

National Assembly  
Law No. /2005/QH11

Socialist Republic of Vietnam  
Independence – Freedom - Happiness

**NATIONAL ASSEMBLY  
SOCIALIST REPUBLIC OF VIETNAM  
LEGISLATURE XI, SESSION 8**

**INVESTMENT LAW**

3. The State shall undertake to implement the bilateral and multilateral international treaties concerning investment activities which Vietnam ~~has signed or acceded to~~ is a member.

4. Investors shall have autonomy in and be able to decide by themselves investment activities in accordance with the Vietnamese law, respect independence, sovereignty of the Socialist Republic of Vietnam.

5. Any investment activities which are unlawful or cause damages to the State interest or to legitimate rights and interest of other organizations and individuals or which exhaust natural resources or destroy the environment shall be strictly dealt with in accordance with the law.

#### **Article 4. Interpretations**

In this Law, the terms below shall have the following meanings:

1. “Investment” means an investor uses investor uses the capital and tangible or intangible assets for the purposes of carrying out trading, manufacturing activities in order to make profits or gain other socio-economic profits in accordance with the provisions of this Law or other relevant laws of Vietnam.

2. “Direct investment” shall mean the form of investment whereby the investor invests his capital and is involved in the management of an enterprise or a project.

3. “Indirect investment” shall mean a form of investment, under which the investor through an intermediary financial institution or by way of buying shares and stock [, and] in which the investor is not directly involved in management of the enterprise or the project ~~in accordance with the law~~.

4. “Investors” shall means organizations or individuals who are allowed to carry out investment activities by Vietnamese law, including:

- a. State agencies, socio-political organizations, non-governmental organizations;
- b. State-owned enterprises set up under the Law on State owned enterprises
- c. Enterprises set up under the Enterprise Law;
- d. Foreign-invested enterprises established be

h. Individual business households, business individuals and business groups;

i. Overseas Vietnamese people;

k. Foreign organizations and individuals;

l. Foreigners residing in Vietnam;

m. Other organizations allowed by Vietnamese law to carry out investment activities.

5. “Investment activities” shall mean the activities of investors in the investment process including all necessary steps and works for preparing and carrying out the

~~14. “Sectors where investments are encouraged” mean those sectors where the State encourages investments and provides for investment incentives.~~

~~15-14.~~ “Sectors where investments are conditional” mean those sectors where investment is only carried out subject to specific conditions.

~~16. “Geographical areas where investments are encouraged” mean those areas where the State encourages investors and provides for investment incentives.~~

~~17. “Geographical areas where investments are specially encouraged” means those areas where the State encourages investors and providers for special investment incentives.~~

~~18-15.~~ “Mergers and Acquisitions (M&A)” shall mean one or several companies buy out or merge with another company.

~~19-16.~~ “Joint venture contracts” shall mean a document signed between investors to invest in the form of joint venture.

~~20-17.~~ “Business co-operation contract (BCC)” shall mean a document signed between investors in order to co-operate in business [and] sharing profits, products and other forms of business co-operation which is not result in establishment of new legal person entity.

~~21-18.~~ “Build-Operate-Transfer (BOT) agreement” shall mean a written document entered into between a competent State body and an investor in order to build, operate an infrastructure work for a certain period of time as agreed by the two parties; the investor shall upon expiry of that term transfer the work to the State of Vietnam for free.

~~22-19.~~ “Build-Transfer-Operate (BTO) agreement” shall mean a written document entered into between a competent State body and an investor in order to construct an infrastructure work; after completion of construction, the investor shall transfer the work to the State of Vietnam; the Government reserves the right to operate the work for the investor in order [the investor] to recover invested capital and have reasonable profits.

~~23-20.~~ “Build-Transfer (BT) agreement” shall mean a written agreement entered into between a competent State body and an investor to construct an infrastructure work; upon completion of construction, the investor shall transfer the work to the State of Vietnam; the Government shall create conditions for the investor to carry out another

geographical boundaries, are unpopulated, are established in accordance with regulations of the Government.

~~25-22.~~ “Export processing zones” shall mean industrial zones which are specialized in producing export products, carrying out services for export products and export activities, established in accordance with regulations of the Government.

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~~26-23.~~ “High-tech zones” shall mean economical-technical zones which are specialized in researching, developing, applying high technologies, are nursery places for high-tech enterprises, are to train human resources in high technologies, produce and trade high –tech products, have defined boundaries, are established in accordance with regulations of the Government.

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~~27-24.~~ “Economic zones” shall mean areas which their geographical boundaries are belonged to national territory and jurisdiction, but have an economic space separated from the [general] investment and business environment and specially favored for investors, are established in accordance with regulations of the Government.

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~~28-25.~~ “Industrial complex” shall mean sites where enterprises of economic sectors, co-operatives and individual business households operating in production, supply of services for agricultural production, forestry, fishery and local industries are gathered together, are established and operated in accordance with regulations of the Government.

