

NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness

Hanoi, 12 November 1996  
(as amended 9 June 2000)

# **LAW ON FOREIGN INVESTMENT IN VIETNAM**

In order to expand economic co-operation with foreign countries and to support the cause of modernization, industrialization and development of the national economy on the basis of the efficient exploitation and utilization of national resources;

In accordance with the 1992 Constitution of the Socialist Republic of Vietnam;

This Law makes provisions for foreign direct investment in the Socialist Republic of Vietnam.

## **CHAPTER I**

### **General Provisions**

#### **Article 1**

The State of the Socialist Republic of Vietnam encourages foreign investors to invest in Vietnam on the basis of respect for the independence and sovereignty of Vietnam, observance of its law, equality and mutual benefit.

The State of Vietnam protects the ownership of invested capital and other legal rights of foreign investors, provides favourable conditions and formulates simple and prompt procedures for foreign investors investing in Vietnam.

**Article 2**

In this Law, the following terms shall have the meanings ascribed to them hereunder:

1. *Foreign direct investment* means the bringing of capital into Vietnam in the form of money or any assets by foreign investors for the purpose of carrying on investment activities in accordance with the provisions of this Law.
2. *Foreign investor* means a foreign economic organization or individual investing in Vietnam.
3. *Foreign party* means one party comprising one or more foreign investors.
4. *Vietnamese party* means one party comprising one or more Vietnamese enterprises from any economic sector.
5. *Two parties* means the Vietnamese party and the foreign party.  
*Multi-party* means a Vietnamese party and more than one foreign party, or a foreign party and more than one Vietnamese party, or more than one Vietnamese party and more than one foreign party.
6. *An enterprise with foreign owned capital* includes a joint venture enterprise and an enterprise with one hundred (100) per cent foreign owned capital.
7. *A joint venture enterprise* means an enterprise established in Vietnam by two or more parties on the basis of a joint venture contract or an agreement between the Government of the Socialist Republic of Vietnam and a foreign government, or an enterprise established on the basis of a joint venture contract between an enterprise with foreign owned capital and a Vietnamese enterprise or between a joint venture enterprise and a foreign investor.
8. *An enterprise with one hundred (100) per cent foreign owned capital* means an enterprise in Vietnam the capital of which is one hundred (100) per cent invested by foreign investor(s).
9. *A business co-operation contract* means a written document signed by two or more parties for the purpose of carrying on investment activities without creating a legal entity.
10. *A joint venture contract* means a written document signed by the parties referred to in item 7 of this article for the establishment of a joint venture enterprise in Vietnam.
11. *A Build-Operate-Transfer contract* means a written document signed by an authorized State body of Vietnam and a foreign investor(s) for the

construction and commercial operation of an infrastructure facility for a fixed duration; upon expiry of the duration, the foreign investor(s) shall, without compensation, transfer the facility to the State of Vietnam.

12. *A Build-Transfer-Operate contract* means a written document signed by an authorized State body of Vietnam and a foreign investor(s) for the construction of an infrastructure facility; upon completion of construction, the foreign investor shall transfer the facility to the State of Vietnam and the Government of Vietnam shall grant the investor the right to operate commercially the facility for a fixed duration in order to recover the invested capital and gain reasonable profits.
13. *A Build-Transfer contract* means a written document signed by an authorized State body of Vietnam and a foreign investor(s) for the construction of an infrastructure facility; upon completion of construction, the foreign investor shall transfer the facility to the State of Vietnam and the Government of Vietnam shall create conditions for the foreign investor to implement other investment projects in order to recover the invested capital and gain reasonable profits.
14. *An Export Processing Zone* means an industrial zone specializing in the production of exports and the provision of services for the production of exports and export activities with specified boundaries established, or permitted to be established, by the Government.
15. *An Export Processing Enterprise* means an enterprise which specializes in the production of exports and the provision of services for the production of exports and export activities and which is established and operated in accordance with the regulations of the Government on export processing enterprises.
16. *An Industrial Zone* means a zone which specializes in the production of industrial goods and the provision of services for industrial production established, or permitted to be established, by the Government of Vietnam.
17. *An Industrial Zone Enterprise* means an enterprise established and operated within an Industrial Zone.
18. *Invested capital* means the capital required to implement an investment project, including legal capital and loan capital.
19. *Legal capital* of an enterprise with foreign owned capital means the capital required to establish the enterprise as stated in its charter.
20. *Capital contribution* means the capital contributed by a party to the legal capital of an enterprise.

21. *Reinvestment* means using profits and other lawful earnings from investment activities in Vietnam to invest in projects which are being implemented or to make new investments in Vietnam under any of the forms stipulated in this Law.

### Article 3

Foreign investors may invest in Vietnam in sectors of its national economy.

