

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 52-1999-ND-CP

Hanoi, 8 July 1999

(as amended 5 May 2000) ¹

**DECREE
ON
MANAGEMENT OF INVESTMENT
AND CONSTRUCTION**

The Government

Pursuant to the *Law on the Organization of the Government* dated 30 September 1992;

Having considered the proposal of the Minister of Construction, the Minister of Finance and the Minister of Planning and Investment;

Decrees:

Article 1

To issue with this Decree the *Regulations on Management of Investment and Construction* which shall replace the *Regulations on Management of Investment and Construction* issued with Decree 42-CP dated 16 July 1996 and Decree 92-CP dated 23 August 1997 of the Government.

Article 2

This Decree shall be of full force and effect after fifteen (15) days from the date of its signing.

Article 3

1 Pursuant to Decree 30-2000-ND-CP of the Government dated 11 August 2000 (effective 26 August 2000), the requirement for issuance of a construction business registration certificate referred to in this Decree 52 has been abolished and now constitutes a business condition not requiring issuance of a certificate.

The Minister of Construction shall, in co-ordination with the Ministry of Planning and Investment, the Ministry of Finance, the State Bank of Vietnam and relevant ministries and branches, be responsible for providing guidelines for and inspecting the implementation of the *Regulations on Management of Investment and Construction* issued with this Decree.

Article 4

Ministers, heads of ministerial equivalent bodies and Government bodies, chairmen of people's committees of provinces and cities under central authority, boards of management of State owned corporations, and relevant organizations shall be responsible for the implementation of this Decree.

On behalf of the Government
Prime Minister

PHAN VAN KHAI

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
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REGULATIONS ON MANAGEMENT OF INVESTMENT AND CONSTRUCTION

(As issued with Decree 52-1999-ND-CP of the Government
dated 8 July 1999 and as amended by Decree 12-2000-ND-CP
of the Government dated 5 May 2000)

CHAPTER I

General Provisions

Article 1 *Aims and requirements of management of investment and construction*

1. To encourage investment in production and trading by all economic sectors in accordance with the strategy and planning for national social and economic development in each period in order to transform the structure of the economy in the direction of industrialization and modernization, accelerate economic growth and improve the material and spiritual lives of the people.
2. To utilize most effectively invested capital sources controlled by the State and to prevent embezzlement and waste.
3. To ensure construction in accordance with the plans for construction and architectural designs, which satisfy durability and aesthetics requirements and protect the ecological environment; to create fair competition in construction in order to introduce advanced technology, to ensure the quality of, and time-limits for, construction at a reasonable cost with all works being warranted.

Article 2 *Fundamental principles of management of investment and construction*

1. State administrative functions must be clearly determined and the authority to manage investment and construction must be delegated in accordance with each type of invested capital source and investors. Management of investment and construction shall be conducted in accordance with projects, planning and the law.

2. Investment projects funded by capital from the State Budget, credit facilities guaranteed by the State, State owned credit facilities for investment and development and invested capital of State owned enterprises shall be strictly managed in accordance with the procedures for investment and construction applicable to each type of capital.
3. With respect to investment and construction by the people, the State shall only assume management in terms of planning, architecture and the ecological environment.
4. The responsibilities and powers of State administrative bodies, investors, consultancy organizations and contractors during the course of investment and construction must be clearly specified.

Article 3 *Applicability and scope of application of the Regulations on Management of Investment and Construction*

1. Management of investment and construction shall apply to the following:
 - (a) New investment and construction projects and renovation, major repair or upgrading of existing investment and construction projects;
 - (b) Investment projects for procurement of assets, including machinery and equipment without installation and products of new technology and science;
 - (c) Projects funded by capital from the State Budget for planning for regional and territorial development, planning for industry development, and planning for construction of urban and rural areas;
 - (d) Construction works funded by State owned capital for which an investment project is not required to be prepared;
 - (dd) Other investment and construction not utilizing State owned capital.
2. Scope of application:
 - (a) With respect to investment projects of State bodies and State owned enterprises funded by capital from the State Budget, credit facilities guaranteed by the State, State owned credit facilities for investment and development and invested capital of State owned enterprises, the State shall assume management of investment and construction through investment decisions after completion of the evaluation of the projects in terms of planning for industry development, planning for construction of urban and rural areas, construction regulations, construction standards, use of land and natural resources, protection of the ecological

environment (depending on the requirements of each type of project), financial plan, prices and efficiency of investment projects.

- (b) Investment projects of enterprises funded by State owned credit facilities for investment and development shall be carried out in accordance with the regulations on State owned credit facilities for investment and development. With respect to projects funded by credit facilities not guaranteed by the State, investors shall be responsible for efficiency of investment and lending organizations shall be responsible for considering the projects and making a decision to provide loans for investment.
- (c) With respect to investment projects of enterprises funded by other capital sources, the State shall assume management through business registration and issuance of construction permits (in the case of investment projects including construction) as stipulated in article 13 of these Regulations.
- (d) With respect to projects for planning for regional and territorial development, planning for industry development and planning for construction of urban and rural areas, the State shall assume management of use of capital sources from the State Budget for implementation of projects and, at the same time, control the mobilization of other capital sources for preparation and implementation of projects for further detailed planning.
- (dd) With respect to investment projects of Vietnamese representative offices in foreign countries; projects of a national confidential nature relating to national security and defence; and projects for purchase of copyrights, investment projects shall be prepared in accordance with these Regulations; and evaluation of projects, investment decisions and management of project implementation shall be subject to separate regulations of the Government.
- (e) Projects of Vietnamese residing in foreign countries for investment in Vietnam and of foreigners residing in Vietnam shall be carried out in accordance with the laws on promotion of domestic investment; and management of construction shall be subject to these Regulations.

Article 4 *Procedures for investment and construction*

1. The procedures for investment and construction shall consist of three stages:
 - (a) Investment preparation;
 - (b) Investment implementation;

- (c) Completion of construction work and project commissioning.
2. During the stages of investment implementation and completion of construction work and project commissioning, works may, depending on the specific conditions of each project, be carried out consecutively, simultaneously or alternately, or as determined by the investment decision-making body.
3. With respect to projects where recovery of invested capital is required, investors shall be responsible for recovering and refunding invested capital.

Article 5 *Definition of terms*

In these Regulations, the following words shall have the meanings ascribed to them hereunder:

1. *Investment project* means a combination of proposals relating to the use of capital for the purpose of building, expanding or renovating certain physical facilities in order to achieve an increase in the quantity of, or maintenance or improvement in the quality of, a product or service within a certain period of time (limited to direct investment).
2. *Construction works* means a product of construction technology which is attached to land (including airspace, water surfaces, sea surfaces and the continental shelf) and made of construction materials, equipment and labour.

Construction works consist of one or more items of work within a complete technological line (including production co-operation) which together shall constitute the final product stated in the project.
3. *Project breakdown* means defects or breakdowns in the structure of works, an item of works or the entire works, which result in a decrease or loss of the bearing capacity of the works and pose a danger to neighbouring works.
4. *Line ministry* means a ministry, ministerial equivalent body or Government body undertaking the management of a particular line of industry throughout the country as provided for in the *Law on the Organization of the Government*.
5. *Investment decision-making body* means the legal representative of a State organization or body or enterprise, depending on the source of invested capital as provided for in articles 10, 11, 12 and 13 of these Regulations.
6. *Investor* means a capital owner, capital borrower or person delegated with the responsibility for direct management or utilization of capital for investment implementation in accordance with law.

7. *Total invested capital* means the total expenditure for the investment and construction (including initial production capital) which is the maximum cost of the project determined in the investment decision and which may be adjusted only in accordance with article 25 of these Regulations.
8. *Total estimated budget* means the total expenditure required for the investment and construction (costs for investment preparation, costs for investment implementation, including procurement of equipment, and other costs of the project) which is specifically calculated during the technical design phase and which does not exceed the approved total invested capital.
9. *Final invested capital* means the total expenses legally incurred during the course of investment in order to commission the project. Legally incurred expenses are expenses incurred in accordance with the signed contract and the approved design and estimated budget and complying strictly with the standards, norms, unit prices, finance - accounting procedures and relevant current provisions of the State. Final invested capital shall be within the approved or adjusted (if any) total invested capital.
10. *Construction standards* means technical standards regulating activities, such as surveying, design, construction, installation, acceptance, and quality control, which are applicable to each specialized area of construction and are issued by the State or the ministry in charge of the specialized area of construction.
11. *Construction regulations* means legislation providing for minimum technical requirements which must be complied with in construction activities and for construction solutions and standards used for satisfying such requirements uniformly issued by the Ministry of Construction.
12. *New urban zone* means a new, concentrated construction zone under an investment project for development of a uniform and complete technical infrastructure and for development of housing in the whole zone, which is attached to an existing urban area or a new urban area in the process of formation, and which has borders and functions determined in accordance with the urban construction planning approved by the competent State authority.
13. *Project for development of urban technical infrastructure* means an investment project for construction of technical infrastructure works to serve a new urban zone or to upgrade and improve an existing urban zone.
14. *Project for development of a new urban zone* means an investment project for construction of the technical infrastructure and for management of housing development for a whole new urban zone in accordance with approved planning.

Article 6 *Classification of investment projects²*

1. Depending on the nature and scale of investment, domestic investment projects are classified into three groups: A, B and C for the purpose of delegation of management. Each group is specifically described in the appendix attached to this Decree.
2. In respect of Group A projects which consist of many component projects or sub-projects and each component project or sub-project can be independently operated, exploited and implemented in accordance with the investment stages stated in the written approval of the pre-feasibility study, the stages of investment preparation from preparation and submission of the feasibility study for approval and the management of investment implementation of each component project or sub-project shall be carried out as for an independent investment project.
3. Important State projects are projects which are approved and the investment policy for which is decided by the National Assembly in accordance with Resolution 05-1997-QH10 of the National Assembly of the Socialist Republic of Vietnam dated 12 December 1997.

Article 7 *Responsibility for management of investment and construction*

1. Ministry of Planning and Investment:
 - (a) To research and establish mechanisms and policies for investment and State management of domestic investment, foreign investment in Vietnam and investment of Vietnamese abroad;
 - (b) To determine guidelines and structures for investment which ensure a balance between domestic investment and foreign investment for submission to the Government for determination;
 - (c) To submit to the Government draft laws, ordinances, and other legislation relating to mechanisms and policies for economic management and promotion of domestic and foreign investment in order to develop an economic structure in accordance with the strategy, planning and scheme for socio-economic stabilization and development;
 - (d) To issue investment licences and provide guidelines for enterprises with foreign owned capital to carry out their investment preparation activities

2 *As amended by article 1.1 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

in accordance with the *Law on Foreign Investment in Vietnam* and the relevant provisions of these Regulations;

- (e) To organize the evaluation of Group A investment projects for submission to the Prime Minister for consideration and decision on investment or for consent for the Ministry to issue business registration for Group A investment projects not funded by the State; to monitor the investment process of investment projects included in State plans;
- (g) To prepare and submit to the Government annual and five-year development investment plans; to co-ordinate with the Ministry of Finance in the monitoring and inspection of the implementation of investment plans funded by State-controlled sources of capital;
- (h) In co-ordination with the Ministry of Construction, the Ministry of Trade, the Ministry of Finance, ministries, branches and local authorities, to provide guidelines for and inspect the implementation of the *Regulations on Tendering*;
- (i) To exercise State administration of preparation, inspection, consideration for approval, and implementation of projects for socio-economic development planning.

2. Ministry of Construction:

- (a) To exercise State administration of construction, to research and establish mechanisms and policies for construction management and planning of urban and rural construction for submission to the Prime Minister for approval and promulgation, or for promulgation as authorized by the Prime Minister;
- (b) To promulgate construction standards, norms and rules, construction design processes, and regulations on quality control, systems of limits, technical and economic criteria applicable to construction, limits of costs for investment and construction consultancy; to reach agreement with ministries in charge of specialized construction to promulgate standards, norms and rules, and regulations on quality control of specialized technical construction works;
- (c)³ In co-ordination with ministries, branches and local authorities, to evaluate the technical designs and total estimated budgets of Group A investment and construction projects for approval by the competent

3 As amended by article 1.2 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

authority. In the case of Group A projects of ministries and branches carrying out specialized construction, article 38.3.1(a) shall apply;

To assume uniform State management of the quality of construction works, to monitor, inspect, discover and make recommendations for dealing with the quality of construction works, especially the quality of construction works of Group A projects;

- (d) To provide guidelines for the operation of construction consultancy enterprises, construction enterprises and organizations managing the implementation of investment and construction projects;
- (e) To co-ordinate with the Ministry of Planning and Investment, the Ministry of Finance, the State Bank of Vietnam, ministries, branches and local authorities to provide guidelines for and inspect the implementation of the *Regulations on Management of Investment and Construction*.

