

NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM

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(From October 18th, 2005 to November 29th, 2005)

THE LAW ON INVESTMENT

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended and supplemented by Resolution 51/2001/QH10 passed by Legislature X of the National Assembly at its 10th Session on 25 December 2001;

This Law regulates investment activities.

CHAPTER 1

General Provisions

Article 1 *Governing scope*

This Law regulates investment activities for business purposes; the rights and obligations of investors; the guarantee of lawful rights and interests of investors; encouragement of investment and investment incentives; State administration on investment activities in Vietnam and overseas investment from Vietnam.

Article 2 *Applicable entities*

1. Domestic investors and foreign investors carrying out investment activities within the territory of Vietnam and overseas investment activities made from Vietnam.
2. Organizations and individuals involved in investment activities.

Article 3 *Interpretation of terms*

In this Law, the following terms shall be construed as follows:

1. *Investment* means an investor uses capital in the form of tangible or intangible assets for the purposes of forming assets with which to carry out investment activities in accordance with the provisions of this Law and other relevant laws.

2. *Direct investment* means a form of investment whereby the investor invests its invested capital and participates in the management of the investment activity.

3. *Indirect investment* means a form of investment by way of the purchase of share, stock, bond and other valuable papers and securities investment funds whereby the investor does not participate directly in the management of the investment activity.

4. *Investor* means any organization or individual carrying out investment activities in accordance with the laws of Vietnam comprising:

(a) Enterprises from all economic sectors established pursuant to the *Law on Enterprises*;

(b) Co-operatives and co-operative groups established pursuant to the *Law on Co-operatives*;

(c) Enterprises with foreign owned capital established prior to the date of effectiveness of this Law;

(d) Business households, individuals;

(dd) Foreign organizations and individuals; Vietnamese residing overseas; foreigners permanently residing in Vietnam;

(e) Other organizations as permitted by the laws of Vietnam.

5. *Foreign investor* means any foreign organization or individual using capital in order to carry out an investment activity in Vietnam.

6. *Enterprises with foreign owned capital* include any enterprise established by a foreign investor in order to conduct investment activities in Vietnam; or a Vietnamese enterprise in which a foreign investor has purchased its shares, merged with or acquired.

7. *Investment activity* means activity of an investor throughout the investment process comprising the stages of investment preparation, performance and management of the investment project.

8. *Investment project* means a collection of proposals for the expenditure of medium and long-term capital in order to carry out an investment activity in a specific geographical area and for a specified duration.

9. *Invested capital* means the money and other assets used to investment activity either in the form of direct investment or indirect investment.

10. *State capital* comprises capital for investment and development funded from the State Budget, capital funded by credit facilities guaranteed by the State, capital funded by credit facilities for investment and development of the State, and other investment capital of the State.

11. *Investor* means an organization or individual being a capital owner, a person representing an owner or a borrower which directly manages and uses capital in order to carry out an investment activity.

12. *Foreign investment* means the transfer of lawful capital in cash or other assets of a foreign into Vietnam in order to carry out the investment activity.

13. *Domestic investment* means the disbursement of lawful capital in cash or other assets of a domestic investor in order to carry out the investment activity in Vietnam.

14. *Offshore investment* means the transfer of lawful capital in cash or other assets of an investor from Vietnam to overseas in order to carry out the investment activity.

15. *Conditional investment sector* means a sector in which investment shall only be performed with a number of conditions attached as stipulated by law.

16. *Business co-operation contract (hereinafter referred to as BCC)* means the investment form signed between investors in order to co-operate in business and share profits or products without creating a legal entity.

17. *Build-operate-transfer contract (hereinafter referred to as BOT)* means the investment form signed by a competent State body and an investor in order to construct and operate commercially an infrastructure facility for a fixed duration; upon expiry of the duration, the investor shall transfer such facility to the State of Vietnam without payment.

18. *Build-transfer-operate contract (hereinafter referred to as BTO)* means the investment form signed by a competent State body and an investor in order to construct an infrastructure facility; upon completion of construction, the investor shall transfer the facility to the State of Vietnam and the Government shall grant the investor the right to operate commercially such facility for a fixed duration in order to recover the invested capital and gain profits.

19. *Build-transfer contract (hereinafter referred to as BT)* means the investment form signed by a competent State body and an investor in order to construct an infrastructure facility; and, upon completion of construction, the investor shall transfer the facility to the State of Vietnam and the Government shall facilitate the investor in implementing another project in order to recover the invested capital and gain profits or to make a payment to the investor in accordance with an agreement in the BT contract.

20. *Industrial zone* means a zone which specializes in the manufacture of industrial products and the provision of services for industrial manufacture, which has defined geographical boundaries and which is established in accordance with regulations of the Government.

21. *Export processing zone* means an industrial zone which specializes in the manufacture of export products and the provision of services for the manufacture of export products and export activities, which has defined geographical boundaries and which is established in accordance with regulations of the Government.

22. *High-tech zone* means a zone which specializes in research, development and application of high technologies and which provides a centre for fostering high-tech enterprises, for training human resources in high technologies and for manufacturing and trading high-tech products, which has defined geographical boundaries and which is established in accordance with regulations of the Government.

23. *Economic zone* means a zone with a separate economic area and favourable investment and business environment for investors, and which has defined geographical boundaries and which is established in accordance with regulations of the Government.

Article 4 *Policies on investment*

1 Investors shall be permitted to invest in all sectors and in all industries and business which are not prohibited by law; and shall have the right to autonomy and to make decisions on investment activities in accordance with the laws of Vietnam.

2. The State shall provide equal treatment before law to all investors from all economic sectors and as between domestic investment and foreign investment; and the State shall encourage and facilitate investment activities.

3. The State shall recognize and protect the ownership of assets, invested capital and revenue and other lawful rights and interests of investors; and shall recognize the long-term existence and development of investment activities.

4. The State undertakes to implement international treaties concerning investment of which Vietnam is a member.

5. The State shall encourage and shall create incentive policies applicable to investment in preferential sectors and geographical areas.

Article 5 *Application of law on investment, international treaties, law on foreign and international investment custom*

1. Investment activities of investors within the territory of Vietnam must comply with the provisions of this Law and other relevant laws.

2. In the case of special investment activities which are regulated by other laws, the provisions of such other laws shall apply.

3. If an international treaty of which Vietnam is a member contains provisions which are different from the provisions in this Law, the provisions of such international treaty shall prevail.

4. With respect to foreign investment activities, where the laws of Vietnam has not provided any guiding provision, the parties may agree in the contract on the application of foreign law or international investment custom, if the application of such foreign law or international investment custom is not contrary to the fundamental principles of the laws of Vietnam.