The State of Vietnam encourages foreign investors to invest in the following sectors and regions:

1. Sectors:
  - (a) Production of exports;
  - (b) Animal husbandry, farming and processing of agricultural produce, forestry, and aquaculture;
  - (c) Utilization of high technology and modern techniques, protection of ecological environment and investment in research and development;
  - (d) Labour intensive activities, processing of raw materials and efficient utilization of natural resources in Vietnam;
  - (e) Construction of infrastructure facilities and important industrial production establishments.
2. Regions:
  - (a) Regions with difficult socio-economic conditions;
  - (b) Regions with specially difficult socio-economic conditions.

The State of Vietnam will not license any foreign investment project in sectors or regions which may have adverse effects on national defence, national security, cultural and historical heritage, fine custom and tradition, or the ecological environment.

Based on the development planning and orientation for each period, the Government shall stipulate the regions in which investment is encouraged and shall issue lists of encouraged investment projects and specially encouraged investment projects, lists of sectors in which licensing of investment is conditional, and lists of sectors in which investment will not be licensed.

Private Vietnamese economic organizations shall be permitted to co-operate with foreign investors in sectors, and subject to conditions, stipulated by the Government.

## CHAPTER II

### Forms of Investment

#### Article 4

Foreign investors may invest in Vietnam in any of the following forms:

1. Business co-operation on the basis of a business co-operation contract;
2. Joint venture enterprise;
3. Enterprise with one hundred (100) per cent foreign owned capital.

#### Article 5

Two or more parties may, on the basis of a business co-operation contract, enter into a business co-operation, such as profit sharing production, product sharing co-operation, or other business co-operation.

The parties shall agree on, and expressly state in the business co-operation contract, the objects, nature and duration of the business, their respective rights, obligations and responsibilities, and the relationship between them.

#### Article 6

Two or more parties may, on the basis of a joint venture contract, co-operate to establish a joint venture enterprise in Vietnam.

A joint venture enterprise may co-operate with foreign investor(s) or Vietnamese enterprises to establish a new joint venture enterprise in Vietnam.

A joint venture enterprise shall be established in the form of a limited liability company and shall be a legal entity in accordance with the law of Vietnam.

**Article 7**

1. The foreign party to a joint venture enterprise may make its contribution to the legal capital in:
  - (a) Foreign currency or Vietnamese currency originating from investments in Vietnam;
  - (b) Equipment, machinery, plant and other construction works;
  - (c) The value of industrial property rights, technical know-how, technological processes and technical services.
2. The Vietnamese party to a joint venture enterprise may make its contribution to the legal capital in:
  - (a) Vietnamese currency or foreign currency;
  - (b) The value of the right to use land in accordance with the law on land;
  - (c) Resources, the value of the right to use water and sea surfaces in accordance with the law;
  - (d) Equipment, machinery, plant and other construction works;
  - (e) The value of industrial property rights, technical know-how, technological processes and technical services.
3. Contribution of capital by the parties in forms other than those stipulated in clauses 1 and 2 of this article must be approved by the Government.

**Article 8**

Capital contribution of a foreign party or foreign parties to the legal capital of a joint venture enterprise shall be agreed by the parties and shall not be limited provided that the contribution is not less than thirty (30) per cent of the legal capital, except in cases stipulated by the Government.

In the case of a multi-party joint venture enterprise, the minimum capital contribution to be made by each Vietnamese party shall be determined by the Government.

With respect to important economic establishments as determined by the Government, the parties shall agree to increase gradually the proportion of the Vietnamese party's contribution to the legal capital of the joint venture enterprise.

**Article 9**

The value of the capital contribution made by each party to a joint venture enterprise shall be calculated by reference to the market price at the time of contribution. The capital contribution schedule shall be agreed by the parties, stated in the joint venture contract and approved by the body in charge of State management of foreign investment.

The value of equipment and machinery contributed as capital must be certified by an independent inspection organization.

The parties shall be responsible for the truth and accuracy of the value of their respective capital contributions. Where necessary, the body in charge of State management of foreign investment has the right to appoint an inspection organization to revalue the capital contribution of each party.

**Article 10**

The parties shall share the profits and bear the risks associated with a joint venture enterprise in proportion to their respective capital contributions, except where it is otherwise agreed by the parties as stated in the joint venture contract.

**Article 11**

The board of management shall be the body in charge of the management of the joint venture enterprise and shall comprise representatives of the parties to the joint venture enterprise.

Each party to a joint venture enterprise shall appoint members to the board of management in proportion to its capital contribution to the legal capital of the joint venture enterprise.

In the case of a two-party joint venture enterprise, each party shall have at least two members on the board of management.

In the case of a multi-party joint venture, each party shall have at least one member on the board of management.

