

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 24-2000-ND-CP

Hanoi, 31 July 2000
(as amended 19 March 2003¹)

**GOVERNMENT DECREE
PROVIDING
DETAILED REGULATIONS ON
THE IMPLEMENTATION OF THE
LAW ON FOREIGN INVESTMENT
IN VIETNAM**

The Government

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

Pursuant to the *Law on Foreign Investment in Vietnam* dated 12 November 1996 and the *Law on Amendment of and Addition to a Number of Articles of the Law on Foreign Investment in Vietnam* dated 9 June 2000;

Following the proposal of the Minister of Planning and Investment;

Decrees:

¹ *As amended by Decree 27-2003-ND-CP of the Government dated 19 March 2003 (as corrected by Official Letter 187-PG-QHQT of the Office of Government dated 1 April 2003), effective as of 7 May 2003.*

CHAPTER I

General Provisions**Article 1** *Scope of application*²

This Decree makes detailed regulations on the implementation of the *Law on Foreign Investment in Vietnam* dated 12 November 1996 and the *Law on Amendment of and Addition to a Number of Articles of the Law on Foreign Investment in Vietnam* dated 9 June 2000 (hereinafter collectively referred to as the *Law on Foreign Investment*).

This Decree governs foreign direct investment activities in Vietnam comprising activities of transferring capital in cash or any other assets of foreign investors into Vietnam in order to carry out directly production or business activities aimed at earning profit in the forms provided for in the *Law on Foreign Investment*.

All foreign direct investment activities in Vietnam must comply with the provisions of the *Law on Foreign Investment*, this Decree and other legal instruments.

Article 2 *Entities participating in investment co-operation*

Entities participating in investment co-operation in accordance with the provisions of the *Law on Foreign Investment* shall comprise:

1. Vietnamese enterprises:
 - (a) State owned enterprises established in accordance with the *Law on State Owned Enterprises*;
 - (b) Co-operatives established in accordance with the *Law on Co-operatives*;
 - (c) Enterprises belonging to political organizations or socio-political organizations;
 - (d) Limited liability companies, shareholding companies, partnerships and private enterprises established in accordance with the *Law on Enterprises*.

² *As amended by article 1.1 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

2. Domestic medical examination and treatment establishments, education and training establishments and scientific research establishments which satisfy the conditions stipulated by the Government.³
3. Foreign investors.
4. Enterprises with foreign owned capital.
5. Vietnamese permanently residing overseas.
6. State bodies authorized to enter into BOT, BTO and BT contracts.

Article 3 *Lists and selection of investment projects*

- 1.⁴ To issue with this Decree:
 - (a) A list of specially encouraged investment sectors;
 - (b) A list of encouraged investment sectors;
 - (c) A list of regions in which investment is encouraged;
 - (d) A list of sectors in which licensing of investment is conditional;
 - (dd) A list of sectors in which investment will not be licensed.

Based on the economic and social development planning and orientation for each period, the Ministry of Planning and Investment shall co-ordinate with ministries, branches and people's committees of provinces and cities under central authority (hereinafter referred to as *provincial people's committees*) to submit the lists referred to above to the Prime Minister of the Government for consideration and promulgation.

2. An investor may on its own initiative select investment projects, investment partners, the form of investment, the locality, the duration of investment, the markets for the sale of products and the legal capital contribution ratio in accordance with the provisions of the *Law on Foreign Investment* and this Decree.

³ *As amended by article 1.2 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

⁴ *As amended by article 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Article 4 *Governing law*

1. Entities participating in investment co-operation as stipulated in article 2 of this Decree must comply with the provisions of the *Law on Foreign Investment*, the provisions of this Decree, and other relevant provisions of the law of Vietnam.
2. In certain cases where Vietnamese law does not yet have provisions relating to foreign investment in Vietnam, the parties may agree in the contract on the application of foreign laws provided that the application of foreign laws is not inconsistent with the basic principles of the law of Vietnam.

Article 5 *Language to be used*

The files of an investment project and official correspondence with State bodies of Vietnam shall be prepared in Vietnamese, or in Vietnamese and a commonly used foreign language.

CHAPTER II

Forms of Investment

Article 6 *Business co-operation contract⁵*

1. A business co-operation contract is a document which is signed by two or more parties and which stipulates the responsibilities of, and the sharing of business results between, the parties for the purposes of conducting investment and business in Vietnam without creating a legal entity.

An enterprise with foreign owned capital may co-operate with foreign organization(s) or individual(s) to perform a business co-operation contract.

2. Business co-operation contracts for prospecting, exploration and exploitation of oil and gas and a number of other natural resources in the form of production sharing contracts shall be implemented in accordance with the provisions of the relevant law and the *Law on Foreign Investment*.

⁵ *As amended by article 1.3 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Article 7 *Contents of business co-operation contract*

A business co-operation contract must contain the following principal items:

1. The names, addresses, and authorized representatives of the business co-operation parties (hereinafter referred to as *business co-operation parties*); and the transaction address or address of the location in which the project shall be implemented;
2. The objectives and scope of business;
3. The contributions of the business co-operation parties, the sharing of business results, and the schedule for performance of the contract;
4. The main products, the export and domestic sales ratio;
5. The duration of the contract;
6. The rights and obligations of the business co-operation parties;
7. The financial principles;
8. The procedures for amendment and termination of the contract and the conditions for assignment;
9. The responsibilities for a breach of the contract and the methods of dispute resolution.

Apart from the above items, the business co-operation parties may agree on other items in the business co-operation contract.

A business co-operation contract must be signed by the authorized representatives of the business co-operation parties on each page and at the end of the contract. The business co-operation contract shall become effective as from the date of issuance of the investment licence.

Article 8 *Co-ordination board*

During the process of business, when deemed necessary, the business co-operation parties may agree to establish a co-ordination board to perform the business co-operation contract.

The co-ordination board shall not have authority over the business co-operation parties. The functions, duties and powers of the co-ordination board shall be agreed by the business co-operation parties.

Article 9 *Operating office*

A foreign business co-operation party may establish an operating office in Vietnam to perform the business co-operation contract and shall be responsible for the activities of the operating office.

The operating office of a foreign business co-operation party shall have a seal, may open accounts, recruit employees, sign contracts and conduct business activities within the scope of the rights and obligations stipulated in the investment licence and the business co-operation contract.

The operating office of a foreign business co-operation party must be registered with the investment licence-issuing body.

Article 10 *Tax obligations of business co-operation parties*

1. The foreign business co-operation party shall fulfill tax obligations and other financial obligations in accordance with the *Law on Foreign Investment*; the Vietnamese business co-operation party shall fulfill tax obligations and other financial obligations in accordance with provisions of the law applicable to domestic enterprises.
2. Corporate income tax and other financial obligations of the business co-operation parties (including land rent, royalties, and so forth) may be included in the share of products distributed to the Vietnamese business co-operation party and the Vietnamese business co-operation party shall be responsible for payment to the State.

Article 11 *Joint venture enterprise*⁶

1. A joint venture enterprise is an enterprise established in Vietnam on the basis of a joint venture contract signed by two or more parties for the purpose of conducting investment and business in Vietnam. In special circumstances, a joint venture enterprise may be established on the basis of an agreement signed by the Government of Vietnam and the government of another country.

Joint venture enterprise shall include an enterprise with one hundred (100) per cent foreign owned capital which has been established in Vietnam entering into a joint venture with an entity referred to in paragraphs (b), (c) and (dd) of clause 2 of this article.

⁶ As amended by article 1.4 of Decree 27-2003-ND-CP of the Government dated 19 March 2003 (as corrected by Official Letter 187-PG-QHQT of the Office of Government dated 1 April 2003).

2. A new joint venture enterprise is an enterprise established by a joint venture enterprise already established in Vietnam with:
 - (a) A foreign investor;
 - (b) A Vietnamese enterprise;
 - (c) A medical examination and treatment establishment, an education and training establishment, or a scientific research establishment which satisfies the conditions stipulated by the Government;
 - (d) A Vietnamese permanently residing overseas;
 - (dd) A joint venture enterprise;
 - (e) An enterprise with one hundred (100) per cent foreign owned capital.
3. A joint venture enterprise shall be established in the form of a limited liability company. Each joint venture party shall be responsible to the extent of its committed contribution to the legal capital of the enterprise. The joint venture enterprise shall be a legal entity in accordance with the law of Vietnam and shall be established and operate as from the date of issuance of the investment licence.

Article 12 *Contents of joint venture contract*

A joint venture contract must contain the following principal items:

1. The names, addresses and authorized representatives of the joint venture parties; the name and address of the joint venture enterprise;
2. The objectives and scope of business;
3. The invested capital, legal capital, legal capital contribution ratio, method and schedule of capital contributions, and schedule of construction;
4. The main products and the export and domestic sales ratio;
5. The duration of operation of the enterprise;
6. The legal representative of the enterprise;
7. The rights and obligations of the joint venture parties;
8. The financial principles;

9. The procedures for amendment and termination of the contract, the conditions for assignment, the conditions for termination and dissolution of the enterprise;
10. The responsibilities for a breach of the contract and the methods of dispute resolution.

Apart from the above items, the joint venture parties may agree on other items in the joint venture contract.

The joint venture contract must be signed by the authorized representatives of the joint venture parties on each page and at the end of the contract. The joint venture contract shall become effective as from the date of issuance of the investment licence.

Article 13 *Charter of joint venture enterprise*

The charter of a joint venture enterprise must contain the following principal items:

1. The name and address of the enterprise; the names, nationalities and addresses of the authorized representatives of the joint venture parties;
2. The objectives and scope of business;
3. The invested capital, legal capital, legal capital contribution ratio, method and schedule of legal capital contribution;
4. The organizational and management structure of the enterprise;
5. The procedures for passing resolutions of the enterprise; the principles for dispute resolution;
6. The legal representative of the enterprise;
7. The financial principles;
8. The ratio for distribution of profits and losses between the joint venture parties;
9. The labour relations within the enterprise and issues of labour recruitment and training;
10. The duration of operation and the conditions for termination of operation and dissolution of the enterprise;

11. The procedures for amendment of and addition to the charter of the enterprise.

Apart from the above items, the joint venture parties may agree on other items in the charter of the joint venture enterprise.

The charter of the joint venture enterprise must be signed by the authorized representatives of the joint venture parties on each page and at the end of the charter. The charter of the joint venture enterprise must be registered with the investment licence-issuing body.

Article 14 *Legal capital of joint venture enterprise*

1. The legal capital of a joint venture enterprise must not be less than thirty (30) per cent of the invested capital. In respect of projects for construction of infrastructure facilities, investment projects in regions in which investment is encouraged, afforestation projects and large scale projects, this ratio may be lower but not less than twenty (20) per cent of the invested capital provided that the approval of the investment licence-issuing body is obtained.
2. The ratio of capital contribution of a foreign joint venture party or parties shall be agreed by the joint venture parties but shall not be less than thirty (30) per cent of the legal capital of the joint venture enterprise. Based on the business sector, technology, market, business results and other socio-economic benefits of the project, the investment licence-issuing body may consider and permit the foreign joint venture party to have a lower capital contribution ratio but not less than twenty (20) per cent of the legal capital.

In the case of establishment of a new joint venture enterprise, the legal capital contribution ratio of the foreign investors must satisfy the above condition.

3. With respect to important projects stipulated by the Government, the joint venture parties may, when entering into the joint venture contract, agree on an increase of the capital contribution ratio of the Vietnamese party in the legal capital of the joint venture enterprise.

Article 15 *Schedule of legal capital contribution*

1. The legal capital may be contributed once in full at the time of establishment of the joint venture enterprise or by installments in accordance with the method and schedule of legal capital contribution stipulated in the joint venture contract.

2. In cases where the joint venture parties fail, without reasonable cause, to make capital contributions in accordance with the agreed schedule, the investment licence-issuing body shall have the power to withdraw the investment licence.

Article 16 *Legal capital contribution in the form of the value of land use rights*

The legal capital contribution by a Vietnamese party in the form of the value of land use rights shall be agreed by the joint venture parties on the basis of the land rent rates determined by the provincial people's committee within the land rent tariff issued by the Ministry of Finance.

Article 17 *Board of management of joint venture enterprise*

1. The board of management shall be the body in charge of the joint venture enterprise. The board of management shall comprise a chairman, a vice-chairman and other members.

