

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

INVESTMENT LAW

Based on the 1992 Constitution of Socialist Republic of Vietnam, as amended, supplemented in accordance with Resolution No. 51/2001/QH10 dated 25 December 2001 of the IX National Assembly, Session 10.

This Law shall provide provisions on investment activities.

**CHAPTER I
GENERAL PROVISIONS**

Article 1. Scope of application

This Law shall provide for investment activities; rights and obligations of investors; the assurance of legitimate rights and interests of investors and investment incentives and promotion; regulations on offshore investment carried out by investors.

Article 2. Individuals and organizations covered by the Law

This Law shall be applicable to domestic and foreign investors carrying out investment activities in Vietnam and to Vietnamese investors making outbound investment activities.

Article 3. Basic principles in investment

1. The State shall recognize and protect the ownership, invested capital, revenues and other lawful interests and rights of investors; recognize the long term existence and development of investing organizations, individuals in accordance with the law.

2. The State shall provide equal treatment to all types of ownership, all economic sectors, foreign and domestic investment; encourage investment and provide for favorable conditions and provide for simple, fast and transparent procedures for investment activities.

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 before the effective date of this Law;
- dd. Co-operatives set up under the Law on Cooperatives;
- e. Public administrative and not-for-profit organizations
- g. Branches

- 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 investment in order to develop, maintain, improve quality of products, services in the investment period.

6. “Investment projects” shall mean ~~a set of~~ proposals to spend capital to carry out investment activities for a specified period of time.

7. “Invested capital” means the amount of capital used for investment activities either in form of direct or indirect investments.

8. “State invested capital” shall include invested capital originated from the State budget; State investment and development credit capital, State-guaranteed invested capital; investment and development capital of State-owned enterprises and State-owned capital in other projects.

9. “Investment owners” means the capital owners or persons assigned to act for an on behalf of the capital owners or borrowers who directly manage and use capital for carrying out investment activities.

10. “Foreign investments” mean foreign investors bringing into Vietnam his capital either in cash or any other lawful property to carry out investment activities.

11. “Domestic investments” mean domestic investors using his capital either in cash or any other lawful property to carry out investment activities .

12. “Outbound investments” mean investors taking overseas his capital either in cash or any other lawful property to carry out investment activities.

13. “Investment decision makers” mean the legal representative of an organization, a State agency or an investor who, within the scope of his/her power, has the right to decide, and takes responsibility for, an investment activity.

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

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

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

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

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

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

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~~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.

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~~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.

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~~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.

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~~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 project in order to recover invested capital and have reasonable profits.

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~~24-21.~~ “Industrial zones” shall mean zones which are specialized in producing industrial products and carrying out services for industrial production, have defined

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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 activities ~~and safely secured with respect to their capital and property during investment.~~

2. Lawful property of investors shall not be nationalized or confiscated by any administrative measures similar to nationalization.

In case of real necessity for the purpose of national defence, security or for the national interest, the State may confiscate or buy on a compulsory basis with compensation the property of investors at the market price and subject to the following conditions:

- a. Non-discrimination;
- b. In compliance with the power and due process;

Compensation payable for the property to foreign investors as referred to above shall be made in a freely convertible currency and transferred to abroad.

3. Procedures and conditions for confiscations and compulsory purchases shall be provided for by the Government.

Article 7. Protection of intellectual property rights (IPRs)

The State shall protect IPRs and ensure legitimate rights of investors in technology transfer in Vietnam. Investors shall not be compelled to transfer their IPRs to any other natural persons or legal entities.

Article 8. Trade-related investment guarantees

Pursuant to the bilateral and multilateral international commitments that Vietnam has signed or entered into, investors shall not be forced to take any trade-related investment measures including:

- a. to be forced to export, to buy domestic materials and goods;
- b. To be forced to associate their investment activities to the development of resource areas;
- c. To be forced to reach certain localization ratios;
- d. Other trade related investment measures.

Article 9. Remittance of investments abroad

~~The State shall ensure that f~~Foreign investors are permitted to remit abroad:

- a. Profits realized from business activities;
- b. Moneys paid to the supply of techniques, services ; intellectual property; inventions, patents;
- c. Interest and principal moneys of foreign loans;
- d. Invested capital, investment capital liquidated moneys;
- ~~e-dd.~~ Other moneys and assets belonging to the lawful ownership of investors.

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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.

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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. In case where newly promulgated policies, law provide for interests and incentives that are more favorable than the previous interests and incentives enjoyed by the investor, the more favorable interests and incentives shall be applicable to the investor for the remaining period, from the effective date of such new policies, laws.

Article 12. Dispute resolution

1. Any disputes relating to investment activities in Vietnam shall be firstly resolved through negotiation and conciliation between the disputing parties. Where the conciliation fails, the dispute shall be referred to the arbitration body or the court for resolution.

