

GOVERNMENT
No. -2006-ND-CP
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SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness
Hanoi, [] 2006

**DECREE
PROVIDING GUIDELINES FOR IMPLEMENTATION OF
LAW ON INVESTMENT**

Pursuant to the *Law on Organization of the Government* dated 25 December 2001;

Pursuant to the *Law on Investment* 59-2005-QH11 dated 29 November 2005;P

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- (e) Technology and intellectual property rights including trademarks, industrial designs, inventions, trade names, origin or appellation of origin of goods;
- (f) Concessional rights including rights pertaining to exploration and exploitation of

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4. The merging and acquiring enterprise shall assume the rights and obligations of the merged and acquired enterprise unless otherwise agreed by the parties.

Article 12 *Investment in the form of a shareholding company with foreign invested capital*

Shareholding company with foreign invested capital means a company which is established and organizes its operation in accordance with the *Law on Enterprises*. A shareholding company with foreign invested capital must have at least one founding shareholder being a foreign investor. A shareholding company with foreign invested capital shall be a legal entity as from the date of issuance of the investment certificate.

Article 13 *Branches and representative offices of economic organizations*

1. An economic organization which has already been established in Vietnam shall be

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3. In addition to the entities supported by the State budget as stipulated in clause 2 of this article, investment in development of infrastructure of economic zones shall be entitled to State credit for investment and development in accordance with law.
4. The Government shall encourage and have incentive policies for enterprises of all economic sectors to invest in and develop technical and social infrastructure systems of economic zones.
5. The Prime Minister shall decide methods of mobilization of other capital sources for investment in and development of technical and social infrastructure of economic zones.
6. Investment support for development of infrastructure of high-tech zones shall be implemented in accordance with regulations on high-tech zones promulgated by the Government.

Article 33 *Entry and exit visas*

Investors carrying out investment activities, managers and foreign experts and technical workers regularly working for investment projects in Vietnam and their family members shall be granted multiple entry and exit visas. The duration of a visa shall be a maximum of five years each time of issuance.

CHAPTER IV

Rights and Obligations of Investors

Article 34 *Autonomy in investment and business*

1. Investors shall have autonomy in investment and business in accordance with article 13 of the *Law on Investment*, except for investment and business in sectors and industries in which investment and business is prohibited by law.
2. With respect to conditional sectors and industries, investors shall have autonomy in investment and business if they satisfy the stipulated conditions for such sectors and industries.

Article 35 *Right to access and use investment resources*

1. Investors shall have the equal right to access and use resources on credit or land use rights without discrimination between economic sectors. Credit lending and other State support shall be provided on the basis of the feasibility of a project.
2. Provincial people's committees shall publish the approved master plan and other plans for land use so that investors may know about the land fund for investment development.

Article 36 *Right to employ labour*

1. Investors shall have the right to employ domestic employees, and to hire foreign employees as managerial and technical workers and as experts in accordance with the requirements of their production or business, unless otherwise stipulated by international

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tech zones and economic zones; and to determine leasing and selling prices of

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3. In a case of termination of the operation of a project pursuant to the judgement or

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2. Conditions for the assignment of a project:
 - (a) Ensuring the requirements specified in the Law on Enterprises, this Decree, relevant laws;
 - (b) Ensuring the ratio and conditions consistent with the provisions of an international treaty of which Vietnam is a member;
 - (c) The assignment of land use rights attached to the project must conform to the laws on land.
3. In the case of assignment of an investment project in respect of investment projects which are subject to investment registration and are issued with an investment certificate, the investor shall register [such assignment] with the investment certificate-issuing body.
4. The file for assignment of an investment project shall comprise:
 - (a) [An application] for registration of the assignment of a project;
 - (b) The project assignment contract;
 - (c) A document on the legal status of the assignee;
 - (d) A report on the operational status of the project;
5. The investment certificate-issuing body shall receive the file for registration of the assignment of a project and amend the investment certificate within ten (10) working days from the date of receipt of the valid and complete file.

Article 49 *Liquidation of investment projects*

1. If, during the process of investment activities, an investment project may be terminated in accordance with the conditions stipulated in article 45 of this Decree, the investor shall notify the investment certificate-issuing body in order for [the latter] to revoke the investment certificate except for the cases stipulated in clauses 2 and 3 of article 45 of this Decree.
2. Procedures for liquidation of an investment project shall be as follows:
 - (a) In the case of liquidation of an investment project not associated with dissolution of the economic organization, liquidation shall be carried out in accordance with the law on liquidation of property and liquidation of contracts.