The number of members of the board of management, the members representing each of the joint venture parties, and the appointment of the chairman of the board of management and of the general director and the first deputy general director shall be determined in accordance with the provisions of the *Law on Foreign Investment*.

The chairman, the vice-chairman and other members of the board of management may concurrently hold the position of general director or deputy general director and other positions of the joint venture enterprise.

2. The term of office of the board of management shall be agreed by the joint venture parties but shall not exceed five (5) years.
3. Where a new joint venture enterprise is established, the existing joint venture enterprise must have at least two members on the board of management, with at least one of those members being a Vietnamese citizen representing the Vietnamese joint venture party.
4. Members of the board of management shall not be entitled to a salary but may be entitled to an allowance related to the operation of the board of management as determined by the board of management. Such expenses shall be accounted for as management expenses of the joint venture enterprise.

Article 18 *Meeting procedures of board of management of joint venture enterprise*

1. The board of management shall hold a regular meeting at least once a year. The board of management may hold an extraordinary meeting at the request of the chairman of the board of management, or of at least two-thirds ($\frac{2}{3}$) of the members of the board of management, or of the general director or the first deputy general director. Meetings of the board of management shall be convened and chaired by the chairman of the board of management. The chairman of the board of management may authorize the vice-chairman of the board of management to convene and chair a meeting of the board of management.
2. Meetings of the board of management must have a quorum of at least two-thirds ($\frac{2}{3}$) of the members of the board of management representing the joint venture parties. A member of the board of management may appoint in writing a proxy to attend meetings and vote on behalf of that member on matters in respect of which the proxy is authorized to vote.
3. The board of management shall pass resolutions within its authority by voting in a meeting or by obtaining written opinions.

Article 19 *Powers and responsibilities of chairman of board of management*

The chairman of the board of management shall have the following powers and responsibilities:

1. To convene and chair meetings of the board of management;
2. To play a key role in supervising and monitoring the execution of resolutions of the board of management.

Article 20 *Powers and responsibilities of general director and deputy general directors*

1. The general director and deputy general directors of the joint venture enterprise shall be responsible for the management and conduct of the day-to-day activities of the joint venture enterprise. The general director shall be the legal representative of the enterprise, unless otherwise stipulated in the charter of the enterprise. The general director or the first deputy general director shall be nominated by the Vietnamese joint venture party and be a Vietnamese citizen residing permanently in Vietnam. In cases where the joint venture has only one deputy general director, that director shall be the first deputy general director.

2. The board of management shall determine the powers and duties of the general director and the first deputy general director. The general director shall be responsible before the board of management for the operation of the joint venture enterprise. The general director should discuss with the first deputy general director the execution of resolutions of the board of management relating to important issues, such as mechanism of organization; appointment and removal of key personnel; approval of annual financial statements; finalization reports of projects; and signing of economic contracts.

In cases where the general director and the first deputy general director have different opinions in relation to the management of the enterprise, the opinion of the general director shall be conclusive, however the first deputy general director may reserve his or her opinion and raise it with the board of management at its next meeting for consideration and decision.

3. Where the general director is absent, the first deputy general director is authorized to manage the enterprise on behalf of the general director and shall be responsible to the board of management and the general director for his or her work.

Article 21 *Enterprise with one hundred (100) per cent foreign owned capital*⁷

1. An enterprise with one hundred (100) per cent foreign owned capital is an enterprise owned and established in Vietnam by foreign investor(s) which shall by themselves manage the enterprise and take full responsibility for its business results.

An enterprise with one hundred (100) per cent foreign owned capital already established in Vietnam may co-operate with another such enterprise and/or with foreign investor(s) to establish a new enterprise with one hundred (100) per cent foreign owned capital in Vietnam.

2. An enterprise with one hundred (100) per cent foreign owned capital shall be established in the form of a limited liability company, shall be a legal entity in accordance with the law of Vietnam and shall be established and operate from the date of issuance of the investment licence.

⁷ *As amended by article 1.5 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Article 22 *Charter of enterprise with one hundred (100) per cent foreign owned capital*

The charter of an enterprise with one hundred (100) per cent foreign owned capital must contain the following principal items:

1. The name and address of the enterprise; the name and address of the authorized representative of the foreign investor(s);
2. The objectives and scope of business;
3. The invested capital, legal capital, method and schedule of capital contribution, and schedule of construction;
4. The legal representative of the enterprise;
5. The financial principles;
6. The labour relations within the enterprise, issues of labour recruitment and training;
7. The duration of operation, and the conditions for termination of operation and dissolution of the enterprise;
8. The procedure for amendment of and addition to the charter of the enterprise.

Apart from the above items, the charter of the enterprise may include other items.

The charter of an enterprise with one hundred (100) per cent foreign owned capital must be signed by the authorized representatives of the investor(s) on each page and at the end of the charter. The charter of an enterprise with one hundred (100) per cent foreign owned capital must be registered with the investment licence-issuing body.

Article 23 *Legal capital of enterprise with one hundred (100) per cent foreign owned capital*

1. The legal capital of an enterprise with one hundred (100) per cent foreign owned capital must not be less than thirty (30) per cent of the invested capital. In respect of projects for construction of infrastructure facilities, investment projects in regions in which investment is encouraged, afforestation projects and large scale projects, this ratio may be lower, but not less than twenty (20) per cent of the invested capital, provided that the approval of the investment licence-issuing body is obtained.

2. The method and schedule of legal capital contribution shall be stipulated in the charter of the enterprise. In the case where the foreign investor(s) fails, without reasonable cause, to make capital contributions in accordance with the stipulated schedule, the investment licence-issuing body shall have the power to withdraw the investment licence.
3. Any adjustment of the invested capital or legal capital must be decided by the foreign investor and approved by the investment licence-issuing body.

Article 24 *Representative of enterprise with one hundred (100) per cent foreign owned capital*

The legal representative of an enterprise with one hundred (100) per cent foreign owned capital shall be the general director, unless otherwise stipulated in the charter of the enterprise.

CHAPTER III

Implementation of Projects and Business Organization

Article 25 *Personnel and first meeting of board of management of joint venture enterprise*

After issuance of the investment licence, a joint venture enterprise must carry out the following work:

1. Within thirty (30) days from the date of issuance of the investment licence, the joint venture parties shall inform each other of the list of members of the board of management and appoint the chairman and the vice-chairman of the board of management.
2. Within sixty (60) days from the date of issuance of the investment licence, the board of management shall hold the first meeting in order to carry out the following main tasks:
 - (a) To pass the working rules of the board of management;
 - (b) To appoint the general director, deputy general directors and chief accountant (or financial director);
 - (c) To determine a detailed schedule for legal capital contribution by the joint venture parties, a plan and schedule of construction.
3. The minutes of the first meeting of the board of management shall be submitted to the Department of Planning and Investment where the head office of the joint venture enterprise is located. In the case of enterprises

in industrial zones, export processing zones and high-tech zones, the minutes shall be submitted to the management board of the industrial zone, export processing zone or high-tech zone (hereinafter referred to as the *industrial zone management board*) where the project is implemented.

4. The list of the board of management, the general director and the deputy general directors of the joint venture enterprise shall be registered with the Department of Planning and Investment; in the case of enterprises in industrial zones, export processing zones and high-tech zones, the above list shall be registered with the industrial zone management board.

Article 26 *Establishment and registration of management apparatus of enterprise with one hundred (100) per cent foreign owned capital and business co-operation contract*

The establishment of the management apparatus and the appointment of personnel of an enterprise with one hundred (100) per cent foreign owned capital shall be determined by the foreign investors.

The registration of the list of personnel of an enterprise with one hundred (100) per cent foreign owned capital or of the representatives of business co-operation parties and the operating office of a foreign business co-operation party (in the case of a business co-operation contract) shall be carried out as in the case of joint venture enterprises stipulated in article 25 of this Decree.

Article 27 *Announcement of establishment*

After being appointed, the general director of an enterprise with foreign owned capital or the representatives of business co-operation parties shall publish an announcement of the following main information in three consecutive issues of a central or local daily newspaper:

1. The name and address of the enterprise or the location where the business co-operation contract shall be performed; the name and address of the branch, representative office or operating office (if any);
2. The names and addresses of the joint venture parties, or of the business co-operation parties, or of the foreign investor;
3. The legal representative(s) of the enterprise or of the business co-operation parties;
4. The number and date of issuance of the investment licence, the investment licence-issuing body, the duration of operation of the enterprise or the duration of the business co-operation contract;

5. The invested capital and the legal capital of the enterprise; the capital contribution ratio of each joint venture party and the committed capital contribution of the business co-operation parties;
6. The objectives and scope of operation.

Article 28 *Business registration and practising certificates*

1. The investment licence shall concurrently be the certificate of business registration.
2. With respect to sectors and business lines for which a business licence is required as stipulated by law, enterprises with foreign owned capital and business co-operation parties shall only be required to register with the authorized State body for the purpose of carrying out business activities in accordance with the investment licence, without applying for a business licence.
3. With respect to sectors and business lines for which a practising certificate is required by regulations, enterprises with foreign owned capital and business co-operation parties must obtain the practising certificate in accordance with the law prior to commencement of their operations.

Article 29 *Branches and representative offices*

1. Enterprises with foreign owned capital and business co-operation parties may establish branches and representative offices outside the province or city in which the head office of the enterprise is located or in which the main activities of the business co-operation contract are carried out for the purpose of conducting business activities in accordance with the provisions of the investment licence.

Where necessary to promote export, an enterprise with foreign owned capital may establish branches and representative offices overseas in order to conduct transactions, marketing and sale of products. The establishment of a branch or representative office overseas must be considered and approved by the Ministry of Planning and Investment.

2. An enterprise with foreign owned capital shall be responsible for the activities of its branch or representative office overseas. Income earned by the branch shall be included in the income of the enterprise and shall be remitted to the parent company in Vietnam annually and shall be subject to corporate income tax at the rate stipulated in the investment licence. Where the enterprise with foreign owned capital establishes a branch in a country which has signed a double taxation avoidance agreement with Vietnam, such agreement shall apply.

3. The Ministry of Planning and Investment shall provide guidelines on the formalities and procedures for establishment of branches or representative offices of enterprises with foreign owned capital and of business co-operation parties.

Article 30 *Hire of management organizations*

1. With respect to hotels, offices or apartments for lease, golf-courses, sports, entertainment, medical examination and treatment, education and training and a number of sectors for which intensive management skills are required, an enterprise with foreign owned capital or business co-operation parties may hire a management organization to manage the business activities.
2. The hire of a management organization must not change or negatively affect the objectives of the operation of the project or the interests of the State of Vietnam as stipulated in the investment licence.
3. The hire of a management organization shall be carried out by way of a management contract between the enterprise with foreign owned capital or business co-operation parties and the management organization. Management fees shall be agreed by the parties in the management contract and shall be accounted for as management expenses of the enterprise or of the business co-operation parties.

A management contract shall only become effective after it is approved by the investment licence-issuing body.

4. A management organization shall operate in the name of, and use the seal and accounts of, the enterprise with foreign owned capital or of one or more of the business co-operation parties. The management organization shall be responsible to the enterprise with foreign owned capital or to the business co-operation parties and shall abide by the law of Vietnam while exercising its rights and performing its obligations as specified in the management contract.

The management organization must pay taxes and fulfil other financial obligations in accordance with the provisions of the law. The enterprise with foreign owned capital or the business co-operation parties shall, on behalf of the management organization, pay these amounts to the State of Vietnam.

In all cases, the enterprise with foreign owned capital or the business co-operation parties shall be responsible before the law of Vietnam for the whole operation of the management organization in respect of matters related to the management activities specified in the management contract. The management organization shall be directly responsible before the law

of Vietnam for its activities which are beyond the scope of the management contract.