3. Ministry of Finance:

- (a) To research and establish policies and regimes on the mobilization and management of investment capital sources for promulgation, or for submission to the Prime Minister of the Government for promulgation;
- (b) To co-ordinate with the Ministry of Planning and Investment in the allocation of investment and development funds to ministries, localities and important State projects which are funded from the State Budget;
- (c) To undertake the unified management of loans borrowed by the State and of aid reserved by the State, for investment and development;
- (d) To provide Government guarantees for enterprises (other than credit institutions) which borrow foreign loans in accordance with the regulations of the Government;
- (e) To examine and inspect the finances of organizations or entities funded by State owned capital; to provide guidelines for and inspect the final statement in relation to invested capital of the State and to finalize the invested capital of Group A projects funded by the State;
- (g) To provide guidelines for the allocation of funds from the State Budget for investment and administrative funds in the nature of investment and construction to projects and programmes in accordance with the investment plans and directions of the Prime Minister of the Government.

4. State Bank of Vietnam:

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- (a) To research and establish State monetary and credit management mechanisms and policies in relation to investment and construction for submission to the Prime Minister for promulgation, or for promulgation as authorized;
 - (b) To supervise credit institutions and other financial and credit institutions in their performance of the following:
 - Mobilization of capital sources within and outside the country in order to provide long term, medium term and short term loans to projects for investment, development, production and business activities;
 - Provision of loans to production and business projects which are efficient, feasible and solvent; co-ordination in order to facilitate borrowing enterprises in implementing effective investment opportunities;
 - Provision of guarantees for loans, guarantees for payments, performance guarantees, guarantees for tenders and other forms of bank guarantees in accordance with law;
 - (c) To provide guarantees for foreign loans of credit institutions for the purpose of investment and construction.
5. Other relevant ministries and branches:
- (a) Ministries, ministerial equivalent bodies and Government bodies shall exercise the functions of State administration in accordance with their functions, duties and powers. Ministries in charge of specialized construction works shall issue norms, standards and economic and technical limits relating to construction after reaching agreement with the Ministry of Construction;
 - (b) Line ministries and relevant bodies in charge of land, natural resources, technology, biology, environment, trade, preservation and conservation of cultural heritage and relics and scenic landscapes, national defence and security, and fire fighting and prevention shall have the responsibility to consider and provide their opinions in writing on relevant matters of investment projects within the stipulated time-limit. Upon the expiry of the time-limit, if no opinions have been provided in writing by the relevant ministries, those ministries shall be deemed to have agreed with the written proposal.
6. Provincial people's committees (of provinces and cities under central authority):

Provincial people's committees shall, within their respective functions, powers and duties, exercise State administration of all organizations and individuals implementing investment projects within their respective localities in accordance with law.

Article 8 *Management of planning projects*

1. The Ministry of Planning and Investment shall be the body in charge of management of projects for master planning of regional and inter-provincial socio-economic development in the whole country.
2. The Ministry of Construction shall assume State management of planning for urban and rural construction and of planning for construction of key areas.
3. Provincial people's committees shall manage projects for master planning of socio-economic development and planning for urban and rural construction in their respective localities as delegated by the Government.
4. Ministries and branches at the central level shall manage projects for master planning of branch development in accordance with regulations of the Government.
5. When researching the construction of projects for master planning of socio-economic development, planning for specialized development and planning for urban and rural construction, comments must be widely sought from relevant ministries, branches and localities. Upon research for project formation, urban and rural construction planning must be publicly announced and a poll must be conducted among the inhabitants and the people's council of the zone which is the subject of planning. Projects for construction planning (including both master planning and detailed planning) which have been approved by the competent authority must be publicly and regularly displayed at the authorities at all levels and public places in the zone which is the subject of planning for the purposes of implementation and inspection of implementation by the people.

Article 9 *Management of capital in respect of projects for planning*⁴

1. Capital for formation of projects for planning shall comprise capital for survey, investigation, research, formation, consideration and approval of a project for planning.

4 *As amended and supplemented by article 1.3 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

2. Capital for formation of projects for master planning of regional or territorial socio-economic development, planning for branch development, planning for regional construction, general planning for urban and rural construction, detailed planning for urban centres and detailed planning for land use shall be funded from the State Budget and be balanced in the annual investment plan of the State.
3. Capital for formation of projects for planning for detailed construction of urban and rural functional zones, detailed planning for industrial zones, planning for detailed construction of new urban zones, and detailed specialized planning (tourism, sports and games, services, and so forth) shall be capital raised from investment projects and be included in the costs for implementation of investment projects.
4. The Ministry of Planning and Investment and the Ministry of Finance shall be responsible for the management and balance of capital each year for survey, investigation and preparation of master planning for regional and territorial socio-economic development and planning for branch development and urban and rural planning and for providing guidelines for implementation by ministries and localities.
5. Annual capital plans for planning of regional construction and planning of urban and rural construction shall be prepared by the local authority. The Ministry of Planning and Investment shall agree with the Ministry of Finance and the Ministry of Construction for submission thereof to the Prime Minister for approval. The management of utilization of this source of capital shall be delegated in accordance with the laws on the State Budget.
6. The Ministry of Planning and Investment shall be the body in charge of final evaluation of all types of projects for planning for socio-economic development, branch development or key economic zones and shall submit them to the Prime Minister of the Government for approval.

Article 10 *Management of projects funded from the State Budget*⁵

1. Projects funded from the State Budget shall include:
 - (a) Projects for construction of socio-economic infrastructure and for national defence and security which are unable to recover their invested capital and are managed and used in accordance with delegated powers regarding use of the State Budget for investment and development;

5 As amended by article 1.4 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

- (b) Support to investment projects of enterprises in fields in which the participation of the State is required in accordance with law;
 - (c) Expenditure for survey, investigation and formation of projects for master planning of regional and territorial socio-economic development and planning for urban and rural construction upon permission of the Prime Minister;
 - (d) Capital from foreign loans of the Government and international aid for investment and development (including official development aid (ODA)) shall be uniformly managed in accordance with article 21.2(b) of the *Law on State Budget* and legal instruments providing guidelines for implementation of the *Law on State Budget*. The body which allocates the above capital sources to investment and development projects shall allocate a sufficient share of domestic capital in order to ensure implementation of such projects.
2. Authority to make investment decisions in relation to projects funded by the State Budget:
- (a) The Prime Minister shall make investment decisions or delegate the power to make investment decisions in relation to Group A projects.
 - (b) Ministers, heads of ministerial equivalent bodies and Government bodies, the financial management body of the Central Party, central bodies of political organizations and socio-political organizations (as defined in the *Law on the State Budget*) and chairmen of provincial people's committees shall make investment decisions in relation to Group B and Group C projects.
 - In the case of Group B and Group C projects, the investment decision-making body shall base its investment decision on the planning for branch development, planning for local socio-economic development and the approved State funded capital plan and shall be responsible for investment efficiency.
 - In the case of Group C projects, the investment decision-making body must ensure the balance of invested capital in order that the implementation of projects shall not exceed two years.
 - (c) General directors of general departments and directors of departments under ministries; commanders-in-chief of military zones, army corps, service branches, border guards and equivalent under the Ministry of Defence may be authorized by their respective ministers to make investment decisions in relation to Group C projects.

- (d) The chairmen of the people's committees of Hanoi and Ho Chi Minh City may authorize the director of the Department of Planning and Investment to make investment decisions in relation to projects with investment capital of less than two billion Vietnamese dong. In respect of other provinces and cities, the chairmen of provincial people's committees may authorize the director of the Department of Planning and Investment to make investment decisions in relation to projects with investment capital of less than five hundred (500) million Vietnamese dong.
- (e) The chairmen of people's committees at the district and commune level may make investment decisions in relation to projects funded from the State Budget as delegated by the provincial people's council.

In respect of projects funded from the State Budget at the district level, approval and strict control of the planning and objectives of socio-economic development by the provincial people's committee shall be required.

In respect of projects funded from the State Budget at the commune level for investment in and construction of canals, ditches, rural roads, schools, health centres and cultural works, the objectives of investment and planning must be approved by the district people's committee after being approved by the commune people's council.

In respect of projects for canals, ditches, livestock houses, rural roads and schools at the commune level funded by contributions of the people, the commune people's committee shall be responsible for implementation of investment and construction in accordance with the *Regulations on Organization of Mobilization, Management and Utilization of Voluntary Contributions by the People for Infrastructure Construction of Communes and Towns* issued with Decree 24-1999-ND-CP of the Government dated 16 April 1999.

- (g) Any person authorized to make investment decisions may not use administrative capital sources for the purpose of investment in new construction. In respect of renovation and expansion, where the administrative capital used for investment is one billion or more Vietnamese dong, the procedures for investment preparation and investment implementation must be carried out accordance with these Regulations.

Article 11 *Management of investment projects funded by credit facilities guaranteed by the State and by credit facilities for investment and development of the State*⁶

1. Investors in projects using credit facilities guaranteed by the State and credit facilities for investment and development of the State shall be responsible for the efficiency of investment and timely repayment of loans; lending organizations shall be responsible for evaluation of the financial plan and the plan for supply and repayment of capital, for supervision of implementation of loans for the proper purposes and for recovery of loans. In the case of projects using foreign loans guaranteed by the State, investors shall also perform the undertakings made upon borrowing in accordance with law.
2. The authority to make investment decisions in relation to projects of State owned enterprises using credit facilities guaranteed by the State and credit facilities for investment and development of the State shall be in accordance with article 10.2 of the *Regulations on Management of Investment and Construction* issued with Decree 52-1999-ND-CP of the Government dated 8 July 1999 (hereinafter referred to as the *Regulations on Management of Investment and Construction*) and article 1.4 of this Decree.

Boards of management of State owned corporations shall have the right to make investment decisions in relation to Group C projects. In respect of State owned corporations established under a decision of the Prime Minister of the Government (namely, corporations established under Decree 91-CP), boards of management of such corporations shall have the right to make investment decisions in relation to Group B and Group C projects.

3. The authorized person making the investment decision in relation to a project which falls within his or her delegated authority shall be entitled to decide on works during implementation of such project in accordance with law.

Lending organizations shall monitor and inspect investment implementation in accordance with the investment decision and finalization of invested capital.

6 As amended by article 1.5 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

Article 12 *Management of projects funded from the capital for investment and development of State owned enterprises*⁷

The authority to make investment decisions and implement investment in respect of projects using capital for investment and development of State owned enterprises shall be provided for as follows:

1. In respect of Group A projects, the authority to make investment decisions and implement investment shall be in accordance with the regulations for projects funded from the State Budget.
2. In respect of Group B and Group C projects, State owned enterprises shall make investment decisions based on the planning or plan for branch development approved by the competent authority; if a project uses land, the location and land area of the project must be approved by the authorized people's committee of the locality to which the application for land is submitted and the procedures for land allocation or lease shall be completed in accordance with the laws on land. Enterprises shall be responsible for investment implementation on the basis of compliance with the applicable regulations and policies of the State on management of investment and construction and the regulations on tendering.

Organizations managing capital of enterprises and organizations assisting in funding of projects shall be responsible for inspection of implementation of investment decisions and implementation of the finalization of invested capital.

3. Projects using capital for investment and development of State owned enterprises shall be projects using part of capital which is capital funded from the State Budget or capital originating from the State Budget, capital accumulated by the enterprise, commercial credit facilities for investment and development; investment and development funds, financial reserve funds (for covering losses of assets), welfare funds (for investment in welfare works); depreciation of fixed assets and State income retained by the enterprise for investment.

The Ministry of Finance shall, in co-ordination with relevant ministries, have the main responsibility to provide detailed guidelines for management and utilization of capital for investment and development of State owned enterprises, such as depreciation of fixed assets belonging to State capital sources, part of investment and development funds and income which should

⁷ As amended by article 1.6 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

have been paid by enterprises to the State budget but which the enterprises are permitted to retain.