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#### **Article 5. Application of international laws and treaties**

1. Investment activities of investors in Vietnam shall comply with the provisions of this Law and other relevant laws.

2. In case of differences between the provisions of this Law and provisions of a specialized law concerning one and the same matter falling within the governing scope of this Law, the provision of this Law shall prevail.

3. In case of differences between the provisions of this Law and an international treaty to which Vietnam has acceded to or signed concerning one and the same matter falling within the governing scope of this Law, the provisions of the international treaty shall prevail.

In case current laws contain more favorable provisions than those set out in an international treaty, the provisions of current laws shall prevail.

### **CHAPTER II INVESTMENT GUARANTEES**

#### **Article 6. Guarantees relating to capital and property**

| 1. Investors shall be guaranteed to be treated equally, properly in investment

2. Foreigners working in Vietnam shall be permitted to remit aboard their lawful incomes after fulfilling financial obligations with the State of Vietnam in accordance with the law.

3. The transfer of the above moneys shall be made by a freely convertible currency, at the ~~inter-bank~~ exchange rate ~~quoted~~ published by the bank where the foreign investor or the foreigner working in Vietnam opens their account on the date of transfer, in accordance with the inter-bank exchange rate.

#### **Article 10. Application of consistent prices and fees**

Investors are entitled to apply various rates for goods price and public service charge including electricity, water, telecommunications, transportation, fees for advertising in mass media and for other goods and public services fees on the basis of non-discrimination among economic sectors, foreign and domestic investment.

#### **Article 11. Investment guarantees in case of change in law, policies**

1. In case of change in Vietnamese policies, law that influences the interests of an investor, which interests exist before such policies, laws taking effect, the State shall guarantee that the investors shall be entitled to enjoy the rights and incentives granted to the investor that the investor has enjoyed previously. If any damage is caused to the legitimate interest of an investor, various support measures shall be taken or damages shall be paid in accordance with the law.

2.

- (b) A Vietnamese arbitration body or a foreign arbitration body or an international arbitration body;
- (c) An arbitration tribunal established pursuant to the agreement of the parties.

4. Disputes between investors and the Vietnamese Government relating to an investment in the territory of the Socialist Republic of Vietnam shall be resolved by Vietnamese arbitration body or by Vietnamese courts.

If the Vietnamese Government has entered into or signed an international treaty, disputes shall be resolved in accordance with the provisions of those international treaties.

### **CHAPTER III RIGHTS AND OBLIGATIONS OF INVESTORS**

#### **Article 13. Autonomy in business and investments**

The investor shall have the rights, namely to:

1. Select the sector to make investments, form of investment, method of capital raising, geographical location and size of investments; decide and select investment partners and the term of the project operations;

2. Register one or several business activities; set up enterprises in accordance with the law; and to make discretionary decisions concerning the registered business and investment activities.

3. Be entitled to incentives and appropriate incentive rates as provided for by this Law.

#### **Article 14. Right to have access to investment resources**

The investor shall have the right namely to:

1. Have access to credit and assistant funds resources and to land, natural resources in accordance with law; carry out investment promotion activities.

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| **Article 15. Right to import and export, to marketing and to advertise**

Investors shall have the right to:

1. Import directly or on consignment basis equipment, machinery, materials and goods to be used for investment activities; directly or on a consignment basis export and distribute their products in accordance with the import/export legislation.

2. **Take initiative in To advertiseing**

| 3. Make complaints or denunciations to State competent agencies about the breaches of laws of the State agencies, officials and civil servants committing breaches of

**Article 21. Investment forming economic organizations**

1. Based on investment forms stipulated in Article 20 of this Law, investors may invest to form the following economic organizations:

- a. Enterprises organized and operated under the Law on Enterprises;
- b. Credit institutions organized and operated under the Law on Credit Institutions;
- c. Non-public health, education, science, culture, sport units in accordance with the laws;

2. In addition to the economic organizations stipulated in Clause 1 of this Article, domestic investors may investor to form the following economic organizations:

procedures ~~and evaluation of M&A shall be provided by the laws on competition to carry out merger, buy-out transactions and provide for provisions on evaluation.~~

#### **Article 25. Application of indirect investment forms**

1. Investors shall make indirect investment activities in Vietnam in the forms of investment:

- a. Investments through buying shares, bonds or investment fund certificates and other securities in accordance with the law;
- b. Investments ~~through by way of setting up securities~~ investment funds;

2. Any ~~investment in securities or establishment of a securities investment fund and the~~ purchase, selling of securities on the securities market of foreign individuals, organizations must comply with the provisions of law on securities.