CHAPTER 2

Investment Guarantees

Article 6 *Guarantees relating to capital and assets*

1. Lawful assets and invested capital of investors shall not be nationalized or confiscated by administrative measures.
2. In a case of real necessity for the purpose of national defence and security and in the national interest, if the State acquires compulsorily or requisitions an asset of an investor, such investor shall be compensated or paid damages at the market prices at the time of announcement of such compulsory acquisition or requisition.

Payment of compensation or damages must ensure the lawful interests of investors and be made on the basis of non-discrimination between investors.

3. Any compensation or damages payable to foreign investors as provided in clause 2 of this Article shall be made in a freely convertible currency and shall be permitted to be remitted abroad.
4. Procedures and conditions for compulsory acquisition and requisition shall be in accordance with law.

Article 7 *Protection of intellectual property rights*

The State shall protect intellectual property rights during investment activities; and shall ensure the legitimate rights of investors in technology transfer in Vietnam in accordance with law on intellectual property and the relevant laws.

Article 8 *Opening markets and investments related to trade*

In order to comply with the provisions of international treaties of which Vietnam is a member, the State shall guarantee to implement the following provisions in respect of foreign investors:

1. To open the investment market in compliance with the committed schedule.
2. Not to compel an investor to undertake the following requirements:
 - (a) To give priority to the purchase or use of domestic goods or services; or to purchase compulsorily goods from a specific domestic manufacturer or services from a specific domestic service provider;
 - (b) To export goods or services at a fixed percentage; to restrict the quantity, value or type of goods or services which may be exported or of goods which may be manufactured domestically or services which may be provided domestically;
 - (c) To import goods at the same quantity and value as goods exported, or to self-balance compulsorily foreign currency from sources obtained from exported goods in order to satisfy their import requirements;

- (d) To achieve certain localization ratios during manufacture of goods;
- (dd) To achieve a stipulated level or value in their research and development activities in Vietnam;
- (e) To supply goods or provide services in a particular location whether in Vietnam or abroad;
- (g) To establish its head office in a particular location.

Article 9 *Remittance of capital and assets abroad*

1. After a foreign investor has discharged its financial obligations to the State of Vietnam, it shall be permitted to remit abroad:

- (a) Its profits derived from business activities;
- (b) Payments received from the provision of technology and services and from intellectual property;
- (c) The principal of and any interest on foreign loans;
- (d) Invested capital and proceeds from the liquidation of investments;
- (dd) Other sums of money and assets lawfully owned by the investor.

2. A foreigner working in Vietnam for an investment project shall be permitted to remit abroad his or her lawful income after having discharged his or her financial obligations to the State of Vietnam.

3. The remittance of the above sums of money shall be made in a freely convertible currency in accordance with the trading exchange rate published by a commercial bank selected by the investor.

4. Procedures for remitting abroad the sums of money relating to an investment activity shall be subject to law on foreign exchange control.

Article 10 *Application of uniform prices, fees and charges*

During the process of an investment activity, the investor shall be entitled to a uniform price, fees and charges in respect of goods and services which are controlled by the State.

Article 11 *Investment guarantees in the event of changes in law or policies*

1. If a newly promulgated law or policy contains higher benefits and incentives than those to which the investor was previously entitled, then the investor shall be entitled to the benefits and incentives pursuant to the new law as from the date the new law or policy takes effect.

2. If a newly promulgated law or policy adversely affects the lawful benefits enjoyed by an investor prior to the date of effectiveness of such law or policy, the investor shall be guaranteed to enjoy incentives the same as the investment certificate or there shall be resolution by one, a number or all of the following methods:

- (a) Continuation of enjoyment of rights and incentives;

- (b) There shall be a deduction of the loss from taxable income;
- (c) There shall be a change of the operational objective of the project;
- (d) Consideration shall be given to paying compensation in necessary circumstances.

3. Based on the provisions of law and commitments in international treaties of which Vietnam is a member, the Government shall make specific provisions on guarantee for interests of investors in the case where a change in law or policies affects adversely the interests of the investors.

Article 12 *Dispute resolution*

1. Any dispute relating to investment activities in Vietnam shall be resolved through negotiation and conciliation, or shall be referred to arbitration or to a court in accordance with law.

2. Any dispute amongst domestic investors or between a domestic investor and a State administrative body of Vietnam relating to investment activities in the territory of Vietnam shall be resolved at a Vietnamese arbitration body or court.

3. Any dispute to which one disputing party is a foreign investor or an enterprise with foreign owned capital, or any dispute between foreign investors shall be resolved by one of the following tribunals:

- (a) A Vietnamese court;
- (b) A Vietnamese arbitrator;
- (c) A foreign arbitrator;
- (d) An international arbitrator;
- (dd) An arbitrator established pursuant to the agreement of the disputing parties.

4. Any dispute between a foreign investor and State administrative body of Vietnam relating to investment activities in the territory of Vietnam shall be resolved by a Vietnamese arbitrator or court, unless otherwise provided in a contract signed between a representative of a competent State body of Vietnam with the foreign investor or in an international treaty of which the Socialist Republic of Vietnam is a member.

CHAPTER 3

Rights and Obligations of Investors

Article 13 *Right to autonomy in investment - business*

1. To select the sector in which to make an investment, the form of investment, the method of raising capital, the geographical location and scale of the investment; and to decide and select an investment partner and the duration of operation of the project.

2. To register business in one or more industries and trades, to establish enterprises in accordance with law and to make its own decisions concerning its registered investment - business activities.

Article 14 *Right to access and use investment resources*

1. Equality in access to and use of sources of credit capital and aid funds, and in use of land and natural resources in accordance with law.

2. To lease or purchase equipment and machinery either domestically or overseas in order to carry out an investment project.

3. To recruit domestic employees; to recruit foreign employees to fulfil management tasks, to provide technical labour and to provide expertise in accordance with production and business requirements, unless otherwise provided in an international treaty of which the Socialist Republic of Vietnam is a member in which case such international treaty shall apply.

Article 15 *Right to import and export, to conduct marketing and advertise, to process and re-process goods relevant to investment activities*

1. To import directly or to consignment import of equipment, machinery, raw materials, supplies and goods for investment activities; and to export directly or to export by way of authorized dealers and to sell its products.

2. To advertise and market its products and services and to enter into advertising contracts directly with organizations which are authorized to publish advertisements.

3. To undertake activities on processing or reprocessing of products; to place orders for processing or reprocessing of goods domestically, or to place orders for processing of goods overseas in accordance with law on the commercial.

Article 16 *Right to purchase foreign currencies*

1. An investor shall be permitted to purchase foreign currencies from credit institutions permitted to conduct foreign currency business to meet the demand of its current transactions, capital transactions and other transactions in accordance with the provisions of law on foreign exchange control.

2. With respect to number of important projects in the sectors of energy, construction of traffic infrastructure facilities and waste treatment, the Government shall guarantee or assist the investor in balancing foreign currency requirement.