Article 13 *Management of investment projects using other capital sources*⁸

1. In respect of production and business projects of the private sector or economic organizations other than State owned enterprises, investors shall make investment decisions and shall be responsible for production or business efficiency; the procedures for application for land allocation or lease and the procedures for application for a construction permit shall be provided for as follows:

- (a) In the case of investment projects requiring to be allocated land or to lease land, the investor shall prepare a request application accompanied by a project for investment in production or business approved in the certificate of business registration and submit them to the authorized people's committee of the locality to which the application for land is submitted for approval of the location and land area of the project and shall complete the procedures for land allocation or lease in accordance with the laws on land.

In the case of investment and construction projects already having lawful land use rights, if an application for land allocation or lease is not required, the investor shall not be obliged to complete the procedures for land allocation or lease, but shall only apply for a construction permit.

The General Department of Land Administration shall provide detailed guidelines on procedures for application for land allocation or lease.

- (b) Preparation of the application file which shall be submitted to the competent authority for a construction permit shall be carried out in accordance with the *Regulations on Management of Investment and Construction*.

2. Projects of diplomatic offices, international organizations and other foreign offices for investment in construction on the land of Vietnam shall be managed in accordance with the treaty or agreement which has been signed with the Government of Vietnam and the investor shall prepare an application file for a construction permit in accordance with the *Regulations on Management of Investment and Construction*.

8 As amended by article 1.7 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

In respect of projects using capital contribution of a number of members, the members shall agree on and determine the investor, method of management, and organization for implementation of the project on the basis of the ratio of their capital contribution and characteristics of the project.

Article 14 *Investors and responsibilities and powers of investors*

1. Investors:

- (a) In respect of investment projects of State owned enterprises or of State bodies or organizations using capital from the State Budget, credit facilities guaranteed by the State or credit facilities for investment and development of the State, the investment decision-making body shall decide on the investor and the form of project management.
- (b)⁹ In respect of administrative bodies, the authorized person making the investment decision shall not concurrently act as the investor.

Administrative bodies shall only be investors in projects for construction of their own technical facilities.

In respect of State owned corporations established under a decision of the Prime Minister of the Government (namely, corporations established under Decree 91-CP), boards of management of such corporations may authorize directors of member entities to make investment decisions in relation to Group C projects using capital sources referred to in articles 11 and 12.

- (c) In respect of investment projects of a company or co-operative, the investor shall be the legal representative of such company or co-operative.
- (d) In respect of private investment projects, the investor shall be the owner of the invested capital.

9 As amended by article 1.8 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

- (e) In respect of projects for development of urban infrastructure or projects for development of new urban zones, the investor shall be decided by the people's committee of the province or city under central authority in accordance with the following principles:
- The investor shall be the organization or enterprise leasing land from, or being allocated land by, the State for implementation of the project.
 - Where a number of organizations or enterprises wish to invest in the same project, the selection of investors shall be conducted in accordance with the *Regulations on Tendering*.
2. Investors shall have the following responsibilities and powers:
- (a) To prepare investment projects, to identify clearly invested capital sources, to implement investment procedures and to make submissions to the competent authority for approval in accordance with articles 10, 11, 12 and 13 of these Regulations;
- (b) To implement investment, including organizing tendering for selection of tenderers, to sign contracts and perform contracts signed with tenderers in accordance with law;
- (c) In respect of investment projects using one or more different capital sources, investors shall be responsible on an on-going basis for all aspects of the management of utilization of capital sources from investment preparation, investment implementation, commissioning of projects to the recovery and refund of invested capital;
- (d) To repay loans in a timely manner and to fulfil all conditions agreed at the time of borrowing;
- (dd) In the event of a change of investor, the successor shall be obliged to take over all of the duties of the former investor;
- (e) Where an investor directly manages a project, there must be an apparatus capable of managing the project and registration with the competent authority;
- (g) Investors shall have the right to request the relevant State bodies to announce publicly the regulations relating to the investment, such as planning for construction, land, natural resources, water sources, power, transportation, ecological environment, fire fighting and prevention, explosion prevention, preservation of cultural and historical heritage and national defence and security, in order that investors may know and comply with such regulations.

Article 15 *Investment and construction consultancy organizations*

1. Investment and construction consultancy organizations shall be professional organizations from all economic sectors which have legal entity status and which register the business of investment and construction consultancy in accordance with law.
2. Content of investment and construction consultancy activities:

Provision of information on legislation, mechanisms and policies relating to investment and construction; preparation of investment projects; management of investment projects, designs, draft tender invitation documentation; supervision and control of the process of construction and installation; management of construction costs and acceptance of construction works.

A consultancy organization may sub-contract with other investment and construction consultancy organizations to implement a part of the consultancy work.
3. Responsibilities of investment and construction consultancy organizations:
 - (a) To register activities of investment and construction consultancy at the competent authority in accordance with law;
 - (b) To be responsible before the law and the investor for the agreements made in the contract, including the quantity, quality, time of implementation, precision of products and quality of their consultancy products;
 - (c) To purchase professional insurance for investment and construction consultancy in accordance with law; to disseminate widely information on the working capacity of the enterprise for selection by investors.

Article 16 *Construction enterprises*

1. Construction enterprises shall be enterprises from all economic sectors which are established in accordance with law and which have registered the business of construction.
2. Responsibilities of construction enterprises:
 - (a) To register their construction activities at the competent authority in accordance with law;
 - (b) To be responsible before the law and to the investor for the agreements made in the contract, including the quantity, quality, precision of products and time of contract performance; to provide regulations and

instructions on use of works prior to hand-over of works and to provide warranties for the quality of their construction products and construction works in accordance with article 54 of these Regulations;

- (c) To purchase insurance for construction works and to be responsible before the law for all issues relating to the safety of neighbouring works and the works under construction; to ensure work safety and to protect the ecological environment in the process of construction; to disseminate widely information on the working capacity of the enterprise for selection by investors.

Article 17 *Investment planning of authorities at different levels and of State owned enterprises*

1. Consolidating and balancing investment plans:

- (a) The Ministry of Planning and Investment shall consolidate investment of all economic sectors in the national economy for the purpose of forecasting macro balances, of which State funded investment capital shall comprise investment capital from the State Budget, investment capital guaranteed by the State, credit facilities for investment and development of the State, investment and development capital of State owned enterprises planned on the basis of articles 10, 11 and 12 of these Regulations; capital for planning of development of the industry or territory and planning for urban and rural construction.
- (b) Investment plans at the provincial or municipal level prepared by Departments of Planning and Investment shall take account of and cover all investment activities across all economic sectors in the locality.
- (c) Investment plans funded by State capital at all levels must be arranged in accordance with the existing capital plans and progress of approved projects.
- (d) Investment planning of State owned enterprises shall balance and cover in full capital depreciation funds, funds reserved from after-tax profits and capital raised from domestic and foreign sources, credit facilities borrowed from the State and subsidiary funds from the Budget, if any.

2. Implementing investment plans:

- (a) The State shall directly manage the implementation of investment plans using invested capital from the State Budget, credit facilities for investment and development of the State and credit facilities guaranteed by the State.

- (b) In respect of national programmes and important State projects which are included in the annual plan and plans for each phase of economic development decided by the National Assembly, the Prime Minister shall approve the objectives, schedule, total invested capital and capital sources as the bases for arranging the annual plan with ministries and local authorities for implementation.
- (c) In respect of other economic development programs which use administrative capital and investment capital of the State, each year, based on the objectives of such programs, the Ministry of Planning and Investment shall balance and allocate the investment capital and the Ministry of Finance shall balance and allocate the administrative capital for each program and notify the program-managing bodies thereof.
- (d) Financial bodies at all levels shall be responsible for arranging sufficient capital for projects which have been approved in accordance with State plans in compliance with the schedule of implementation of such projects.

Article 18 *Contents of investment plans*

1. Capital plan for surveying, investigation and preparation of plans for the industry or territory or for urban and rural construction.
2. Costs for investment preparation, comprising the investment capital required for investigation and surveying, preparation of a pre-feasibility study report and a feasibility study report of projects, project evaluation, and investment decision. The investment preparation plan shall comprise the list of projects and capital for investment preparation of each project.
3. Project implementation preparation plan, comprising the capital required for survey, technical design, preparation works for construction and other costs relating to the preparation for implementation of an investment project.
4. Investment implementation plan, comprising the investment capital required for procurement of materials and equipment, construction expenses, and other expenses related to tendering and project commissioning.
5. Credit facilities for investment and development of the State shall be in accordance with regulations of the Government.

Article 19 *Conditions for projects to be listed in annual investment plans*

1. In order to be included in an investment preparation plan, a project must be in accordance with the approved development plan of the industry and territory.

2. In order to be included in an investment implementation preparation plan or an investment implementation plan, an investment decision must have been issued in respect of the project in accordance with the provisions of these Regulations by October of the year preceding the planned year.
3. In the case of Group A and Group B projects, if their technical designs and approved total estimated budget are not available, but if a capital limit for each item has been stated in an investment decision and the design and estimated budget for the items to be constructed in the year are available, those projects shall be listed in the investment plan; for Group C projects to be listed, the approved estimated budget and technical design shall be required.

In the case of projects which are entered into with a foreign party and which include many small projects of construction work, the technical design and estimated budget for each such project to be implemented in a year must be approved by the competent authority.

4. Report on implementation of the investment plan:
 - (a) Ministries, ministerial equivalent bodies, Government bodies, State owned corporations and provincial people's committees shall prepare and deliver first-quarter, half-year, third-quarter and annual reports on the implementation of investment plans within the first week of the last month of each quarter to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Construction and the General Department of Statistics in relation to the mobilization of capital sources, volume of construction works, quality and incidents of works (if any), allocation and disbursement of funds, completed projects and new capacity commissioning in accordance with the forms provided by the General Department of Statistics.
 - (b) In the case of Group A projects and important State projects, investors shall prepare and deliver a report on implementation of investment plans as at the twentieth day of each month to the Ministry of Planning and Investment for the purpose of the preparation of an overall report for submission to the Prime Minister of the Government and recommendation of measures to implement investment plans in accordance with the schedule.

Article 20 *Investment inspection*

1. Projects in respect of which investment decisions are made by authorized State bodies shall be subject to investment inspection.
2. Investment inspection means the examination, supervision, analysis and evaluation of each phase or the whole process of investment and construction

in accordance with a decision of the competent authority in accordance with clause 4 of this article.

3. Contents of investment inspection:
 - (a) Inspection of the issuance of the investment decision;
 - (b) Inspection of the plan and disbursement of the investment project;
 - (c) Inspection of the process of organization of project implementation in accordance with the investment decision;
 - (d) Recommendations to the investment decision-making body on review of investment policies (cancellation, suspension or amendment of investment decisions);
 - (dd) Re-evaluation of investment decisions upon completion of the investment process.
4. Investment inspection shall be carried out at the level of the Prime Minister, of the industry, and of the locality:
 - (a) The Prime Minister shall decide on the investment inspection of projects which fall under his authority to make investment decisions;
 - (b) The minister of the ministry in charge of an industry and the chairman of the provincial people's committee shall decide on the investment inspection of projects which fall under the authority to make decisions of the industry or locality respectively.
5. When recommendations of investment inspection organizations are approved by the investment decision-making body, relevant organizations and bodies shall be responsible for implementation thereof.
6. Organizations carrying out investment inspection shall be responsible before the law for their inspection conclusions and recommendations to the competent authorities on dealing with investment projects.
7. The Ministry of Planning and Investment shall co-ordinate with the Ministry of Construction and the Ministry of Finance in providing detailed guidelines for investment inspection.

CHAPTER II

Investment Preparation**Article 21** *Investment preparation*

Investment preparation shall consist of:

1. Studying the need to invest and the scale of investment;
2. Exploring domestic or overseas markets to determine the need for consumption and the competitiveness of products and seeking suppliers of materials and equipment for production; considering the ability to raise capital for investment and selecting the form of investment;
3. Carrying out surveys and investigations and selecting a construction site;
4. Formulating an investment project;
5. Sending the project file and submission to the investment decision-making body, the lender of investment capital and the body evaluating the investment project.