## **CHAPTER V INVESTMENT SECTORS, GEOGRAPHICAL AREAS, INVESTMENT INCENTIVES AND SUPPORT**

### **Section I Investment sectors and geographical areas**

#### **Article 26. Sectors where investments are encouraged**

The State of Vietnam shall encourage investors in the following sectors:

1. Export production.
2. Production of new materials, new energy; bio-technologies.
3. Raising, planting, and processing agricultural, forestry and aquaculture products.
4. Use of high technology, advance t

The amendment, supplementation to the conditional investment sectors shall be based on the socio-economic development requirements and other restrictions pursuant to the roadmap and undertakings given by Vietnam in the international treaties which Vietnam has signed or acceded to.

2. In case where there is any investor who has invested in Vietnam in the sectors which are not conditional, after the List of conditional investment sectors has been amended, supplemented, the investment falls into the scope of the List of conditional investment sectors, the investor shall be allowed to keep investing in that sector, but the investor shall be obliged to re-register with the [relevant] business registration agency.

3. Foreign investors shall not be restricted as to the investment sectors in accordance with the conditions applicable under the List of conditional investment sectors hereof in the case where the shareholding held by the Vietnamese investors of the [relevant foreign-invested] enterprise is more than 51% of the authorized capital of the enterprise.

#### **Article 28. Sectors where investments are prohibited**

Investment activities that are harmful to national defense, security, social order and safety, historical, cultural traditions, morality, Vietnamese fine customs and people's health or that exhaust natural resources and destroy the ecological environment, shall be prohibited.

#### **Article 29. Geographical areas where investments are encouraged**

The State encourages investors to make investments in the areas regions with difficult socio-economic conditions; in the areas with especially difficult socio-economic conditions; in industrial zones, export-processing zones, high-tech zones, economic zones, border gate economic zones, industrial complex.

#### **Article 30. Promulgation of Lists of investment sectors and geographical areas**

1. Based upon the socio-economic development master plan or strategies from time to time, the Government shall issue or amend or supplement Lists of sectors where investments are encouraged, Lists of sectors where investment are specially encouraged, Lists of sectors where investments are conditional, Lists of sectors where investments are prohibited; Lists of geographical areas with difficult socio-economic conditions; Lists of geographical areas with especially difficult socio-economic conditions.

2. Ministries, branches, ministerial level agencies, provincial People's Committees shall not issue documents specifying prohibited, conditional investment sectors; nor allow investors to invest in the sectors set out in the List of prohibited investment sectors or the List of conditional investment sectors if [they] cannot meet the regulations.

3. Where it is necessary to encourage the development of an extremely important industry or of a special region or economic area, the Government may provide for other investment incentives different from those set out in this Law, provided that an approval from the Standing Committee of the national Assembly must be obtained.

## **Section II Investment incentives**

### **Article 31. Subjects of investment incentives**

Subjects are entitled to investment incentives shall include:

1. Investment projects attached with the formation of economic organizations stipulated in Article 21 of this Law;
2. Investment projects stipulated in Article 22 of this Law.

### **Article 32. Corporate income tax (CIT) Incentives**

1. Investors are subjects stipulated in Article 31 of this Law shall be entitled to incentives provided that one of the following conditions is satisfied:

- a. Investing to sectors belonged to the List of sectors where investment are encouraged, List of sectors where investment are specially encouraged;
- b. Investing to geographical areas belonged to the List of geographical areas with difficult socio-economic conditions; the List of geographical areas with especially difficult socio-economic conditions.
- c. Investing to Industrial zones, Export processing zones, High-tech zones, Economic zones, Border gate economic zones, Industrial complexes.

2. Investors being subjects stipulated in Article 31 shall be entitled to incentive CIT rates of 10%, 15%, 20% for a term of 15, 12 and 10 years- from generating profit [date]-. In special cases, an incentive tax rate shall be for the whole life of the investment project.

3. Investors being subjects stipulated in Clause 2 of Article 32 of this Law shall be entitled to maximum 4 years of CIT exemption and a 50% of CIT reduction for maximum 9 following years, from the year of making profit.

Investors being subjects stipulated in Clause 2, Article 32 of this Law meet the conditions stipulated in Clause 1 of this Article shall be entitled to maximum 4 years of CIT exemption for the income increased by the investment and a 50% CIT reduction for a maximum of 7 years from the year of making profit.

4. The Government shall provide for specific CIT rates and the term of their application and exemption of CIT stipulated in this Article.

**Article 33. Loss carrying forward**

2. Raw materials, materials imported for implementation of BOT, BTO, BT projects; plant varieties, raised animals, specialized agricultural chemicals allowed to be imported for implementation of agricultural, forestry, fishery projects shall be exempted from import duties.

3. Exemption of import duties in relation to imported goods stipulated in Clauses



~~Exemption, reduction of land rent, land use fee applicable to encouraged projects and geographical areas.~~

**Article 38. Land rentals, land use fees~~water surface rental, ocean surface rental exemptions and reductions~~**

Subjects stipulated in Article 31, which meet the conditions stipulated in Clause 1, Article 32 of this Law shall be entitled to ~~reduction, exemption of incentives on~~ land rentals, land use fees~~water surface rental, ocean surface rental~~ for between 3 and 15

## Investment support

### Article 42. Investment credit support

1. The State shall establish ~~and encourage~~ the establishment of Investment Assistant Funds from the State budget, and shall encourage the establishment of Investment Assistant Funds from

Funding expenses for training assistance shall be from the State budget allocated to education and training activities.