Article 31 *Re-organization of enterprises*⁸

1. The division, demerger, merger or consolidation of an enterprise or the conversion of the form of investment (hereinafter collectively referred to as *re-organization of an enterprise*) must be approved by the investment licence-issuing body in accordance with the following contents and procedures:
 - (a) *Division of an enterprise* means the division of the whole of the capital in cash and assets of an enterprise with foreign owned capital (hereinafter referred to as *the divided enterprise*) in order to establish two or more new enterprises (hereinafter referred to as *the new enterprises*).
 - (b) *Demerger of an enterprise* means the transfer of part of the capital in cash and assets of an enterprise with foreign owned capital (hereinafter referred to as *the enterprise to be demerged*) in order to establish one or more new enterprises (hereinafter referred to as *the demerged enterprise(s)*).
 - (c) *Merger of enterprises* means one or more enterprises with foreign owned capital (hereinafter referred to as *the merging enterprise(s)*) transfer the whole of their capital in cash and assets in order to merge into another enterprise with foreign owned capital (hereinafter referred to as *the merged enterprise*).
 - (d) *Consolidation of enterprises* means two or more enterprises with foreign owned capital (hereinafter referred to as *the consolidating enterprises*) contribute the whole of their capital in cash and assets in order to consolidate with each other aimed at becoming one new enterprise with foreign owned capital (hereinafter referred to as *the consolidated enterprise*).
 - (dd) *Conversion of the form of investment* means that a project which has been issued with an investment licence in a form of investment provided for in the *Law on Foreign Investment* converts into another form of investment provided for in the *Law on Foreign Investment*.

⁸ As amended by article 1.6 of Decree 27-2003-ND-CP of the Government dated 19 March 2003 (as corrected by Official Letter 187-PG-QHQT of the Office of Government dated 1 April 2003).

The re-organization of an enterprise must be consented to by the board of management (in the case of a joint venture enterprise) or the foreign investor (in the case of an enterprise with one hundred (100) per cent foreign owned capital), or the business co-operation parties (in the case of a business co-operation contract).

Enterprises to be re-organized shall prepare a file in accordance with the provisions of clauses 2 and 3 of this article and submit it to the investment licence-issuing body for adjustment of their investment licences and/or establishment of a new enterprise with foreign owned capital in accordance with the provisions of the *Law on Foreign Investment*. Where conversion results in a Vietnamese enterprise, it must be registered in the form of one of the enterprises referred to in clause 1 of article 2 of this Decree.

2. The application file for re-organization of an enterprise shall comprise the following:
 - (a) An application for re-organization of the enterprise;
 - (b) The capital assignment file (in the case of assignment of capital);
 - (c) The resolution of the board of management of the joint venture enterprise or the decision of the investor (in the case of an enterprise with one hundred (100) per cent foreign owned capital);
 - (d) The charter of the new enterprise (except in the case of conversion into a Vietnamese enterprise) or the amended charter of the enterprise;
 - (dd) The joint venture contract in respect of the new enterprise or the amended joint venture contract;
 - (e) The contract for merger or consolidation of enterprises;
 - (g) The financial or operational statements of an enterprise prior to re-organization;
 - (h) An explanatory statement on re-organization of an enterprise;
 - (i) Documents relating to the right to use land;
 - (k) Other documents at the request of the investment licence-issuing body.

3. The explanatory statement on re-organization of an enterprise shall contain the following main items:
 - (a) The name and address of the legal representative; the name and address of an enterprise prior to and after the re-organization of an enterprise;
 - (b) The objectives of production and business;
 - (c) A plan for employment;
 - (d) A plan for dealing with the rights and obligations of an enterprise prior to and after the re-organization of an enterprise;
 - (dd) The duration of implementation of the re-organization of an enterprise.
4. The decision on re-organization of an enterprise shall be forwarded to creditors and employees within fifteen (15) days from the date when it is passed.
5. Within thirty (30) working days from the date of receipt of a complete and proper file, the investment licence-issuing body shall make a decision to approve the re-organization of an enterprise in the form of an investment licence. Where approval is refused, the investment licence-issuing body must provide reasons in writing. Where a re-organized enterprise satisfies the conditions referred to in article 105 of this Decree, it shall perform the procedures for registration for issuance of an investment licence.

Article 32 *Taking over rights and obligations after re-organization of an enterprise*⁹

1. After re-organization of an enterprise and issuance of an investment licence, the new enterprise shall assume the rights and obligations of the former enterprise, unless otherwise agreed by the parties and approved by the investment licence-issuing body. Such rights and obligations shall be performed in accordance with the plan for dealing with the rights and obligations of an enterprise as specified in the explanatory statement on re-organization of an enterprise referred to in clause 3 of article 31 of this Decree.
2. After re-organization and depending on the sector, region, scale and conditions for investment of a re-organized enterprise, incentives which

⁹ *As amended by article 1.7 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

are applicable to the new enterprise shall automatically apply in accordance with the relevant provisions of the applicable laws.

3. A re-organized enterprise shall publish an announcement of the establishment and the termination of operations in accordance with the provisions of articles 27 and 38 of this Decree.

Article 33 *Assignment of capital*

1. Upon assignment of capital, an enterprise with foreign owned capital or business co-operation parties shall register the assignment of capital with the investment licence-issuing body.
2. The file for registration of the assignment of capital shall comprise the following:
 - (a) An application for registration of the assignment of capital;
 - (b) The capital assignment contract;
 - (c) The resolution of the board of management of the joint venture enterprise or the agreement of the business co-operation parties;
 - (d) Amendments of or additions to the joint venture contract or the business co-operation contract, and the charter of the enterprise;
 - (dd) A report on the operational status of the enterprise;
 - (e) The legal status and financial position of the assignee in the case of assignment of capital to a party outside the enterprise.
3. Within fifteen (15) working days from the date of receipt of the file for registration of the assignment of capital, the investment licence-issuing body shall issue a decision on adjustment of the investment licence.

Article 34 *Restructuring of invested capital and legal capital*

1. During its operation, an enterprise with foreign owned capital may restructure its invested capital or legal capital in the case of a change in the objectives, the size of the project, the parties or the method of capital contribution, or in other cases.
2. The restructuring of the invested capital or legal capital referred to in clause 1 of this article shall not reduce the legal capital ratio to less than the ratio stipulated in articles 14 and 23 of this Decree.

3. Any restructuring of the invested capital or legal capital, or any change in the capital contribution ratio of the joint venture parties, shall be decided by the board of management of the enterprise and approved by the investment licence-issuing body.

Article 35 *Transfer without compensation*

Where a foreign investor undertakes to transfer assets under its ownership to the State of Vietnam or to the Vietnamese party without any compensation after expiry of the duration of operation stipulated in the investment licence, the assets so transferred must be in a normal working condition.

Where an enterprise with foreign owned capital or a business co-operation contract terminates operation prior to the expiry date due to any cause other than an event of *force majeure*, and if such termination changes the commitment to transfer assets without compensation, the foreign investor shall be responsible for returning the preferential treatment it has enjoyed as a result of its commitment to transfer assets without compensation.

Article 36 *Temporary suspension of operation or extension of schedule of implementation of project*

When there is reasonable cause for temporary suspension of operation or for extension of the schedule of implementation of a project, an enterprise with foreign owned capital or the business co-operation parties must report to the investment licence-issuing body. Except in the case of an event of *force majeure*, the temporary suspension of operation or the extension of the schedule of implementation of a project shall only be implemented after approval is granted by the investment licence-issuing body.

In the case of temporary suspension of operation or extension of the schedule of implementation of a project, an enterprise with foreign owned capital or the business co-operation parties may be granted an exemption from or reduction of their financial obligations on a case-by-case basis.

Article 37 *Termination of operation, liquidation and dissolution of enterprises*

The termination of operation, liquidation and dissolution of an enterprise with foreign owned capital or business co-operation contract shall be carried out by the following procedures:

1. The investment licence-issuing body shall issue a decision to terminate the operation of the enterprise with foreign owned capital or the business co-operation contract in the cases stipulated in article 52 of the *Law on Foreign Investment*.

2. The enterprise with foreign owned capital or the business co-operation parties shall be responsible for the establishment of a liquidation committee in order to carry out the liquidation of the assets of the enterprise or of the business co-operation contract.
3. After completion of liquidation, the enterprise with foreign owned capital or the business co-operation parties shall prepare a report and submit the liquidation file to the investment licence-issuing body for consideration and issuance of a decision to dissolve the enterprise or to terminate the validity of the business co-operation contract.

Article 38 *Announcement of termination of operation*

Within fifteen (15) days from the date on which the investment licence-issuing body issues a decision to terminate operation, an enterprise with foreign owned capital or the business co-operation parties must publish an announcement of such termination of operation and the liquidation of the assets of the enterprise or of the business co-operation contract in three consecutive issues of central or local daily newspapers.

Article 39 *Establishment of liquidation committee*

1. Within thirty (30) days from the expiry date of the duration of operation or from the date on which the decision on early termination becomes effective, the board of management of a joint venture enterprise, the foreign investor (in the case of enterprises with one hundred (100) per cent foreign owned capital) or the business co-operation parties shall be responsible for the establishment of a liquidation committee in order to carry out liquidation of the assets of the enterprise or of the business co-operation contract. The composition of the liquidation committee shall be determined by the board of management of the joint venture enterprise, the foreign investor, or the business co-operation parties.
2. Where the liquidation committee is not established within the time-limit stipulated in clause 1 of this article, the investment licence-issuing body shall issue a decision to establish a liquidation committee to carry out the liquidation of the assets of the enterprise or of the business co-operation contract. The investment licence-issuing body may invite representatives of relevant bodies and organizations or experts, representatives of employees and representatives of creditors to take part in the liquidation committee.
3. The decision to establish a liquidation committee referred to in clauses 1 and 2 of this article shall specify the composition, functions, duties, powers and budget for operation of the liquidation committee and shall be sent to the joint venture parties, the members of the board of management

of the joint venture enterprise, the foreign investor, or the business co-operation parties.

Article 40 *Powers and duties of liquidation committee*

1. The liquidation committee shall be an organization assisting the board of management of a joint venture enterprise, the foreign investor or the business co-operation parties in carrying out the liquidation of the enterprise or the liquidation of the business co-operation contract. The liquidation committee may use the seal of the enterprise or of the Vietnamese party to the business co-operation contract to carry out the liquidation.
2. During the process of liquidation, the liquidation committee shall be entitled:
 - (a) To require the general director, deputy general directors, chief accountant of the enterprise and the representatives of the business co-operation parties, and may request other organizations and individuals, to provide files, documents, vouchers, and so forth, relating to liquidation activities;
 - (b) Where necessary, to invite Vietnamese or foreign organizations and experts to conduct audits and valuations of machinery, equipment and workshops and to calculate the residual value of the enterprise or of the business co-operation contract.
3. The liquidation committee shall have the following duties:
 - (a) To notify creditors and relevant organizations in writing of the liquidation of the enterprise or of the business co-operation contract;
 - (b) To calculate the value of assets under the lawful ownership of the enterprise or of the business co-operation contract;
 - (c) To determine financial liabilities which have been paid to the State;
 - (d) To determine amounts receivable or payable;
 - (dd) To formulate a liquidation plan for approval by the board of management of the joint venture enterprise, the foreign investor, or the business co-operation parties;
 - (e) To carry out the approved liquidation plan;

- (g) To prepare and submit a report on the results of liquidation to the board of management of the joint venture enterprise, the foreign investor, or the business co-operation parties.

Article 41 *Order of priority for payment of obligations*

During the process of liquidation, the enterprise with foreign owned capital or the business co-operation parties shall discharge obligations in the following order of priority:

1. Expenses relating to liquidation activities;
2. Wages and social insurance expenses owed by the enterprise or by the business co-operation parties;
3. Tax liabilities and other financial obligations of the enterprise or of the business co-operation parties to the State of Vietnam;
4. Debts;
5. Other liabilities of the enterprise or the business co-operation parties.

Article 42 *Duration of operation of liquidation committee*

1. The duration of operation of a liquidation committee shall not exceed twelve (12) months from the date of its establishment.
2. Notwithstanding that the liquidation may not be completed upon expiry of the duration, the liquidation committee shall terminate its operation; in such case, the joint venture parties, the foreign investor or the business co-operation parties shall deal with unresolved problems by themselves. In the case of a dispute, such dispute shall be resolved in accordance with the provisions of article 122 of this Decree.

Article 43 *Methods of liquidation of assets*

The liquidation of assets of an enterprise with foreign owned capital and of the assets for implementation of a business co-operation contract shall be conducted by the method agreed by the parties.

In cases where the Vietnamese party makes its capital contribution in the form of the value of land use rights, upon termination of operation, the value of the land use rights for the remaining period shall be included in the assets of the enterprise to be liquidated.