2. Disputes without foreign elements between investors shall be resolved at the Vietnamese arbitration body or courts.

3. Disputes with foreign elements between investors shall be resolved by one of the following methods as agreed between the disputing parties:

- (a) A Vietnamese court;

- (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.

2. Lease equipment and machinery either domestically or overseas to carry out the investment project.

3. Recruit domestic employees in accordance with the business demand; recruit expatriates to fulfil the management tasks, technical labour, experts which Vietnamese [employees] cannot satisfy.

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 advertising and marketing their products and services and directly enter into advertising contracts with those organizations permitted to provide advertising services on a non-discriminatory basis.

Article 16. Right to buy foreign currencies

1. Investors may purchase foreign currency from ~~commercial banks~~ credit institution permitted to trade foreign currency in order to meet the demands of their current transactions and other permitted transactions in accordance with the provisions of the law on foreign exchange control.

2. The Vietnamese Government assures the foreign currency balance for especially important investment projects conducted under the Government program from time to time; assures its support for the foreign currency balance for infrastructure construction projects and some other important projects.

~~3. The conversion of Vietnamese currency into foreign currencies and vice versa shall be carried out at the inter-banking trading rate applicable at the time of conversion~~

Article 17. Right to assign capital and to adjust the investment capital structure

Investor shall have the right to assign capital, adjust invested capital structure; where any assignment of capital derives profits the assignor must pay income tax in accordance with the law.

Article 18. Other rights of investors

Investors also have rights, namely to:

1. Have access to legal instruments and policies on investment. The State shall guarantee publicize investment-related legal instruments, policies as well as administrative procedures in Official Gazettes and mass media; ensure that investment-related regulations, policies have been consulted with investors during the drafting process.

2. Have access to national economic data, data of each economic sector and other related socio-economical information for the purposes of the investment; public services supplied by the State on the principle of non-discrimination.

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 laws~~ in accordance with the law.

4. In addition to the rights set out herein, the investor shall have the right to carry out investment activities set out in relevant legal documents.

Article 19. Obligations of investors

The investor shall have the following obligations:

1. To comply with provisions of investment procedures and business procedures; to carry out business and investment activities in conformity with the provisions of the Certificate of investment registration or Investment licence and Certificate of business registration.
2. To pay taxes and perform other obligations in accordance with law.
3. To carry out all the provisions of laws concerning accounting and statistics;
4. To perform all obligations under labor laws, to respect honor, dignity of laborers and customs of Vietnam;
5. To comply with Vietnamese laws on establishment of political and socio-political organizations in Vietnam and facilitate the operations of those organizations in enterprises.
6. To comply with the provisions of laws on the environmental protection;
7. To comply with other provisions of relevant Vietnamese laws.

CHAPTER IV FORMS OF INVESTMENT

Article 20. Forms of direct investment

Investors shall be entitled to carry out direct investment forms as follows:

1. To invest in the form of 100% capital.
2. To invest in the form of joint venture.
3. To invest in the form of partnership.
4. To invest in the form of business co-operation contracts (BCCs).
5. To invest in the form of Build-Operate-Transfer (BOT) contracts.
6. To invest in the form of Build-Transfer-Operate (BTO) contracts.
7. To invest in the form of Build-Transfer (BT) contracts.
8. To invest to develop business.
9. To purchase shares to form capital to set up and develop enterprises.
10. To make investment capital contributions to other economic organizations;
11. To carry out merger and acquisitions (M&A);
12. To carry out other legitimate forms of direct investment.

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:

- a. State-owned enterprises organized and operated under the Law on State-owned enterprises;
- b. Co-operatives organized and operated under the Law on Co-operatives;
- c. Individual business households in accordance with the laws.

Article 22. Investment in accordance with projects

[With regards to] Investment activities not attached with forming of economic organizations like investment in the form of BCC, BOT, BTO, BT; investment for business development of established economic organization through expanding size, increasing capacity, business ability; investment for technological renovation, improving product quality, reducing environmental pollution, investors shall carry out investment registration procedures or apply for investment licence in accordance with this Law.

The Government shall provide for provisions on investment in the form of BOT, BTO, BT.

Article 23. Purchase of shares of, direct capital contribution to economic organizations

Investors shall be entitled to buy shares, contribute capital to economic organizations operating in Vietnam.

The ratio of purchased shares, capital contribution of domestic, foreign investors in relation to each sector, [business] area shall be in accordance with regulations of the Government.

Article 24. Merger and Acquisition (M&A)

1. Investors shall be entitled to conduct transactions to merger, buy out companies, companies' branches operating in Vietnam.

2. The merger, buy out of companies, branches shall ensure not to bring about unequal competition and monopoly. ~~The Government shall provide for~~ The conditions,

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 techniques, protection of ecological environment, investment in research and scientific and technological development.
5. Labor intensive; processing of materials and effective use of natural resources in Vietnam.
6. Construction and development of infrastructure facilities and major industrial projects;
7. Development of education, training, health causes.
8. Development of traditional industries.
9. Other production and service sectors requiring priority.