**Article 45. Encouragement of and support for the development of various types of investment support services**

The Government shall directly, or encourage organizations, enterprises and individuals to, set up organizations providing various types of investment support services to assist investors the following activities:

1. Investment consultancy, management consultancy, TT consultancy, vocational education or training on technical or management skills.
2. Provision of market information, scientific and technological information and other socio-economic information at the request of investors.
3. Transfer of IPRs or TT transfers.
4. Marketing or investment and trade promotions.
5. Establishment of sectoral associations, business groups or export associations.
6. Establishment of design and testing centers to assist small and medium size enterprises.

high-tech zones, economic zones and shall permit the application of several methods of capital mobilization in order to invest to infrastructures of high-tech zones, economic zones.

**Article 47. Entry, exit visa**

Foreign investors and their family members, when carrying out investment activities in Vietnam, foreign experts and foreign technical laborers when working for investment projects shall be granted multiple entry and exist visa. Maximum term of a visa shall be 5 years

5. [Projects] required the application of special mechanism, policies, which must be considered and decided by the National Assembly.

#### **Article 50. Important projects**

Important projects shall be projects, which have great roles, meaning to the socio-economic development of industry, sectors and regions, territory, which have one of are determined in accordance with the following criteria:

1. Projects use 500 billions or more Vietnam Dong from the State budget extending for development of social infrastructure, 1,000 billions or more Vietnam Dong from the State budget extending for development of technical infrastructure or projects have 1,500 billions or more Vietnam Dong of the capital contribution from the State budget.

2. Projects not using capital from the State budget have scale of 800 billions or

Exploration and exploitation of rare and precious natural resources;

Construction of residential houses for sale;

65. Projects using capital from the State budget invested in the following sectors regardless of its scale:

Infrastructure construction of industrial zones, export processing zones, high-tech zones, economic zones, BOT, BTO and BT projects;

Exploration and exploitation, processing of oil and gas;

Publishing, press; radio and television broadcasting; advertising services together with publication of advertisements; conducting games with prizes;

Exploration and exploitation of rare and precious natural resources.

#### **Article 51. Ordinary projects subject to conditions and ordinary projects**

1. Ordinary projects subject to conditions shall be projects satisfying the following criteria:

a. Projects are belonged to the sectors where investment are conditional stipulated in Article 27 of this Law;

b. 30% or more owner capital of the projects are State-owned capital;

c. Projects not using State-owned capital have its investment capital of 300 billions or more Vietnam Dong.

2. Ordinary projects shall be projects not subject to Articles 49, 50 and Clause 1 of this Article.

#### **Article 52. Adjustment of criteria determining projects**

Based on socio-economic development conditions from time to time, the National Assembly shall adjust the criteria used to determine national important project; the Government shall submit to the Standing Committee of the National Assembly regarding adjustment of the criteria used to determine important projects and ordinary projects subject to conditions.

#### **Article 53. Power to make investment decisions**

1. Ordinary projects shall be decided by investors.

2. Ordinary projects subject to conditions shall be decided by investors subject to approval of competent State authority.

3. Important projects shall be decided by investors subject to approval of the Prime Minister.

4. With regard to national important projects, the investment policy shall be approved by the National Assembly and the Prime Minister shall permit the investors to make the investment decision; particularly projects using State owned funds shall be decided by the Prime Minister.

~~5. With regard to ordinary projects subject to conditions stipulated in item b, Clause 1 of Article 51 and important projects stipulated in Clauses 1 and 6 of Article 50, investors shall made investment decision subject to a written approval of competent State authority.~~

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d. The investor shall take responsibility for the quality of the project.

**Article 55. Contents of investment projects**

1. With regard to ordinary projects subject to conditions:

The investor shall have an econo-technical explanation for the project with the following main contents: investment objectives, location, land use demand, scale/size, main technical or technological solution; invested capital and capital sources; implementation schedule; and applicable environmental standards.

With regard to ordinary projects subject to conditions using capital from the State budget stipulated in item b, Clause 1 of Article 51, the Government shall provide for contents of econo-technical explanation.

2. For important projects and national important projects:

The investor must have a pre-feasibility study report which contains the following main contents: the necessity for investment, proposed investment scale/size, location, land use demand, form of investment, main technical or technological solutions; the overall site planning and determination of the proposed investment items (with regard to a project involving constructions); determination of the demand for invested capital and



### **Article 57. Approval of investment**

All investment projects in the territory of Vietnam or from Vietnam to abroad shall be approved by the competent State authority in the form:

- a. Certificate of investment registration;
- b. Investment licence.

With regard to projects using capital from the State budget, Investment Decision shall replace the certificate of investment registration or investment license.

