA imported into the Country in one or several stages with the intention to be converted into Rials, shall, on the date of conversion into Rials and in accordance with the certificate of the bank, be registered by the Organization in the name of the Foreign Investor, and shall be covered by FIPPA. The Rial equivalent of the foreign currency imported shall be deposited in the account of the Investee Firm or in the account of the investment project.

2. Cash funds in foreign exchange referred to in Para (b) of Article (11) of FIPPA imported into the Country in one or several stages but not converted into Rials, shall be deposited in the foreign exchange account of the Investee Firm or in the account of the investment project. These funds, as from the date of deposit, shall be registered in the name of the Foreign Investor, and shall be covered by FIPPA. The said funds may, under the supervision and confirmation of the Organization, be used for foreign purchases and orders related to the Foreign Investment.

**Note:** The Country's Official Monetary Network is required, in relation to the foreign exchange transfer-drafts of Foreign Investors, to certify directly to the Organization the details of the draft including the name of the transferor, the amount of the foreign exchange, the type of the foreign exchange, the date of receipt, the date of conversion, the name of the Investee Firm, and, in case of conversion into Rials, the Rial equivalent of the foreign exchange imported.

#### **b. Capital in kind (non-cash)**

Foreign Capital in-kind includes those items mentioned in Paras (b), (c) and (d) under the definition of the term Foreign Capital in Article (1) of FIPPA for which the procedure for importation, valuation and registration is set out as follows:

1. With respect to the Foreign Capital in-kind referred to in Paras (b) and (c) above (including machinery, equipments, tools and spares, CKD parts, raw, addable and auxiliary materials), the Ministry of Commerce, after being notified of the Organization's agreement with the importation of the non-cash Foreign Capital items, shall proceed with the statistical registration of the order and communicate the issue to the relevant customs office for the purpose of valuation and release of the imported items.

The Customs' valuation on the value of the imported items shall be considered as the acceptable valuation, and, upon the request of the investor, the value stated in the import license plus the transportation and insurance expenses, shall be registered in the name of the Foreign Investor, and shall be covered by FIPPA as from the date of release from the Customs. In case of discrepancy between the Customs' valuation and the price stated in the detailed list (of the non-cash items) approved by the Board, the Customs' valuation shall be the basis for registration of the Foreign Capital in the Organization and the General Directorate for Registration of Companies and Industrial Property.

**Note 1.** The Ministry of Commerce and the Organization are required to take measures, within a period of one month from the date of official notification of these Regulations, for the preparation of a special form for the statistical registration of orders of the non-cash Foreign Capital items under this paragraph, and to act accordingly.

**Note 2.** The Customs of the Islamic Republic of Iran is required to assess the value of the second-hand machinery and equipments related to Foreign Investments at second-hand price.

**Note 3.** If, by finding, the non-cash Foreign Capital imported into the Country is defective, mutilated, not usable and/or does not conform with the specifications declared in the list approved by the Board, the matter will be brought before the Board, and that part of the value of the imported goods which is not confirmed by the Board shall be deducted from the account of the imported capital.

2. With respect to capital items referred to in Para (d) of Article (1) of FIPPA (including patent, know-how, trade names and marks, and specialized services), the Organization, after carrying out the necessary investigations, shall submit to the Board a report on the fulfillment of the contractual undertakings under the technology and service agreements, and the approved sums shall be registered by the Board as Foreign Capital and shall be covered by FIPPA within the framework of a directive to be drafted by the Board and approved by the Minister of Economic Affairs and Finance.

## Chapter Six: Provisions on Repatriation of Capital and Capital Gains

**Article 22.** All applications for the transfer of capital, profit as well as gains resulting from an increase in the value of capital covered by FIPPA must be supported by the report of an Audit Firm that is a member of Iran Association of Certified Accountants. Such transfers shall be effected, after deduction of all legal dues, up to the amount certified by the Audit Firm.