Article 22 *Formulating an investment project*

1. Investors shall be responsible for preparing, or employing consultancy organizations to prepare, a pre-feasibility study, a feasibility study or an investment report.
2. In respect of Group A projects, investors must have a pre-feasibility and feasibility study prepared. In cases where the National Assembly or the Government has made a decision on the investment policy for a project, investors shall only prepare a feasibility study.
 - (a)¹⁰ Where the Prime Minister has approved the pre-feasibility study of a Group A project and permitted its division into component projects or sub-projects, a feasibility study shall be prepared for each component project or sub-project, and submission for approval and management of such projects shall be carried out as for an independent project.
 - (b) In respect of Group B projects, investors shall have a feasibility study prepared; where a pre-feasibility study is deemed necessary, the

¹⁰ As amended by article 1.9 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

investment decision-making body shall consider and make a decision and a written request.

3. In respect of Group C projects with an invested capital of one billion or more Vietnamese dong, investors shall have a feasibility study prepared.

In respect of projects with an invested capital of less than one billion Vietnamese dong, projects for repair and maintenance using administrative capital, and projects of industries the sample design and technical standards of which have been approved by the ministry in charge of the industry on the basis of the master planning for each region, a separate feasibility study shall not be required for each project and an investment report shall be sufficient. The Ministry of Planning and Investment shall provide detailed guidelines for the contents of the investment report.

The feasibility study shall be the fundamental document on the basis of which an investor shall study, compare and select the investment plan for submission to the body evaluating the investment and the investment decision-making body for consideration and decision.

Article 23 *Main contents of a pre-feasibility study*

1. Study of the need to invest and of the difficult and the favourable conditions;
2. Estimate of the scale of investment and selection of the investment form;
3. Selection of the construction site and an estimate of the land area required, on the basis of minimizing land use and impact on the environment, society and re-settlement (with detailed analysis and evaluation);
4. Preliminary analysis and selection of technology and techniques (including cultivated plants and domestic animals, if any) and conditions for supply of materials, equipment, raw materials, energy, services and infrastructure;
5. Preliminary analysis and selection of construction options;
6. Preliminary determination of the total investment, the plan to raise capital, and the ability to recover capital, to repay loans and to earn profits;
7. Preliminary estimate of the social and economic benefits of the project;
8. Determination of degree of independence during operation and exploitation of component projects or sub-projects (if any).

In respect of projects for procurement of equipment and machinery not involving installation, the contents of the pre-feasibility study shall only be subject to clauses 1, 2, 4, 6, 7 and 8 of this article.

Article 24 *Main contents of a feasibility study*

1. Basis for determination of the need for investment;
2. Form of investment selected;
3. Production plan and objectives to be fulfilled (in respect of projects involving production);
4. Specific location options (or region of locations or series of works) in conformity with the planning for construction (including materials on selection of locations which contain proposed solutions for minimizing social and environmental impact);
5. Plan for site clearance and plan for resettlement (if any);
6. Analysis related to the selection of technological and technical solutions (including cultivated plants and domestic animals, if any);
7. Architectural options, construction solutions, preliminary designs of proposed options, and solutions for environmental management and protection;
8. Identification of capital sources (or types of capital sources), financial capacity, total invested capital and need for capital in accordance with the schedule. Plan for repayment of invested capital (in respect of projects which require recovery of invested capital);
9. Plan for management and operation of the project and for human resources employment;
10. Investment efficiency analysis;
11. Main milestones for the implementation of investment. In respect of Group C projects, a tender plan must be promptly prepared. In respect of Group A and Group B projects, the tender plan may be prepared after an investment decision has been made (depending on the specific circumstances of each project). The (latest) date of commencement and the (latest) date of completion for commissioning of the project;
12. Recommendations as to the form of management and implementation of the project;
13. Identification of the investor;
14. Relationships and responsibilities of bodies related to the project.

In respect of projects for procurement of equipment and machinery not involving installation, the contents of the feasibility study shall only be subject to clauses 1, 2, 6, 8, 9, 10, 11, 12, 13 and 14 of this article.

Article 25 *Total invested capital*

1. Total invested capital shall comprise costs for investment preparation, costs for preparation of investment implementation, costs for implementation of investment and construction, costs for preparation of production, bank interest on loans made by the investor during the period of investment implementation, initial working capital for production (in respect of production projects), insurance costs, and contingencies.

In respect of Group A projects and a number of projects with special requirements which are permitted by the Prime Minister, the total invested capital shall also include costs of studies of science and technology relating to the project.

2. Total invested capital shall only be adjusted in the following circumstances:
 - (a) The State promulgates new regulations on changes in investment and construction prices;
 - (b) Due to a change in the exchange rate between Vietnamese dong and foreign currency in respect of the amount of foreign currency used for projects (where the amount of foreign currency to be used has not been clearly stated in the total invested capital);
 - (c) Due to events of *force majeure*.
3. With respect to important national projects the investment guidelines for which are passed and decided by the National Assembly, the total invested capital shall be officially determined after the feasibility study report is evaluated by the competent authority and the investment decision-making body has approved and made an investment decision.
4. The Ministry of Planning and Investment shall provide guidelines for detailed items of the total invested capital.

Article 26 *Evaluation of an investment project*

1. The following investment projects must be evaluated: investment projects funded by capital from the State Budget, by credit facilities guaranteed by the State, by State owned credit facilities for investment and development, and by invested capital of State owned enterprises. The evaluation of an investment project shall be conducted by relevant State bodies and State credit institutions (in the case of projects funded by credit facilities).

Investors shall be responsible for submitting the feasibility study report to the investment decision-making body and, at the same time, to the body in charge of evaluation referred to in clause 6 of this article.

2. In the case of pre-feasibility study reports of Group A projects, investors shall directly submit such reports to the Prime Minister of the Government and, at the same time, to the Ministry of Planning and Investment, the Ministry of Finance and the ministry responsible for branch management for consideration and report to the Prime Minister of the Government. When the pre-feasibility study has been approved in writing by the Prime Minister of the Government, the preparation of the feasibility study, or further negotiation or agreement between the partners involved prior to the preparation of the feasibility study, shall be conducted.

With respect to important national projects the investment guidelines for which are passed and decided by the National Assembly, the Ministry of Planning and Investment shall be responsible for evaluating pre-feasibility study reports and submitting reports to the Government for submission to the National Assembly.

3. Projects for which an investment report has been prepared shall not be subject to evaluation. Investors shall be responsible for submitting the investment report to the investment decision-making body for consideration and issuance of an investment decision.
4. With respect to new urban area projects (or a component project) which are in compliance with the detailed plans and with projects for infrastructure development approved by the competent State authority, only feasibility study reports shall be subject to evaluation.
5. The Ministry of Planning and Investment shall provide guidelines on documentation for evaluation of investment projects.

6. Powers to evaluate investment projects:

(a) In respect of Group A projects:

As the body in charge of evaluation, the Ministry of Planning and Investment shall have the responsibility to collect the opinions of concerned ministries, branches or localities. Depending on the specific requirements for each project, the Ministry of Planning and Investment may invite consultants of other relevant ministries to participate in the evaluation.

In respect of projects funded by State owned credit facilities for investment and development, financing organizations shall evaluate financial plans and schedules for repayment of loans prior to submission to the investment decision-making body.

(b) In respect of Group B and Group C projects funded by capital from the State Budget, by credit facilities guaranteed by the State, or by State owned credit facilities for investment and development:

- The investment decision-making body may use competent specialized bodies under its management, or invite specialized bodies of other ministries and branches, for project evaluation.
- In the case of projects controlled by a body at the provincial level, as the focal body to conduct the evaluation of projects, the Department of Planning and Investment shall have the responsibility to collect the opinions of concerned bodies.
- Organizations providing loans shall evaluate financial plans and schedules for repayment of loans prior to submission to the investment decision-making body.

Article 27 *Contents of evaluation of an investment project*

1. Investment projects funded by capital from the State Budget, by credit facilities guaranteed by the State, by State owned credit facilities for investment and development, and by invested capital of State owned enterprises must be subject to evaluation of the following:

- (a) Compliance with planning for branch and territorial development and planning for construction of urban and rural areas;
- (b) Regime for exploitation and use of national natural resources (if any);
- (c) State incentives and support to which the investment project may be entitled in accordance with general regulations;

- (d) Technological plans and size of production, capacity;
 - (dd) Architectural designs, application of construction regulations and construction standards;
 - (e) Use of land and national resources and protection of the ecological environment and plans for settlement (if any);
 - (g) Fire fighting and prevention, explosion prevention and other social aspects of the projects;
 - (h) Potential risks of the project which may be likely to arise during implementation thereby affecting the investment;
 - (i) General evaluation of feasibility of the project.
2. Investment projects funded by capital from the State Budget, by State owned credit facilities for investment and by credit facilities guaranteed by the State shall be subject to evaluation of financial conditions, prices, efficiency of investment and schedule for return of invested capital of the project.
- 3.¹¹ The body conducting the evaluation of an investment project shall be responsible before the law for the contents of its evaluation and shall submit the evaluation report and other necessary documents accompanied by a draft investment decision to the person authorized to make the investment decision.

Article 28 *State Evaluation Council for Investment Projects*

The State Evaluation Council for Investment Projects shall be established in accordance with the decision of the Prime Minister of the Government for evaluation of investment projects.

Depending on the size, nature and need of each project, the Prime Minister of the Government may request the State Evaluation Council for Investment Projects to carry out evaluation or re-valuation prior to the investment decision.

11 *Inserted by article 1.10 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

Article 29 *Time-limits for evaluation of investment projects from the date of receipt of complete and proper documentation*

1. For Group A projects, the time-limit for evaluation shall be no more than sixty (60) days from the date of receipt of proper documentation.
2. For Group B projects, the time-limit for evaluation shall be no more than thirty (30) days from the date of receipt of proper documentation.
3. For Group C projects, the time-limit for evaluation shall be no more than twenty (20) days from the date of receipt of proper documentation.

Article 30 *Contents of an investment decision*

The contents of an investment decision shall include the following:

1. Objectives of investment;
2. Identity of investor;
3. Form of project management;
4. Location and area of land to be used, plans for protection of the environment and plan for settlement and restoration (if any);
5. Technology, design capacity, architectural designs, technical standards, and level of the project;
6. Regime for exploitation and use of national natural resources (if any);
7. Total invested capital;
8. Sources of capital, financial ability and investment plans for the project;
9. State incentives and support to which the investment project may be entitled in accordance with general regulations;
10. Method of project implementation. Principle of dividing tender packages and forms of selection of tenderers. In the case of Group C projects, a tendering plan must be prepared immediately. In the case of Group A and Group B projects, a tendering plan may be prepared after obtaining the investment decision;
11. Duration of and main deadlines for construction of the project. Time-limit for commencement (latest date), the time-limit for completion and commissioning of the project (latest date);

12. Relationship and responsibilities of concerned ministries, branches and local authorities (if any). Effectiveness (of the decision).

Article 31 *Changes to an investment project*

1. An investment project which has been issued with an investment decision may be changed in special cases. In order to make changes to a project, the investor must submit a clear statement of the reasons for, and the substance of, the changes to the investment decision-making body for consideration and decision.
2. After the competent authority gives written permission for the changes to the project, re-evaluation, submission and approval of the new project must be carried out in accordance with regulations. The size of investment cannot be changed where the project has not yet been commissioned.
3. A project may be suspended or cancelled in the following cases:
 - (a) Where the investor, without the written approval of the competent authority, fails to commence the project within twelve (12) months from the date of issuance of the investment decision;
 - (b) Where the project objectives are changed without the written permission of the competent authority;
 - (c) Where project implementation is delayed for more than twelve (12) months after the deadline stipulated in the investment decision without proper reasons and without the approval of the competent authority.
4. The competent authority issuing the decision on suspension, delay or cancellation of the investment project must specify the reasons therefor and shall be responsible before the law for its decision. Investors causing, without proper reasons, the delay of investment projects shall be responsible for damages to the investment project.

Article 32 *Expenses incurred in the preparation and evaluation of an investment project*

1. Irrespective of the capital source of an investment project, the expenses of preparation and the evaluation fees of an investment project shall be paid out of its capital source. In the case of projects for which the sources of capital have not yet been identified, including projects to be supported by State owned credit facilities for investment, the investor shall use its own lawful funds or bank loans to cover such expenses and shall be re-imbursed after the sources of investment funds are identified.

2. Fees for consultancy in relation to project preparation and evaluation and costs of hiring experts for project evaluation shall be included in the invested capital of each project. The Ministry of Construction shall, upon agreement with the Ministry of Planning and Investment and the Ministry of Finance, provide detailed guidelines for costs of hiring experts for evaluation.

The Ministry of Finance shall, upon agreement with the Ministry of Planning and Investment and the Ministry of Construction, provide fees for evaluation of investment projects.