The Government shall provide for form of investment licenses, certificate of investment registration, investment registration.

### **Article 58. Investment Registration**

1. With regard to ordinary projects, investors shall register with the competent investment licensing authority by an investment registration form.

Ordinary projects carried out by domestic investors, which are not subject to investment incentives, having capital of 5 billions or less Vietnam Dong shall not need a certificate of investment registration.

2. The competent investment licensing authority shall examine investment registration contents in the registration investment form and shall issue a Certificate of Investment Registration [to the investor] without requiring the investor to submit any other documents or paper; without the need of consulting opinions of any other authority.

3. A Certificate of Investment Registration must be issued within 7 working days from the date of receiving the investment registration form.

In case of refusing to issue a certificate of investment registration, the competent licensing investment shall notify the reasons of refusal to the investors within the above-said time limit.

### **Article 59. Evaluation for licensing**

1. For ordinary projects subject to conditions:

a. Application dossiers submitted to the competent licensing authority to evaluate for licensing include: an investment application, an econo-technical explanation and other related documents as stipulated by the Government;

investment objectives, location, demand of land use; capacity, invested capital and capital sources; implementation progress; environmental solution;

register for business ~~to establish an enterprise~~ in accordance with the relevant regulations~~Law on Enterprise~~, then [the investor can] carry out investment procedures in accordance with the provisions of this Law.

#### **Article 61. Evaluation**

1. With respect to ordinary projects subject to conditions stipulated in item b. Clause 1, Article 51 and important projects stipulated in Clause 1, Clause 6 of Article 50, the person authorized to make investment decision shall organize an evaluation in deciding investment.

The project evaluation shall be carried out by independent consulting organizations, qualified experts. The person authorized to make investment decision shall

d. To organize the implementation of other tasks and powers in accordance with the laws;

2. Persons authorized to make investment decisions shall have the following responsibilities:

a. To organize the management mechanism to implement the investment;

b. To take responsibility for their investment decisions;

c. To ensure the conditions for the implementation of the project in accordance with the progress and the provision of the laws.

**Article 64. Evaluation time limits and evaluation costs for projects using State-owned capital**

1. Evaluation time limit for projects using State-owned capital [shall be as follow]:

2. The State body authorized to consider a deal with land allocation or lease dossiers; land withdrawal, handing over on the spot shall be carried out in accordance with the land laws.

#### **Article 66. Preparation of construction site**

1. Where land is recovered by the State in accordance with land legislation, the competent State body shall recover the land, pay compensation and clear the site before allocating or leasing land to the investor.

The recovery, compensation and site clearance shall be carried out in accordance with land legislation.

2. With respect to projects being allocated or leased land by the State where the land is not subject to the recovery, if requested by the investor, the competent people's committee where the project is carried out shall be responsible for organizing the payment of compensation and clearance of the construction site before handing it over to the investor in accordance with the project schedule.

The costs of compensation and site clearance shall be in accordance with the laws on land borne by the investor and accounted for in the invested capital of the project.

3. For a production or business project which is in compliance with the approved land use master plan, the investor shall be entitled to take over the assignment of, lease, or receive capital contributions by way of, land use rights from economic organizations, family households or individuals without having to carry out procedures for land recovery.

The party currently using land shall be responsible for compensation, [the cost of] site clearance shall be accounted for in the capital contribution of the party which contributed into the capital in the form of land use rights or by the parties' agreement.

#### **Article 67 recovery.**

the establishment, evaluation, approval of the technical design, total estimates and construction management shall be carried out in accordance with construction legislation.

For other cases, the investor shall have right to decide on the above-mentioned contents and be responsible before the Vietnamese laws on the quality of the construction

Investors may act as consumption agents for the products of other organizations

accordance with the management contract and be directly responsible before the law of Vietnam for its activities which are beyond the scope of the management contract.

#### **Article 76. Project adjustments**

Adjustments of the projects, which are provided for in the Certificate of Investment Registration or Investment Licence, relating to the objectives, scale, capacity, location, conversion of investment form, transfer of capital or projects, change of project term shall be approved by the competent State authority.

The Government shall provide for condition and procedure of project adjustments.

#### **Article 77. Postponement and change of projects; revocation of investment licences or Certificate of Investment Registration**

1. During the implementation of investment projects, if it is necessary to postpone or change the investment project, [the investor/investment owner shall] report to the authorized licensing body to approve the adjustment or to revoke the investment licence or certificate of investment registration .

2. For investment projects that have been issued with an investment licence, if after 12 months the investment owner fails to proceed with the implementaton of the project without proper reasons, the issued certificate of investment registration or investment licence shall be revoked.

3. The body authorized to issue investment licences shall be responsible for monitoring and inspecting the implementation of investment projects and shall revoke investment licences in accordnace with clause 1 of this Article.