Article 17 *Right to assign or adjust capital or investment project*

1. An investor shall have the right to assign or adjust capital or an investment project. Where profits arise from an assignment, the assignor must pay income tax in accordance with law.

2. The Government shall provide conditions for assignment or adjustment of capital or an investment project in the cases in which such conditions must be provided.

Article 18 *Mortgage of land use rights and of assets attached to land*

An investor having an investment project shall be permitted to mortgage land use rights and assets attached to land with credit institutions permitted to operate in Vietnam in order to borrow capital for implementation of the project in accordance with law.

Article 19 *Other rights of investors*

1. To receive investment incentives pursuant to this Law and other relevant laws.
2. To have access to and use public services on the principle of non-discrimination.
3. To have access to legal instruments and policies relating to investment; to data on the national economy, to data about each economic sector and to other relevant information about investment activities; and to contribute its opinions on law and policies relating to investment.
4. To lodge complaints, to make denunciations or to institute legal proceedings relating to breaches of investment law by organizations and individuals in accordance with law.
5. To exercise other rights in accordance with law.

Article 20 *Obligations of investors*

1. To comply with the provisions of law on investment procedures; to carry out investment activities correctly in accordance with the registered investment contents [and/or] the provisions of the investment certificate.

The investor shall be responsible for the accuracy and truthfulness of the registered contents and of the project file and the lawfulness of documents on certification.

2. To discharge financial obligations in accordance with law.
3. To carry out the provisions of law on accounting, auditing and statistics.
4. To perform obligations in accordance with the provision of law on insurance, on labour; to respect the honour and dignity of employees and ensure lawful rights of employees.
5. To respect and create favourable conditions for employees to establish and participate into political organizations and socio-political organizations .
6. To implement the provisions of law on protection of the environment.
7. To perform other obligations in accordance with law.

CHAPTER 4

Forms of Investment

Article 21 *Forms of direct investment*

1. To establish economic organizations in the form of one hundred (100) per cent capital of domestic investors or (100) per cent capital of foreign investors.
2. To establish joint venture economic organizations between domestic and foreign investors.
3. To invest in the contractual forms of BCC ; BOT; BTO; and BT.
4. To invest in business development.
5. To purchase shares or to contribute capital in order to participate in management of investment activities.
6. To invest in the carrying out of a merger and acquisition of an enterprise.
7. To carry out other forms of direct investment.

Article 22 *Investments to enable formation of economic organizations*

1. Based on the forms of investment provided in Article 21 of this Law, an investor shall be permitted to make an investment to enable the formation of the following economic organizations:
 - (a) Enterprises organized and operating pursuant to the *Law on Enterprises*;
 - (b) Credit institutions, insurance enterprises, investment funds and other financial organizations pursuant to law;
 - (c) Medical service, educational, scientific, cultural, sports and other services establishments which conduct investment activities for profit-making purposes;
 - (d) Other economic organizations in accordance with law.
2. In addition to the economic organizations provided in clause 1 of this Article, domestic investors shall be permitted to make an investment to enable the formation of co-operatives and co-operative groups organized and operating pursuant to the *Law on Co-operatives*; business households pursuant to law.

Article 23 *Investment in accordance with contract*

1. An investor shall be permitted to sign a BCC contract in order to co-operate in production and to share profits or to share products and other forms of business co-operation.

The contract shall set out the co-operating parties; the contents of the co-operation; the duration of business; the rights, obligations and responsibilities of

each party; the co-operative relationship between the parties and the management organization as agreed by the parties and as stated in the contract.

A BCC contract in the sector of prospecting, exploration and mining of petroleum and some other natural resources and in the form of a production sharing contract shall be implemented in accordance with the provisions in this Law and other relevant laws.

2. An investor shall be permitted to sign a BOT, BTO and BT contract with a competent State body in order to implement projects for new construction, expansion, modernization and operation of infrastructure projects in the sectors of traffic, electricity production and business, water supply or drainage, waste treatment and other sectors as stipulated by the Prime Minister of the Government.

The Government shall provide regulations on investment sectors; on the conditions, order, procedures and methods of implementation of projects; and on the rights and obligations of the parties implementing an investment project in the contractual form of BOT, BTO and BT.

Article 24 *Investment in business development*

An investor shall be permitted to develop their business via the following forms:

1. Expanding scale, increasing output capacity and business capability.
2. Renovating technology, improving product quality and reducing environmental pollution.

Article 25 *Capital contribution, purchase of shareholding, merger and acquisition*

1. Investors shall be permitted to contribute capital to and to purchase shareholding in companies and branches operating in Vietnam.

The ratio of capital contribution and share purchase of foreign investors in a number of sectors, industries and trades shall be regulated by the Government.

2. Investors shall be permitted to merge and to acquire companies and branches.

The conditions for merger and acquisition of companies and branches shall be regulated by law on competition and other relevant laws.

Article 26 *Indirect investment*

1. An investor shall be permitted to carry out the following forms of indirect investment in Vietnam:

- (a) Purchase of shares, stock, bonds and other valuable papers;
- (b) By way of securities investment funds;
- (c) By way of other intermediary financial institutions.

2. Any investment by way of purchase or sale of shares, stock, bonds and other valuable papers of individuals and organizations and procedures for conducting indirect investment activities shall be implemented in accordance with law on securities and other relevant laws.

CHAPTER 5

Investment Sectors and Geographical Areas, Investment Incentives and Support

SECTION 1

Investment Sectors and Geographical Areas

Article 27 *Incentive investment sectors*

1. Manufacture of new materials and production of new energy; manufacture of high-tech products; bio-technologies; information technology; mechanical manufacturing.
2. Breeding, rearing, growing and processing agricultural, forestry and aquaculture products; creation of artificial new plants and animal varieties.
3. Use of high technology and advanced techniques; protection of the ecological environment; research, development and creation of high-technology.
4. Use a large number of work-force.
5. Construction and development of infrastructure facilities and important industrial projects with a large scale.
6. Development of education, training, health, sports, physical education and Vietnamese culture.
7. Development of traditional crafts and industries.
8. Other manufacturing and service sectors which require encouragement.

Article 28 *Geographical areas of investment incentives*

1. Areas with difficult socio-economic conditions; areas with specially difficult socio-economic conditions.
2. Industrial zones, export processing zones, high-tech zones and economic zones.

Article 29 *Sectors in which investment is conditional*

1. Sectors in which investment is subject to conditions shall comprise:
 - (a) Sectors impacting on national defence and security, social order and safety ;
 - (b) Banking and finance sector;
 - (c) Sectors impacting public health;

(d) Culture, information, the press and publishing;

(dd) Entertainment services;

(e) Real estate business;

(g) Survey, prospecting, exploration and mining of natural resources; the ecological environment;

(h) Development of education and training;

(i) A number of other sectors in accordance with law.