3. Upon project evaluation, where the project cannot be carried out, costs of preparation and project evaluation shall be deducted from the source of capital of the enterprise or State funded capital of the administrative bodies or capital from the State Budget which has been allocated to the project in accordance with plans for the purpose of payment.

CHAPTER III

Investment Implementation

Article 33 *Implementation of an investment project*

The implementation of an investment project shall include the following:

1. Application for allocation or lease of land (where the project uses land);
2. Application for construction permits (where required) and mining licences (where natural resources are exploited);
3. Arrangements for compensation and site clearance, implementation of plans for settlement and restoration (where projects require settlement and restoration) and site preparation (where necessary);
4. Procurement of equipment and technology;
5. Surveying and design;
6. Evaluation and approval of designs, total estimated budget and estimated budget of each work;
7. Construction and installation;
8. Monitoring and performance of contracts;

9. Management of technical aspects, quality of equipment and construction quality;
10. Trial operation, acceptance, preparation of balance sheets of invested capital, delivery and performance of warranty of products.

Selection of tenderers for performing items stipulated in this article shall be carried out in accordance with the investment decision of the project and the *Regulations on Tendering*.

Article 34 *Allocation and receipt of land*

1. An investor requiring to use land must prepare an application file for land allocation or lease in accordance with applicable regulations.
2. The authorized State body shall consider and resolve the application for land allocation or lease within twenty five (25) days from the date of receipt of proper documentation.
3. The allocation and receipt of land shall be carried out at the site in accordance with the laws on land.

Article 35 *Preparation of construction sites*¹²

1. In the case of investment and construction projects of a production or business nature, the investor shall have the main responsibility to co-ordinate with the local people's committee in reaching an agreement on a plan for compensation, a plan for site clearance, a budget, a schedule and the finalization of site clearance in order that the local people's committee shall pay compensation and carry out site clearance in accordance with the schedule and deliver the construction site to construction contractors.
2. In the case of investment and construction projects for socio-economic infrastructure, national defence or security and important national projects, people's committees at all levels together with investors shall be responsible for paying compensation and carrying out site clearance and delivering the site in accordance with the schedule, establishing areas for re-settlement and carrying out re-settlement in accordance with State regulations and policies and the policy on assistance for investment projects.
3. The Ministry of Defence shall have the main responsibility to co-ordinate with local authorities in guiding and specifying areas of land in which the

¹² As amended by article 1.11 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

search for bombs and mines must be carried out; shall co-ordinate with relevant ministries and branches in guiding and carrying out the search for bombs and mines on the construction site.

Article 36 *Design of construction works*

1. Legal documents required for construction designs:

Documents in relation to topography, geological exploration, and meteorological and hydrographical surveys, and other documents used in the preparation of construction designs must be provided by organizations having legal entity status and specializing in the above fields. Construction designs must comply with State construction regulations and technical construction standards. Where foreign construction technical standards and specifications are applied, the written approval of the Ministry of Construction must be obtained.

2. Design procedures:

- (a) The feasibility study report must set out preliminary designs on the basis of the provisionally selected technology, size and architecture of works.
- (b) After an investment decision has been issued to a project and after suppliers providing equipment and technological designs have been identified, the designs of construction works shall be prepared in accordance with the following provisions:
 - In respect of construction works with high technical requirements and complex geological conditions, technical designs (namely, designs for preparation) must be prepared prior to preparation of construction designs (detailed designs);
 - In respect of construction works with simple technical requirements or available model designs and with simple foundations, only detailed technical construction designs shall be prepared.

Technical designs must be prepared on the basis of the objectives of investment and the requirements stated in the investment decision, applicable regulations and technical standards.

- (c) In special cases, where any item referred to in sub-clauses (a) and (b) of this clause 2 must be changed, a feasibility study report must be re-submitted to the investment decision-making body for approval.
- (d) The designer must calculate the total estimated budget (of the works) on the basis of the technical designs or the detailed technical construction designs. The total estimated budget shall not exceed the approved total

invested capital. If the costs of the works exceed the approved total invested capital, the designer must re-design and re-calculate the costs of the works as appropriate.

The Ministry of Construction shall provide for the contents of the design file.

3. Designers:

- (a) Designs shall be prepared by specialized organizations or individuals. Depending on the specific conditions of each project, the investor may sign a contract with design consultancy organizations or construction contractors for the implementation of the steps for preparation of designs stipulated in this article.
- (b) Designers or professional individuals preparing designs must register their consultancy services with the competent body and shall be responsible before the law for the quality of their designs, the results of calculations, the safety of structures and the stability of works (including the accuracy of their estimates for materials and costs).
- (c) Each design must have one designer who is responsible for it. In the case of large designs (Group A and Group B projects), a group of designers shall be responsible for each design, and the designer or each member in the group of designers shall be personally responsible for the quality and accuracy of the design, the proposed technical solutions and the estimates.
- (d) Designers must carry out supervision as the author of designs throughout the course of construction and installation, completion and acceptance of works.
- (e) Designers shall be prohibited from signing contracts for designs which fall outside the scope of their registration and from preparing designs in any form in the name of other designers.

Article 37 *Evaluation of technical designs and total estimated budgets*

In the case of construction investment projects funded by capital from the State Budget, by State owned credit facilities for investment and construction, and by credit facilities guaranteed by the State, the technical designs and the total estimated budget must be approved by the competent authority prior to tendering for construction and installation.

Investors shall be responsible for submitting the technical designs and the total estimated budget to the competent authority for approval and, at the same time, sending a file to the body in charge of evaluation of technical designs and total estimated budgets. The evaluation and approval of technical designs and the total

estimated budget shall be carried out in accordance with procedural regulations and technical orders in order to ensure the quality of the designs and the estimate.

1. Evaluation of technical designs shall include the following:
 - (a) Compliance of technical designs with the approved contents of the investment decision in terms of size, technology, economic and technical norms, planning, architecture, regulations, and with the applicable technical standards.
 - (b) Protection of the environment and ecology; fire fighting and prevention; explosion prevention; labour safety; industrial hygiene;
 - (c) Reasonableness of solutions referred to in technical designs;
 - (d) Legal entity status of organizations or individuals preparing designs.
2. Evaluation of the total estimated budget shall include the following:
 - (a) Examination of accuracy of levels of use of materials, unit prices and application of levels of use of materials, relevant regimes policies and cost items in accordance with State regulations;
 - (b) Accuracy of amounts listed in the technical designs as compared with the total estimated budget;
 - (c) Calculation of the value of the total estimated budget, including equipment, for the purpose of comparison with the approved total invested capital.
3. The body carrying out evaluation of the technical designs and total estimated budget shall be responsible before the law for the contents of the evaluation referred to in sub-clauses (a), (b) and (c) of clause 1 and sub-clauses (a) and (b) of clause 2 of this article. Where necessary, the body carrying out evaluation of the technical designs and total estimated budget may hire experts and specialized consultancy organizations to join in evaluation (design consultancy organizations shall not be permitted to participate in evaluation of their own design products). Costs of hiring experts for evaluation shall be included in the total invested capital stated in the total estimated budget of the project. The Ministry of Construction shall, upon agreement with the Ministry of Planning and Investment and the Ministry of Finance, provide detailed guidelines for costs of hiring experts for evaluation.
4. Duration of evaluation of technical designs and total estimated budget shall not exceed forty five (45) days (in respect of Group A projects), thirty (30) days (in respect of Group B projects), and twenty (20) days (in respect of Group C projects) from the date of receipt of complete documentation.

5. The Ministry of Finance shall, upon agreement with the Ministry of Construction and the Ministry of Planning and Investment, provide the scale of fees for evaluation of technical designs and total estimated budgets.

Article 38 *Approval of technical designs and total estimated budgets*

1. The bases for approval of technical designs and total estimated budgets shall include the following:
 - (a) Explanatory statements and general drawing of technical designs;
 - (b) Total estimated budget and general schedule (where the project is subject to approval of the total estimated budget and general schedule);
 - (c) Written evaluation of the technical designs and total estimated budget by the authority authorized to assume management of construction.
2. The contents of the decision on approval of the technical designs and total estimated budget shall include the following:
 - (a) Approval of main contents of the technical designs:
 - Name, location, size of works, technology, capacity, main economic and technical norms, level of works, planning, architecture, applicable standards and regulations;
 - Techniques for protection of the environment and ecology, fire fighting and prevention, explosion prevention, labour safety, industrial hygiene;
 - Reasonableness of solutions referred to in technical designs;
 - (b) Approval of additions to technical designs in comparison with preliminary designs, which do not cause any change in the contents of the investment decision;

- (c) Approval of the total estimated budget and the general schedule for construction (where the project is subject to approval of the total estimated budget and the general schedule):
- Appropriateness of levels of use, unit prices and relevant regimes and policies and other costs in accordance with applicable State regulations;
 - Compliance of the value of the total estimated budget, including equipment, with the investment decision;
- (d) Requirements for amendments and additions to the documentation (if any).
3. Powers to approve technical designs and total estimated budget:
- 3.1¹³ In respect of construction investment projects funded by capital from the State Budget, by State owned credit facilities for investment and by credit facilities guaranteed by the State:
- (a) The technical designs and the total estimated budgets of Group A projects shall be approved by ministers, heads of ministerial equivalent bodies and Government bodies, boards of management of State owned corporations established under a decision of the Prime Minister of the Government (namely, corporations established under Decree 91-CP), and chairmen of provincial people's committees of localities in which investment projects are located after evaluation by the Ministry of Construction. In the case of communication construction works belonging to the Ministry of Communications and Transport; construction works for fields and tunnels and industrial construction works belonging to the Ministry of Industry; irrigation, agricultural or forestry construction works belonging to the Ministry of Agriculture and Rural Development; postal construction works belonging to the General Department of Post and Telecommunications; relic works belonging to the Ministry of Culture and Information; projects for national defence or protection of national security belonging to the Ministry of Defence or the Ministry of Police, such ministries and bodies shall themselves conduct the evaluation of technical designs and total estimated budgets for approval by the competent authority.

13 As amended by article 1.12 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

With respect to investment projects solely for procurement of equipment with particular specialized requirements, ministries and branches shall themselves conduct the evaluation of designs and total estimated budgets and shall submit them to the competent authority for approval.

The body assuming the main responsibility to conduct the evaluation of technical designs and total estimated budgets shall be responsible before the law for the contents of its evaluation.

The above ministries and bodies shall provide guidelines to bodies at lower levels to conduct the evaluation of technical designs and total estimated budgets of Group B and C projects within their respective branches.

- (b) With respect to Group B and Group C projects of ministries, branches, central bodies and State owned corporations, the investment decision-making body shall approve technical designs and the total estimated budget after evaluation by the relevant body in charge of management of construction belonging to the investment decision-making body.
- (c) With respect to Group B and Group C projects controlled by local authorities, the chairmen of provincial people's committees shall approve technical designs and the total estimated budget after evaluation by the Department of Construction or the department in charge of specialized construction (depending on the nature of each project);

The chairman of a provincial people's committee may authorize the director of the Department of Construction or the department in charge of specialized construction to approve technical designs and the total estimated budget of works of Group C projects controlled by a provincial authority;

- (d) Investors may approve detailed designs and estimated budgets of items of auxiliary works (such as fences and gatehouses) and items of works for which tendering is not required provided that they do not affect the approved technical designs and total estimated budgets.

- 3.2 With respect to construction investment projects funded by capital of State owned enterprises for investment and development, capital raised by enterprises and commercial credit facilities not guaranteed by the State:
- (a) For Group A projects, technical designs and the total estimated budget shall be evaluated and approved in accordance with clause 3.1(a) of this article;
 - (b) For Group B and Group C projects, the investment decision-making body of an enterprise shall approve technical designs and the total estimated budget after they have been evaluated by the relevant body of the enterprise in charge of management of construction.
4. With respect to production or business investment projects of individuals and economic organizations other than State owned enterprises, investors shall be responsible for evaluating and approving designs. The authority issuing construction permits shall perform the items of evaluation by the relevant State body referred to in article 37.1 upon issuance of a project construction permit.
5. The authority authorized to approve the technical designs and total estimated budget shall be responsible before the law for the contents of its approval in accordance with clause 2 of this article and other laws.