Article 27. Sectors where investments are conditional

1. In certain production and service sectors, investors need to satisfy some conditions as to the establishment of an economic organization, form of investment and market open commitment as provided for by the Government.

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

If after balancing tax obligations with the tax authority in respect of investment incentive activities the investor suffers from losses, the losses shall be carried forward to the next year, the losses shall be offset against the ~~taxable~~ incomes subject to corporate income tax. The carrying forward term shall not exceed 5 years.

Article 34. Tax exemption for dividends

With regard to the income of the investor from capital contribution activities or purchases of shares in economic organizations which have paid CIT, such dividends shall be exempt from payment of personal income tax or CIT.

Article 35. Depreciation of fixed assets

Investment projects in the sectors and geographical areas where investments are encouraged investors, on their demand, may conduct a fast-track depreciation of the fixed assets used in production and business activities but such depreciation shall not be more than twice of the prescribed depreciation level.

The Government shall make specific provisions for the criteria of fixed assets and the depreciation and fast-track depreciation levels in accordance with this Article.

Article 36. Exemption of import duties

1. Investors shall be exempt from payment of import duties for goods imported to form fixed assets, including :

- a. Equipment, machinery;
- b. Specialized transportation means in technological lines and specialized transportation means used to transport employees (cars of 24 seats or more, water transportation means);
- c- Spare parts, details, parts, appurtenances, accessories, moulds, components, attached with equipment, machinery, specialized transportation and conveyance means stipulated in item b of this Clause;
- d. Materials, raw materials imported for manufacture of equipment, machinery in technological lines or for manufacture of spare parts, details, parts, appurtenances, accessories, moulds, components, attached with equipment, machinery; or for mixing, assembling incentive products with raw materials, materials of the same quality, which cannot be produced in Vietnam or are not sufficient for the use demand.
- dd. Construction materials which cannot be locally produced.

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 1 and 2 of this Article shall be applied in case of expanding project sizes, replacing, renovating technologies.

4. Investment projects in hotels, offices, apartments for lease, residential houses, trading centres, technical services, supermarkets, golf, tourist areas, sport centres, entertainment areas, medical examination and treatment units, training, culture, finance, banking, insurance, auditing, consultant services shall be exempt [from import duties] for equipments stipulated in Clauses 1 and 3 of this Article in accordance with regulations of the Government.

5. Investors investing to projects [in] geographical areas where investment are specially encouraged attached with this Law shall be exempt from import duties for production raw materials, materials, spare parts for 5 years from the commencement date of production.

6. Project investing production of mechanical, electrical, electronic spare parts, appurtenances shall be exempted from import duties for production raw materials, materials, spare parts for 5 years from the production date.

7. Raw materials, accessories, semi-products, parts, appurtenances and materials imported to produce export products shall be exempted from import duties.

8. Others goods, materials used for projects subject to the List of geographical areas where investment are specially encouraged ~~in accordance with the Prime Minister's decision~~ shall be exempted from import duties in accordance with the Prime Minister's decision.

Article 37. Provisions on land use

1. Investors shall use land be allocated or leased land for the term of land allocation or lease for carrying out investment activities in Vietnam in accordance with the provisions of the Land Law.

2. The term of land use of the investor shall be based on the investment project, but shall not exceed 50 years; with respect to projects, which have large investment capital but its capital is slowly recovered, projects investing in the areas with difficult socio-economic conditions, in the areas with especially difficult socio-economic conditions, which require longer term, the term for allocation or lease of land shall not exceedWith regard to especially important investment projects, the term for allocation of lease of land may be longer but cannot be more than 70 years.

~~3. Exemptions and reductions of land rentals and land use fees shall be in accordance with Article 38 of this Law. The Government shall provide in details for the~~

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~~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 years from the operation date of the projects, depending on areas, geographical areas which investments are encouraged.

In special cases as provided for by the Government, land rentals ~~[and] land use fees~~ shall be exempt for the whole operation term of the projects.

Article 39. Incentives for Industrial zones, Export processing zones, High-tech zones, Economic zones, Industrial complexes

Based on conditions for socio-economic development from time to time ~~and the principles of this Law~~, the Government shall provide for incentives applied for investors investing to industrial zones, export processing zones, high-tech zones, economic zones, industrial complexes.

Article 40. Grant of investment incentives

1. The State body in charge of investment management shall based upon the sectors and areas where investments are encouraged set out herein; upon provisions on the investment incentive levels and the specific investment projects, provide investment incentives.

2. The investment incentives shall be specified in the [relevant] certificate for investment registration or investment license.

Article 41. Withdrawal of investment incentives

1. In cases where the investor who is entitled to investment incentives and in breach or fails to perform the conditions set out in the certificate for investment registration or investment licence, the agency issuing the certificate for investment registration or investment licence shall revoke the whole or part of the incentive interests and rights already provided to that investor.