2. With respect to foreign investors, in addition to the sectors provided in clause 1 of this Article, the sectors in which investment is subject to conditions shall comprise investment sectors in accordance with the schedule for implementation of international undertakings in international treaties of which Vietnam is a member.

3. Where an enterprise with foreign owned capital invested in a sector in which investment was unconditional but during the course of the investment activity the list of sectors in which investment is conditional was amended with the result that the relevant sector was included, the investor shall be permitted to continue its investment activity in that sector.

4. The same investment conditions which are applicable to domestic investors shall be applied to foreign investors where Vietnamese investors hold more than fifty one (51) per cent of the charter capital of an enterprise.

5. Based on the requirements for socio-economic development in each period and consistent with the undertakings in international treaties of which Vietnam is a member, the Government shall regulate the list of investments subject to conditions, the conditions applicable to the establishment of economic organizations, the forms of investment, and opening the market in a number of sectors as applicable to foreign investors.

Article 30 *Sectors in which investment is prohibited*

1. Projects which are detrimental to national defence and security, and the public interest.

2. Projects which are detrimental to historical and cultural traditions and ethics, and Vietnamese fine customs.

3. Projects which harm the people's health, or which destroy natural resources and the environment.

4. Projects for the treatment of toxic wastes brought into Vietnam; projects for the manufacture of any type of toxic chemicals or for the use of chemical agents prohibited by international treaties.

Article 31 *Promulgation of lists of investment incentive sectors and geographical areas of investment incentives, and of sectors in which investment is conditional*

1. Based on the master plan and strategies for socio-economic development for each period and undertakings in international treaties of which the Socialist Republic of Vietnam is a member, the Government shall issue or amend and supplement to the list of investment incentive sectors, the list of sectors in which investment is conditional, the list of sectors in which investment is prohibited, the list of geographical areas of investment incentives.

2. Ministries, ministerial equivalent bodies and people's committees of provinces and cities under central authority (hereinafter referred to as *provincial people's committees*) shall not be permitted to issue regulations specifying sectors in which investment is prohibited and sectors in which investment is conditional, or specifying investment incentives which exceed the brackets stipulated by law.

SECTION 2

Investment Incentives

Article 32 *Applicable entities and conditions for investment incentives*

1. Investors with investment projects in the investment incentive sectors and geographical areas provided in Articles 27 and 28 of this Law shall be entitled to the incentives as provided in this Law and other relevant laws.

2. The investment incentives provided in clause 1 of this Article shall be applicable to both new investment projects and investment projects for expansion of scale, for raising output capacity or business capacity; for renovation of technology or raising product quality, or for reducing environmental pollution.

Article 33 *Tax incentives*

1. Investors within the categories provided in Article 32 of this Law shall be entitled to preferential tax rates, the duration of entitlement to such rates and the duration of exemption from and reduction of tax in accordance with law on tax.

2. Investors shall be entitled to tax incentives on that portion of income which is distributed to them from an activity being capital contribution or purchase of shareholding in an economic organization in accordance with law on tax after such organization has paid in full corporate income tax.

3. Investors shall be exempt from payment of import duty on equipment, materials, means of transportation and other goods for implementation of investment projects in Vietnam in accordance with the *Law on Export and Import Duties*.

4. Income from activities of technology transfer applicable to projects entitled to investment incentives shall be exempt from income tax in accordance with law on tax.

Article 34 *Losses carried forward*

If an investor suffers losses after tax finalization with the tax authority, it shall be permitted to carry its losses forward to the following year, and the amount of such losses shall be set off against taxable income for the purposes of corporate income tax in accordance with the Law on corporate income tax. The period for carrying forward losses shall not exceed five (5) years.

Article 35 *Fixed assets depreciation*

Investment projects in investment incentive sectors and geographical areas and business projects with high economic efficiency shall be subject to fast fixed assets depreciation and the maximum rate of depreciation shall not be more than twice the level of depreciation as stipulated by regulations on fixed assets depreciation.

Article 36 *Land use incentives*

1. The term of land use of an investment project shall not exceed fifty (50) years; with respect to projects with a large amount of investment capital but slow in capital recovery, projects investing in areas with difficult socio-economic conditions and projects investing in areas with specially difficult socio-economic conditions which require a longer term, the term of land allocation or land lease shall not exceed seventy (70) years.

At the expiry of a land use term, if an investor is compliant with law on land and has a need for land using, the competent State body shall consider an application to extend the term of land use in conformity with the approved master plan of land use.

2. Investors investing in investment incentive sectors and geographical areas shall be entitled to an exemption from payment of or a reduction of land rent and land use fees in accordance with law on land and law on tax.

Article 37 *Incentives applicable to investors who invest in industrial zones, export processing zones, high-tech zones, and economic zones*

Based on the conditions for socio-economic development in each period and the principles provided in this Law, the Government shall provide for incentives applicable to investors investing in industrial zones, export processing zones, high-tech zones and economic zones.

Article 38 *Procedures for implementation of investment incentives*

1. With respect to domestic investment projects in the category for which investment is not registered and projects in the category for which investment is registered as provided in Article 45 of this Law, investors shall, on the basis of the incentives and conditions for investment incentives stipulated by law, assess themselves incentives and shall conduct procedures at the competent State body for investment incentives.

If an investor requests the certification of investment incentives, it shall conduct the procedures for investment registration in order for the State administrative body for investment to record investment incentives in the investment certificate.

2. With respect to domestic investment projects in the category for which there must be evaluation for investment as provided in Article 47 of this Law and which satisfy the conditions for incentives, the State administrative body for investment shall record incentives in the investment certificate.

3. With respect to foreign investment projects which satisfy the conditions for incentives, the State administrative body for investment shall record investment incentives in the investment certificate.

Article 39 *Circumstances in which incentives may be extended*

Where encouragement of the development of an especially important branch, a zone or a special economic zone is required, the Government may make a submission to the National Assembly for its consideration and issuance of a resolution on investment incentives other than those provided in this Law.

SECTION 3

Investment Support

Article 40 *Support for technology transfer*

1. The State shall create favourable conditions for and ensure the lawful rights and interests of parties to technology transfers including capital contribution in the form of value of technology in order to implement investment projects in Vietnam in accordance with law on technology transfer.

2. The State shall encourage the transfer into Vietnam of advanced technology, source technology and technology in order to create new products, to improve production capacity, competitiveness and product quality; and the saving and effective use of raw materials, fuel, energy and natural resources.

Article 41 *Training support*

1. The State shall encourage the establishment of assistance funds for human resources training made up by contributions from domestic and foreign organizations and individuals.

Expenses incurred by enterprises for training may be included in reasonable expenses for the purposes of calculation of taxable income.

2. The State may assist with funding from the State Budget for employee training in enterprises by way of training assistance programs.