#### **Article 78. Termination of operations of investment projects**

The operations of an investment project shall be terminated in the following cases:

a. Upon expiry of the term of operations as set out in the [relevant] investment licence or the certificate of investment registration ;

b. In accordance with the termination conditions set out in the [relevant] contract, enterprise's charter or agreement of the investors;

c.



In any case of termination of the operations of an investment project as referred to in Article 78 of this Law, the investor or the enterprise must set up a board of liquidation

For a specialized project, the investment owner may set up a professional project management unit or hire a professional consultant to function as a project management unit.

3. A project management unit must be qualified in accordance with the regulations, and be responsible before the law and to the investment owner for the investment progress, quality and costs; for any errors or loss during the management of the project performance. A project management consultant shall carry out its duties and be responsible to the investment owner in accordance with the contract signed between the parties.

4. Investment owner may hire foreign or domestic investment consultants shall include various organizations with legal pe

2. Use of investment capital from the State budget must ensure that capital is allocated in a centralized manner, in accordance with the priority order and the progress in the investment decision. All the programs and investment projects must be listed in the plan, must meet all the prescribed investment procedures and must be approved by the competent agency and the efficiency of invested capital must be assured.

3. The adjustment and supplement of the annual investment plan shall be considered and decided by competent authority.

**Article 84. Contents of investment plans from the State budget**

1. Evaluation of implementation of investment plans using State budget of the previous plans.

2. Determination of investment policies, tasks, objectives, and structure in relation to investments using the State budget funds

3. Recommendation of investment mechanism, policies, solutions of investment development capital mobilization of society and use of State budget funds to implement investment plans and objectives.

4. Determination of a list of, level of capital and implementation progress of national investment programs and projects.

**Article 85. Authority to approve and manage of the implementation of investment**

## 2. Implementation of investment plans

a. On the basis of the assigned investment plans, the capital allocating agencies shall carry out capital allocations.

b. Ministries and people's committees of various levels shall be responsible for supervising and monitoring the implementation process of investment plans.

c. Ministers, heads of ministerial-level bodies, governmental bodies and chairs of people's committees of various levels may adjust their plans within the total plan limit already approved.

### **Article 86. Payment and finalization of invested capital from State sources**

1. With regard to projects using the investment and development capital or non-profit capital of investment nature falling under the State budget funds, the investment owner must prepare the plan of allocating investment capital which serves as the basis for the payment for the investment volume.

#### 2. Requirement of payment of investment capital:

a. The investment owner and the agency paying State owned invested capital shall only be permitted to pay for the completed volumes which comply with the targets set out in the plan of allocating investment capital and in respect of which prescribed procedures have been fulfilled.

b. The payment for any completed volume of an investment project or a tender package must be inspected in respect of its value by an independent auditor before the investment owner submit application documents for payment to the invested capital payment organization.

c. The investment owner shall be responsible for payment for a completed volume to the contractor at the value and the time stated in their contract.

d. Breaches in the Contract relating to payments of the investment owner and contractors shall be dealt with in accordance with the ~~laws~~legislation concerning economic contracts.

3. The investment owner shall be responsible for finalizing the invested capital for a construction work immediately after the work is completed and brought into use within the prescribed time limit.

4. The Government shall make detailed provisions for the payment and finalization of the invested capital coming from the State budget funds.

**Section III**  
**State investment and development credits**

**Article 87. Capital users and principles of use of State investment and development credits**

1. Investment loans shall be provided to the projects in some important sectors, business areas, major economic programs having socio-economic effects with capability of recovery of capital.

2. Projects borrowing investment credit funds or having guaranteed credit (theity)-e2u e pevlute dand paprov oh1(pct)-7 to a soclu-5.97ation, ocl7.92u hrapahapi boeforki7.92ug-5.95mt-192udevcosion. prlns s]TJ/TT1 1 Tf318.478 T TD0 Tc0 Tw(.)Tj3TT4 1 Tf.-6 r1.1506 TD.

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~~Government shall establish the Corporation investing and doing business by way of State-owned capital.~~

2. The corporation investing and doing business by way of State-owned capital shall operate under the Law on State-owned enterprises and other relevant laws, shall exercise function to be the representative of the State ownership in equitized State-owned enterprises and State-owned enterprises after conversion to be one-member limited liability company in accordance with the Law on State-owned enterprises; shall invest and do business by using State-owned capital in enterprises in economic sectors and areas.

3. The corporation investing and doing business using State-owned capital shall invest and do business using State-owned capital in accordance with the following principles:

- a) To focus on investment to develop key areas, sectors that play a strategy role and are the motivation for economic development;
- b) To invest in areas, sectors of high effectiveness, profitability locally and in abroad;
- c) To give priority to invest in renewing technology, raising competitiveness of the enterprises having invested funds of the corporation;

4. The Government shall provide for the functions, duties, powers, responsibilities and scope of operations of the corporation investing and doing business using State-owned capital.