2. The Government shall make detailed provisions for the revocation of investment incentives.

Section III

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 funds of credit institutions, of domestic and foreign organizations [and] individuals in order investors to loan with medium and long terms with incentive conditions for the purpose of encouraging the development of production in the sectors given priority, [and] supporting small and medium enterprises.

~~2. Operation of Investment Assistant Funds shall be implemented in accordance with provisions of Law on Credit Institutions.~~

~~3~~2. Domestic investors having projects investing in the sectors or geographical areas where investments are encouraged shall be entitled to support credit incentives from Assistant Funds of the State in accordance with the Government regulations.

Article 43. Technology transfers

1. The State of Vietnam shall create favorable conditions and ensure lawful interests and rights of parties involved in technology transfers (including capital contributions in the form of value of technology) in order to implement investment projects in Vietnam in accordance with the laws on technology transfer.

2. The State shall encourage the transfer of advanced technology and technology creating new products in Vietnam; improving technical functions, production capacity, competitive capacity; product quality; saving and effectively using materials, fuels, natural resources;

Incomes from activities of technology transfer shall be exempted from income tax in relation to investment projects entitled to incentives of exempting from corporate income tax.

3. The State shall establish Assistant Funds for developing science and technology from State budget, funds of credit institutions, of domestic and foreign individuals and organizations in order investors to loan with incentive conditions for research, application of advances of science and technology.

Regulations on organization and operation of Assistant Funds for developing science and technology shall be provided by the Government.

Article 44. Training support

The State shall assist in terms of funding for consulting and training human resources for enterprises via training assistant programs.

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.

Article 46. Investment to infrastructure of industrial zones, export processing zones, high-tech zones, economic zones, industrial complexes

1. Infrastructure system outside the fences of industrial zones, export processing zones, high-tech zones, economic zones, industrial complexes shall be developed promptly, synchronous with infrastructure system within the fences.

Based on the master plan of developing industrial zones, export processing zones, high-tech zones, economic zones, industrial complexes approved by the Government, Ministries, branches and provincial people's committees shall establish investment plan and develop technical and social infrastructure system outside the fences of industrial zones, export processing zones, high-tech zones, economic zones, industrial complexes.

2. With regards to some localities with difficult socio-economic conditions, the State shall support partly the investment capital for developing infrastructure within the fences of industrial zones, export processing zones, economic zones, industrial complexes in accordance with regulations of the Government.

3. The State shall extend investment capital from the State budget and incentive credit funds to support investment to development of socio-economical infrastructure of

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 for each time of granting.

**CHAPTER VI
INVESTMENT PROJECTS AND INVESTMENT PROCEDURES**

**Section I
Investment projects**

Article 48. Classification of investment projects

Investment projects are classified in accordance with their nature, importance and investment scale, including:

1. National important projects
2. Important projects
3. Ordinary projects subject to conditions and ordinary projects.

Article 49. National important projects

National important projects shall be projects, which have special role, meaning with regards to overall economy and society of the country; which have one of are determined in accordance with the following criteria:

1. Investment projects use 10,000 billions or more Vietnam Dong from the State-owned capital or projects having investment capital of 20,000 billions or more Vietnam Dong.
2. [Projects] have significant effect on the environment or potentially have significant effect on environment.
- 3.[Projects involved] the settlement of 50,000 or more people in densely populated areas, of 20,000 or more people in mountainous areas, minority ethics areas.
4. [Projects are] located in geographical areas which are especially important in term of national defense, security or which have important historical monuments, important cultural relics, especially natural resources.

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 more Vietnam Dong in the following sectors: ~~post and telecom,~~ energy, ~~oil and gas,~~ mechanical manufacture, mineral exploitation, metallurgy, cement, chemical substances, entertainment complex.

~~3. Projects are located in 2 or more provinces.~~

~~34.~~ Projects involved resettlement of between 20,000 to 50,000 people in densely populated areas, between 5,000 and 20,000 people ~~in mountainous areas and~~ ethics minorities ~~ethics~~ areas.

~~54.~~ Projects not using capital from the State budget invest in the following sectors regardless of its scale:

- Infrastructure construction of industrial zones, export processing zones, high-tech zones, urban areas; BOT, BTO and BT projects;
- Construction and operation of sea ports and airports; operation of sea and air transportation;
- Exploration, exploitation, processing of Oil and gas;
- Post and telecommunication services;
- Publishing, press; radio and television broadcasting; advertising services together with publication of advertisements; conducting games with prizes; hospitals having 300 or more beds; education in the level: pre-tertiary ~~education,~~ college, undergraduate, ~~and~~ postgraduate, ~~doctor training~~ or equivalent levels; scientific research; production of medicine for humans;
- Insurance, finance, banking;

- 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 subjects 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.~~

~~6~~5. The Government shall provide for authority of making investment decision in relation to national defense, security projects.