If a joint venture enterprise has one Vietnamese party and more than one foreign party, or one foreign party and more than one Vietnamese party, the Vietnamese or foreign party concerned shall have the right to appoint at least two members to the board of management.

In respect of a joint venture enterprise established by an existing joint venture enterprise in Vietnam and a foreign investor or a Vietnamese enterprise, the existing

joint venture enterprise shall have at least two members on the board of management, one of whom must be appointed by the Vietnamese party.

#### **Article 12**

The chairman of the board of management shall be appointed by the parties to the joint venture enterprise. The chairman of the board of management shall be responsible for convening and chairing meetings of the board of management and for monitoring the execution of any resolutions of the board of management.

The general director and deputy general directors shall be appointed and dismissed by the board of management. They shall be responsible before the board of management and the law of Vietnam for the management and running of the operations of the joint venture enterprise.

The general director or the first deputy general director shall be a Vietnamese citizen.

The duties and powers of the chairman of the board of management, the general director and the first general director shall be stated in the charter of the joint venture enterprise.

#### **Article 13**

The board of management shall decide on regular meetings. Extra-ordinary meetings of the board of management may be convened at the request of the chairman of the board of management, two thirds of the board members, the general director or the first deputy general director. Meetings of the board of management shall be convened by the chairman of the board of management.

Meetings of the board of management must have a quorum of at least two thirds of the members of the board of management representing the parties to the joint venture.

#### **Article 14**

1. The most important matters in the organization and operation of the joint venture enterprise, comprising the appointment, dismissal of the general director, the first deputy general director, amendments of and additions to the charter of the enterprise, shall be decided on the principle of unanimity amongst the members of the board of management who are present at the meeting.

The joint venture parties may agree in the joint venture charter other issues which require decisions on the principle of unanimity.

2. With respect to matters which are not referred to in clause 1 of this article, the board of management shall decide on the basis of the principle of simple majority voting by members who are present at the meeting.

#### **Article 15**

Foreign investors may establish in Vietnam an enterprise with one hundred (100) per cent foreign owned capital.

An enterprise with one hundred (100) per cent foreign owned capital shall be established in the form of a limited liability company and shall be a legal entity in accordance with the law of Vietnam.

An enterprise with one hundred (100) per cent foreign owned capital may co-operate with a Vietnamese enterprise to establish a joint venture enterprise.

With respect to important economic establishments as determined by the Government, Vietnamese enterprises shall, on the basis of agreements with the owner of the enterprise, be permitted to purchase a part of the capital of the enterprise to convert such enterprise into a joint venture enterprise.

#### **Article 16**

The legal capital of an enterprise with foreign owned capital must be at least thirty (30) per cent of its invested capital. In special cases and subject to approval of the body in charge of State management of foreign investment, this proportion may be lower than thirty (30) per cent.

During the course of its operation, an enterprise with foreign owned capital must not reduce its legal capital.

#### **Article 17**

The duration of an enterprise with foreign owned capital and the duration of a business co-operation contract shall be stated in the investment licence for each project in accordance with regulations of the Government, but shall not exceed fifty (50) years.

Pursuant to regulations made by the Standing Committee of the National Assembly, the Government may, on a project by project basis, grant a longer duration but the maximum duration shall not exceed seventy (70) years.

**Article 18**

Foreign investors may invest in industrial zones and export processing zones in any of the investment forms stipulated in article 4 of this Law.

Vietnamese enterprises in any economic sector may co-operate with foreign investors to invest in industrial zones and export processing zones in any of the investment forms stipulated in clauses 1 and 2 of article 4 of this Law or may establish their wholly owned enterprises.

The transfer of goods between enterprises operating in the Vietnamese market and export processing enterprises shall be deemed to be an export-import activity and shall be regulated by the provisions of the law on export and import. The Government shall provide simple and convenient procedures for export processing enterprises to purchase raw materials, materials and other goods from the Vietnamese market.

The Government shall make regulations on industrial zones and export processing zones.

**Article 19**

Foreign investors investing in the construction of infrastructure facilities may enter into Build-Operate-Transfer contracts, Build-Transfer-Operate contracts, or Build-Transfer contracts with an authorized State body of Vietnam. Foreign investors shall be entitled to the rights and be subject to the obligations stipulated in such contract.

The Government shall make detailed regulations on investment on the basis of Build-Operate-Transfer contracts, Build-Transfer-Operate contracts, and Build-Transfer contracts.

**Article 19a**

Enterprises with foreign owned capital and parties to business co-operation contracts may, in the course of their operation, convert the form of investment, split, demerge, merge and consolidate enterprises.

The Government shall stipulate conditions and procedures for converting the form of investment, for splitting, demerging, merging and consolidating enterprises.