Article 42 *Support for and encouragement of development of investment services*

The State shall encourage and provide support for organizations and individuals to provide the following investment support services:

1. Investment consultancy, management consultancy.
2. Intellectual property and technology transfer consultancy.
3. Vocational education, technical training and training on management skills.
4. Provision of market information, information about science, technical matters and technology, and other economic and social information at the request of investors.
5. Marketing, and investment and trade promotions.
6. Establishment of and participation in social organizations and socio-professional organizations.
7. Establishment of design and testing centres in order to assist the development of small and medium-sized enterprises.

Article 43 *Investment in infrastructure systems for industrial zones, export processing zones, high-tech zones and economic zones*

1. Based on the master plan for the development of industrial zones, export processing zones, high-tech zones and economic zones as approved by the Government, ministries and provincial people's committees shall formulate investment master plans for and arrange construction of technical and social infrastructure systems outside the fence of industrial zones, export processing zones, high-tech zones and economic zones which are under their management.

2. With respect to a number of localities containing areas with difficult socio-economic conditions and areas with specially difficult socio-economic conditions, the State shall provide partial assistance to localities in order to invest jointly with investors in the development of infrastructure facilities inside the fence of industrial zones and export processing zones in accordance with regulations of the Government.

3. The State shall provide investment capital from the State Budget and preferential credit funds in order to assist investment in the development of technical and social infrastructure systems of high-tech zones and economic zones, and shall apply a number of methods of raising capital in order to invest in the development of infrastructure facilities of high-tech zones and economic zones.

Article 44 *Entry and exit visas*

Investors carrying out investment activities and experts and technicians being foreign individuals who work regularly for an investment project in Vietnam and their family members shall be issued with multiple entry and exist visas. The maximum term of a visa shall be five (5) years on each occasion of issuance of a visa.

CHAPTER 6

Direct Investment Activities

SECTION 1

Investment Procedures

Article 45 *Procedures for registration of investment in respect of domestic investment projects*

1. With respect to domestic investment projects which have an invested capital of below fifteen (15) billion Vietnamese dong and which are not included in the list of sectors of investment subject to conditions, the investors shall not be required to perform the procedures for investment registration.

2. With respect to domestic investment projects which have an invested capital of between fifteen (15) billion Vietnamese dong and below three hundred (300) billion Vietnamese dong and which are not included in the list of sectors of investment subject to conditions, the investors shall perform the procedures for investment registration in the sample form at a provincial State administrative body for investment.

Where an investor requests issuing an investment certificate, the provincial State administrative body for investment shall issue an investment certificate.

3. Items of investment registration shall comprise the following:

- (a) Legal status of the investor;
- (b) Objectives, scale and location for implementation of the investment project;
- (c) Invested capital, project implementation schedule;
- (d) Land use requirements and undertakings on environmental protection;
- (dd) Proposal for investment incentives (if any);

4. The investor shall carry out the investment registration prior to implementation of its investment project.

Article 46 *Procedures for registration of investment in respect of foreign investment projects*

1. Foreign invested projects which have an invested capital of below three hundred (300) billion Vietnamese dong and which are not included in the list of sectors of investment subject to conditions, the investors shall perform the procedures for investment registration at a provincial State administrative body for investment for issuance of an investment certificate.

2. The file for investment registration shall comprise:

- (a) Document on the items provided in Article 45.3 of this Law;
- (b) Report on financial ability of the investor;

(c) Joint venture contractor BCC contract and Charter of the enterprise (if any).

3. The provincial State administrative body for investment shall issue an investment certificate within a time-limit of fifteen (15) days from the date of receipt of the complete and valid file for investment registration.

Article 47 *Evaluation of investment projects*

1. With respect to domestic investment projects or foreign invested projects which have an invested capital of three hundred (300) billion Vietnamese dong or more and projects on the list of sectors of investment subject to conditions, the procedures for evaluation must be performed for issuance of an investment certificate.

2. The time-limit for evaluation of investment shall not exceed thirty (30) days from the date of receipt of a complete and valid file. In necessary cases, the above time-limit may be extended but not beyond forty five (45) days.

3. With respect to important national projects, the National Assembly shall decide on the policy for and shall provide regulations on the criteria for these projects, and the Government shall provide regulations on the order and procedures for evaluation and for issuance of investment certificates.

4. The Government shall provide regulations on decentralization of evaluation of investments and issuance of investment certificates.

Article 48 *Procedures for evaluation with respect to projects which have an invested capital of three hundred (300) billion Vietnamese dong or more and which are not included in the list of sectors of investment subject to conditions*

1. The project file shall include:

(a) Written request for issuance of an investment certificate;

(b) Document certifying the legal status of the investor;

(c) Report on financial ability of the investor;

(d) Eco-technical explanatory statement containing the items in relation to objectives of the investment, location; land use requirement; investment scale; invested capital; project implementation schedule, technological solutions; and environmental solutions.

(dd) With respect to foreign investors, [*in addition to the above documents*] the file shall include joint venture contract or business co-operation contract and Charter of the enterprise (if any).

2. Items to be evaluated shall comprise:

(a) compliance with master planning for technical infrastructure, master planning for land use, master planning for construction, master planning for utilization of natural resources and other resources;

(b) land use demand;

(c) project implementation schedule;

(d) Environmental solutions.

Article 49 *Procedures for evaluation in respect of projects on the list of sectors of investment subject to conditions*

1. Procedures for evaluation with respect to projects with an invested capital of below three hundred (300) billion Vietnamese dong and which are included in the list of sector of investment subject to conditions are provided as follows.

(a) The project file shall comprise the explanatory statement of conditions which the investment project must satisfy; the items of investment registration provided in Article 45.3 of this Law in the case of domestic projects or Article 46.2 of this Law in the case of projects with foreign owned capital;

(b) Items to be evaluated comprise: conditions which the investment project must satisfy.

2. Procedures for evaluation with respect to projects with an invested capital of three hundred (300) billion Vietnamese dong or more and which are included in the list of sector of investment subject to conditions are provided as follows.

(a) The project file shall comprise the explanatory statement of conditions which the investment project must satisfy; the items of the evaluation file provided in Article 48.1 of this Law;

(b) Items to be evaluated: conditions which the investment project must satisfy and the items provided in Article 48.2 of this Law.

Article 50 *Procedures for investments involving establishment of economic organization*

1. Foreign investors investing in Vietnam for the first time must have an investment project and perform the procedures for registration or evaluation of investment at the State administrative body for investment in order to be issued with an investment certificate. The investment certificate shall also be the business registration certificate.

2. Where an economic organization with foreign invested capital which has been established in Vietnam has a new investment project, it shall be permitted to conduct procedures to implement such investment project without the requirement to establish a new economic organization.