Article 54. Formation of investment projects

1. Prior to carrying out investment activities, the investor shall develop a pre-feasibility study or an econo-technical explanation in order to apply for investment licence and develop feasibility study to decide for investment, except in the following cases:

a. Ordinary projects stipulated in Clause 2, Article 51;
b. Forms of direct investment which is not through projects stipulated in Article 23 of this Law.

b. Forms of indirect investment which is stipulated in Article 25 this Law.

2. Investment projects must meet the following requirements:

a. To be in compliance with the industry, investment and business sectors stipulated in Certificate of business registration;

b. To be in compliance with the infrastructure development plans, the land use plans, general urban construction plans, water resources and mineral sources use plans and in accordance with the overall socio-economic development plans, industry and sectoral and important products plans which have been approved by the competent agency in accordance with law.

b. To have appropriate technology, technical resources, ensure requirements on natural resources use, environment, national defense and security.

c. To have a socio-economic impact evaluation report for the project.

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 plan for capital raising; preliminary environmental impact assessment report; preliminary calculation and assessment of the investment efficiency in terms of financial, economic and social aspects of the project.

For a project with various components of which the implementation process may last long (for more than 3 years), the pre-feasibility study report must specify each of those project components and appropriate investment stages.

3. The persons with the power to make investment decisions shall provide for the contents of feasibility study reports for the purpose of consideration and decision.

For projects using State-owned capital, the Government shall make detailed provisions for the contents of their feasibility studies.

Article 58. Term of investment projects

The term of each investment project is in accordance with the contents of the projects and cannot exceed the term of land lease.

The term of investment project is stated in the certificate of investment registration or investment licence.

Section II Investment procedures

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;

b. The competent licensing authority shall evaluate the following contents: investment conditions which the project must meet in accordance with the laws;

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

c – The time limit for an evaluation for licensing shall not exceed 20 working days from the date of receiving proper dossiers.

2 – For important projects:

a – Application dossiers used domestic capital shall be submitted to the Ministry in charge of the industry; Application dossiers for foreign investment shall be submitted to the Ministry of Planning and Investment for evaluation and submission to the Prime Minister for consideration, permission of licensing.

b – Application dossiers shall include an application for investment, a feasibility study and other related documents stipulated by the Government;

c. Evaluation contents shall include: legal status of the investor; objectives, scale, investment location; conformity with the plan; investment capital and capital sources; main technical-technological solutions; implementation progress, requirements on exploitation, use of natural resources, environmental protection and national security; resettlement methods for inhabitants (if any);

d- The time limit for issuance of a investment license shall be exceed 30 working days from the date of receiving proper dossiers;

3 – National important projects:

a – The investor shall subject dossiers to the Standing Body of the State Evaluation Committee for this Committee to evaluate, report to the Government [,] submit to the National Assembly to pass the investment policy.

b- The application dossiers shall include: an application for investment, Pre-feasibility study and other related documents stipulated by the Government.

c – State Evaluation Committee shall evaluate the projects in accordance with regulations, [and] report the Government for consideration [,] submit to the National Assembly to pass investment policy.

d- The National Assembly shall pass investment policies in the form of Resolution of the National Assembly.

Article 60. Investment approval attached with the establishment of enterprisesan economic organization

With regard to investment projects attached with the establishment of an enterpriseconomic organization, pursuant to Article 21 of this Law the investor shall

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 be responsible for selection of organizations, individuals evaluating projects.

2. With respect to nationally important projects, the State Evaluation Committee on Investment Projects shall organize the evaluation.

3. Consulting organizations, individuals participating in the evaluation shall be responsible before the law and the person authorized to make investment decision on their evaluation results. The person authorized to make investment decision shall be responsible before the law on his/her decision.

Article 62. Contents of Investment Decision

1. [With respect to] projects using State-owned capital, the Prime Minister shall provide for the contents of the investment decision.

2. With respect to other projects, the investor shall provide for the contents of the investment decision.

Article 63. Tasks, powers and responsibilities of persons authorized to make investment decisions

1. Persons authorized to make investment decisions shall have the following tasks and powers:

a. To apply for investment licences in relation to projects subject to investment licences;

b. To organize the evaluation of the projects for consideration, making investment decisions in relation to projects within its authority;

c. To take the lead in organizing the implementation of the projects in accordance with this Law and other relevant legislation.

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]:

a- Regarding ordinary projects, the evaluation time limit shall not exceed 30 working days.

b- Regarding important projects, the evaluation time limit shall not exceed 45 working days.

c. Regarding national important projects, the evaluation time limit shall be no later than 90 working days, unless the Government has separate regulations [providing otherwise].

2. The evaluation costs shall be accounted for in the invested capital of the project. The Government shall provide for the evaluation cost rate.

Chapter VII

Proceeding with the implementation of investment projects

Article 65. Leases, handing over and receipt of construction land of investment projects

1. For investment projects requiring land, the investor shall contact the relevant land management body of the location where the project is implemented in order to carry out procedures for allocation or lease of land in accordance with land legislation after obtaining an investment licence or an investment registration certificate, except where the investor has possessed lawful land use rights and does not need to apply for allocation or lease of additional land.