Article 44 *Procedures for resolution in event of bankruptcy*

If during the liquidation process there is sufficient evidence indicating that the enterprise is bankrupt, the liquidation committee must report to the investment licence-issuing body to terminate the liquidation and the procedures for bankruptcy shall be carried out in accordance with the law on business bankruptcy.

CHAPTER IV

Issues on Tax - Finance**Article 45** *Corporate income tax rates*

Enterprises with foreign owned capital and foreign business co-operation parties shall pay corporate income tax at the rate of twenty five (25) per cent on their profits earned, except in the cases provided for in article 46 of this Decree.

With respect to prospecting, exploration for and exploitation of oil and gas and a number of other rare and precious natural resources, the corporate income tax rates shall be subject to the provisions of the *Law on Petroleum* and other relevant law.

Article 46 *Corporate income tax in cases of encouraged investment*¹⁰

Preferential rates of corporate income tax shall apply as follows:

1. The rate of twenty (20) per cent shall apply to projects which satisfy one of the following criteria:
 - (a) Industrial zone enterprises engaged in the service sector;
 - (b) Production projects other than projects prescribed in clauses 2 and 3 of this article.
2. The rate of fifteen (15) per cent shall apply to projects which satisfy one of the following criteria:
 - (a) Being included in the list of encouraged investment sectors;
 - (b) Investment in regions with difficult socio-economic conditions;

¹⁰ *As amended by articles 1.8 and 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

- (c) Service enterprises in export processing zones;
 - (d) Production enterprises in industrial zones;
 - (dd) Assigning assets to the State of Vietnam without any compensation after expiry of operation.
3. The rate of ten (10) per cent shall apply to projects which satisfy one of the following criteria:
- (a) Satisfying two of the criteria prescribed in clause 2 of this article;
 - (b) Being included in the list of specially encouraged investment sectors;
 - (c) Investment in regions with especially difficult socio-economic conditions included in the list of regions in which investment is encouraged;
 - (d) Enterprises engaged in infrastructure development of industrial zones, export processing zones or high-tech zones; export processing enterprises in the field of production;
 - (dd) Being engaged in the fields of medical examination and treatment, education and training, or scientific research.

The preferential conditions stipulated in paragraph (a) of clause 3 of this article shall not be applicable to production projects in industrial zones exporting less than fifty (50) per cent of products, unless such projects satisfy two of the conditions stipulated in paragraphs (a), (b) and (dd) of clause 2 of this article.

4. The duration of application of preferential corporate income tax rates shall be stipulated as follows:
- (a) The preferential corporate income tax rates stipulated in this article shall be applied throughout the duration of investment project implementation in the case of investment projects which satisfy one of the following criteria:
 - Projects included in the list of specially encouraged investment sectors;
 - Projects located in regions with especially difficult socio-economic conditions in the list of regions in which investment is encouraged;

- Projects engaged in infrastructure development of industrial zones, export processing zones, or high-tech zones;
 - Projects investing in industrial zones, export processing zones, or high-tech zones;
 - Projects engaged in the fields of medical examination and treatment, education and training, and scientific research.
- (b) The corporate income tax rate of ten (10) per cent shall be applied for a period of fifteen (15) years from the time when the project commences its production or business activities, except in the case of projects stipulated in clause 4(a) of this article.
- (b) The corporate income tax rate of fifteen (15) per cent shall be applied for a period of twelve (12) years from the time when the project commences its production or business activities, except in the case of projects stipulated in clause 4(a) of this article.
- (c) The corporate income tax rate of twenty (20) per cent shall be applied for a period of ten (10) years from the time when the project commences its production or business activities, except in the case of projects stipulated in clause 4(a) of this article.
5. After the duration of enjoyment of preferential corporate income tax rates specified in sub-clauses (b), (c) and (d) of clause 4 of this article, projects shall pay corporate income tax at the rate of twenty five (25) per cent.
6. Vietnamese permanently residing overseas investing in Vietnam in accordance with the provisions of the *Law on Foreign Investment* shall be entitled to a twenty (20) per cent reduction of the corporate income tax applicable to projects of the same category, except in cases where the ten (10) per cent rate of corporate income tax is applicable.
7. Where an enterprise with foreign owned capital or a business co-operation contract invests in several sectors and/or invests in different localities which are entitled to different preferential rates of corporate income tax, if it is able to make separate calculations, the preferential rates applicable to the respective sectors and localities shall apply; if it is unable to make separate calculations, the preferential rates shall apply according to the portions of invested capital.

Article 47 *Projects not entitled to preferential corporate income tax rates*

The tax rates specified in article 46 of this Decree shall not apply to projects in the fields of hotels, offices and apartments for lease (except where investment is conducted in regions in which investment is encouraged or where assets will be

transferred without any compensation to the State of Vietnam after expiry of operation) and projects in the fields of finance, banking, insurance, trade and provision of services (except for projects in industrial zones, export processing zones, and high-tech zones).

Article 48 *Exemption from and reduction of corporate income tax*¹¹

Exemptions from and reductions of corporate income tax shall be applied as follows:

1. The projects referred to in clause 1 of article 46 of this Decree shall be exempt from corporate income tax for one (1) year commencing from the time when their operations start to earn profits and shall be granted a fifty (50) per cent reduction for the two (2) subsequent years.
2. The projects referred to in clause 2 of article 46 of this Decree shall be exempt from corporate income tax as follows:
 - (a) Production enterprises in industrial zones exporting less than fifty (50) per cent of products and failing to satisfy the conditions stipulated in paragraphs (a), (b) and (dd) of clause 2 of article 46 shall be exempt from corporate income tax for two (2) years commencing from the time when their operations start to earn profits.
 - (b) Other projects which are not referred to in paragraph (a) of clause 2 of this article shall be exempt from corporate income tax for two (2) years commencing from the time when their operations start to earn profits and shall be granted a fifty (50) per cent reduction for the three (3) subsequent years.
2. The projects referred to in clause 3 of article 46 of this Decree and investment projects in regions where investment is encouraged shall be exempt from corporate income tax for four (4) years commencing from the time when their operations start to earn profits and shall be granted a fifty (50) per cent reduction for the four (4) subsequent years, except for projects which are exempt from corporate income tax for eight (8) years.
3. BOT, BTO, and BT enterprises investing in regions included in the list of regions where investment is encouraged; high-tech industrial enterprises; high-tech service enterprises in high-tech zones; afforestation projects, projects for construction and operation of infrastructure facilities in regions with especially difficult socio-economic conditions; and large scale projects with a significant socio-economic impact which are included

¹¹ *As amended by articles 1.9 and 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

in the list of specially encouraged investment sectors shall be exempt from corporate income tax for eight (8) years commencing from the time when their operations start to earn profits.

4. The duration of tax exemptions and tax reductions shall run consecutively from the first profit-making year.
5. The exemptions from and reductions of corporate income tax referred to above shall not apply to projects in the fields of hotels, offices and apartments for lease (except where investment is conducted in regions where investment is encouraged or where assets will be transferred to the State of Vietnam without any compensation after expiry of the duration of operation) and investment projects in the fields of finance, banking, insurance, trade and provision of services (except for projects in industrial zones, export processing zones or high-tech zones).

Article 49 *Adjustment of preferential tax rates and duration of exemption from and reduction of corporate income tax*

1. Where an enterprise with foreign owned capital or a foreign business co-operation party fails, during the course of business, to satisfy the conditions for entitlement to preferential corporate income tax rates and the duration of corporate income tax exemptions and reductions provided for in articles 46 and 48 of this Decree, the investment licence-issuing body shall adjust the tax rates and the duration of exemption from and reduction of corporate income tax stipulated in the investment licence.
2. The Ministry of Finance shall make a decision regarding any tax exemption or reduction in accordance with the applicable regulations in cases where difficulties are encountered during the course of business resulting from a natural calamity, fire or other events of *force majeure*.

Article 50 *Profit remittance tax*

1. Upon being transferred abroad or retained outside Vietnam, profits earned by foreign investors from their investments in Vietnam (including corporate income tax refunded as a result of any reinvestment and profits earned from assignment of capital) shall be subject to profit remittance tax.
2. The rates of profit remittance tax shall be applied as follows:
 - (a) Three (3) per cent of profits transferred abroad in respect of:
 - Vietnamese permanently residing overseas investing in Vietnam in accordance with the provisions of the *Law on Foreign Investment*;
 - Foreign investors investing in industrial zones, export processing zones or high-tech zones;
 - Foreign investors contributing no less than ten (10) million USD to legal capital or capital for implementation of a business co-operation contract;
 - Foreign investors investing in regions with especially difficult socio-economic conditions included in the list of regions in which investment is encouraged.
 - (b) Five (5) per cent of profits transferred abroad in respect of foreign investors contributing from five (5) million USD to less than ten (10) million USD to legal capital or capital for implementation of a business co-operation contract and in respect of foreign investors investing in the fields of medical examination and treatment, education and training, and scientific research.
 - (c) Seven (7) per cent of profits transferred abroad in respect of foreign investors making a contribution to legal capital or capital for implementation of a business co-operation contract which is not covered in sub-clauses (a) and (b) of clause 2 of this article.
3. Profit remittance tax shall be collected each time profits are transferred.
4. In the case where a foreign investor has paid profit remittance tax but then does not transfer the profits abroad, the amount of profit remittance tax already paid shall be refunded.

Article 51 *Refund of corporate income tax in the case of reinvestment*

1. A foreign investor using profits and other lawful income earned from investment activities in Vietnam to reinvest in projects under implementation or in new projects under the *Law on Foreign Investment* shall be entitled to a partial or total refund of any corporate income tax already paid in respect of the amount of profits reinvested (except in the cases specified in the *Law on Petroleum*) provided that the following conditions are satisfied:
 - (a) The reinvestment is made in a project entitled to corporate income tax incentives referred to in article 46 of this Decree;
 - (b) The reinvested capital is used for at least three (3) years;
 - (c) The legal capital or capital for implementation of a business co-operation contract has been fully contributed as stated in the investment licence.
2. In respect of the amount of profits reinvested in Vietnam, corporate income tax shall be refunded at the following rates:
 - (a) One hundred (100) per cent if reinvestment is made in a project entitled to a corporate income tax rate of ten (10) per cent;
 - (b) Seventy five (75) per cent if reinvestment is made in a project entitled to a corporate income tax rate of fifteen (15) per cent;
 - (c) Fifty (50) per cent if reinvestment is made in a project entitled to a corporate income tax rate of twenty (20) per cent.
3. When the requirement to use profits for reinvestment arises, the foreign investor shall prepare a file for submission to the Ministry of Finance for consideration of a refund of corporate income tax, comprising:
 - (a) An application for a refund of corporate income tax due to reinvestment;
 - (b) An undertaking to use the profits for reinvestment for at least three (3) years;
 - (c) A warranty by the board of management of the joint venture enterprise or by the foreign investor or the business co-operation parties that the foreign investors have fully contributed the legal capital or capital for implementation of the business co-operation contract;

- (d) A copy of the investment licence;
 - (dd) A certificate of the tax office in relation to the amount of corporate income tax already paid.
4. Within fifteen (15) working days from the date of receipt of a complete and proper file, the Ministry of Finance shall notify the foreign investor of its decision; if approval is granted, the foreign investor may proceed with the procedures for a refund of corporate income tax in respect of the profits reinvested. If approval is pending or not granted upon expiry of such time-limit, the Ministry of Finance shall notify the foreign investor in writing, stating clearly the reasons therefor.

Where any profits registered to be reinvested are not reinvested, the foreign investor must return any corporate income tax refunded, plus an amount of interest payable on the amount of tax to be returned at the loan interest rate.

Article 52 *Corporate income tax in respect of assignment of capital*

Any assignment of capital shall be carried out in accordance with article 33 of the *Law on Foreign Investment* and shall be subject to tax as follows:

1. In cases where profits are earned from the assignment of capital, the assigning party shall pay corporate income tax at the rate of twenty five (25) per cent on the profits earned.
2. Taxable profits shall be equal to the assigned value less the original value of the assigned capital less assignment expenses (if any).

In cases where the assignee foreign investor subsequently assigns its capital, the original value of the assigned capital on each subsequent occasion shall be equal to the assigned value stated in the preceding assignment contract plus additional contributed capital (if any).