## CHAPTER III

### Investment Guarantee Measures

#### Article 20

The State of the Socialist Republic of Vietnam shall guarantee that foreign investors investing in Vietnam are treated fairly and equitably.

#### Article 21

During the course of investment in Vietnam, capital and other lawful assets of foreign investors shall not be requisitioned or expropriated by administrative measures, enterprises with foreign owned capital shall not be nationalized.

The State of the Socialist Republic of Vietnam shall protect industrial property rights, shall guarantee the lawful interests of foreign investors in the activities of technology transfer in Vietnam.

#### Article 21a

1. In the event that the interests of an enterprise with foreign owned capital and of parties to a business co-operation contract are damaged by a change in the provisions of the law of Vietnam, the enterprise with foreign owned capital and the parties to the business co-operation contract shall continue to enjoy the preferential treatment as provided for in the investment licence and this Law, or the State shall take fair measures as follows:
  - (a) Change the operational objectives of the project;
  - (b) Grant tax reductions or exemptions in accordance with law;
  - (c) The damage suffered by the enterprise with foreign owned capital and the parties to the business co-operation contract shall be set off against the taxable income of the enterprise;
  - (d) Consider payment of fair compensation in a number of necessary cases.
2. New provisions providing greater preferential treatment which are issued after investment licences have been granted shall apply to enterprises and to parties to business co-operation contracts.

**Article 22**

Foreign investors investing in Vietnam shall have the right to transfer abroad:

1. Their profits derived from business operations;
2. Payments received from the provision of technology and services;
3. The principal of and interest on any foreign loan obtained during the course of operation;
4. The invested capital;
5. Other sums of money and assets lawfully owned.

**Article 23**

Foreigners working in Vietnam for enterprises with foreign owned capital or for parties to business co-operation contracts shall, after payment of income tax as stipulated by law, be permitted to transfer abroad their lawful incomes.

**Article 24**

Any dispute between the parties to a business co-operation contract, between the parties to a joint venture contract, or between enterprises with foreign owned capital or parties to a business co-operation contract and Vietnamese enterprises must firstly be resolved by negotiation and conciliation.

Where the parties fail to settle the dispute by way of conciliation, the dispute shall be referred to a Vietnamese arbitration body or a Vietnamese court in accordance with the law of Vietnam.

With respect to disputes between parties to a joint venture enterprise or a business co-operation contract, the parties may agree in the contract to appoint another arbitration body to resolve the dispute.

Any disputes arising from a Build-Operate-Transfer, a Build-Transfer-Operate or a Build-Transfer contract shall be resolved in accordance with the dispute resolution mechanism agreed by the parties and stated in the contract.

## CHAPTER IV

### **Rights and Obligations of Foreign Investors and Enterprises with Foreign Owned Capital**

#### **Article 25**

Enterprises with foreign owned capital and parties to a business co-operation contract shall have the right to recruit and employ labour in accordance with business requirements and must give priority to Vietnamese citizens; shall only recruit and employ foreigners for jobs which require a level of technical and management expertise which a Vietnamese citizen cannot satisfy but must train Vietnamese citizens as replacements.

The rights and obligations of an employee of an enterprise with foreign owned capital shall be ensured by a labour contract, the collective labour agreement, and other provisions of the law on labour.

#### **Article 26**

Employers and foreign and Vietnamese employees must comply with the provisions of the law on labour and other relevant legislation, and respect the honour, dignity and traditional customs of each other.

#### **Article 27**

Enterprises with foreign owned capital must respect the rights of Vietnamese employees to participate in a political organization and socio-political organizations in accordance with the law of Vietnam.

#### **Article 28**

Enterprises with foreign owned capital and foreign parties to business co-operation contracts must purchase insurance cover for property and civil liabilities from Vietnamese insurance companies or other insurance companies permitted to operate in Vietnam.

#### **Article 29**

The transfer of foreign technology to Vietnam in foreign investment projects may be carried out in the form of capital contribution of the value of technology or technology purchases made on the basis of a contract in accordance with the law on technology transfer.

The Government of Vietnam encourages accelerated transfers of technology, especially those of advanced technology.

### **Article 30**

Enterprises with foreign owned capital and parties to business co-operation contracts must, following completion of capital construction for the establishment of the enterprise, check and accept the construction and prepare a financial statement of construction works which must be certified by an inspection organization.

Enterprises with foreign owned capital and parties to business co-operation contracts must carry out tenders in accordance with the provisions of the law on tendering.

### **Article 31**

Enterprises with foreign owned capital and parties to business co-operation contracts shall have the right to autonomy in conducting their businesses in accordance with the objectives stipulated in the investment licence; to import equipment, machinery, materials, and means of transport; to export and sell either directly, or through an agent, their products in order to implement their investment projects in accordance with the law.