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. Procedures for construction and exploitation of natural resources

1. Investment projects involving construction shall be implemented in accordance with the provisions of law concerning construction.

2. Investment projects involving use and exploitation of natural resources shall be implemented in accordance with the provisions of laws concerning management of minerals and natural resources.

Article 68. Implementation of investment projects involving construction

For an investment project involving construction where the State holds the capital contribution proportion or shares of more than 51%, the grant of construction licences,

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 works and environmental protection.

Article 69. Evaluation of machinery, equipment and finalization of costs for construction works

1. Upon importing machinery, equipment to form fixed assets or to implement the investment project, the investor shall evaluate the value and quality [of these machinery and equipment] before importation or installation.

2. Upon completion of the basis construction, the investor shall carry out checking, finalization of costs for construction works, which must be certified by the evaluation organization and shall report to be certified by the competent state authority.

3. The evaluation shall be carried out through an evaluation organization, which is permitted to operate in Vietnam or overseas.

The evaluation organization shall be responsible for the evaluation results. In case of necessity, the competent State authority may require re-evaluating. If any fraudulent is found, [the evaluation organization] shall be, depending on the nature of the breach, dealt with in accordance with the laws.

4. The Government shall provide in detail for the types of projects which are not subject to evaluation of imported machinery, equipment, [and] construction works which are not subject to finalization of costs and other related procedures.

Article 70. Mortgages of land use rights and assets attached to the land

The investment owner or the enterprise having an investment project shall be allowed to mortgage the ~~value of~~ land use rights and assets, which fall within its ownership, attached to land ~~which fall within its ownership~~ in accordance with the legislation with the credit institutions licensed to operate in Vietnam ~~(or Option 2 with the credit institutions licensed to operate in Vietnam or overseas)~~ to borrow capital for carrying out the project.

Article 71. Consumption of products in the Vietnamese market

1. For the products consumed in Vietnam, investors may consume those products either directly or via a consumption agent without any restrictions as to the consumption location.

Investors may act as consumption agents for the products of other organizations or individuals with similar types of products made in Vietnam.

2. The sales price of products shall be decided by investors. With regard to goods and services whose prices are uniformly controlled by the State, their sales prices shall be in accordance with the price framework announced by the competent State agency.

Article 72. ~~Account~~ Opening, use and closing of foreign currency accounts and VND accounts and foreign exchange balance

1. Investors may open foreign currency accounts and Vietnamese Dong accounts with banks permitted to operate in Vietnam. In special cases, investors may open accounts with overseas banks ~~subject to an approval by the State Bank of Vietnam.~~
2. ~~The Government shall provide for the~~ opening, use and closing of bank accounts with domestic and overseas banks shall be in accordance with regulations of the Government.

Article 73. Processing and reprocessing

Pursuant to the objectives set out in the business registration certificate, investment registration certificate, the investment licence, investors may process or reprocess ~~domestic or foreign products~~; may order for processing and domestically reprocess, order for overseas processing of certain products or certain steps of equipment, machinery or technological lines which cannot yet be done in accordance with the laws on trade and commerce.

Article 74 Insurance

~~1.~~ Investors shall take out insurance under insurance policies entered into with insurance companies permitted to operate in Vietnam ~~in the form of voluntary insurance or compulsory insurance~~ in accordance with the provisions of the laws on insurance.

~~2. Subject matters to be insured comprise people, assets, civil liability and other items stipulated by law.~~

Article 75. Hiring of management organizations

1. Investors may hire a management organization to manage the business activities of an investment project in the sector where in-depth management skills are required.

2. The investor shall be responsible before the law of Vietnam for all operations of the management organization in respect of matters related to the management activities specified in the management contract.

3. The management organization shall be responsible before the investor regarding the investment management and business operation of the investment projects and comply with the law of Vietnam during the performance of its rights and obligations in

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 accordance with decision of the relevant State investment management body or judgments of the courts, arbitration bodies on termination of the enterprise due to breaches of law;

Article 79. Liquidation of investment projects

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 to liquidate assets of the investment project. The Government shall provide for the sequence and order of liquidation.

CHAPTER VIII INVESTMENT FROM STATE-OWNED CAPITAL

Section I Management of investments using State-owned capital

Article 80. Requirements for management of investment using State-owned capital

1. Investment projects using State owned funds must be in line with the national socio-economic development strategies, plans, zoning plans from time to time.

2. To use State-owned investment capital reasonably and effectively, have management suitable to each source of funds; guarantee the investment process public and transparent.

The Government shall issue standards and criteria applicable in management and assessment of investment efficiency.

3. To clearly determine the roles of agencies, organizations and individuals participating in investment process. To decentralize the State management in respect of investment activities using State owned funds.