3. After the investment licence-issuing body confirms the registration of the capital assignment contract by adjusting the investment licence, the capital assigning party or the authorized person shall submit to the local tax office a tax declaration in respect of the capital assignment activities and relevant documents as stipulated by the tax office.

Article 53 *Tax year*

The tax year applicable to enterprises with foreign owned capital and business co-operation parties shall commence on the first day of January and end on the thirty first day of December of each Gregorian year.

Enterprises with foreign owned capital and business co-operation parties may apply to the Ministry of Finance for permission to adopt their own twelve (12) month financial year for the purpose of corporate income tax calculation and payment.

Article 54 *Profits subject to corporate income tax*

The profits subject to corporate income tax shall be the difference between the total revenue of an enterprise and its total expenses, plus other additional profits in the tax year, less any losses carried forward in accordance with article 40 of the *Law on Foreign Investment*. The profits subject to corporate income tax shall comprise the taxable profits of the head office of the enterprise and its subsidiary establishments (if any).

The determination of the amount of profits subject to corporate income tax shall be conducted in accordance with the provisions of article 9 of the *Law on Corporate Income Tax*. Enterprises with foreign owned capital or business co-operation parties shall be permitted to include in their expenses any payments confirmed by the tax office as being reasonable payments for humanitarian or charitable purposes to Vietnamese organizations or individuals.

Article 55 *Carry-forward of losses*

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

Article 56 *Appropriation for formation of enterprise funds*

After the payment of corporate income tax and fulfilment of other financial obligations, an enterprise with foreign owned capital shall be permitted to appropriate an amount from the remaining profits to form a reserve fund, social welfare fund, production expansion fund and other funds as decided by the enterprise.

Article 57 *Exemption from import duties on imported goods*¹²

1. Enterprises with foreign owned capital and business co-operation parties shall be entitled to exemption from import duties in respect of goods imported to form fixed assets, comprising:
 - (a) Equipment and machinery;
 - (b) Specialized means of transportation which form part of a technological line and specialized means of transportation used for transporting employees (automobiles of twenty four (24) seats or more and watercraft);
 - (c) Components, details, parts, spare parts, fittings, moulds and accessories accompanying the above machinery, equipment and specialized means of transportation referred to in sub-clause (b) of this clause;
 - (d) Raw materials and materials imported to manufacture equipment and machinery in technological lines or to manufacture details, parts, spare parts, fittings, moulds and accessories accompanying machinery and equipment;
 - (dd) Construction materials which are not yet domestically produced.
2. Raw materials and materials imported for the implementation of BOT, BTO and BT projects; and species of plants and animals or specialized agricultural chemicals permitted to be imported for the implementation of agricultural, forestry and fishery projects shall be exempt from import duties.
3. The exemption from import duties applicable to the imported goods referred to in clauses 1 and 2 of this article shall also apply in the cases of expansion of a project or of replacement or renewal of technology.
4. Enterprises with foreign owned capital and business co-operation parties in the fields of hotels, offices, apartments for lease, residential houses, commercial centres, technical services, supermarkets, golf courses, tourist resorts, sports centres, entertainment centres, medical examination and treatment establishments, training, culture, finance, banking, insurance, auditing, and consultancy services shall also be entitled to the exemption from duties provided for in clauses 1 and 3 of this article, except in respect

¹² *As amended by articles 1.10 and 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

of imported furniture and equipment which is entitled to a once-off exemption from import duties as stipulated in the Appendix to this Decree.

5. Enterprises with foreign owned capital and business co-operation parties investing in projects included in the list of specially encouraged investment sectors or investing in regions with especially difficult socio-economic conditions as provided in the Appendix to this Decree shall be entitled to exemption from import duties in respect of raw materials, supplies and components for production for five (5) years from the time when production commences.
6. Enterprises with foreign owned capital and business co-operation parties investing in the manufacture of mechanical, electrical and electronic components and parts shall be entitled to exemption from import duties in respect of raw materials, supplies and components for production for five (5) years from the time when production commences.
7. Raw materials, spare parts, parts and materials imported for production of goods for export shall be exempt from import duties.
8. Other goods and materials used for projects in specially encouraged investment sectors under a decision of the Prime Minister of the Government shall be exempt from import duties.
9. On the basis of the investment licence, the economic-technical explanatory statement and the technical design of the project, the Ministry of Trade or its authorized body shall determine the list of duty-free imported goods. The imported goods referred to above shall not be sold in the Vietnamese market. Where necessary, the sale of such goods in the Vietnamese market must be approved by the Ministry of Trade and subject to the relevant taxes in accordance with law.
10. The Ministry of Trade shall co-operate with relevant ministries and branches to provide written guidelines for detailed classification of raw materials, supplies and components for production which shall be exempt from import duties for five (5) years from the time when production commences as referred to in clauses 5 and 6 of this article.

Article 58 *Import duties on raw materials and materials imported for production of goods for export, and on raw materials for production of products for sale to enterprises engaged in production of goods for export*

1. Enterprises with foreign owned capital and business co-operation parties engaged in production of goods for export shall be entitled to defer temporarily the payment of import duties in respect of raw materials and materials imported for production of goods for export for the period

stipulated in the *Law on Import and Export Duties*. Due to the requirements of production or the production cycle of a number of export products, the Ministry of Finance shall determine the above period of deferral of payment.

After expiry of such period, enterprises with foreign owned capital and business co-operation parties shall pay import duties and, upon export of finished products, shall be refunded the amount of import duties paid in respect of imported raw materials and materials in proportion to the ratio of finished products exported.

2. Enterprises with foreign owned capital and business co-operation parties shall, when selling their products to other enterprises directly producing goods for export, be entitled to exemption from import duties in respect of raw materials in proportion to the volume of such products.

Article 59 *Price for calculation of import duties*¹³

The price for calculation of import duties in respect of imported goods shall be subject to the provisions of article 1 of Decree 60-2002-ND-CP of the Government dated 6 June 2002 on determining prices for calculation of import duties in respect of imported goods on the principles of the Treaty implementing article 7 of the General Agreement on Tariffs and Trade.

Article 60 *Value added tax*

1. Enterprises with foreign owned capital and business co-operation parties shall be entitled to defer temporarily the payment of value added tax in respect of raw materials and materials imported for production of export goods during the period of deferral of payment of import duties in accordance with the provisions of the *Law on Import and Export Duties*.
2. Enterprises with foreign owned capital and business co-operation parties shall not be subject to value added tax in respect of:
 - (a) Equipment, machinery and specialized means of transportation which form part of a technological line not yet domestically produced and which are imported to form fixed assets of the enterprise with foreign owned capital or for implementation of the business co-operation contract;

In the case of an imported complete line of machinery and equipment which is not subject to value added tax but which comprises

¹³ As amended by article 1.11 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

machinery and equipment which can be produced domestically, value added tax shall not apply to the whole complete line of machinery and equipment;

- (b) Construction materials which are not yet domestically produced and are imported to form fixed assets of the enterprise with foreign owned capital or for implementation of the business co-operation contract;
- (c) Raw materials imported for production of products to be supplied to other enterprises directly producing goods for export.

Article 61 *Depreciation of fixed assets*

Enterprises with foreign owned capital and business co-operation parties shall implement the depreciation of fixed assets as provided for by the Ministry of Finance.

CHAPTER V

Accounting System, Statistics and Insurance

Article 62 *Accounting, auditing and statistical work*

1. Accounting, auditing and statistical work for enterprises with foreign owned capital and foreign business co-operation parties shall be conducted in accordance with the law of Vietnam on accounting, auditing and statistics.
2. Enterprises with foreign owned capital and foreign business co-operation parties shall apply the Vietnamese accounting system.

In cases where there is a legitimate reason for requiring to apply a different commonly used foreign accounting system, the approval of the Ministry of Finance must be obtained.

3. The foreign business co-operation party shall keep accounting records as appropriate to the type of business co-operation concerned.

Article 63 *Standard units of measurement, currency, accounting and statistics*

1. The standard units of measurement used in accounting and statistics shall be the official units of measurement of Vietnam. All other units of measurement must be converted into the official Vietnamese units of measurement.

2. The monetary unit to be used in accounting and statistics shall be the Vietnamese Dong. In a case of necessity, enterprises with foreign owned capital and foreign business co-operation parties may request the Ministry of Finance to approve the use of a foreign currency unit.
3. Books of accounts and statistics shall be kept in Vietnamese or in both Vietnamese and a commonly used foreign language.

Article 64 *Financial statements*

An enterprise with foreign owned capital or a foreign business co-operation party must, within three (3) months of the close of its financial year, submit its annual financial statements to the investment licence-issuing body, the Ministry of Planning and Investment, the Ministry of Finance, and the General Department of Statistics.

The annual financial statements of an enterprise with foreign owned capital or a foreign business co-operation party shall, prior to being submitted to the above bodies, be audited by an independent auditing company permitted to operate in Vietnam in accordance with the provisions of the law relating to auditing.

The auditing company must be responsible before the law for the independence, objectiveness and truthfulness of the audit results.

The audited financial statements of an enterprise with foreign owned capital or a foreign business co-operation party may be used as the basis for determining and finalizing tax obligations and other financial obligations to the State of Vietnam.

Article 65 *Provisions on insurance*

1. Enterprises with foreign owned capital and foreign business co-operation parties shall take out insurance under insurance policies entered into with insurance companies permitted to operate legally in Vietnam in accordance with the provisions of the law.
2. Enterprises with foreign owned capital and foreign business co-operation parties shall take out voluntary insurance and compulsory insurance in accordance with law.

Items to be insured comprise people, assets, civil liability and other items stipulated by law.

CHAPTER VI

Foreign Exchange Control**Article 66** *Opening bank accounts*

Enterprises with foreign owned capital and business co-operation parties shall open foreign currency accounts and Vietnamese Dong accounts with banks permitted to operate in Vietnam.

In special cases where it is necessary for some projects, enterprises with foreign owned capital may open accounts with banks abroad upon approval by the State Bank of Vietnam. Enterprises shall be responsible for reporting to the State Bank of Vietnam on the operations of the bank accounts opened abroad. The opening, operating and closing of bank accounts by enterprises shall be conducted in accordance with the regulations of the State Bank of Vietnam.

Article 67 *Provisions on assurance of foreign currency*¹⁴

1. Enterprises with foreign owned capital or foreign business co-operation parties may purchase foreign currency from banks permitted to trade in foreign currency in order to meet the demands of their current transactions and other permitted transactions in accordance with the provisions of the law on foreign exchange control.
2. With respect to specially important investment projects investing in accordance with Government programs in each period, the Prime Minister of the Government shall make a decision on guarantee of foreign currency balance of enterprises with foreign owned capital and business co-operation parties which shall be stated in the investment licence.
3. The Government of Vietnam shall assure¹⁵ its assistance in the foreign currency balance for enterprises with foreign owned capital and business co-operation parties investing in the construction of infrastructure facilities and some other important projects where banks permitted to trade in foreign currency fail to provide sufficient foreign currency required as referred to in clause 1 of this article.

¹⁴ *As amended by article 1.12 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

¹⁵ *Phillips Fox Note: The same Vietnamese word ("bao dam") has been translated as "guarantee" in the preceding clause and as "assure" in this clause, at the instruction of the Ministry of Planning and Investment.*

Article 68 *Transfer abroad of income of foreign investors*

1. After fulfilling their tax obligations, foreign investors may transfer abroad:
 - (a) Their profits earned from business operations and distributed income;
 - (b) Payments received from provision of services and transfer of technology;
 - (c) Principal and interest on any foreign loan;
 - (d) Invested capital;
 - (dd) Other sums of money and assets lawfully owned by them.
2. Upon termination of operation and dissolution of an enterprise, foreign investors may transfer abroad assets lawfully owned by them.
3. In cases where the amount transferred abroad as stipulated in clause 2 of this article is greater than the initial amount of capital and reinvestment capital, the excess amount may only be transferred abroad upon approval by the investment licence-issuing body.

Article 69 *Transfer abroad of income of foreigners*

Foreigners working in enterprises with foreign owned capital and for business co-operation parties may transfer abroad, in foreign currency, their salaries and other legal income after payment of income tax and other expenses.