Article 39 *Construction permits*

1. The investor must apply for a construction permit for all new constructions, renovations, expansions, major repairs, re-structuring or embellishment works. The following projects shall be exempt from construction permits:
- (a) Projects for which the Prime Minister of the Government directly makes the investment decision and projects for direct protection of national security and defence;
 - (b) Projects for protection of borders and islands for which the Minister of Defence or the Minister of Police makes the investment decision;
 - (c) Specialized technical projects not crossing urban areas which already have an investment decision and the technical designs and total estimated budget of which have been evaluated by the competent authority;
 - (d) Projects located within national parks or natural conservation zones; irrigation works; water supply works for people living in rural areas, mountainous and remote regions; works used for forestation, prevention

and fighting of forest fires, where these projects already have an investment decision;

- (e) Houses temporarily used during the duration of project construction and located within the site of the project for which the procedures for investment and construction have been completed;
 - (g) Renovation, upgrading or major repair works, installation of technical equipment within the site of a project, which do not affect the architecture or environment of the area;
 - (h) Works of projects funded by foreign direct investment (FDI), construction works within concentrated industrial zones and works of BOT projects;
 - (i) Projects for infrastructure development, projects for development of new urban areas, component projects within new urban areas, the technical designs and total estimated budget of which have been approved in accordance with law;
 - (k) Investment projects in Group B and Group C for which the investment decision has been issued by the competent authority and the technical designs and total estimated budget have been approved upon the written evaluation of the body in charge of management of construction of the investment decision-making body, by the Department of Construction or by the department in charge of specialized construction.
2. With respect to works which are exempt from construction permits in accordance with sub-clauses (a), (h), (i) and (k) of clause 1 of this article, prior to commencement of construction, investors must send the approved technical design file to the authority authorized to issue construction permits for the purposes of inspection, monitoring of construction and filing.
3. With respect of construction of residential houses of the people:
- (a) In respect of construction of new individual residential houses of individuals, the State shall only assume management in terms of planning, architecture and environment. State bodies shall be responsible for publicly announcing conditions for the above aspects which shall be used by the people for preparation of application files for a construction permit.
 - (b) The following cases shall be exempt from construction permits:
 - Three storey residential houses built on residential land having a total floor area of less than two hundred (200) square metres which are located in rural areas, mountainous regions, or outside the

borders of town planning or central areas of communes, except for residential houses built along national roads, provincial roads or district roads;

- Urban residential houses built within the premises of housing development projects which have legal land use permits, detailed planning approved by the competent authority and infrastructure (internal roads, electricity sources, water supply and drainage system) available;
- Minor repairs, such as plastering or patching walls, painting walls, retiling roofs, repairing ceilings, paving floors, changing doors or windows, internal decoration, improving, repairing or installing in-house equipment, which do not have any adverse impact on the structure of neighbouring houses.

Article 40 *Application file for construction permit*

An application file for a construction permit shall comprise:

1. Application for a construction permit (in accordance with the stipulated form);
2. Business registration certificate (if the construction works belong to an enterprise);
3. Proper documents on land use right in accordance with law;
4. Work design documents, comprising the design drawings of the floor, vertical section, cross section and foundation drawings.

Article 41 *Authority to issue construction permits*

1. The chairman of a provincial people's committee shall issue construction permits for works within the territory under its management at the request of the Director of the Department of Construction.

The chairman of a provincial people's committee may authorize the Director of the Department of Construction to issue directly construction permits for works under its authority.

2. When authorized to issue construction permits, the Director of the Department of Construction shall be responsible for preparing a plan for issuance of construction permits, which classifies and determines the areas and locations where there are works to be issued with construction permits for which the chairman of the provincial people's committee must make the decision; shall carry out administrative procedures in accordance with law

and report regularly to the chairman of the provincial people's committee on the status of the issuance of construction permits in the locality.

3. The chairman of a district people's committee shall issue construction permits for individual houses under private ownership and small scale works as delegated by the chairman of the provincial people's committee. The issuance of construction permits in this group must follow the technical and professional guidance of the Department of Construction.
- 4.¹⁴ The procedures for issuance of construction permits shall be as follows:

The applicant shall prepare a file in accordance with article 40 and directly submit the file to the body issuing construction permits; the body issuing construction permits shall arrange for staff with professional knowledge to receive and examine the files, shall be responsible for issuing a receipt for proper files and, where a file is not proper, for guiding the applicant to supplement the file. After thirty (30) days from the submission of a complete file and the issuance of a receipt for a proper file, the body issuing construction permits shall deal with it or reply in writing with the reasons for not issuing a construction permit. Where there is no written reply, the next steps of the works may be implemented after notifying the people's committee of the ward of the date of commencement of construction, and the body issuing construction permits must issue a construction permit.

Bodies and individuals carrying out the issuance of construction permits shall be strictly prohibited from causing difficulties for an applicant for a construction permit or compelling the use of drawings or preparation of designs at their discretion.

The Ministry of Construction shall provide guidelines in relation to the form and contents of design files and the procedures for issuance of construction permits. The General Department of Land Administration shall provide guidelines in relation to proper documents on land use rights in the case of application for construction permits. The Ministry of Finance shall provide for the scale of fees for issuance of construction permits.

Article 42 *Permits for exploitation of resources and minerals*

Where an investment project needs to exploit resources, the investor shall apply for a permit for exploitation of resources and shall comply with the legislation on resources and minerals.

14 As amended by article 1.13 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

Article 43 *Principles of tender management and tender appointment in investment and construction*¹⁵

Projects using capital from the State Budget, credit facilities guaranteed by the State, credit facilities for development and investment of the State, or capital for investment and development of State owned enterprises shall be implemented in accordance with the *Regulations on Tendering*.

Article 44 *Contracts in respect of consultancy, procurement of equipment, and construction and installation*

1. The obligations and responsibilities in consultancy service contracts, contracts for procurement of supplies and equipment and construction and installation contracts shall be binding upon an investor and a contractor.

Construction and installation contracts must contain guarantees for payment of compensation and site clearance in order that the contractor may perform the contract in accordance with the stipulated schedule.

2. Prior to submission of the tender results to the competent authority for approval, the investor must clarify the contents of the contract with the contractor which is proposed to be considered as the successful contractor.

An investor shall, upon the written approval of the tender results by the authority, conduct negotiations to finalize contracts and shall enter into the contracts on the basis of commitments and the approved tender results. In the case of international contracts, the contents of the contract shall be approved by the competent authority. In the case of international contracts and domestic contracts of large tender packages in Group A projects the tender results of which are approved by the Prime Minister of the Government, the competent authority (namely, ministers, chairmen of provincial people's committees, boards of management of State owned corporations directly controlled by the Prime Minister of the Government) shall approve the contents of the contracts. The investor shall be responsible for performing the contract and shall be responsible before the law for the signed contract.

3. In cases where tenderers are appointed, an investor must negotiate and enter into contracts on the basis of the approved technical designs and total estimated budget in accordance with the laws on contract.

Article 45 *Conditions for commencement of construction*

15 As amended by article 1.14 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

All construction works must satisfy the following conditions prior to commencement:

1. A construction permit must have been issued (in cases where construction permits are required);
2. Construction and installation contracts must have been duly entered into as a result of a tender;
3. Payment of compensation and site clearance must have been completed and the site handed over in accordance with law;
4. Capital must be available for payment in accordance with the schedule of performance of the contract as a result of the tender;
5. With respect to investment projects funded by capital from the State Budget, by credit facilities guaranteed by the State or by State owned credit facilities for investment and development and invested capital of State owned enterprises, if a project only satisfies the condition set out in clause 1 of this article but it is necessary to commence the works, then the following shall be required: the technical designs and estimated budget approved by the competent authority for each item of the project to be commenced and duly signed contracts as a result of a tender.

Article 46 *Management of quality of construction works*

1. Responsibilities of investors:

An investor shall be responsible for management of the quality of construction works from the stage of investment preparation, through the stage of investment and up to the stage of completion of construction works and project commissioning. The investor shall have the following responsibilities for management of the quality of construction works:

- (a) Fully performing applicable State regulations on formulation, evaluation and submission of pre-feasibility studies, feasibility studies, technical designs and total estimated budgets for approval; conducting tenders or selecting contractors;
- (b) Selecting organizations providing consultancy services or materials and equipment or carrying out construction which are legal entities and which have the appropriate ability to undertake preparation of investment, technical designs and total estimated budgets, supply of materials and equipment, construction, installation and supervision of quality of the construction works;

- (c) Examining the quality of materials and construction components and whether equipment is installed in accordance with the design requirements and the approved technical standards;
 - (d) The right to request consultancy organizations, suppliers and construction and installation organizations to provide explanatory statements on the quality of materials, equipment and works undertaken by such organizations. Where works fail to meet the quality set out in designs and engineering construction standards, investors shall have the right to request that such works be repaired or replaced or to refuse acceptance of the works.
2. Responsibilities of investment and construction consultancy organizations:

Investment and construction consultancy organizations shall be responsible to investors and before the law for strict performance of the procedures for investment and construction, for the quality of their consultancy services in pre-feasibility studies and feasibility studies, documents of surveys, technical designs and total estimated budgets, and other items of consultancy services; and shall be subject to regular inspection by investors and bodies responsible for State administration of investment and construction.

3. Construction contractors shall have the following responsibilities:

- (a) They are permitted to sign contracts for construction only in respect of projects which comply with the procedures for investment and construction and which are within their ability; to carry out construction in accordance with the approved designs; to apply strictly engineering construction standards as stipulated; and are subject to regular supervision and quality inspection of construction works by investors, by design organizations and by State inspection bodies authorized to manage quality of construction works;
- (b) They are responsible to investors and before the law for the quality of construction and installation of projects, including works undertaken by sub-contractors in accordance with construction and installation contracts;
- (c) To send certificates of quality of materials and components used for projects to investors for the purpose of control prior to use as stipulated;
- (d) To set up a system for guaranteeing the quality of projects in order to control quality of construction products during the course of construction.

4. Responsibilities of the bodies assuming State administration of construction quality:
- (a) The Ministry of Construction shall assume unified State administration of quality of construction projects throughout the country and shall have the following responsibilities:
- Promulgating regulations and guidelines on guarantees for quality of construction projects;
 - Providing guidelines on inspection of application of procedures for management of construction quality and engineering construction standards and certifying quality of construction projects in accordance with State standards;
 - Conducting periodical or random inspections of the quality of construction projects throughout the country, especially the quality of Group A projects; identifying in a timely manner and regulating the management of the quality of projects. Every six months, the Ministry of Construction shall submit to the Prime Minister of the Government reports on the quality status of construction projects and of projects in the course of construction in order to take prompt measures for dealing therewith and ensuring safety for production and users and investment efficiency.
- (b)¹⁶ Construction Departments and Departments of Specialized Construction of people's committees of provinces and cities under central authority shall assume State administration of quality of construction projects within their respective provinces and cities.

Article 47 *Acceptance of construction works*

1. Acceptance of works shall take place in stages, namely upon completion of certain parts of concealed works, foundation structures, parts or items of works, and the whole project.
2. Acceptance of a part or the whole of a construction project shall be conducted by the investor with the participation of organizations responsible for consultancy services, designs, construction, installation and supply of equipment (if any) and the body authorized to inspect quality.

¹⁶ As amended by article 1.15 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

With respect to important sections and items of works or projects for which fire or explosion prevention is required or the operation or use of which could have adverse effects on the environment, the State administrative body must provide written approval of the above requirements prior to any acceptance of the works for commissioning.

3. In the case of important projects or projects with high technical requirements, the Prime Minister of the Government shall, at the request of the Minister of Construction or the minister of a ministry with projects, establish a State Acceptance Board to inspect and monitor the acceptance responsibilities of the investor. The acceptance board established by the investor shall be responsible for assisting the State Acceptance Board in carrying out acceptance in accordance with regulations.
4. The Ministry of Construction shall provide detailed guidelines on management and acceptance of quality of construction projects.

Article 48 *Settlement of project breakdowns*

1. If a breakdown occurs during the course of construction warranty and use of a project, the investor and the user of the project and the local authority shall be responsible for protecting the site and for promptly reporting the incident to the authorized State body.
2. The Ministry of Construction shall, in agreement with the Ministry of Justice, provide guidelines on measures for dealing with project breakdowns.

Article 49 *Payments of invested capital*

1. In the case of projects or tender packages for construction and installation works in respect of which tenderers may be appointed, payments of invested capital shall be made monthly on the basis of accepted volumes of construction work in accordance with signed contracts.