4. To ensure that investment is lawful, in compliance with the [relevant] progress and secured quality; prevent spreading investment, wastes, losses.

Article 81. Implementation of investment management

1. The investment owner of a project using State owner funds shall be decided by the person with the power to make investment decisions.

Ministries, ministerial-level agencies and people's committees of various levels shall carry out the function of State management in respect of investment which shall not concurrently act as the investment owner, except for the technical infrastructure construction projects under its control

2. The investment owner shall decide the establishment, provide for the functions, duties and powers of the project management unit. The investment owner may also set up a project management unit to manage one or several projects at the same time.

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 person status from all economic sectors and independent consultants which provide consultancy on the investment-related sectors.

The operations of an investment consultant shall be independent; and shall not belong to the agency of the investment owner when providing consultancy services to the projects of the investment owner.

5. The Government shall provide in details for establishment conditions, powers and responsibilities of the investment owner, criteria of investment management units and investment consultants.

Section II Investments from the State budget

Article 82. Users of investment capital from the State budget

1. Investment projects in socio-economic, national defense and security infrastructure;
2. National target programs;
3. Basic survey projects; sectoral and territorial planning projects; and projects for urban and rural construction planning;
4. Other investment targets as provided for by the laws.

Article 83. Requirements for using investment capital from the State budget

1. Investment and development plans using State budget must be prepared in line with the development objectives and orientations set out in the national 5-year and annual strategies, plans, zoning plans; must ensure the balance between the demand and capability of resources; and must ensure the publicity and transparency.

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 plans

1. Authority of approving investment plans:

a. The National Assembly shall approve socio-economic development plans, which include investment development projects using State-owned capital. People's councils of various levels shall approve socio-economic development plans, which include investment development projects using State-owned capital within the scope of their powers.

b. Based upon resolutions of the National Assembly, the Prime Minister shall decide to allocate investment plan targets to Ministries, ministerial-level bodies, governmental bodies, other bodies in the central level; provinces and cities under the central.

Based on decisions of the Prime Minister, Ministries, ministerial-level bodies, governmental bodies shall allocate investment plans for each investment project to its subsidiary bodies.

Pursuant to the resolution of people's councils of various levels, people's committees of the same level shall decide to allocate investment plans to using units.

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 credits shall be evaluated and approved by the lenders with respect to their financial solutions, solutions for repayment of loan capital before making investment decision.

Article 88. Plan and management of State investment and development credit plans

1. Investment credit plans shall include the following major contents:

a. To judge the implementation of the investment development credit of the previous year.

b. The goals and lists of investment projects, progress of the projects using State investment and development credit funds.

c. The total State investment development credit funds, including: investment credit loans, credits re-loaned from ODA sources, post-investment interest support and investment credit guarantees.

d. The value and structure of capital subject to the forms of mobilization.

dd. Lending plans, debt recovery plans and other financial plans.

e. Solutions and policies, regimes to implement State investment and development credits.

2. The Government shall make detailed provisions for plans, credit support policies using the State investment and development funds, the list of potential borrowers and credit conditions applied from time to time.

Section IV
Investing State owned capital in enterprises and State guarantees

Article 89. Investment and doing business by State-owned capital

1. Capital from the State budget shall be invested in enterprises through the enterprises Corporation investing and doing business by way of State-owned capital. ~~The~~

~~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;
2. Asset depreciation of fixed assets, which are invested by the State-owned capital.
3. Net profit for use to invest.
4. Investment capital from the State budget and other legitimate sources (if any).

Article 93. Investment principles of State-owned enterprises

1. Enterprise shall have autonomy in using the investment and development capital in accordance with the Law on State-owned enterprises.
2. Enterprises shall be responsible for preserve the capital and use the capital effectively.

Section VI

Tendering for projects using state-owned capital

Article 94. Scope of application of tendering

1. Investment projects using 30% of State-owned capital or more (except for projects belonging to national secrets);

2. Projects using capital funded by international foreign organizations and being implemented based upon the agreements signed between the funding parties and Vietnamese parties.

Article 95. Forms of selecting tenderers

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.

Article 96. Power to make tender decisions

1. Persons authorized to decide on tender

1.1 For a project using 100% of the State-owned capital: the person authorized to make investment decision shall select the tenderer.

1.2 For a project using between 30% and to below 100% State-owned capital: the authorized person shall select tenderers in accordance with the laws.

2. Rights and obligations of the person authorized for deciding tender:

a. The empowered person has the right to approve the tender plan; results of tenderer selection; and to approve, either directly or on an authorization basis, the tender invitation documents.

b. The empowered person shall be obligated to settle the complaints which have not yet been satisfactorily dealt with by the tender caller and be responsible before the laws for his decisions.

Article 97. Process and procedures of selecting tenders

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 to make outbound investment shall comply with the provisions of the law on management of State-owned capital.