Enterprises with foreign owned capital and parties to business co-operation contracts must give priority to purchasing equipment, machinery, materials, and means of transport in Vietnam where the technical and commercial conditions are similar.

### **Article 32**

An enterprise with foreign owned capital may establish branches outside the province or city under central authority in which its head office is located to carry out business activities within the scope and objectives stipulated in the investment licence provided that the approval of the people's committee of the province or city under central authority in which the branch is to be located is obtained.

### **Article 33**

Enterprises with foreign owned capital and parties to business co-operation contracts may purchase foreign currency from commercial banks to meet the demand of their current transactions and other permitted transactions in accordance with the provisions of the law on foreign exchange control.

The Government of Vietnam shall guarantee the foreign currency balance of specially important projects investing in accordance with the programs of the Government in each period.

The Government of Vietnam shall assure<sup>1</sup> its assistance in the foreign currency balance of projects for the construction of infrastructure facilities and a number of other important projects.

#### **Article 34**

Any party to a joint venture enterprise shall have the right to assign its contributed capital in the joint venture enterprise provided that priority shall be given to the parties to the joint venture enterprise. Where the assignment is made to an enterprise other than a party to the joint venture, the conditions of the assignment shall not be more favourable than those offered to the joint venture parties. The assignment of capital must be agreed to by the parties to the joint venture enterprise.

These provisions shall also apply to the assignment of rights and obligations of parties to a business co-operation contract.

A foreign investor in an enterprise with one hundred (100) per cent foreign owned capital shall have the right to assign its capital.

Where profits arise from the assignment of capital, the assignor shall pay corporate income tax at a rate of twenty five (25) per cent.

#### **Article 35**

An enterprise with foreign owned capital shall open bank accounts in both Vietnamese currency and foreign currency at Vietnamese banks or joint venture banks or foreign bank branches established in Vietnam.

In special cases where it is approved by the State Bank of Vietnam, an enterprise with foreign owned capital shall be permitted to open an overseas account.

#### **Article 36**

The conversion of Vietnamese currency into foreign currency shall be effected at the official exchange rate published by the State Bank of Vietnam at the time of conversion.

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1 *Allens Arthur Robinson Note: The same Vietnamese word ("bao dam") has been translated as "guarantee" in the preceding paragraph and "assure" in this paragraph, at the instruction of MPI.*

**Article 37**

An enterprise with foreign owned capital and a foreign party to a business co-operation contract shall apply the Vietnamese accounting system. The approval of the Ministry of Finance must be obtained if another common accounting system is applied.

Depreciation of fixed assets of enterprises with foreign owned capital and foreign parties to business co-operation contracts shall be carried out in accordance with the regulations of the Government.

Annual financial statements of enterprises with foreign owned capital and foreign parties to business co-operation contracts shall be audited by an independent Vietnamese auditing company or another independent auditing company permitted to operate in Vietnam in accordance with the provisions of the law on auditing. Annual financial statements must be sent to the State financial body and the body in charge of State management of foreign investment.

**Article 38**

Enterprises with foreign owned capital and foreign parties to business co-operation contracts shall be subject to corporate income tax at a rate of twenty five (25) per cent on the profits earned; where investment is encouraged, the rate of corporate income tax shall be twenty (20) per cent on the profits earned. Where the investment satisfies many investment promotion criteria, the rate of corporate income tax shall be fifteen (15) per cent on the profits earned. Where the investment is specially encouraged, the rate of corporate income tax shall be ten (10) per cent on the profits earned.

For investments in the oil and gas industry and a number of other rare and precious resources, the rate of corporate income tax shall be in accordance with the provisions of the *Law on Petroleum* and other relevant legislation.

**Article 39**

Depending on the investment sector and region as stipulated in article 3 of this Law, an enterprise with foreign owned capital and a foreign party to a business co-operation contract may be exempted from corporate income tax for a maximum period of two years commencing from the first profit-making year and may be entitled to a fifty (50) per cent reduction of corporate income tax for a maximum period of two successive years.

Enterprises with foreign owned capital and foreign parties to business co-operation contracts implementing a project which satisfies a high number of investment promotion criteria shall be exempted from corporate income tax for a maximum

period of four years commencing from the first profit-making year and may be entitled to a fifty (50) per cent reduction of corporate income tax for a further maximum period of four (4) years.

For cases where investment is specially encouraged, exemption from corporate income tax may be allowed for a maximum period of eight (8) years.

#### **Article 40**

Enterprises with foreign owned capital and parties to business co-operation contracts which, after tax finalization with the tax office, suffer losses shall be permitted to carry their losses forward to the following year. Such losses may be set off against taxable income. The period for carrying forward losses shall not exceed five (5) years.