3. Where domestic investors establish an economic organization associated with an investment project, it shall accordance with the Law on Enterprises and relevant laws and carry out the investment procedures in accordance

Article 51 *Amendment to foreign invested capital projects*

1. When there is a need to amend an investment project relating to the objective, scale, location, form, capital or duration of a project, the investor shall conduct the following procedures:

(a) With respect to projects for which investment is registered, the investor shall make their own decisions on items to be amended and register them with the provincial State administrative body for investment within a time-limit of ten (10) days from the date of the decision on amendment;

(b) With respect to projects which are evaluated for investment, the investor shall submit an application for amendment to the investment project to the competent State administrative body for investment for consideration of the amendment.

The application for amendment to an investment project shall comprise status report on implementation of the project, reasons for amendment; changes compared with the evaluated items:

2. The State administrative body for investment shall notify the investor of the amendment to the investment certification within a time-limit of fifteen (15) days from the date of receipt of a complete and valid application file.

3. An amendment to an investment project shall be implemented in the form of an amendment and/or supplement to the contents of the investment certificate.

Article 52 *Duration of foreign investment projects*

The operational duration of a foreign investment project shall be commensurate with the requirements for operation of the project and shall not exceed fifty (50) years. Where necessary, the Government shall decide on a longer duration for each project, but the maximum duration shall not exceed seventy (70) years

The duration of a project shall be recorded in the investment certificate.

Article 53 *Responsibilities for project formulation, making investment decisions and evaluating investments*

1. Investors shall make their own decisions on investment projects; and they shall be responsible for the authenticity of the contents of their registered investment for their investment project application files and for implementing their investment undertakings as registered.

2. Organizations and individuals authorized to formulate projects, make investment decisions, to evaluate and/or to certify investments shall be liable before law for their proposals and for their decisions.

Article 54 *Selection of investor for project where a number of investors show interest*

Where two or more investors show interest in an important project identified in master planning for an industry [or branch], selection of the investor to implement the project must be conducted by way of tendering in accordance with law on tendering.

SECTION 2

Commencement of Implementation of Investment Projects

Article 55 *Land lease, hand-over and receipt of land for implementation of investment projects*

1. For investment projects requiring land, the investor shall contact the land management competent body in the location where the project is to be implemented in order to carry out procedures for allocation or lease of land.

The order and procedures for allocation or lease of land shall be implemented in accordance with law on land.

2. Where land has already been handed over to an investor which fails to proceed with implementation of the project within the stipulated time-limit or which uses the land for an incorrect purpose, the land shall be recovered in accordance with the *Law on Land* and the investment certificate of the investor shall be withdrawn.

Article 56 *Preparation of construction sites*

1. Where land is recovered by the State in accordance with law on land, the State competent body shall be responsible to recover the land, to pay compensation and to clear the site prior to allocation or lease of the land to the investor.

The recovery of land, payment of compensation and site clearance shall be carried out in accordance with law on land.

2. Where an investor sub-leases land from a land user to which the State allocates or leases land, the investor shall be responsible to itself arrange payment of compensation and site clearance.

Where the investor has agreed with the land user on the compensation and site clearance but the land user fails to perform the obligations as agreed, the competent people's committee where the investment project is situated shall be responsible for conducting the site clearance prior to hand-over of the site to the investor in accordance with law.

3. In the case of an investment project which complies with the land use master plan approved by the competent State body, the investor shall be permitted to accept an assignment of the land use right or of the lease of the land use right, or to receive capital contribution by way of the land use right from an economic organization, family household or individual in accordance with law on land without having to carry out procedures for land recovery.

Article 57 *Procedures for implementing investment projects involving mining and use of natural resources and minerals*

Investment projects involving mining and use of natural resources and minerals shall be implemented in accordance with law on natural resources and minerals.

Article 58 *Implementation of investment projects involving construction*

1. With respect to investment projects involving construction, the formulation, evaluation and approval of the technical design, estimates and total estimated budget shall be carried out in accordance with law on construction.
2. The investor shall be responsible for the quality of the construction works and for protection of the environment.

Article 59 *Evaluation of machinery and equipment*

Investors shall be liable for inspection of the value and quality of equipment imported in order to form fixed assets [and] to implement an investment project.

Article 60 *Sale of products in Vietnamese market*

1. Investors shall be permitted to sell their products in Vietnam directly or by way of selling agents without any restriction on the geographical area of sales; and shall be permitted to act as selling agents for the products of other organizations or individuals having similar types of products made in Vietnam.
2. Investors may make their own decision on the selling price of products they produce and of services they provide. In the case of goods and services for which the State controls prices, the selling price shall be in accordance with the price framework announced by the competent State body.

Article 61 *Foreign currency accounts and Vietnamese dong accounts*

1. Investors shall be permitted to open foreign currency accounts and Vietnamese dong accounts with banks authorized to operate in Vietnam. Investors may also open accounts with overseas banks with approval from the State Bank of Vietnam.
2. The opening, use and closing of bank accounts with domestic and overseas banks shall be implemented in accordance with regulations of the State Bank of Vietnam.

Article 62 *Insurance*

Investors shall take out property insurance and other types of insurance on the basis of insurance contracts entered into with insurance companies engaged in insurance business activities in Vietnam in accordance with law on insurance.

Article 63 *Hire of management organizations*

1. An investor shall be permitted to hire a management organization(s) to manage its investments and the business operation of its investment projects in those sectors in which in-depth management skills are required.
2. An investor shall be liable before the laws of Vietnam for all of the operations of its management organization with respect to the management activities stipulated in the management contract.
3. The management organization shall be liable to the investor for management of its investments and the business operation of its investment projects, and must

comply with the laws of Vietnam during the exercise of rights and obligations in accordance with the provisions of the management contract and shall be liable directly before the laws of Vietnam for any activities beyond the scope of the management contract.

Article 64 *Temporary postponement of projects; revocation of investment certificates*

1. If an investor needs to postpone temporarily a project, the investor must report to the State administrative body for investment for verification of any grounds for a consideration of exemption or reduction of land rent during the period for which the project is temporarily postponed.
2. With respect to investment projects which have been issued with an investment certificate, if after twelve (12) months the investor has failed to proceed with implementation of the project in accordance with the schedule undertaken without a legitimate reason, the issued investment Certificate shall be revoked.

Article 65 *Termination of operation of investment projects*

The operation of an investment project shall be terminated in any one of the following cases:

1. Upon expiry of the duration of operation as stipulated in the investment Certificate.
2. In accordance with the conditions which will result in termination as stipulated in the contract, charter of the enterprise or agreement or undertakings of investors about the project implementation schedule.
3. Where the investor decides to terminate the operation of the project.
4. The operation is terminated pursuant to the decision of the State administrative body for investment or a judgement of the court or arbitration due to a breach of law.

Article 66 *State guarantee for a number of works and important projects*

Based on the principles provided in this Law, the Government shall decide on important projects and provision of guarantees for loans, supply of raw materials, sale of products, payment and guarantee for performance of other contractual obligations to projects; and shall also make a decision on the competent State body to represent the Government in acting as guarantor.