Article 100. Rights and obligations of outbound investors

1. An outbound investor shall have the rights, namely to:
 - a) remit investment capital in cash and other legitimate property overseas to invest ~~and remit capital, profit and other legitimate assets overseas~~ in accordance with the laws.

b) To recruit Vietnamese employees and send them overseas to work in their business and production establishments set up overseas.

2. Outbound investors have the following obligations:

a) To comply with the laws of the investment recipient country;

b) To repatriate profits and other incomes from outbound investment activities.

c) To perform financial and tax obligations towards the State of Vietnam in accordance with current laws and international treaties.

d) To comply with the financial and operation reporting regimes in accordance with the Government regulations.

CHAPTER IX STATE MANAGEMENT

Section I General provisions

Article 101. Contents of State investment management

The contents of State investment management shall include:

1. To build up, and guide the implementation of, investment strategies, development plans and policies;

2. To promulgate and organize to implement legal instruments on investment;

3. To guide, assist investors in implement investment projects and deal with investment-related concerns of investors;

4. To grant and revoke investment registration certificates and investment licenses;

5. To guide, inspect, supervise, evaluate investment efficiency, settle complains, denunciations, rewards and deal with breaches during investment activities;

6. To support human resource training for investment-related activities;

7. To support other investment promotion activities;

Article 102. State investment management bodies

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 designated areas and co-operation with the Ministry of Planning and Investment to perform State investment management.

4. People's committees of all levels shall be responsible for performing State investment management in their respective locations in accordance with the decentralization of the Government.

Article 103. Investment management organization hierarchy and decentralization

1. The organization hierarchy, duties, powers of State investment management bodies shall be specified by the Government.

2. Based upon the socio-economic development plans, zoning plans, investment projects' natures, scale, the Government shall provide for the decentralization of State investment management and licensing authority to Provincial People's Committees.

3. The Government shall provide for management mechanism regarding industrial zones, export processing zones, high-tech zones, economic zones, industrial complexes in the whole country.

Article 104. Investment promotion

1. The Government shall organize and manage the investment promotion activities of State bodies of various level.

2. The Ministry of Planning and Investment shall be a coordinating body to assist the Government in investment promotion activities.

3. Funds for investment promotion activities of the State bodies shall be granted from the State budget.

Section II

Investment Management in accordance with Plans

Article 105. Plans for socio-economic development

1. The plan for socio-economic development shall be formed, approved as the basis for investment activities.

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 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.

2. Ministries, branches shall approve the development plan for industries not subject to Clauses 1 and 3 of this Article.

3. Provincial people's committees shall approve the plan for socio-economic development of district level.

The Government shall provide for the evaluation contents and organize for evaluation of the plan.

Article 109. Plan Management

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 land using plan, the construction space plan, the plan for using water and mineral resources.

Ministries, bodies in charge of industries, people's committees shall be responsible for disclosure and guiding the implementation of the plan in order the investor to select and decide to invest.

3. Investment projects not subject to the plan stipulated in clause 2 of this Article shall be decided by the Prime Minister.

4. The adjustment of the plan shall be carried out every 5 years. In case of necessity, the plan shall be adjusted in accordance with the decision of the Government.

Section III Supervision and evaluation of investment

Article 110. Supervision of implementation of investment laws

1. The National Assembly, National Assembly's Standing Committee National Council, National Assembly's Committees, National Assembly's deputy delegation, People's Councils, People's Councils' Standing Committees at all levels to the extent of their respective duties, powers shall be responsible for supervising the implementation of investment laws.

2. The Fatherland Front of Vietnam and its member organizations to the extent of their respective duties, powers shall be responsible for supervising and organizing population communities to supervise the compliance with investment laws.

Article 111. Monitoring, examination and evaluation in respect of investment activities

The State management agencies in charge of investment of various level shall monitor, examine, evaluate and report investment activities in accordance with the laws.

Article 112. Contents of Monitoring, evaluation of investment

Contents of the investment monitoring and evaluation shall include:

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.

2. The Government shall provide for the investment supervision by the community.

Section IV Investment inspection

Article 114. Investment inspection

1. Investment inspection shall be a specialized inspection activity in order to ensure the compliance to the laws by organizations, individuals in investment activities.

2. The Ministry of Planning and Investment shall inspect investment activities nation-wide. Ministries, ministerial-level agencies, governmental agencies, people's committees of all levels shall organize the inspection and examination of investment activities subject to their respective power.

Article 115. Duties of investment inspectorate

Investment inspectorate shall have the following duties:

1. To inspect the implementation of investment laws, policies.

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.~~

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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

1. Investors granted incentives under the Law on domestic investment encouragements, foreign investment Law, Law on co-operatives, State-owned enterprise Law, and business households shall remain to be enjoying the investment incentives for the outstanding life under the granted investment licence or issued investment incentive certificate.

2. Foreign-invested projects, which have been issued with investment licences before the effective date of this Law, shall not be required to carry out procedures of re-issuance of the investment licences unless the investor voluntarily re-registers in

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.