#### **Article 41**

After payment of corporate income tax and fulfilment of other financial obligations, any appropriation from the remaining profits for the establishment of a reserve fund, a welfare fund, a fund for expansion of production and other funds shall be decided by the enterprise.

#### **Article 42**

Where reinvestment is made in encouraged investment projects, the total or a part of the corporate income tax paid in respect of the reinvested profits shall be refunded. The Government shall stipulate the percentage of corporate income tax to be refunded in respect of the reinvested profits depending on the investment sector and region and the form and duration of the reinvestment.

#### **Article 43**

A foreign investor shall, when transferring profits abroad, pay an amount of tax equal to three (3) per cent, five (5) per cent or seven (7) per cent of the profits transferred abroad, depending on the level of capital contribution of such foreign investor to the legal capital of the enterprise with foreign owned capital or the capital for the implementation of a business co-operation contract.

#### **Article 44**

Vietnamese permanently residing overseas investing in Vietnam in accordance with the provisions of this Law shall be entitled to a twenty (20) per cent reduction of corporate income tax applicable to other projects of the same category, with the exception of cases where the ten (10) per cent rate of corporate income tax is

applicable; and they shall be entitled to a withholding tax rate of three (3) per cent of the profits transferred abroad.

#### **Article 45**

Pursuant to Government regulations, the body in charge of State management of foreign investment shall apply the corporate income tax rates, the periods of exemption from and reduction of corporate income tax, and the withholding tax rates in accordance with articles 38, 39, 43, and 44 of this Law. Tax rates and periods of exemption from and reduction of tax shall be specified in the investment licence.

If the investment conditions change during the implementation of an investment project, the exemption from or reduction of taxes applicable to the enterprise with foreign owned capital or the foreign party to a business co-operation contract shall be determined by the Ministry of Finance.

#### **Article 46**

1. Enterprises with foreign owned capital and foreign parties to business co-operation contracts must pay rent for the use of land, water or sea surfaces. Where natural resources are exploited, royalties must be paid in accordance with the provisions of the law.

The Government shall provide for exemptions from, or reductions of, rent of land, water or sea surfaces with respect to Build-Operate-Transfer, Build-Transfer-Operate, or Build-Transfer projects, and investment projects in regions with difficult socio-economic conditions and regions with specially difficult socio-economic conditions.

2. Where the Vietnamese party contributes capital in the form of the value of land use rights, the Vietnamese party shall be responsible for site clearance, compensation and completion of procedures to obtain the land use rights.

Where the State of Vietnam leases out land, the people's committee of the province or city under central authority in which the investment project is located shall organize the implementation of compensation, site clearance, and completion of procedures for leasing land.

3. Enterprises with foreign owned capital may mortgage assets attached to the land and the value of land use rights as security for borrowing loans from credit institutions permitted to operate in Vietnam.

The Government shall stipulate the conditions and procedures for enterprises with foreign owned capital to mortgage land use rights.

**Article 47**

1. Goods exported or imported by enterprises with foreign owned capital or parties to business co-operation contracts shall be subject to export and import duties in accordance with the *Law on Export and Import Duties*.
2. Enterprises with foreign owned capital and parties to business co-operation contracts shall be exempted from import duty on goods imported to form fixed assets, comprising:
  - (a) Equipment and machinery;
  - (b) Specialized means of transportation being part of a technological line and means of transportation used to transport workers;
  - (c) Components, details, parts, spare parts, fittings, moulds and accessories accompanying the machinery and equipment and specialized means of transportation referred to in sub-clause (b) of this clause;
  - (d) Raw materials and materials used to manufacture equipment and machinery in technological lines or to manufacture components, details, parts, spare parts, fittings, moulds and accessories accompanying machinery and equipment;
  - (dd) Construction materials which are not yet domestically produced.

The exemption from import duty on the imported goods referred to in this clause shall also apply to cases of expanding the scale of a project and of replacing and renewing the technology.

3. Raw materials, materials, components imported for production of projects in sectors where investment is specially encouraged or in regions with specially difficult socio-economic conditions shall be exempted from import duty for a duration of five (5) years from the commencement of production.
4. The Government shall provide for the exemption from, or reduction of, export and import duties with respect to other special goods which are in need of investment encouragement.

**Article 48**

An export processing enterprise shall be entitled to exemption from export duty on goods exported from an export processing zone to a foreign country or import duty on goods imported into an export processing zone from a foreign country.

Export processing enterprises and enterprises with foreign owned capital in industrial zones shall be entitled to preferential tax rates in cases where investment is encouraged or specially encouraged in accordance with articles 38, 39, 43, and 44 of this Law. The Government shall provide for the preferential tax rates applicable to each kind of export processing enterprise and enterprise with foreign owned capital in industrial zones.