CHAPTER 7

Business Investments Funded by State Capital

Article 67 *Requirements of management of investment - business funded by the State*

1. Investment or business using State owned capital must be consistent with the strategy, master plan and specific plans for socio-economic development in each period.

2. Investments or business using State owned capital must be for the correct objective and must be effective, and the method of management of the investment must be appropriate for each funding source or each type of investment projects; the investment process must be transparent and must be publicized.

3. The use of State owned capital for investment or joint venture or business co-operation with other economic sectors in accordance with law must be evaluated and approved by the body authorized to make the investment decision.

4. There must be a clear classification of the responsibilities and rights of bodies, organizations and individuals participating in the investment process; in the assignment or delegation of the powers to undertake State management of investment or business activities using State owned capital.

5. Investments using State owned capital must be lawful, must comply with the relevant schedule, quality standards and must be concentrated and must not involve waste, loss or secrecy.

Article 68 *Investment or business using State owned capital in economic organizations*

1. Capital from the State Budget shall be invested in economic organizations by way of the State Capital Investment Corporation.

2. The State Capital Investment Corporation shall operate pursuant to law on State owned enterprises and other relevant laws and shall exercise the rights of the representative of the owner of State owned capital in single member limited liability companies, in limited liability companies with two or more members, and in shareholding companies converted from independent State companies or in newly established State companies.

3. The Government shall provide regulations on the organization and operation of the State Capital Investment Corporation.

Article 69 *Investment by the State in public utility enterprises*

1. The State shall invest in the manufacture and supply of public utility goods and services by way of assigning plans, placing orders or conducting tendering.

2. Organizations and individuals from all economic sectors shall be entitled to equal participation in the manufacture and supply of public utility goods and services, except in special cases pursuant to regulations of the Government.

The Government shall promulgate a policy on assistance for public utility activities and a list of public utilities and products .

Article 70 *Investment using investment and development credit facilities of the State*

1. Entities entitled to use investment and development credit facilities of the State shall be investment projects in a number of important industries and sectors and major economic programs which will bring socio-economic benefits and which have the capacity to repay loans.

A project which applies to borrow investment and development credit facilities of the State must be evaluated and approved by the lender with respect to its financial proposal and loan repayment plan prior to any investment decision being made.

2. The Government shall issue specific regulations on the policy on assistance for investment from investment and development credit facilities of the State, on the list of potential borrowers and on conditions applicable in each period.

Article 71 *Organizations and individuals which may be assigned to manage investments using State owned capital*

The organization or individual appointed as representative of the owner of State owned capital shall be responsible for the preservation and development of such capital and for the effective use of such capital.

The organization or individual being the direct representative of the owner of the State owned capital or representative of the State owned shareholding in an enterprise shall perform the obligations and exercise the rights in accordance with law on management and use of State owned capital and the Law on Enterprises.

Article 72 *Amendment to contents, deferment, suspension and rescission of investment projects*

1. When it becomes necessary to amend the contents of an investment project, the investor must submit an explanation of the reasons therefore together with the proposed changes to the body authorized to make the investment decision for his consideration and decision. Projects which have already commenced implementation must provide a report on assessment of the project.

2. Only after the authorized body has provided written approval for amendment to the contents of an investment project shall the investor be permitted to formulate the amended project, organize the verification of it and submit it for approval.

3. Investment projects shall be deferred, suspended or rescinded in the following circumstances:

(a) The investor fails to commence implementation of the project within twelve (12) months from the date of the investment decision without written approval from the authorized body;

(b) There is a change in the objective of the project without written approval from the authorized body.

4. When an authorized body issues a decision to postpone, suspend or rescind an investment project, such person shall specify the reasons thereof and shall be liable before law for his or her decision.

Article 73 *Selection of contractors to implement projects*

Tendering must be conducted for selection of the contractor to provide consultancy services, for procurement of goods, and for construction and installation in the case of investment projects funded by State owned capital in accordance with law on tendering.

CHAPTER 8

Investment to overseas

Article 74 *Investment to overseas*

1. Investors shall be permitted to make investments to overseas in accordance with the laws of Vietnam and the laws of the investment recipient country.
2. The State shall facilitate the investments to overseas and shall protect the interests of Vietnamese investors investing overseas in accordance with the provisions of international treaties of which Vietnam is a member.
3. The State shall guarantee and create favourable conditions for investors to access sources of credit capital on the basis of equality and non-discrimination between economic sectors; and shall have a policy of guaranteed credit facilities for investments to overseas in sectors in which investment is specially encouraged.

Article 75 *Sectors in which investment to overseas is encouraged and sectors in which investment to overseas is prohibited*

1. The State of Vietnam shall encourage economic organizations in Vietnam to conduct investment to overseas in respect of labour export; sectors which stimulate effectively the traditional industries and crafts of Vietnam; market expansion; exploitation of natural resources within the investment zones; and shall encourage the increase of export potential and the bringing in of foreign currency.
2. The State of Vietnam shall not issue licences for investment to overseas in respect of projects which may be detrimental to national secrets, national security and defence, or which are detrimental to historical and cultural traditions and Vietnamese fine customs.

Article 76 *Conditions for investment to overseas*

1. In order to be permitted to make an investment to overseas in the form of a direct investment, an investor must satisfy all of the following conditions:
 - (a) Have an investment project to overseas;
 - (b) Fully comply with all financial obligations to the State of Vietnam;
 - (c) Have an investment Certificate as issued by the State administrative body for investment.
2. Investments to overseas in the form of an indirect investment must comply with law on banking and securities and with other relevant legislation.
3. The use of State owned capital to make investments to overseas must comply with law on management and use of State owned capital.

Article 77 *Rights of investors in investing to overseas*

1. To remit overseas investment capital in lawful cash or other assets in order to implement an investment in accordance with law on foreign exchange control after obtaining an approval of competent body of foreign country or territory.
2. To be entitled to investment incentives in accordance with law.
3. To recruit Vietnamese employees in order to send them overseas to work in the business and production establishments which the investor establishes overseas.

Article 78 *Obligations of investors in investing to overseas*

1. To comply with the laws of the investment recipient country.
2. To repatriate profit and other income from offshore investment activities in accordance with law.
3. To comply with the financial reporting and operational reporting regime of the investment recipient country.
4. To comply with financial and tax obligations to the State of Vietnam.
5. To repatriate all entire lawful investment capital and assets in accordance with law at the end of the overseas investment,
6. Where an investor is unable to remit capital, profit and income from offshore investment activities back to Vietnam as provided in clauses 2 and 5 of this Article, the consent of the competent State administrative body shall be required.