**Article 23.** Transfer of the principal capital, profit and gains resulting from an increase in the value of capital related to investments referred to in Para (a) of Article (3) of FIPPA, is permissible in the form of foreign exchange and/or, upon the request of the Foreign Investor, by way of export of authorized goods. Repatriation of capital and profits related to investments referred to in Para (b) of Article (3) of FIPPA, is permissible out of the foreign exchange earnings from the export of the products and/or out of the foreign exchange earnings from the services rendered by the Investee Firm, and/or by way of the export of other authorized goods. The Board, on the basis of the report of the Audit Firm on the latest status of the principal capital, amount of profit and capital gains belonging to the Foreign Investor, shall determine the transferable amount and shall issue, upon the confirmation by the Minister of Economic Affairs and Finance, the repatriation permit, on a case by case basis. Note. With respect to investments referred to in Para (b) of Article (3) of FIPPA, if, as a result of any export constraint, the provision of foreign exchange for transfer of funds in the opinion of the Board is found expedient and possible, the required foreign exchange shall be made available through the banking system.

**Article 24.** In the event the Investment License refers to Paras (b) and/or (c) of Article (17) of FIPPA, the said license shall be considered as the export license and the Investee Firm may deposit its export earnings in an escrow account in a local and/or foreign bank and directly withdraw therefrom for the purposes specified in the Investment License and pay to the Foreign Investor. Any amount of foreign exchange acquired in excess of the withdrawable amounts shall be subject to the Country's foreign exchange regulations. In any event, the Investee Firm, after payment of the relevant amounts, is required, along with submission of the export certificate, to notify the Organization in writing.

**Article 25.** The foreign exchange earnings from the exports of Foreign Investment, within the limits prescribed by the Board, is exempt from any regulations restricting export and from foreign exchange

regulations such as commitments for reintroducing the export earnings to the Country pursuant to the current and future governmental regulations.

**Article 26.** In the event of a legal restriction and/or restriction prescribed by the Government as a result of which the Investee Firms cannot export their products, so long as the legal restriction and/or Government decision preventing export is in force, the said Investee Firms are authorized to sell their products in the domestic market, and, by providing the Rial equivalent of the foreign exchange requirements specified in the Investment License, to purchase the required foreign exchange from the banking system and transfer the same, and/or (should they wish so) to export authorized goods.

**Article 27.** The transferable funds as set forth in FIPPA may be purchased, after confirmation of the Board and upon confirmation by the Minister of Economic Affairs and Finance, by the Foreign Investor from the banking system, and be effectively transferred, and the Central Bank of the Islamic Republic of Iran shall, for this purpose, make available the necessary foreign exchange to the banking system.

**Article 28.** In the event that the Foreign Investor does not transfer abroad the transferable funds within a period of 6 months from the date of completion of the relevant administrative formalities, the said funds shall be removed from the coverage of FIPPA. The continuance of the applicability of FIPPA in respect of the said funds shall be possible upon approval of the Board.

**Article 29.** The Foreign Investor, if so wishes, may use, with the permission of the Board, all or part of the transferable amounts pursuant to Articles (13), (14) and (15) of FIPPA for capital increase in the same firm, and/or, after completion of the legal formalities for obtaining the Investment License, utilize it in a new investment.

**Article 30.** The Government, with due observance of Article (138) of the Constitution of the Islamic Republic of Iran, (hereby) delegates to the member Ministers of the High Council for Investment the authority to determine the scope of acceptable commitments under Note (2) of Article (17) of FIPPA. The Board is authorized to determine the extent of losses resulting from prohibition and/or interruption in the execution of the relevant financial agreements up to the ceiling of the matured commitments within the limits of acceptable undertakings set out in the Investment License. The bases for making decisions in respect of the authority referred to in this Article shall be the agreement of the majority members of the said Council. Decisions adopted may be issued, if confirmed by the President, pursuant to Article (19) of the internal regulations of the Council of Ministers.

**Article 31.** In case the Foreign Investor insures his investment in Iran and, in accordance with the terms of the insurance policy on account of a payment made under the insurance policy to the investor for the compensation of a loss incurred from non-commercial risks, the insurance institution subrogates the investor, the subrogee is entitled to enjoy the same rights on account of which the payment for losses has been made. This subrogation shall not be considered as assignment of capital, unless the provisions of Articles (4) and/or (10) have been complied, accordingly.

## Chapter Seven: General Provisions

**Article 32.** The Foreign Investor is required, as from the date of notification of the Investment License within a period determined on the basis of the peculiarities of the investment project by the Board, to import part of his capital into the Country as a sign of his firm intention for the implementation of the project. In the event the investor does not import part of the capital into the Country within the duration

of the determined period, and/or does not apply for the extension of the period by way of submission of justifiable reasons, the Investment License shall be considered as null and void.

**Article 33.** The Foreign Investor is required to inform the Board of any change in the name, legal status, nationality, and of any change of more than 30% in his ownership.