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Article 54 *Investment projects which the Ministry of Planning and Investment shall issue investment certificates*

The Ministry of Planning and Investment shall issue, amend and revoke investment certificates in respect of the following investment projects:

1. Projects which the Prime Minister of the Government approves the issuance of an investment certificate as stipulated in article 53 of this Decree;
2. Projects with foreign owned capital having [invested capital of] 800 billion VND or more;
3. Projects in other sectors and having invested capital of 1.500 million VND or more.

Article 55 *Projects which provincial people's committees shall register, approve and issue investment certificates*

1. People's committees of provinces and cities under central authority (hereinafter referred to as *provincial people's committees*) shall carry out investment registration, issuance, amendment and revocation of investment certificates for projects not stipulated in articles 53, 54 and 56 of this Decree.
2. Departments of Planning and Investment shall act as a focal body to advise ~~assist~~² the provincial people's committee in carrying out investment registration, issuance, amendment and revocation of investment certificates for investment projects which fall under the authority of provincial people's committees to issue investment certificates.

Article 56 *Projects which management committees of industrial zones, export processing zones, high-tech zones and economic zones shall register, approve and issue investment certificates*

Provincial people's committee shall delegate management committees of industrial zones, export processing zones, high-tech zones or economic zones shall carry out investment registration, issuance, amendment and revocation of investment certificates in respect of investment projects in industrial zones, export processing zones, high-tech zones or economic zones which fall under the authority of the provincial people's committees to carry out investment registration or issue investment certificates as stipulated in article 55 of this Decree.

SECTION II

Procedures for Investment Registration and Verification

Article 57 *Procedures for investment associated with establishment of economic organization*

1. Domestic investors shall carry out the procedures for establishment of an economic organization and for business registration in accordance with the provisions of the *Law on Enterprises* and relevant laws.

The investor shall carry out investment procedures for each project in accordance with the provisions of this Decree.

2. A foreign investor who invests in Vietnam for the first time must have an investment project and carry out procedures for investment registration or investment verification at the authorized State administrative body for issuance of an investment certificate.

² The literal translation is "submit".



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SECTION III

Procedures for Amendment of Investment Projects

Article 71 *Procedures for amendment of investment projects*

1. The amendment of an investment project shall be carried out in accordance with the following procedures:
 - (a) Amendment of an investment project without carrying out procedures for investment registration or investment evaluation;
 - (b) Amendment of an investment project associated with amendment of investment registration or of an investment certificate in accordance with the procedures for investment registration;
 - (c) Amendment of an investment project associated with amendment of investment registration or of an investment certificate in accordance with the procedures for investment evaluation.
2. When there is a need for an amendment relating to the objective, scale, location, form, capital or duration of a project, the investor shall carry out the following procedures:
 - (a) With respect to projects subject to investment registration, the investor shall decide himself and register the amendment with the provincial State administrative body for investment within a time-limit of ten days from the date of decision on amendment;
 - (b) With respect to projects subject to investment evaluation, the investor shall submit a written request for the amendment in the investment project to the authorized investment certificate-issuing body for consideration of the amendment.

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Names and addresses of the parties to the transaction, including contact information and general information on the branch or sector of the transaction;

Contract for acquisition of an enterprise. The contract must contain the following main items: the name and address of the purchased company; procedures and conditions for acquisition of an enterprise; plan for employment of employees; procedures, conditions and period for transfer of assets, capital, shares or bonds of the purchased company; period for implementation of the acquisition; responsibilities of the parties to the transaction;

Charter of the purchased company.

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responsible for providing guidelines on investment in sectors and localities under their administration to ensure prompt, simple and transparent investment procedures.

4. The Government, ministries, branches, provincial people's committees and management committees of industrial zones, export processing zones, high-tech zones and economic zones shall schedule talks with enterprises and investors for the reception of recommendations and to deal with problems arising during the process of investment.
5. Ministries, ministerial equivalent bodies and provincial people's committees shall not be permitted to issue regulations specifying sectors in which investment is prohibited and sectors in which investment is conditional, specifying investment incentives which exceed the brackets stipulated by law, or specifying additional procedures which may obstruct investment activities.

Article 84 *Responsibilities of the Ministry of Planning and Investment for State administration of investment*

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management boards of industrial zones, export processing zones, high-tech zones and economic zones and their relationship with provincial people's committees shall be

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3. Disputes of which one party is a foreign investor or disputes between foreign invested enterprises shall be resolved by one of the following bodies or organizations:
- (a) A Vietnamese court;
 - (b) A Vietnamese arbitrator;
 - (c) A foreign arbitrator;
 - (d) An international arbitrator;

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APPENDIX D

LIST OF SECTORS IN WHICH INVESTMENT IS CONDITIONAL APPLICABLE TO FOREIGN INVESTORS

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