Investors, financial authorities or banks (depending on invested capital sources of each project) shall be responsible for making payments to contractors in accordance with the provisions of this clause.

2. In the case of projects or tender packages for construction and installation works which are the subject of tendering, advances of capital and payment for volumes of completed works shall be made as follows:
 - (a) Advances of capital:
 - Where the value of a tender package is fifty (50) billion or more Vietnamese dong, advances shall be made equal to ten (10) per cent

of the value of the contract, but shall not exceed the annual investment plan of the tender package;

- Where the value of a tender package is an amount of between ten (10) and less than fifty (50) billion Vietnamese dong, advances shall be made equal to fifteen (15) per cent of the value of the contract, but shall not exceed the annual investment plan of the tender package;
- Where the value of a tender package is less than ten (10) billion Vietnamese dong, advances shall be made equal to twenty (20) per cent of the value of the contract, but shall not exceed the annual investment plan of the tender package.

Advances of capital shall be made at the time the contract becomes effective.

(b) Recovery of advances of capital:

- The time for recovery of advances of capital shall commence from the time when payments for completed works of the tender package are made, equal to a rate of between twenty (20) and thirty (30) per cent of the value of the works;
 - Advances shall be gradually recovered from each payment for volumes of completed works and completely recovered when payments for volumes of completed works of the tender package are made equal to eighty (80) per cent of the value of the works.
3. In the case of procurement of equipment, advances of capital shall be made in accordance with the schedule of payment between investors and entities supplying or manufacturing equipment set out in economic contracts, until delivery of the equipment to the warehouse of the investor (in the case of equipment not to be installed) or until completion of installation and acceptance (in the case of equipment required to be installed).
 4. In the case of consultancy contracts, advances shall be made equal to at least twenty five (25) per cent of the value of the tender package, but shall not exceed the annual investment plan for hiring consultancy organizations.
 5. Advances of capital for site clearance shall not exceed the annual investment plan and shall be recovered upon completion of compensation for site clearance.
 6. The Ministry of Finance shall be responsible for considering and deciding on, on a case-by-case basis, advances of capital for a number of high-value components and semi-finished products used for construction which must be

pre-manufactured in order to ensure that the schedule of investment is met; and for special materials or materials which must be stored on a seasonal basis and for works belonging to other items of costs, where necessary.

7. In the case of projects funded by foreign capital or tender packages the subject of international tendering which are covered by different provisions on advances of capital and payments in a credit agreement to which the Government of Vietnam is a signatory, then those provisions shall prevail.
8. In the final year of construction or in the year of commissioning of an item or the whole of a project, volumes of construction and installation of the item or the whole of the project shall be fully paid for when the completed balance sheet of the project is submitted to the investor. In the case of foreign contractors, temporary retention and payments shall be made in accordance with international practice.
9. Payments of invested capital shall be made in accordance with the schedule and on the basis of the successful bid price (in the case of packaged contracts) or on the basis of the successful price unit and specific terms and conditions stated in the contract (in the case of adjusted price contracts), acceptance of volumes and quality in each payment period. Upon completion of a project, payments for tender packages shall not have exceeded the total estimated budget and total invested capital approved by the investment decision-making body.
10. During the implementation of a project, where the investor delays payment for volumes of completed works, the investor shall pay loan interest to contractors in respect of those volumes, including tendering and appointment of tenderers and other forms of award of contracts. Conversely, if a contractor fails to perform fully its contractual commitments causing economic loss to the project, the investor may impose penalties in accordance with law.
11. The above provisions shall also apply to contracts between a main contractor and a sub-contractor. Main contractors, sub-contractors and investors shall be responsible for fully implementing the above provisions.
12. With respect to State funded capital for construction and capital for industry and territorial planning and planning for urban and rural construction, the Ministry of Finance shall, upon agreement with the Ministry of Planning and Investment and the Ministry of Construction, provide guidelines for payment of invested capital.

CHAPTER IV

Completion of Construction and Project Commissioning

Article 50 *Completion of construction and commissioning of projects*

Activities carried out upon completion of construction shall include the following:

1. Acceptance and delivery of works;
2. Completion of construction of works;
3. Project commissioning and guidance for project operation;
4. Warranty of constructed works;
5. Balance sheet of invested capital;
6. Approval of balance sheet.

Article 51 *Acceptance and delivery of works*

1. Whole construction works may be handed over to an investor only upon completion of construction and installation in accordance with approved designs and upon operation in accordance with technical requirements and upon acceptance of the quality requirements (including completion of interior and exterior installation and site clean-up).

Depending on the specific conditions of each project, during the course of construction, each work or item of the project or component project may be temporarily delivered for commissioning in order to create capital sources for the purpose of expediting completion of the whole project.

2. Delivery of whole works shall also require the handing over of documents relating to the completed works and documents containing guidelines for operation, management and maintenance of the project.

Documentation in relation to the construction of works must be submitted and filed in accordance with State regulations on filing.

The minutes of final acceptance and delivery of the project shall be a legal document which shall be used by the investor for commissioning of the project and for the balance sheet of invested capital.

3. With respect to new urban area projects, upon completion of the project for infrastructure development or project for development of new urban areas, the investor must prepare documents relating to completed works and hand over the management, operation and use of all infrastructure facilities located in

the project area to the provincial people's committee for management, operation and use.

One month prior to delivery of the project, the investor and the provincial people's committee must complete the inventory of public property, re-valuation of fixed assets, maintenance and repair of infrastructure, and documents containing guidelines for operation, management and maintenance of the project.

The provincial people's committee shall be responsible for receiving and handing over infrastructure facilities to specialized organizations for management, operation and use at the same time as completing the procedures for establishment of a new administrative unit in accordance with law.

4. Where a project for infrastructure development or a project for development of urban areas must be carried out over a period of many years, the delivery may be carried out many times in accordance with the plan for division of the investment project approved by the competent authority.

Article 52 *Completion of construction of works*

1. Construction of works shall be complete upon delivery of the whole works to the investor.
2. Upon delivery, the construction contractor must liquidate or otherwise remove all of its assets from the site and return any land temporarily rented or borrowed for the purpose of construction in accordance with contract terms and shall be responsible for monitoring and repairing all defects in the works throughout the warranty period.
3. The validity of the construction and installation contract shall be fully terminated and finalized upon expiry of the warranty period.
4. Upon acceptance by and delivery to the investor, the construction works must be registered as property in accordance with law. The documentation for property registration shall be the minutes of final acceptance and delivery of the works.

Article 53 *Project operation*

1. Upon delivery of works, investors shall be responsible for operating and utilizing works, for organizing all production - business - services and for improving management and organizational methods in order to satisfy the economic and technical requirements of projects.

2. The investors or organizations which are authorized to manage and utilize the works shall be responsible for carrying out maintenance of the works.
3. The Ministry of Construction shall provide guidelines and regulations on maintenance of works.

Article 54 *Warranty of construction works*

1. Minimum warranty period of works:

The minimum warranty period of works shall be calculated from the date on which the contractor hands over the warranted works or item of works to the investor and shall be stipulated as follows:

- (a) Twenty four (24) months in respect of important State projects and works of Group A projects;
- (b) Twelve (12) months in respect of other works.

2. Minimum warranty sum of works:

The minimum warranty sum of construction and installation of works shall be calculated as a percentage (%) of the value of the volume of construction and installation of items of works during the warranty period as follows:

- Three per cent in respect of works the minimum warranty period of which is twenty four (24) months;
- Five per cent in respect of works the minimum warranty period of which is twelve (12) months;
- Warranty sums of works shall accumulate interest in the same manner as bank deposits;
- International practices shall apply to works or contracts performed by foreign contractors.

Article 55 *Insurance of construction works*

1. When carrying out investment or construction, investors must purchase insurance from an insurance company legally operating in Vietnam.
2. The insurance costs for works shall constitute a part of the investment capital of the project and shall be included in the approved total estimated budget (estimated budget) of the works. Insurance costs shall be calculated as a certain percentage (%) of the value of the works.

3. Construction and installation contractors and consultancy organizations must purchase insurance in respect of materials, equipment, premises used in construction, employee accidents, third party civil liability, survey results, and designs during the course of project implementation. Insurance costs shall be included in production expenses.
4. Insurance terms and the rights and obligations of the insured shall be mutually agreed by the parties provided that it is not inconsistent with Vietnamese law or international practice.
5. Upon occurrence of an incident, the insurance company shall promptly arrange for compensation for damage in accordance with insurance laws.
6. The Ministry of Finance shall provide specific guidelines for construction insurance.

Article 56 *Balance sheets of invested capital*

1. Upon completion of projects for commissioning, a balance sheet of invested capital must be prepared for all investment projects of State bodies and State owned enterprises. Investors shall be responsible for preparing the balance sheet of invested capital.
2. No later than six months after completion of projects for commissioning, investors must complete balance sheets of invested capital and submit same to the investment decision-making body.
3. For projects funded by various sources, the balance sheet must include an analysis of each source of funds.
4. Balance sheets of invested capital must fully and accurately determine the invested capital which is implemented each year, the total capital which has been invested in the implementation of the project and the value of the assets handed over for production or use. When preparing a balance sheet for a long term investment project, the investor must calculate the invested capital which has been implemented according to the prices prevailing at the time when the project is handed over for operation in order to determine the newly increased value of the fixed assets and the value of the assets handed over.
5. The Ministry of Construction shall co-ordinate with the Ministry of Finance and the Ministry of Planning and Investment in providing guidance in relation to the uniform calculation of capital in each period in order to assist investors prepare balance sheets.

6. The Ministry of Finance shall provide guidelines for the time-limits for preparation of balance sheets, the contents of balance sheets and the nature of the audit and approval of the balance sheets of invested capital of projects using capital from the State Budget, credit facilities for investment of the State, credit facilities guaranteed by the State, and capital mobilized by State owned enterprises for investment and development.

Article 57 *Audit and approval of balance sheets of invested capital*

All investment projects using capital from the State Budget, credit facilities for investment of the State or credit facilities guaranteed by the State shall be subject to the following provisions with respect to the audit and approval of balance sheets of invested capital:

1. Audit of balance sheets of invested capital:

Balance sheets of invested capital shall be approved after the necessary audits have been carried out. The authority approving balance sheets shall decide on the form of audit of balance sheets in accordance with the following provisions:

- (a) The relevant body under the authority approving balance sheets shall itself audit, or have an auditing organization audit, balance sheets.
- (b) Responsibility to audit balance sheets:
 - For projects audited by the relevant body under the authority approving balance sheets, the auditing body shall be responsible for the results of the audit;
 - For projects audited by an auditing organization, the auditing organization shall be fully responsible for the results of the audit; and the relevant auditing body shall be responsible for the contents of the re-audit.

2. Approval of balance sheets:

- (a) For Group A projects, the Prime Minister of the Government shall delegate to the Minister of Finance the authority to approve balance sheets of invested capital.
- (b) For the remaining projects, the investment decision-making body shall also be the authority approving the balance sheets.

3. Costs for the audit and approval of balance sheets of invested capital shall be included in the approved total estimated budget. The Ministry of Finance

shall provide guidelines for the management and utilization of the costs for the audit and approval of balance sheets of invested capital.

Article 58 *Repayment of invested capital*

1. Recovery of invested capital shall be a mandatory principle applicable to all investment projects for which recovery of invested capital is stipulated.
2. In respect of projects funded with capital from the State Budget, credit facilities guaranteed by the State, credit facilities for investment and development of the State, or investment capital of enterprises the investors in which are responsible for repayment of capital or loans, the source of capital for recovery and repayment of loans shall include all capital depreciation, part of profits, and other capital sources (if any).

In the case of failure to recover capital and make full repayment of loans, investors shall be responsible in accordance with law.

3. In respect of investment projects funded with loans made directly by investors and guaranteed by the State, or with commercial loans guaranteed by the State, investors shall be responsible for reaching an agreement with the guarantor on the plan for repayment of loans under the loan contract and in accordance with law.

CHAPTER V

Forms of Project Management and Implementation

Article 59 *Forms of project management and implementation*

Depending on the scale and specific conditions of each project and the capacity of the investor, the investor shall select one of the following forms of management:

1. Direct project management and implementation by the investor;
2. Project management by a project manager;
3. Turn-key form;
4. Self-implementation.

In respect of projects funded with capital from the State Budget, credit facilities guaranteed by the State or credit facilities for investment of the State, the investor must submit the form of management of project implementation to the investment decision-making body for decision.