**Article 34.** In cases where the Foreign Investment results in the establishment of an Iranian company, the ownership of land in the name of the company is permitted at a size appropriate to the investment project, at the discretion of the Organization.

**Article 35.** The relevant executive agencies, including but not limited to, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Labor and Social Affairs and the Disciplinary Forces of the Islamic Republic of Iran (the Police) are required to proceed with the issuance of visas, residence permits and work permits for foreign investors, directors, experts and their immediate family members in relation to the investments covered by FIPPA, at the request of the Organization confirming their status as investors, in the following manner :

**a.** The Ministry of Foreign Affairs is required, upon receipt of the request of the Organization, to communicate to the Missions of the Islamic Republic of Iran abroad, the authorization for the issuance of single entry visa, or multi-entry visa (for three years) with a three-month residence permit on each entry for the relevant individuals, depending on the type of visa requested.

**b.** The above mentioned persons who have obtained entry visa for investment may, after entry into the Country, refer to the Disciplinary Forces of the Islamic Republic of Iran (the Police) and obtain a three-year residence permit, upon submission of the Organization's formal note confirming the coverage of such investments under FIPPA. The Ministry of Labor and Social Affairs is obliged to issue work permit for such individuals consequent to the issuance of the residence permit.

**c.** Obtaining such three-year residence permits by foreign investors, as stipulated above, shall exempt them from entry and exit visas required for traveling to or from the Country.

**Article 36.** The responsibility of the Organization in relation to the general publication of information pursuant to Article (21) of FIPPA, is limited to the information that is publishable under business practice. The Board is vested with the authority to determine whether information is publishable.

**Article 37.** The Organization and the Board are permitted, for the purpose of carrying out the functions and duties contemplated in FIPPA and these Regulations, to use, whenever required, consultancy and professional specialized services of the Audit Firms member of Iran Association of Certified Accountants and other private or cooperative qualified firms.

**Article 38.** All provisions contained in the decrees of the Council of Ministers in respect of Foreign Investment that are contrary to the provisions of these Regulations, shall be repealed from the date of coming into force of these Regulations

## Sectors and Sub-sectors referred to in Para (d) of Article (2) of FIPPA

Sector	Sub-Sector
Agriculture	<ul style="list-style-type: none"> <li>- Farming and horticulture</li> <li>- Livestock, sericulture, apiculture and hunting</li> <li>- Forestry and pastures</li> <li>- Fishery and aquaculture</li> </ul>
Mining	<ul style="list-style-type: none"> <li>- Crude oil and natural gas (exploration, extraction and transfer)</li> <li>- Other mines(exploration and extraction and processing)</li> </ul>
Industry	<ul style="list-style-type: none"> <li>- Food , beverages and tobacco</li> <li>- Textile, clothing and leather</li> <li>- Cellulosic (wood, paper, etc. ) print and publication - Chemicals, oil derivatives, rubber and plastic</li> <li>- Non-metallic minerals other than oil and coal - Basic metals</li> <li>- Machinery and equipment, tools and metal products</li> <li>- Transport equipment and automotive</li> <li>- Electrical and electronic machinery &amp; equipment (Radio and Television and other communication devices and apparatus )</li> <li>- Electrical and electronic machinery &amp; equipment (not classified elsewhere including home appliances)</li> <li>- Medical, optical and precision instruments</li> <li>- Recycling</li> </ul>
Water, Electricity and Gas Supply	<ul style="list-style-type: none"> <li>- Collection , purification, supply, transfer and distribution of water and sewerage</li> <li>- Generation, transfer, and distribution of electricity</li> <li>- Refinement and distribution of natural gas</li> </ul>
Construction	<ul style="list-style-type: none"> <li>- Infrastructures</li> <li>- Building and housing</li> <li>- Construction materials</li> </ul>
Transport and Communications	<ul style="list-style-type: none"> <li>- Railway transport</li> <li>- Road transport</li> <li>- Pipe transport</li> <li>- Water transport</li> <li>- Air transport</li> <li>- Supporting services</li> <li>- Post and telecommunication</li> </ul>
Services	<ul style="list-style-type: none"> <li>- Financial services (insurance, bank, etc.)</li> <li>- Tourism</li> <li>- Public affairs</li> <li>- Urban services</li> <li>- Education and research</li> <li>- Other services (engineering, design, ...)</li> </ul>