Article 79 *Procedures for investment to overseas*

1. Investment projects to overseas shall comprise:
 - (a) Projects for which investment is registered, comprising projects with an invested capital of below fifteen (15) billion Vietnamese dong;
 - (b) Projects which are evaluated for investment, comprising investment projects with invested capital from fifteen (15) billion Vietnamese dong or more.
2. Procedures for investment registration and evaluation:
 - (a) Investors of projects for which investment is registered shall register their investment on the sample form at the provincial State administrative body for investment in order to be issued with an investment Certificate;
 - (b) Investors of projects for which investment is evaluated shall lodge their investment file in the sample form at the provincial State administrative body for investment in order to be evaluated for issuance of an investment Certificate.

The Government shall issue regulations on specific offshore investment sectors which are encouraged, in which investment is prohibited and in which investment is restricted; on conditions for offshore investment, on applicable incentives; on

order and procedures and on authority for management over offshore investment activities.

CHAPTER 9

State Administration on Investment

Article 80 *State administration on investment*

1. Formulation of strategies, master plans, specific plans and policies for the development of investment and directing the implementation thereof.
2. Promulgation of legal instruments on investment and organizing the implementation thereof.
3. Guidance and assistance to investors in the implementation of investment projects, resolution of difficulties of investors and responding to questions from investors.
4. Issuance and revocation of investment Certificates.
5. Guidance on, and assessment of investment efficiency, check, inspection and supervision of investment activities; resolution of complaints and denunciations; grant of rewards; dealing with breaches of law during investment activities.
6. Providing human resource training for investment-related activities.
7. Organizing investment promotion activities.

Article 81 *Responsibilities for State management over investment*

1. The Government shall administrate the investment in the whole country.
2. The Ministry of Planning and Investment shall be responsible before the Government for State administration on investment activities.
3. Ministries, ministerial equivalent bodies shall, within the scope of their respective duties and powers, be responsible for State administration on investment within the respective assigned sectors
4. People's committees at all levels shall be responsible to exercise State administration on investment within their respective areas in accordance with the authority assigned by the Government.

Article 82 *Administration on investment in accordance with master plans*

1. The Government shall issue regulations on formulation and submission for approval of master plans in accordance with law on master plans.
2. Investment projects must comply with master plans: master plans for the technical infrastructure, land use master plan, construction master plans, and master plans for use of water resources and mineral resources.

Regional and industry master plans and master plans for products must conform to sectors in which investment incentives are granted, geographical areas in which investment incentives are granted, sectors in which investment is conditional and sectors in which investment is prohibited as provided in Articles 27, 28, 29 and 30 of this Law and shall be guidelines for investors to select and make decisions on investment.

3. State administrative bodies responsible for master planning shall be responsible to proclaim publicly on the mass media master plans relating to investment activities.

4. With respect to projects for which there is as yet no master plan as provided in this Article, the State administrative body responsible for investment shall be responsible to act as co-ordinator with the State administrative bodies responsible for master planning to respond to the investors within a time-limit of thirty (30) working days from the date of a request from an investor.

Article 83 *Investment promotion*

1. The investment promotion activities by State bodies at all levels shall be implemented in accordance with regulations of the Government.

2. Funds for investment promotion activities by State bodies shall be granted from the State Budget.

Article 84 *Monitoring and assessment of investment activities*

1. State administrative bodies for investment at all levels shall monitor, assess and report on investment activities in accordance with law.

2. The contents of monitoring and assessment of investment shall comprise:

(a) Promulgation of documents providing guidelines on law pursuant to authority and implementation of regulations on investment;

(b) Status of implementation of investment projects in accordance with the provisions in investment certificates;

(c) Results of investment by ministries, branches and localities; and of investment projects in accordance with delegated authority;

(d) Reports to the State administrative body at the same level, the higher level State administrative body for investment on the results of assessment of investment, with recommendations on measures for dealing with difficulties and breaches of law on investment.

Article 85 *Inspectorate for Investment Activities*

1. The Investment Inspectorate shall have the following duties:

(a) To inspect the implementation of law and policies on investment;

(b) To detect, prevent and deal with breaches of law on investment in accordance with its powers, or recommend that the competent State body deal with such breaches;

(c) To verify complaints and denunciations relating to investment activities and to recommend that the competent State body deal with such complaints and denunciations.

3. The organizational apparatus and activities of the Investment Inspectorate shall be implemented in accordance with law on inspectorates.

Article 86 *Complaints, denunciations and institution of legal proceedings*

1. The lodging of complaints, the making of denunciations and the resolution of complaints and denunciations relating to investment activities shall be implemented in accordance with law on complaints and denunciations.

2. Individuals shall have the right to lodge complaints and to make denunciations; and organizations shall have the right to complain about breaches of this Law to the State administrative body for investment or to institute legal proceedings before the courts in accordance with law on complaints and denunciations.

3. While complaints, denunciations or legal proceedings are pending, organizations and individuals must continue to carry out administrative decisions of the State administrative body for investment. When there is a decision on resolution of the complaint or denunciation from the competent State administrative body for investment or a legally effective decision or judgment from a court, [*the relevant parties shall*] implement such decision or judgment.

Article 87 *Dealing with breaches*

1. Any person committing a breach of law on investment or of other laws relating to investment activities shall, depending on the nature and seriousness of the breach, be subject to a disciplinary or administrative penalty or be subject to criminal prosecution; if the breach of law causes loss and damage, the offender shall be liable to pay damages for such loss in accordance with law.

2. Any person who abuses his or her position or powers to obstruct investment activities, who harasses investors, who fails to resolve promptly requests of investors, or who fails to perform other official tasks stipulated by law shall, depending on the nature and seriousness of the breach, be subject to a disciplinary action, administrative penalty or criminal prosecution.

CHAPTER 10

Implementing Provisions

Article 88 *Application of law to projects being implemented prior to date of effectiveness of this Law*

1. Projects with foreign owned capital which were issued with investment licences prior to the date of effectiveness of this Law shall not be required to carry out procedures for re-issuance of investment certificates; if an investor has a requirement to re-register investment in accordance with the *Law on Investment*, the investor shall carry out registration procedures for replacement of the former licence with a new investment certificate.

2. Projects with domestic owned capital which commenced implementation prior to the date of effectiveness of this Law shall not be required to carry out procedures for investment registration or evaluation of investment; if an investor has a requirement to replace [its former licence] with a [new] investment certificate, the investor shall only register with the competent State administrative body for investment.

Article 89 *Effectiveness*

This Law shall be of full force and effect as from 1 July 2006.

This Law shall replace the 1996 *Law on Foreign Investment in Vietnam*, the 2000 *Law on Amendment and Supplement to a Number of Articles of the Law on Foreign Investment in Vietnam* and the 1998 *Law on Promotion of Domestic Investment*.

The Government shall provide detailed regulations for implementation of this Law.

This Law was passed by the National Assembly of the Socialist Republic of Vietnam, Legislature XI, 8th session.

THE CHAIRMAN OF THE NATIONAL ASSEMBLY

(Sealed and signed)

Nguyen Van An