Article 70 *Rates of exchange*

The exchange rate for conversion of foreign currency into Vietnamese currency and *vice versa* applicable during the process of investment, production and business of enterprises with foreign owned capital and business co-operation parties shall be in accordance with the provisions of the State Bank of Vietnam at the time of conversion.

CHAPTER VII

**Import and Export, Technology Transfer
and Environmental Protection****Article 71** *Registration of import plans*

1. Within sixty (60) days from the date of issuance of an investment licence, enterprises with foreign owned capital and business co-operation parties shall register plans for import of machinery, equipment, parts, materials, raw materials, and so forth, for the whole duration of capital construction of the project or for each year in accordance with the schedule of construction and installation. The import plan may be added to or adjusted in the first month of each quarter and on an annual basis in conformity with the schedule of capital contribution, the schedule of construction and the production and business program.
2. Within fifteen (15) days from the date of receipt of a complete file, the body authorized by the Ministry of Trade shall approve the import plan for each project on the basis of the investment licence, the economic-technical explanatory statement and the technical design of the project. If approval is not granted within the above time-limit, the body authorized by the Ministry of Trade must notify in writing the enterprise and the business co-operation parties and specify reasons therefor.
3. When commercial terms are equal, enterprises with foreign owned capital and business co-operation parties are encouraged to purchase goods in Vietnam in lieu of import.

Article 72 *Requirements in respect of imported equipment, machinery and materials*

The equipment, machinery and materials imported into Vietnam for the purpose of implementing an investment project must satisfy standards and quality in accordance with the requirements of production, environmental protection, and labour safety as specified in the economic-technical explanatory statement, technical designs, and the provisions on importing equipment and machinery.

With the exception of used machinery and equipment included in the list of prohibited imports, enterprises with foreign owned capital and business co-operation parties shall be entitled to decide on, and shall be responsible for the economic and technical efficiency of, the import of used equipment and

machinery and shall comply with the provisions of the Ministry of Science and Technology¹⁶.

Article 73 *Inspection of imported equipment and machinery*

1. Equipment and machinery imported for the purpose of implementing an investment project must be inspected with respect to its value and quality prior to being imported or prior to installation, except for equipment and machinery purchased through tendering.
2. Customs offices in charge of bordergates shall, on the basis of the approved import plan, permit the import of machinery and equipment without requiring a certificate of inspection to be presented.
3. The organization inspecting the value of imported equipment and machinery may be an inspection company permitted to operate in Vietnam, Vietnamese State organizations in charge of inspection, or an overseas inspection company in the case of inspection of equipment and machinery prior to importation. The investor must provide the investment licence-issuing body with information on the selected inspection company.

The inspection organization shall be legally and materially responsible for the results of the inspection. In cases where the value of inspected equipment and machinery is less than that reported by the investor, the investor must adjust the value in accordance with the results of the inspection. Any fraud discovered shall, depending on the seriousness of the breach, be dealt with in accordance with the provisions of the law.

4. Where necessary, the investment licence-issuing body may require a re-inspection of the value of imported equipment or machinery.

Article 74 *Finance leases and leases of equipment and machinery*

1. In respect of a number of projects with special requirements, enterprises with foreign owned capital and business co-operation parties may lease equipment and machinery within and outside Vietnam for the purpose of implementing projects.
2. Where enterprises with foreign owned capital and business co-operation parties conduct a finance lease of equipment and machinery for the

¹⁶ *Phillips Fox Note: Article 1.32 of Decree 27-2003-ND-CP fails to provide for the replacement of the phrase "Ministry of Science, Technology and Environment" with the phrase "Ministry of Science and Technology" in this article. The Ministry of Planning and Investment has confirmed this oversight but it was not corrected by Official Letter 187-PG-QHQT of the Office of Government dated 1 April 2003. This Official English Version incorporates the replacement for consistency.*

purpose of forming fixed assets, they shall be entitled to exemption from import duties.

3. Where enterprises with foreign owned capital and business co-operation parties lease equipment and machinery for the purpose of conducting production or business activities, they shall comply with the following provisions:
 - (a) Leases shall only be permitted in respect of equipment and machinery which are not included in the technological line specified in the economic-technical explanatory statement and accompanying moulds and accessories for production for a definite duration;
 - (b) Equipment and machinery leased from a foreign country must be re-exported upon expiry of the lease.

Enterprises with foreign owned capital and business co-operation parties shall fulfil financial obligations on behalf of the lessor in accordance with law.

Enterprises may include expenses for leasing equipment and machinery in their business expenses but may not account for asset depreciation of the leased equipment and machinery and may not include the value of the leased assets in the value of the enterprises.

Leased equipment and machinery shall not be treated as assets of the lessee during the procedures for dissolution or bankruptcy of an enterprise.

Article 75 *Processing and reprocessing*

Enterprises with foreign owned capital and business co-operation parties may process or reprocess products in accordance with the objectives stated in the investment licence, in particular:

1. May process for foreign entities;
2. May process for domestic entities;
3. May engage local entities to process a part of the products or stages if the capacity of the machinery, equipment or technological line does not allow for such production.

Article 76 *Export of goods*

Enterprises with foreign owned capital and business co-operation parties may directly export or authorize agents to export their products and may act as authorized agents to export in accordance with law.

Such enterprises shall complete procedures for export with the customs office and shall not be required to register an export plan.

With the exception of goods included in the list of prohibited exports or in the list of conditional exports, enterprises with foreign owned capital and business co-operation parties may directly purchase goods and products in the Vietnamese market for processing for export or for export in accordance with the provisions of the Ministry of Trade.

Article 77 *Sale of products in Vietnamese market*

In respect of products sold in the Vietnamese market, enterprises with foreign owned capital may sell such products directly or through their agents and shall not be limited within any localities for sale of such products. The enterprises may act as agents to sell products of the same type which other enterprises manufacture in Vietnam.

Selling prices of products shall be determined by enterprises. In the case of goods and services the price of which is under the unified control of the State, selling prices shall comply with the tariff published by the authorized State body.

Article 78 *Sale of products by export processing enterprises into Vietnamese market*

Export processing enterprises may sell their products into the domestic market, including:

1. Raw materials and semi-finished products to enterprises which directly manufacture goods for export;
2. Goods which the domestic market needs to import;
3. Commercially valuable scrap and sub-standard products.

The procedures and payment of duties in respect of the above goods shall be fulfilled in accordance with the provisions on import and export.

Article 79 *Bonded warehouses*¹⁷

An enterprise with foreign owned capital producing goods for export may establish a bonded warehouse at the enterprise. Goods delivered into the bonded warehouse shall temporarily not be subject to payment of import duties.

An enterprise with the need to establish a bonded warehouse for the above purpose must satisfy the following conditions and procedures:

1. At least fifty (50) per cent of its products shall be exported;
2. Goods delivered from the bonded warehouse to the production plant must be registered and be subject to the supervision of custom authorities;
3. Goods delivered into the bonded warehouse must not be sold in the Vietnamese market. In special circumstances where the Ministry of Trade permits the sale of goods in the Vietnamese market, the enterprise must pay import duties and other taxes in accordance with law;
4. Goods delivered into the bonded warehouse which are damaged, reduced in quality, or unable to satisfy production requirements must be re-exported or destroyed. The destruction of such goods must be in accordance with the provisions and subject to the supervision of custom authorities, the tax office and environmental authorities.

The Ministry of Finance shall, pursuant to the above provisions, provide guidelines for the issuance of licences to establish bonded warehouses at enterprises with foreign owned capital and shall carry out the management and supervision of the operation of bonded warehouses.

Article 80 *Protection and encouragement of technology transfer*

1. The Government of the Socialist Republic of Vietnam shall create favourable conditions and shall protect the lawful rights and interests of a party transferring technology into Vietnam for the purpose of implementing an investment project in accordance with the laws on technology transfer; shall encourage the accelerated transfer of technology, especially of advanced technology and technology satisfying one of the following criteria:
 - (a) Producing new and necessary products in Vietnam or products for export;

¹⁷ As amended by article 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

- (b) Increasing technical capability, product quality, or production capacity;
 - (c) Conserving raw materials and fuel; efficiently exploiting and utilizing natural resources.
2. Any transfer of technology which has an adverse effect on the ecological environment, public order and labour safety shall be prohibited.

Article 81 *Technology transfer and capital contribution in the form of technology*¹⁸

1. A transfer of technology by enterprises with foreign owned capital and by business co-operation parties shall be carried out on the basis of a technology transfer contract in accordance with the law on technology transfer.
2. The value of technology transferred in the form of capital contribution shall be agreed by the parties.
3. When making capital contribution in the form of technology, the investor shall prepare a file for transfer of technology. The file for transfer of technology shall be submitted together with the application file for an investment licence and shall contain documents relating to industrial property, certificates of protection of industrial property rights, and other certificates of technical capability and the principles on which the value of the technology is determined as agreed by the joint venture parties.

Capital contribution in the form of technology must be approved by the Ministry of Science and Technology. The investment licence-issuing body shall adjust the investment licence after the capital contribution in the form of technology is approved.

Article 82 *Environmental protection*¹⁹

1. Enterprises with foreign owned capital and business co-operation parties shall be responsible for satisfying standards of environmental protection and complying with the Vietnamese law on environmental protection.
2. Based on the nature of operations, the level of technology and the degree of environmental impact, the Ministry of Science and Technology shall

¹⁸ As amended by articles 1.13 and 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

¹⁹ As amended by article 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

issue a list of projects which are required to prepare an environmental impact evaluation report.

The preparation and appraisal of the environmental impact evaluation report shall be carried out in accordance with the law on protection of the environment.

3. For projects not specified in the above list, the investor shall only be required to set out in the investment application file an explanation of any factors which may have an environmental impact, the measures it proposes to deal with those factors, and an undertaking to protect the environment during the period of construction and business operation.
4. In cases where the investor applies advanced international environmental standards during construction and business operation in Vietnam, the investor shall only be required to register with the Ministry of Science and Technology.

CHAPTER VIII

Labour Relations

Article 83 *Recruitment of employees*²⁰

1. Enterprises with foreign owned capital and business co-operation parties may recruit directly Vietnamese and foreign employees in accordance with the laws on labour.
2. Where foreign labour is required, enterprises with foreign owned capital and business co-operation parties shall complete procedures with the Department of Labour, War Invalids and Social Affairs or with industrial zone management boards for consideration of issuance of work permits in accordance with the provisions of the law on labour.

Article 84 *Salaries payable to Vietnamese employees*²¹

Minimum wages and salaries of Vietnamese employees working for enterprises with foreign owned capital and business co-operation parties shall be subject to the regulations of the Ministry of Labour, War Invalids and Social Affairs and shall be paid in Vietnamese Dong.

²⁰ As amended by article 1.14 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

²¹ As amended by article 1.15 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

CHAPTER IX

**Land, Construction, Tendering, Acceptance
and Finalization of Projects****Article 85** *Land lease and payment of land rent and payment of land use tax²²*

1. Enterprises with foreign owned capital and business co-operation parties may lease land from the State of Vietnam for the purpose of implementing investment projects and shall pay land rent in accordance with the provisions of the Ministry of Finance.
2. Where the Vietnamese party makes capital contribution in the form of the value of land use rights which originated from a transfer or allocation by the State with land use fee collection but the money paid for the transfer or the land use fee has not originated from the Budget, it shall not be required to convert into the form of land lease, but the Vietnamese party shall continue to be obliged to pay land use tax in accordance with the applicable laws.

Article 86 *Rates of land rent and exemptions from or reductions of land rent*

Based on the land rent tariff and the conditions for exemption or reduction stipulated by the Ministry of Finance, the provincial people's committee shall decide on the rate of land rent and exemption or reduction in respect of each project. The land rent shall remain unincreased for a minimum period of five (5) years and any increase in rent shall not exceed fifteen (15) per cent of the previously applicable rent.

In cases where enterprises with foreign owned capital or parties to business co-operation contracts leasing land from the State have paid rent for the whole duration of the project or for several years, such payment shall not be readjusted if the rent is increased under a decision during that duration.