The Ministry of Construction shall, upon agreement with the Ministry of Finance and the Ministry of Planning and Investment, provide for the costs of management of project implementation.

Article 60 *Direct project management and implementation*

1. The investor must have a capable project management apparatus, or establish a project management board for project management.
2. The investor or the project management board must register its operation at the competent authority.

Article 61 *Project management by a project manager*

1. Where an investor does not have sufficient conditions for direct management of project implementation, it shall employ a professional organization or delegate a specialized management board to act as the project manager; the investor shall submit to the investment decision-making body for approval of the project management organization.
2. The project manager shall be a legal entity which is capable of, and has registered for, investment and construction consultancy.
3. The project manager shall have the following responsibilities:
 - (a) Directly entering into contracts and making payments for contracts (where delegated by the investor) or carrying out transactions for the investor to enter into contracts and make payments for contracts with survey, design, material and equipment supply, and construction and installation organizations, and to make payments for contracts with contractors on the basis of confirmation by the project manager;
 - (b) Being responsible for supervising and managing the whole process of project implementation on behalf of the investor;
 - (c) Being responsible to the investor and before the law for the management of the project from the investment implementation to the completion of construction for commissioning of the project, and for other related matters stated in the contract.

Article 62 *Turn-key form*

1. The turn-key form shall be applied when the investor is permitted to organize a project tender to select a contractor (chief construction contractor) which shall be responsible for the whole project implementation process from survey, preparation of designs, purchase of materials and equipment,

construction and installation to the handover of works and commissioning of the project.

The chief construction contractor may assign the tasks of survey and design or a part of the construction and installation works to sub-contractors.

2. In respect of projects using the capital sources stipulated in articles 10 and 11 of these Regulations, the form of management on a turn-key basis shall only apply to Group C projects; in other cases, the permission of the Prime Minister shall be required.
3. The investor shall be responsible for organizing acceptance and takeover upon completion of the project for commissioning.

Article 63 *Self-implementation*¹⁷

1. The form of self-implementation shall only be applied in the following cases:
 - (a) Where the investor is capable of carrying out production and construction activities in accordance with the requirements of the project and the project uses the legal capital of the enterprise or capital raised by an organization or individual (except for loans provided by credit institutions);
 - (b) Where the investor is capable of carrying out production and construction activities in accordance with the requirements of the project for planting new trees or tending trees on an annual basis, cultivating marine products (in agriculture, forestry, fishing and industries), for seedlings and breeding animals, exploitation of virgin soil and establishment of fields, or regular maintenance and repair of construction works or equipment for production.
2. Upon applying the form of self-implementation (self-production, self-construction), the investor must closely supervise production or construction and shall be responsible before the law for the quality of products and quality of construction works.

The Ministry of Construction shall provide detailed guidelines for the forms of project management.

¹⁷ As amended by article 1.16 of Decree 12-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

CHAPTER VI

Construction Costs

Article 64 *Principles for preparation of construction cost estimates*

1. All works funded by capital from the State Budget, credit facilities guaranteed by the State or credit facilities for investment and development of the State must have adequate documentation with estimates of necessary costs of the works.
2. Investors and consultancy organizations must, on the basis of State provisions on the control of construction costs, prepare and submit to a competent authority for approval the total estimated budget and the estimated budget for each item of works in order to provide a basis for organizing tenders for construction and installation and for controlling post-tender costs.
3. Construction and installation tenderers shall use State regulations on the control of construction costs as the reference basis for determining tender prices for construction works.

Article 65 *Control of construction costs*

1. State control of construction costs shall be carried out by way of the promulgation of regulations, policies, principles and methods for unit price and budget preparation; economic and technical indices, limits of investment and construction consultancy costs; and investment rates for determining total invested capital, total estimated budgets and estimated budgets of works.
2. The Ministry of Construction, ministries and other concerned State administrative bodies at all levels shall be responsible for the control of construction costs on the basis of the above principles.
3. Departments of Construction shall, together with relevant bodies, prepare a set of construction unit prices in their respective localities for submission to the provincial people's committee for promulgation and application to construction works of the State or State owned enterprises in the respective provinces and cities.
4. The Ministry of Construction shall provide guidelines for the preparation and control of construction costs.

Article 66 *Total estimated budgets or estimated budgets of items of works*

1. The total estimated budget of works shall be the basis for control of construction costs and shall include the costs for survey, design, construction, installation, procurement of equipment, costs for land use, compensation and site clearance, re-settlement, costs for insurance of construction works, taxes, other costs, including costs for relevant technological and scientific research in respect of Group A projects and a number of projects with special requirements permitted by the investment decision-making body, and contingencies of ten (10) per cent (including for inflation and extra volumes of work).
2. In respect of projects for investment and construction funded by State owned enterprises and bodies, the cost used for payment of works in any form of tender or appointment of tenderers or self-implementation shall not exceed the approved total estimated budget or estimated budget of items of works. In the case of *force majeure* where the approved total estimated budget or estimated budgets of items of works are exceeded, an evaluation shall be carried out and submitted to the investment decision-making body for consideration and decision.

CHAPTER VII

Inspection and Examination and Dealing with Breaches

Article 67 *Inspection and examination of investment and construction activities*

1. All investment and construction activities of all relevant organizations and individuals, including foreigners and Vietnamese residing in foreign countries operating in the territory of Vietnam, shall be subject to inspection and examination by the relevant State agencies in each administrative field, with distinction made between works using capital from the State Budget, credit facilities guaranteed by the State, credit facilities for investment and development of the State, investment capital of State owned enterprises, of joint venture enterprises or of the people.
2. Depending on the actual status of each investment project, inspections and examinations may be carried out at a particular stage or at all stages of investment and construction.
3. The inspection and examination of investment and construction activities must be based on the provisions of the legislation on inspection and examination.

Article 68 *Dealing with breaches*

1. Organizations and individuals, including foreigners and Vietnamese residing in foreign countries, engaged in investment and construction activities in the territory of Vietnam and breaching the provisions of these Regulations shall, depending on the nature and seriousness of the breach, be subject to administrative penalty, prosecution for criminal liability, liability to pay compensation for damage in accordance with law.
2. Relevant State bodies, State employees and officials in charge of State administration of investment and construction failing to carry out in full their delegated tasks, creating at their own discretion procedures and requirements not stipulated, or delaying the resolution of requests made by individuals, enterprises, bodies and organizations engaged in investment and construction where all stipulated conditions have been satisfied shall, depending on the nature and seriousness of the breach, be subject to administrative penalty, prosecution for criminal liability, liability to pay compensation for damage in accordance with law.

CHAPTER VIII

Implementing Provisions

Article 69

Ministers, heads of ministerial equivalent bodies and Government bodies, chairmen of people's committees of provinces and cities under central authority, and boards of management of State owned corporations shall be responsible for the implementation of these Regulations and shall not issue separate guiding instruments for each ministry, industry or locality (except for the ministries delegated by the Government in these Regulations).

The Ministers of the following ministries: the Ministry of Construction, the Ministry of Finance, the Ministry of Planning and Investment and relevant ministries in charge of the industry shall be responsible for monitoring and inspecting the implementation of the *Regulations on Management of Investment and Construction*.

Article 70

These Regulations shall be of full force and effect after fifteen (15) days from the date of signing and shall be applicable to all sectors of the national economy.

On behalf of the Government
Prime Minister

PHAN VAN KHAI

Appendix

CLASSIFICATION OF INVESTMENT PROJECTS

(As issued with Decree 52-1999-ND-CP of the Government dated 8 July 1999
and amended by Decree 12-2000-ND-CP of the Government dated 5 May 2000)

Investment projects (except for foreign direct investment projects) shall be classified into three groups: A, B and C in accordance with the following provisions:

No.	Group of Investment Project	Total Invested Capital
I. GROUP A		
1	Projects of a national confidential nature relating to national security and defence, being important in political and social aspects, and to establishment and construction of infrastructure for new industrial zones.	Irrespective of capital value
2	Projects involving the production of toxins or explosives, irrespective of size of investment.	Irrespective of capital value
3	Projects in the following industries: electricity, petroleum exploitation, petroleum processing, chemicals, fertilizer, manufacture of machinery (including procurement and building of ships, assembly of automobiles), cement, metallurgy, exploitation and processing of minerals, communication projects: namely bridges, sea ports, river ports, airports, railways, national roads.	Capital value of more than six hundred (600) billion Vietnamese dong
4	Projects in the following industries: irrigation, communications (other than those referred to in section I-3), water supply and drainage, infrastructure, electrical technology, manufacture of communication equipment, electronics, informatics, pharmaceutical chemistry, medical equipment, other mechanical works, manufacture of materials, posts and telecommunications, domestic BOT projects, construction of residential quarters, inner roads in urban areas the detailed planning of which has been approved.	Capital value of more than four hundred (400) billion Vietnamese dong
5	Projects in the following industries: infrastructure projects in new urban areas, projects involving light industry, ceramics, glass, printing, national gardens, natural conservation zones, procurement of construction equipment, agricultural and forestry production, cultivation of marine products and processing of agricultural, forestry and sea products.	Capital value of more than three hundred (300) billion Vietnamese dong

6	Projects in the following branches: health, culture, education, broadcasting, television, civil construction, warehouses, tourism, gymnastics and sports, scientific research and other projects.	Capital value of more than two hundred (200) billion Vietnamese dong
II. GROUP B		
1	Projects in the following industries: electricity, petroleum, chemicals, fertilizer, manufacture of machinery (including procurement and building of ships, assembly of automobiles), cement, metallurgy, exploitation and processing of minerals, communication projects: namely bridges, sea ports, airports, railways, national roads.	Capital value of between thirty (30) billion and six hundred (600) billion Vietnamese dong
2	Projects in the following industries: irrigation, communications (other than those referred to in section II-1), water supply and drainage, infrastructure, electrical technology, manufacture of communication equipment, electronics, informatics, pharmaceutical chemistry, medical equipment, other engineering works, manufacture of materials, posts and telecommunications, domestic BOT projects, construction of residential quarters and schools, inner roads in urban areas the detailed planning of which has been approved.	Capital value of between twenty (20) billion and four hundred (400) billion Vietnamese dong
3	Projects in the following industries: infrastructure projects in new urban areas, projects involving light industry, ceramics, glass, printing, national gardens, natural conservation zones, construction equipment, agricultural and forestry production, cultivation of marine products and processing of agricultural, forestry and sea products.	Capital value of between fifteen (15) billion and three hundred (300) billion Vietnamese dong
4.	Projects in the following branches: health, culture, education, broadcasting, television, civil construction, warehouses, tourism, gymnastics and sports, scientific research and other projects.	Capital value of between seven billion and two hundred (200) billion Vietnamese dong
III. GROUP C		
1	Projects in the following industries: electricity, petroleum, chemicals, fertilizers, manufacture of machinery (including procurement and building of ships, assembly of automobiles), cement, metallurgy, exploitation and processing of minerals, communication projects: namely bridges, sea ports, airports, railways, national roads, schools which have not been included in the planning yet (irrespective of capital value)	Capital value of less than thirty (30) billion Vietnamese dong
2	Projects in the following industries: irrigation, communications (other than those referred to in section III-1), water supply and drainage, infrastructure, electrical technology, electronics, informatics, pharmaceutical chemistry, medical	Capital value of less than twenty (20) billion Vietnamese dong

	equipment, other engineering works, manufacture of materials, posts and telecommunications, domestic BOT projects, construction of residential quarters and schools, inner roads in urban areas the detailed planning of which has been approved.	
3	Projects in the following industries: infrastructure projects in new urban areas, projects involving light industry, ceramics, glass, printing, national gardens, natural conservation zones, construction equipment, agricultural and forestry production, cultivation of marine products and processing of agricultural, forestry and sea products.	Capital value of less than fifteen (15) billion Vietnamese dong
4	Projects in the following branches: health, culture, education, broadcasting, television, civil construction, warehouses, tourism, gymnastics and sports, scientific research and other projects.	Capital value of less than seven billion Vietnamese dong
<p><i>Notes:</i></p> <ol style="list-style-type: none"> 1. Group A projects involving railways or roads shall be classified in accordance with the length and level of the respective roads or bridges and the guidelines provided by the Ministry of Communication and Transport upon agreement with the Ministry of Planning and Investment. 2. Projects for construction of offices and housing used for working purposes of State bodies shall be subject to the decision of the Prime Minister of the Government. 		

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