#### **Article 49**

In addition to the types of tax stipulated in this Law, an enterprise with foreign owned capital and a foreign party to a business co-operation contract must pay other taxes in accordance with the law.

#### **Article 50**

Foreign and Vietnamese personnel working in an enterprise with foreign owned capital or for parties to a business co-operation contract must pay income tax in accordance with the law.

#### **Article 51**

Enterprises with foreign owned capital and foreign parties to business co-operation contracts have the responsibility to comply with the provisions of the law on environmental protection.

#### **Article 52**

The operation of an enterprise with foreign owned capital or a business co-operation contract shall be terminated in the following cases:

1. Upon expiry of the operational duration stated in the investment licence;
2. In accordance with the conditions for termination of operation stipulated in the contract, the charter of the enterprise or the agreement between the parties;
3. According to a decision of the body in charge of State management of foreign investment in consequence of a serious breach of the law or a breach of any provision of the investment licence;
4. Following a declaration of bankruptcy.

**Article 53**

1. Upon termination of operation as stipulated in clauses 1, 2 and 3 of article 52 of this Law, an enterprise with foreign owned capital or the parties to a business co-operation contract must proceed to liquidate the assets of the enterprise and contracts.
2. In the course of liquidating the assets of an enterprise, if it is discovered that the enterprise is bankrupt, the bankruptcy of the enterprise shall be dealt with in accordance with the procedures provided for in the law on bankruptcy.
3. The bankruptcy of an enterprise with foreign owned capital shall be dealt with as provided for in the law on business bankruptcy.
4. Where the Vietnamese party to a joint venture enterprise contributes capital in the form of the value of land use rights, when the enterprise is dissolved or becomes bankrupt, the remaining value of the land use rights contributed as capital shall form part of the assets to be liquidated of the enterprise.

**CHAPTER V****State Management of Foreign Investment****Article 54**

The scope of State management of foreign investment includes:

1. Developing strategies, master plans, plans and policies on foreign investment;
2. Promulgating law and regulations on foreign investment activities;
3. Providing guidance to ministries and local authorities with respect to the performance of activities relating to foreign investment;
4. Issuing and revoking investment licences;
5. Determining the co-ordination between State bodies in relation to managing foreign investment activities;
6. Inspecting, monitoring and supervising foreign investment activities.

**Article 55**

The Government shall uniformly carry out State management of foreign investment in Vietnam.

The Government shall make provisions on evaluation for issuance of investment licences and on registration for issuance of investment licences; decide on the delegation of investment licence-issuing authority to people's committees of provinces or cities under central authority, based on the master plans and plans for socio-economic development, the sector, nature, and scale of investment projects; and make provisions on the issuance of investment licences to investment projects in industrial zones and export processing zones.

**Article 56**

The Ministry of Planning and Investment shall be the body in charge of State management of foreign investment and shall assist the Government in managing foreign investment activities in Vietnam.

The Ministry of Planning and Investment shall have the following duties and powers:

1. Preside over the preparation and submission to the Government of strategies and plans to attract foreign investment; draft laws, regulations and policies on foreign investment; co-ordinate with ministries, ministerial level bodies and Government bodies in relation to the State management of foreign investment; provide guidance to people's committees of provinces and cities under central authority on the implementation of laws, regulations and policies on foreign investment;
2. Prepare and co-ordinate list(s) of investment projects; provide guidance on investment procedures; carry out State management of investment promotion and consultancy activities;
3. Receive investment applications and preside over the evaluation of investment projects; issue investment licences within its authority;
4. Act as a co-ordinating body to deal with problems arising during the formation, commencement and implementation of foreign investment projects;
5. Evaluate social and economic effects of foreign investment activities;
6. Inspect and supervise the implementation of foreign investment activities in Vietnam in accordance with the law.

**Article 57**

Ministries, ministerial level bodies, and Government bodies shall carry out State management of foreign investment within their authority and in accordance with the following powers and functions:

1. Co-ordinate with the Ministry of Planning and Investment to prepare laws and regulations, policies, master plans and plans for foreign investment;
2. Prepare plans and lists of investment projects calling for foreign investment within their respective industries; and organize the promotion and encouragement of investment;
3. Participate in the evaluation of investment projects;
4. Guide and resolve procedures relating to the commencement and implementation of investment projects;
5. Inspect and supervise the operations of enterprises with foreign owned capital and of parties to business co-operation contracts within their respective scopes of responsibility;
6. Perform other duties within their authority in accordance with the provisions of the law.