Article 87 *Provisions on lease of land in industrial zones, export processing zones and high-tech zones²³*

1. In respect of investment projects in industrial zones, export processing zones and high-tech zones where infrastructure development enterprises invest in and construct the infrastructure, the land rent or the rent for sub-leased land on which the infrastructure is developed and the fees for

²² As amended by article 1.16 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

²³ As amended by article 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

use of infrastructure facilities shall be paid on the basis of a contract signed with the infrastructure development enterprise.

2. Enterprises with foreign owned capital and business co-operation parties leasing land or sub-leasing land in industrial zones, export processing zones and high-tech zones shall be issued with a certificate of land use rights in accordance with guidelines provided by the Ministry of Natural Resources and Environment.

Article 88 *Authority to decide on lease of land*²⁴

Provincial people's committees shall decide on the lease of land to foreign investment projects in accordance with the laws on land.

Article 89 *Compensation, site clearance and land lease files*²⁵

1. In respect of enterprises to which the State of Vietnam leases land, the provincial people's committee of the locality in which the investment project is located shall have the responsibility to organize compensation and site clearance and to complete all formalities relating to land leasing. Expenses for compensation and site clearance shall be included in the invested capital of the project. Provincial people's committees shall agree with enterprises leasing land on financing sources for conducting compensation and site clearance.
2. Where a Vietnamese party makes capital contribution in the form of the value of land use rights, the Vietnamese party shall be responsible for carrying out compensation and site clearance and completing all formalities in relation to obtaining the land use rights. Expenses for compensation and site clearance shall be included in the capital contribution of the Vietnamese party or otherwise accounted as agreed by the parties.
3. Rates of compensation shall be in compliance with the general provisions of the State.

²⁴ *As amended by article 1.17 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

²⁵ *As amended by article 1.18 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Phillips Fox Note: Article 1.18 of Decree 27-2003-ND-CP provides for the Vietnamese word "boi thuong" to replace "den bu" throughout this article, however the translation as "compensation" remains unchanged.

4. In respect of projects for which provincial people's committees issue investment licences, consideration of land lease shall be carried out at the same time as consideration of the issuance of investment licences.
5. In respect of projects for which the Ministry of Planning and Investment issues investment licences, documents relating to land shall be submitted together with the application file for an investment licence and shall contain the following items:
 - (a) The location and area of land used;
 - (b) The land rent as proposed by the provincial people's committee on the basis of the land rent tariff stipulated by the Ministry of Finance;
 - (c) The plan for compensation and site clearance.
6. The formalities and the file for leasing land or sub-leasing land shall be completed in accordance with guidelines provided by the Ministry of Natural Resources and Environment.

Article 90 *Point of time for calculation of land rent or capital contribution in form of value of land use rights*²⁶

Where enterprises with foreign owned capital and business co-operation parties lease land for the purpose of implementing investment projects or where Vietnamese parties make capital contribution in the form of the value of land use rights, the point of time for calculating land rent or the point of time for calculating the value of the capital contribution of the Vietnamese party shall commence as from the date when the land is handed over on site.

Article 91 *Preferential treatment for land rent*

Enterprises with foreign owned capital and business co-operation parties shall be entitled to lease land at the lowest land rent rate and shall be entitled to exemption from or maximum reduction of taxes in the case of investment in the construction of residential houses for employees or of infrastructure facilities outside the boundaries of the project. The lowest rate of land rent shall also apply in the case of medical examination and treatment, education and training, and scientific research.

²⁶ As amended by article 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

Article 92 *Mortgage of value of land use rights and of assets attached to land²⁷*

1. Enterprises with foreign owned capital may mortgage the value of land use rights and assets attached to land within the term of the lease of land or sub-lease of land with Vietnamese credit institutions which are permitted to operate in Vietnam in accordance with law in the following cases:
 - (a) Enterprises with foreign owned capital have already paid land rent for several years provided that the remaining period for which land rent has been paid is at least five (5) years;
 - (b) Joint venture enterprises where the Vietnamese party has made capital contribution in the form of the value of land use rights provided that the remaining period for which capital contribution has been made is at least five (5) years.
2. The mortgaged value of the land use rights shall include expenses for compensation and site clearance and land rent already paid minus (-) the land rent for the used period.
3. Files and procedures for mortgage of the value of land use rights shall be completed in accordance with guidelines provided by the Ministry of Natural Resources and Environment and the State Bank of Vietnam.

Article 93 *Discharge of mortgage of value of land use rights and of assets attached to land*

1. Upon completion of the obligation to pay debts secured by a mortgage of the value of land use rights and assets attached to land, an enterprise with foreign owned capital shall discharge the mortgage in accordance with the provisions of the law.
2. Where an enterprise with foreign owned capital fails to fulfil the obligation to pay a debt under a loan agreement, the mortgaged assets shall be dealt with in accordance with the provisions of the law.
3. Any organization or individual receiving the lawful right to use land as a result of a mortgage in accordance with law shall continue to use the land for the purpose of implementing the investment project in accordance with the issued investment licence; any change of or addition to the objectives of operation must be approved by the investment licence-issuing body.

²⁷ As amended by article 1.19 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

Article 94 *Management of construction of works with foreign owned capital*

Management of construction of works with foreign owned capital shall be carried out in the following areas:

1. Evaluation of the zone planning and of the architecture of the construction works;
2. Evaluation of technical designs;
3. Checking of the implementation of tendering for construction and the issuance of consultancy and construction contracting permits to successful contractors;
4. Management of the quality of construction works.

Article 95 *Evaluation of zone planning and architectural plans*²⁸

With respect to investment projects in the construction sector: bridges, roads, airports, ports; industrial works in Group A, infrastructure facilities of industrial zones, export processing zones and high-tech zones, urban areas, tourism zones, entertainment areas, works for artistic performance; advertising works; residential houses, hotels, offices and apartments; schools; hospitals and sports facilities, the application file for an investment licence must include a drawing of the master plan of the whole site of the project.

The master plan of the whole site of the project shall be evaluated during the process of evaluation of the investment project.

Article 96 *Evaluation of technical designs*

The following aspects of the construction design of a project shall be evaluated:

1. The legal status of the design organization;
2. The conformity of the design with zone planning and with the project architecture already evaluated and the zone planning already approved;

²⁸ *As amended by article 1.20 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Phillips Fox Note: Article 1.20 of Decree 27-2003-ND-CP does not provide for the amendment of the title of article 95. The Ministry of Planning and Investment has confirmed this oversight but it was not corrected in Official Letter 187-PG-QHQT of the Office of Government dated 1 April 2003. Articles 94.1 and 96.2 have also not been amended.

3. Compliance with Vietnamese construction and design technical standards or with foreign technical standards approved by the Ministry of Construction.

Article 97 *Authority to evaluate technical designs and approval of construction*

The authority to evaluate technical designs shall be as follows:

1. The Ministry of Construction shall evaluate the technical designs of Group A projects as stipulated in article 114 of this Decree, except for small scale and simple construction works. Provincial people's committees shall evaluate the technical designs of other projects.

The Ministry of Construction shall provide guidelines for evaluation of technical designs.

2. The evaluation of technical designs and notification of the decision to investors shall be conducted within twenty (20) working days from the date of receipt of a proper file. After the technical design has been approved, the investor may commence construction works.

After expiry of the above time-limit of twenty (20) working days, if the design evaluation body fails to notify the investor of its decision, the investor may commence construction works in accordance with the submitted technical design file.

3. The investor must notify the date of commencement of construction works to the provincial people's committee where the construction will take place at least ten (10) working days in advance.

Article 98 *Responsibilities for construction works*²⁹

1. Investors shall be responsible before the law of Vietnam for the quality of construction works; for the safety of construction works; for fire and explosion prevention and fighting; for environmental protection; and for occupational safety and hygiene during the period of construction as well as during the whole period of operation of the construction works.
2. Surveying and designing organizations and construction contractors must be responsible to investors and before the law of Vietnam for the quality of the part of the works that they perform.

²⁹ As amended by article 1.21 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

Article 99 *Commissioning of construction works*

Upon completion of the construction works, the investor shall report to the project design evaluation body on the completion of the construction works and may commence operating the construction works. Where necessary, the above body may inspect the construction works; any breach of the approved design and construction provisions which is identified shall be dealt with in accordance with law.

Article 100 *Provisions on tendering in respect of projects with foreign invested capital*

1. Joint venture enterprises and business co-operation contracts in which State owned enterprises participate with at least thirty (30) per cent of the legal capital or business capital must conduct tendering for procurement of goods and for construction and installation in accordance with the law on tendering. Boards of management of joint venture enterprises or authorized representatives of business co-operation parties shall be responsible for approving tendering plans and tendering results on the basis of agreement with the investment licence-issuing body.
2. In addition to the projects provided for in clause 1 of this article, investors of other projects are encouraged to organize tendering in accordance with the law on tendering.

Article 101 *Finalization of construction works*

1. Within six (6) months from the date of completion and commissioning of construction works or items of construction works, enterprises with foreign owned capital and business co-operation parties shall submit a finalization report in respect of the construction works to the investment licence-issuing body. The investor(s) shall be responsible for the truthfulness and accuracy of the finalization report.
2. Within thirty (30) days from the date of receipt of the finalization report in respect of the construction works, the investment licence-issuing body shall be responsible for considering and issuing a certificate of registration of the finalization report in respect of the construction works.

When necessary, the investment licence-issuing body may evaluate the finalization report in respect of invested capital and require the invested capital to be adjusted in accordance with appropriate costs.

3. Within six (6) months from the date of completion and commissioning of construction works, investors shall submit documents relating to the completed construction works for archiving as stipulated by law.

4. The verification of the ownership of the construction works shall be carried out in accordance with applicable provisions of the law.

Article 102 *Finalization*

1. An investor shall submit the certified and registered finalization report in respect of the construction works to the customs office in order to complete finalization procedures in respect of equipment, machinery, raw materials and materials which were imported for the construction and installation of the construction works.
2. In case where imported goods are not fully used for the project construction and installation, the investor shall so notify the investment licence-issuing body and the customs office for resolution. The above goods shall only be sold in the domestic market upon obtaining approval from the Ministry of Trade and all related financial obligations must be fulfilled in accordance with law.

Article 103 *Assistance for technical infrastructure facilities outside project boundaries*

The Government shall assure to support construction of technical infrastructure facilities up to the boundaries of enterprises with foreign owned capital or of industrial zones, export processing zones and high-tech zones. Where necessary, enterprises engaged in the construction and operation of technical infrastructure facilities may agree with enterprises engaged in infrastructure development of industrial zones, export processing zones and high-tech zones or with enterprises with foreign owned capital on advance financing or on other modes of arrangement for construction of technical infrastructure facilities.

CHAPTER X

Procedures for Issuance of Investment Licences**Article 104** *Procedures for issuance of investment licences*

1. Projects with foreign invested capital in Vietnam shall be approved in the form of investment licences. An investment licence shall be issued by the Ministry of Planning and Investment in the unified standard form.
2. Investment licences shall be issued in accordance with one of the two following procedures:
 - (a) Registration for issuance of investment licences;
 - (b) Evaluation for issuance of investment licences.

Article 105 *Conditions for projects subject to registration for issuance of investment licences*³⁰

1. Projects subject to registration for issuance of investment licences shall concurrently satisfy the following conditions:
 - (a) Not belong to Group A projects stipulated in article 114 of this Decree;
 - (b) Conform with the approved planning for development of the industry or planning for products. Where the above planning has not yet been approved, the consent of the ministry in charge of the industry shall be required;
 - (c) Not belong to the list of projects in respect of which environmental impact assessment reports must be prepared.
2. In addition to the conditions stipulated in clause 1 of this article, the projects subject to registration for issuance of investment licences must satisfy one of the following conditions:
 - (a) Have an export ratio of eighty (80) per cent of their products;
 - (b) Be an investment project in an industrial zone which does not belong to Group A projects, but which is included in the list of

³⁰ As amended by article 1.22 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

sectors in which investment is encouraged or specially encouraged;

- (c) Belong to the production sector with an invested capital of up to five (5) million USD.
3. Investment licence-issuing bodies may not refuse to grant investment licences to those projects which satisfy all conditions for registration for issuance of investment licences.
 4. Remaining projects shall be subject to evaluation for issuance of investment licences.