**Article 90. Investing State owned capital in other enterprises performing public utilities activities**

The State shall invest in production, supply of public products, services, national security and defense tasks through national security and defense companies. [With respect to] other public products and services, the State shall order or put up a tender for enterprises of all economic sectors to participate in production and supply.

**Article 91. Principles for State guarantees with respect to especially important projects and works**

1. The Government shall appoint a body to provide guarantee on behalf of the Government for several especially important construction works and projects to borrow foreign loans and apply for loans from domestic credit institutions.

2. The body providing guarantee shall be responsible for evaluating the financial solutions, loan repayment plan and guarantee decision.

3. The investment owner of projects using credit capital guaranteed by the State shall be responsible for the investment efficiency and payment of loan capital in due time.

For projects using foreign loans guaranteed by the State, the investment owner shall also be required to perform the undertakings upon borrowing loans in accordance with the laws.

#### **Section V**

#### **Investment from investment and development capital of State-owned enterprises**

#### **Article 92. Investment and development capital of State-owned enterprises**

The investment and development capital of State-owned enterprises shall include:

1. Land, resources allocated to the enterprises for management and use for business purposes;

1. Subject to the natures, scale of the tender package and capability of the tenderers, the authorized person shall allow to select tenderers in one of the following forms:

- a. Open tendering.
- b. Restricted tendering.
- c. Appointment of tenderers.
- d. Direct procurement.
- dd. Competitive offers.
- e. Self implementation.

2. The form to select tenderers shall be determined in the tender plan of the project. Open tendering shall be applicable to all tender packages except for tender packages which are unique and allowed to be subject to the forms [of tenderer selection] set out in points b, c, d, dd and e of clause 1 of this Article.



The process and procedures of selecting tenders with respect to tender packages of consultant, goods procurement, installation shall be in accordance with the provisions of the law concerning tender of public procurement of the State.

## **CHAPTER VI OUTBOUND INVESTMENT**

### **Article 98. General provisions on Outbound investment**

1. Investors may make outbound investments in order to make profits in accordance with the Vietnamese laws and the investment recipient country.
2. The State shall facilitate outbound investments and protect the interest of Vietnamese investors overseas in accordance with the provisions of international treaties.
3. Based upon the provisions hereof, the Government shall provide for in detail outbound investments by investors.

### **Article 99. Conditions for outbound investment**

1. In order to make outbound investments in the form of direct investment, an investor must meet all of the following conditions:
  - a. Having an outbound investment project ;
  - b. The investor implements all financial obligations to the State of Vietnam;
  - c. Approved by the competent State authority on investment.
2. Outbound investments in the form of indirect investment must comply with the provisions of laws on banking, securities and other relevant legislation.
3. The use of State-owned capital

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1. The Government shall uniformly exercise State investment management nation-wide.

2. The Ministry of Planning and Investment shall be responsible before the Government for exercising State investment management.

3. Ministries, ministerial-level agencies shall, to the extent of their respective duties, powers, be responsible for State investment management in terms of the

The plan for socio-economic development shall be formed for a period of 10 years, shall have a vision of 15-20 years and be showed for each period of 5 years; shall be regularly reviewed, adjusted, supplemented in accordance with the status of socio-economic development in each period.

2. The plan for socio-economic development shall include:

a. The overall plan for socio-economic development of various regions, provinces, cities under the central; the plan for socio-economic development of districts, towns, cities under the province.

b – the development plan of sectors, areas in the national level; the development plan of sectors, areas in the provincial level.

c – The development plan for nationally important products, including: foods, cement, iron, steel, oil and gas, electricity, coal, fertilizer.

3. The Government shall ensure to balance the annual State budgets and shall have policies to call other funds for forming the plan for socio-economic development.

#### **Article 106. ~~Responsibilities for f~~Forming the plan**

~~———— The forming of the plan shall be regulated as follow:~~

1. The Ministry of Planning and Investment shall be responsible for forming and submission for approval of the overall plan for regional socio-economic development.

2. The line ministries shall be responsible for forming and submission for approval of the development plan of important industries, products within the sectors of its management.

3. ~~Provincial p~~People’s committees ~~of provincial level, cities under the central~~ shall be responsible for forming and submission of the plan for socio-economic development and the plan for industries, sectors within its administrative frontier in accordance with its power and authority.

4. District people’s committees shall be responsible for forming and submission of the plan for socio-economic development within its administrative frontier.

#### **Article 107. Contents of the plan for socio-economic development**

1. The plan for socio-economic development in regional, provincial, district level

The main contents of the plan for socio-economic development in regional, provincial, district level shall be as follow:

- Analysis, evaluation of development factors and conditions;
- Foundation for development objectives and development options;
- Development of solutions, mechanism, policies in order to implement development objectives;
- Development of the list of investment programs, projects of main importance in accordance with the priority order, which is shown for each period of 5 years.