**Article 58**

People's committees of provinces and cities under central authority shall carry out State management of foreign investment in their respective localities in accordance with the following powers and functions:

1. On the basis of approved socio-economic development master plans, prepare and publish a list of local projects calling for foreign investment; organize the promotion and encouragement of investment;
2. Participate in the evaluation of foreign investment projects in their respective localities;
3. Receive investment applications, evaluate investment projects and issue investment licences to foreign investment projects in their localities in accordance with the authority delegated by the Government;
4. Resolve all administrative procedures relating to the formation, commencement and implementation of investment projects within their respective authority;

5. Carry out State management in their localities with respect to the business production activities of enterprises with foreign owned capital and parties to business co-operation contracts;
6. Inspect and supervise the operations of enterprises with foreign owned capital and parties to business co-operation contracts.

**Article 59**

Parties or one of the parties or foreign investors shall submit to the investment licence-issuing body an application file for an investment licence in accordance with the regulations of the Government.

**Article 60**

The investment licence-issuing body shall consider the application and notify the investor of its decision no later than forty five (45) days for projects which are subject to evaluation for issuance of an investment licence, and thirty (30) days for projects which are subject to registration for issuance of investment licences, as from the date of receipt of a proper application file. The approval decision shall be notified in the form of an investment licence.

The investment licence shall concurrently be the certificate of business registration.

**Article 61**

The joint venture contract, the business co-operation contract, the charter of the enterprise, and any changes to the business objectives, the scale of production or the contribution ratio of the legal capital must be approved by the body in charge of State management of foreign investment.

**Article 62**

Ministries, ministerial level bodies, Government bodies and people's committees of provinces and cities under central authority shall be responsible for the settlement of procedures relating to the implementation of investment projects within thirty (30) days as from the receipt of the proper documents.

**Article 63**

Any enterprise and individual making outstanding achievements in production and business activities, or making significant contributions to the cause of national construction and development shall be rewarded in accordance with the provisions of the law.

Any foreign investor, enterprise with foreign owned capital, party to a business co-operation contract, organization, individual, State cadre, officer or body breaching the provisions of the law on foreign investment shall, depending on the seriousness of the breach, be dealt with in accordance with the provisions of the law.

#### **Article 64**

1. The inspection of operations of an enterprise shall be conducted in strict compliance with functions, authority and the provisions of the law.
2. A financial inspection of an enterprise must not be conducted more than once a year.

An extraordinary inspection shall only be conducted when there is some basis to assume that the enterprise is in breach of the law.

There must be a decision by a competent person for the conduct of an inspection. There must be minutes and conclusions of the inspection upon completion of the inspection. The head of the inspection team shall be responsible for the contents of the minutes and conclusions of the inspection.

Any person who makes an unlawful decision to conduct an inspection or who misuses an inspection to seek gain from, to harass or to cause inconvenience to the operations of an enterprise shall, depending on the seriousness of the breach, be disciplined or prosecuted for criminal liability; shall be obliged to pay compensation in accordance with law if loss is caused.

3. Any foreign investor, enterprise with foreign owned capital, party to a business co-operation contract, organization and individual shall have the right to lodge a complaint or to take legal action against any unlawful decision or conduct of State officers, public officers or State bodies which causes difficulties or inconvenience. The complaint or legal action and the resolution of complaints or legal actions shall be in accordance with the provisions of the law.

## **CHAPTER VI**

### **Implementation Provisions**

#### **Article 65**

Pursuant to the provisions of this Law, the Government shall make provisions for hospitals, schools, and research institutes in technological, technical, and natural science sectors to co-operate in foreign investment activities.

#### **Article 66**

1. Pursuant to the principles set out in this Law, the Government may enter into agreements with foreign investors or provide measures for security and guarantees regarding investment.
2. Foreign investment activities in Vietnam must comply with the provisions of this Law and relevant provisions of the law of Vietnam. In cases where the law of Vietnam does not yet have provisions, the parties may agree in the contract on the application of foreign laws if the application of foreign laws is not inconsistent with the basic principles of the law of Vietnam.

#### **Article 67**

This Law shall be of full force and effect as of the date of promulgation.

This Law replaces the *Law on Foreign Investment in Vietnam* dated 29 December 1987, the *Law on the Amendment of and Addition to a Number of Articles of the Law on Foreign Investment in Vietnam* dated 30 June 1990, and the *Law on the Amendment of and Addition to a Number of Articles of the Law on Foreign Investment in Vietnam* dated 23 December 1992.

#### **Article 68**

The Government shall make detailed provisions for the implementation of this Law.

This Law was passed by Legislature IX of the National Assembly of the Socialist Republic of Vietnam at its 10th Session, on 12 November 1996.

Chairman of the National Assembly

NONG DUC MANH

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*Law 18-2000-QH10 on Amendment of and Addition to a Number of Articles of the Law on Foreign Investment in Vietnam dated 12 November 1996 was passed by Legislature X of the National Assembly of the Socialist Republic of Vietnam at its 7th Session, on 9 June 2000, and was effective as of 1 July 2000.*