## 2. The development plan for important industries, sectors, products

The main contents of the development plan for important industries, sectors, products shall be as follow:

- Analysis, evaluation of development reality; forecast factors affecting the development of important industries, sectors, products and resources (domestic and foreign) which can be mobilized to develop important industries, sectors and products.
- Identifying objectives, options for development of important industries, sectors and products;
- Developing solution, mechanism, policies to develop important industries, sectors and products;
- Developing the list of of investment programs, projects of main importance in accordance with the priority order, which is shown for each period of 5 years.

### **Article 108. Approval of the plan**

1. The Government shall approve the plan for socio-economic development of region, provinces, cities under the central; the development plan for industries, sectors of national level in technical infrastructure sectors, land using plans, construction space plans, the plan for using water resources and mineral resources; the development plan for nationally important products.

1. The Government shall uniformly manage the plan for socio-economic development, the development plan for industries, sector and shall de-centralize the management of the plan to ministries, branches and people's committees of province, cities under the central.

The process of forming, approval and management of the plan shall be coordinated and be consistent between the related ministries, branches and localities.

2. Investment projects shall comply with the plan of technical infrastructure, the

1. Supervise and examine the promulgation and implementation of the provisions of investment laws.

2. Supervise and examine the implementation of investment projects in accordance with the provisions of the investment licence, certificate of investment registration.

3. Evaluate the results of investment implementation throughout the country, by ministries, localities and sectors, and investment projects.

4. To report directly senior State investment management agencies and the results of investment monitoring, evaluation and to propose settlement measures for difficult issues, queries or breaches.

**Article 113. Investment supervision by community**

1. The public community, socio-political organizations and professional organizations in accordance with the law shall have the right to supervise the implementation of investment projects in their respective localities on land use and environmental protection.

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2. To discover, prevent and deal, subject to their powers or recommend the relevant body to deal, with breaches of investment laws.

3. To verify, recommend the relevant State body to deal with complains, denunciations in connection with investment activities.

#### **Article 116. Rights and responsibilities of investment inspectorate**

Rights and responsibilities of investment inspectorate shall be in accordance with the Government regulations.

#### **Article 117. Rights to complain and denounce; and responsibility to deal with complaints and denunciations**

1. Complains, denunciations and dealing with complains, denunciations in connection with investment shall be conducted in accordance with the laws on complains, denunciations.

2. Individual shall have the right to complain about or denounce the breaches of this Law and organizations shall have the right to complain about breaches of this Law to the relevant State investment management body or take legal action before the courts in accordance with the laws on complains, denunciations; even when the complains or denunciations have been made and being processed at any proceeding stage for dealing with complains, denunciations.

3. Pending the process of complain, denunciations or legal action, organizations, individuals shall perform administrative decisions of the relevant State investment management body. Upon obtaining a decision to deal with complains, denunciations of the State investment management body or a court's valid decision, judgment, [the relevant parties shall] perform such decision, judgment

4. State investment management bodies of all levels shall be responsible for dealing with complains, denunciations of organizations, individuals within their respective powers; in case of receiving any complains, denunciations beyond their respective powers, the receiving body shall transfer [the complain or denunciation] to the relevant bodies and notify the person having the complain or denunciation in writing.

### **CHAPTER XI REWARDING AND DEALING WITH BREACHES**

#### **Article 118. Rewarding**

Investors having achievements in production, trading activities, contributing to promoting production activities, raising investment effectiveness, having major contributions to the construction and development of the country shall be, depending



upon the level of the achievements, rewards, raising positions in accordance with the current laws.

**Article 119. Dealing with breaches**

1. Any person committing in breach of investment laws and other relevant laws shall, depending to the natures, level of the breach, be subject to disciplinary, administrative or criminal actions. In case where the breach of investment law that is harmful to the State’s interest, rights and interests of organizations, individuals shall pay damages.

2. Officials involved in investment activities who abuse their positions, powers to obstruct investment activities; commit in acts of harassing investors or fail to forthwith address requirements of investors or fail to perform other official tasks specified by law shall, depending upon the natures, seriousness of the breach, be subject to disciplinary, criminal action; compensation liability if causing damage in accordance with the laws.

~~3. The Government shall provide for in details breaches of laws and measures to deal with those breaches.~~

**CHAPTER XII  
IMPLEMENTATION PROVISIONS**

**Article 120. Implementation validity**

This Law shall take effect as from dd/mm/2006.

This Law shall replace the 1996 Law on Foreign Investment in Vietnam, the 2000 Law amending and adding to certain Articles of the 1996 Law on Foreign Investment in Vietnam and the 1998 Law on Domestic Investment Encouragement.

Previous provisions in contrary to this Law shall be repealed. The Government shall make detailed provisions for the implementation of this Law.

**Article 121. Application of the laws to projects implementing before this Law takes effect**

accordance with the Law on Enterprises, [such investor] shall carry out registration procedures for new investment licences.

3. Domestic projects existing before the effective date of this Law shall not be required to carry out procedures for issuance of investment licences or certificates of investment registration, unless the investor voluntarily registers for investment.