Article 106 *Registration for issuance of investment licences*³¹

1. A registration file for an investment licence shall consist of:
 - (a) An application for registration of an investment licence;
 - (b) The joint venture contract and the charter of a joint venture enterprise, or the charter of an enterprise with one hundred (100) per cent foreign owned capital, or the business co-operation contract;
 - (c) Documents verifying the legal status and financial position of the parties.
2. A registration file for an investment licence shall be made in three (3) sets, at least one of which shall be an original and all of which shall be submitted to the investment licence-issuing body.
3. The investment licence-issuing body shall consider the registration file for an investment licence and, if it satisfies all of the conditions and procedures stipulated in articles 105 and 106 of this Decree, shall issue an investment licence without obtaining recommendations from any other body.
4. Within fifteen (15) working days from the date of receipt of proper documentation, the investment licence-issuing body shall notify its decision of approval in the form of an investment licence.
5. The Ministry of Planning and Investment shall provide written guidelines for preparation of project files for registration for issuance of investment licences.

³¹ *As amended by article 1.23 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Article 107 *Files for evaluation for issuance of investment licences*

1. A file for evaluation for issuance of an investment licence shall consist of:
 - (a) An application for an investment licence;
 - (b) The joint venture contract and the charter of a joint venture enterprise; or the charter of an enterprise with one hundred (100) per cent foreign owned capital, or the business co-operation contract;
 - (c) Economic-technical explanatory statement;
 - (d) A document verifying the legal status and financial position of the joint venture parties, of the business co-operation parties or of the foreign investor;
 - (dd) Documents relating to technology transfer (if any).
2. An application file shall be made in twelve (12) sets with respect to Group A projects and eight (8) sets with respect to Group B projects, at least one of which shall be an original, and all sets shall be submitted to the licence investment-issuing body.

The Ministry of Planning and Investment shall provide guidelines on preparation of application files for projects with foreign invested capital.

Article 108 *Aspects of investment projects to be evaluated*

The following aspects of investment projects shall be evaluated:

1. The legal status and financial position of foreign and Vietnamese investors;
2. The conformity of the project with the planning;
3. The socio-economic benefits (the possibility of creating new productivity, new sectors, new products, market expansion; the possibility of creating job opportunities; the economic benefits of the project and its contribution to the Budget, and so forth);
4. The applied technical and technological level, the effective use and protection of natural resources, the protection of the ecological environment;
5. The appropriateness of land use and the valuation of the assets contributed as capital by the Vietnamese party (if any).

Article 109 *Procedures for evaluation of projects for which investment licences are issued by Ministry of Planning and Investment*

1. With respect to Group A projects, the Ministry of Planning and Investment shall collect opinions from relevant ministries, branches and provincial people's committees and submit them to the Prime Minister of the Government for consideration and decision. Where there are different opinions on important aspects of a project, the Ministry of Planning and Investment shall hold consultative meetings with the participation of competent representatives of relevant bodies for examination of the project prior to submission to the Prime Minister of the Government. On a case-by-case basis, the Prime Minister of the Government may require the State Evaluation Council for Investment Projects to study and advise so that the Prime Minister of the Government may then consider and decide.
2. With respect to Group B projects falling within the decision-making authority of the Ministry of Planning and Investment, the Ministry of Planning and Investment shall collect opinions from relevant ministries, branches and provincial people's committees prior to its consideration and decision.
3. Time-limits for evaluation of projects:
 - (a) Within three (3) working days from the date of receipt of a proper file, the Ministry of Planning and Investment shall send the file to the relevant ministries, branches and provincial people's committees for their opinions.
 - (b) Within fifteen (15) working days from the date of receipt of a proper file, relevant ministries, branches and provincial people's committees shall provide their written opinions to the Ministry of Planning and Investment on the aspects of the project within the scope of their administration; upon expiry of such time-limit, if no written opinions have been provided, they shall be deemed to have accepted the project.
 - (c) With respect to Group A projects, within thirty (30) working days from the date of receipt of a proper file, the Ministry of Planning and Investment shall submit its evaluation opinion to the Prime Minister of the Government. Within ten (10) working days from the date of receipt of the submission of the Ministry of Planning and Investment, the Prime Minister of the Government shall issue a decision on the project. Within five (5) working days from the date of receipt of the decision from the Prime Minister of the Government, the Ministry of Planning and Investment shall notify the decision on issuance of the investment licence to the project.

- (d) With respect to Group B projects, within thirty (30) working days from the date of receipt of a proper file, the Ministry of Planning and Investment shall complete its evaluation of the project and issue the investment licence.

The above time-limits shall not include the period of time during which an investor amends or adds to the application file for an investment licence.

Any requirements by the Ministry of Planning and Investment that an investor amend or add to a project file shall be made in writing within twenty (20) working days from the date of receipt of the proper file.

Upon expiry of the time-limits stipulated above, if no investment licence has been issued, the Ministry of Planning and Investment shall notify the investors in writing stating clearly the reasons therefor with copies distributed to the relevant bodies.

- 4. The issuance of investment licences to projects in industrial zones, export processing zones and high-tech zones shall be carried out in accordance with the authority delegated by the Ministry of Planning and Investment.

Article 110 *Procedures for evaluation of projects for which investment licences are issued by provincial people's committees*

- 1. The aspects of investment projects to be evaluated shall be as stipulated in article 108 of this Decree.
- 2. Time-limits for evaluation and issuance of investment licences:
 - (a) Within three (3) working days from the date of receipt of a proper file, provincial people's committees shall send the project file to ministries in charge of technical and economic sectors and to relevant ministries and branches for their opinions.
 - (b) Within fifteen (15) working days from the date of receipt of the proper file, relevant ministries and branches shall provide their written opinions to the provincial people's committee on the aspects of the project within the scope of their administration; upon expiry of the above time-limit, if no written opinion has been provided, they shall be deemed to have accepted the project.
 - (c) Within thirty (30) working days from the date of receipt of the proper file, the provincial people's committee shall complete its evaluation of the project and issue the investment licence.

The above time-limits shall not include the period of time during which an investor amends or adds to the application file for an investment licence.

Any requirements by a provincial people's committee that an investor amend or add to a project file shall be made in writing within twenty (20) working days from the date of receipt of the proper file.

Upon expiry of the time-limit stipulated above, if no investment licence has been issued, the provincial people's committee shall notify the investors in writing stating clearly the reasons therefor with copies distributed to the relevant bodies.

3. Within seven (7) working days from the date of issuance of an investment licence or an amended investment licence, the provincial people's committee shall send the original of the investment licence or the amended investment licence to the Ministry of Planning and Investment and copies to the Ministry of Finance, the Ministry of Trade, ministries in charge of technical and economic sectors and to the relevant State administrative bodies.

Article 111 *Amendment of investment licences*

1. Any amendments of and additions to an investment licence shall be approved by investment licence-issuing bodies in the form of amended investment licences.
2. Authority to issue amended investment licences shall be stipulated as follows:
 - (a) The Ministry of Planning and Investment shall decide on the issuance of amended investment licences with respect to projects stipulated in article 114 and clause 2 of article 115 of this Decree and shall authorize industrial zone management boards to decide on the issuance of amended investment licences to projects under their authority.
 - (b) Provincial people's committees shall decide on the issuance of amended investment licences to projects under their delegated authority to issue licences.
3. Where any amendment of or addition to an investment licence is required, an enterprise with foreign owned capital and business co-operation parties shall submit an application file for amendment of the investment licence to the investment licence-issuing body as stipulated in clause 2 of this article.

The application file shall consist of:

- (a) An application for amendment of the investment licence;
 - (b) The resolution of the board of management of a joint venture enterprise or the agreement of the business co-operation parties or the proposal from the foreign investor on items of the investment licence with respect to which amendment is applied for;
 - (c) A report on the implementation status of the project.
4. The investment licence-issuing body shall notify the enterprise with foreign owned capital or the business co-operation parties of its decision on amendment of the investment licence within fifteen (15) working days from the date of receipt of a proper application file.

The above time-limit shall not include the period of time during which enterprises with foreign owned capital and business co-operation parties make additional explanatory statements.

CHAPTER XI

State Administration of Foreign Investment Activities

Article 112 *Guidelines on investment activities*³²

1. Ministries, branches and provincial people's committees shall be responsible for providing guidelines on foreign investment activities in sectors and localities under their administration; for providing necessary information and creating favourable conditions for investors to choose investment opportunities in Vietnam; for improving management and reviewing investment procedures so as to ensure prompt and simple investment procedures.
2. Ministries, branches and provincial people's committees shall obtain opinions of the Ministry of Planning and Investment prior to the issuance of legal documents which fall within their respective competence and which relate to foreign direct investment activities; differences of opinion must be reported to the Prime Minister of the Government for his consideration and decision. Provincial people's committees shall not be permitted to issue any preferential provisions relating to taxation, finance and other preferential treatment beyond their authority.

³² As amended by article 1.24 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

Article 113 *Co-ordination of State administration*³³

1. Ministries, branches and provincial people's committees and investment licence-issuing bodies in the sectors of banking, insurance, securities and legal consultancy shall exercise State administration and co-ordinate in administering foreign investment activities.
2. Provincial people's committees shall be responsible for dealing promptly with issues falling within their authority and shall guide enterprises to operate strictly in accordance with their investment licences and the law. During the process of so dealing, any difference of opinion in respect of the same issue between ministries, branches and provincial people's committees must be submitted to the Prime Minister of the Government for his consideration and decision.
3. The Ministry of Planning and Investment shall collect information on the status of foreign investment and provide it to ministries, branches and provincial people's committees and shall work periodically in the manner of holding work review sessions with the Ministry of Finance, the Ministry of Trade, the Ministry of Natural Resources and Environment, the State Bank and relevant provincial people's committees in order to resolve promptly any problems arising, to deal with recommendations of enterprises with foreign owned capital or of business co-operation parties, and to propose policies and measures for improving the investment environment.

Article 114 *Authority to make decisions on investment projects*³⁴

1. The Prime Minister of the Government shall make decisions in relation to Group A projects, comprising:
 - (a) Projects in the following sectors, irrespective of invested capital:
 - Infrastructure construction of industrial zones, export processing zones, high-tech zones, urban areas; BOT, BTO and BT projects;
 - Construction and operation of sea ports and airports; operation of sea and air transportation;
 - Oil and gas;

³³ As amended by articles 1.25 and 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

³⁴ As amended by article 1.26 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

- Post and telecommunication services;
 - Publishing, printing services (except projects for printing of technical materials, printing of packaging, printing of labels of goods, and printing of normal patterns on textiles and garments, leather and footwear), press; radio and television broadcasting; advertising services together with publication of advertisements; cinematographic activities; artistic performance; conducting games with prizes; medical examination and treatment establishments; pre-tertiary education, college, undergraduate and postgraduate training or equivalent levels; scientific research and production of medicine for humans;
 - Insurance, finance, auditing and valuation;
 - Exploration and exploitation of rare and precious natural resources;
 - Construction of residential houses for sale;
 - National defence and security projects;
- (b) Projects with invested capital of at least forty (40) million USD in the following fields: electricity, mining, metallurgy, cement, mechanical engineering manufacture, chemicals, hotels, apartments for lease, tourism-entertainment areas;
- (c) Projects using at least five (5) hectares of urban land or at least fifty (50) hectares of land of other categories.
2. The Ministry of Planning and Investment shall make decisions on Group B projects (being projects which are not stipulated in clause 1 of this article), except for projects referred to in clause 3 of this article.
3. Provincial people's committees shall make decisions on projects stipulated in clause 1 of article 115 of this Decree.

Article 115 *Delegation of authority to issue investment licences*³⁵

1. Projects under the delegated authority of provincial people's committees to issue investment licences shall satisfy the following criteria and conditions:
 - (a) Be consistent with the approved planning and plan for socio-economic development;
 - (b) Not included in the list of Group A projects stipulated in clause 1 of article 114 of this Decree and having the amount of invested capital as stipulated by the Prime Minister of the Government.
2. Provincial people's committees shall not be delegated with the authority to issue investment licences to the following projects (irrespective of the amount of invested capital):
 - (a) Construction of national roads or railways;
 - (b) Production of cement, metallurgy, electricity, sugar, alcohol, beer and cigarettes; manufacture and assembly of automobiles and motorbikes;
 - (c) Travel tours;
 - (d) Projects in the sectors of culture, education and training;
 - (dd) Construction and operation of supermarkets.

Article 116 *Functions of provincial people's committees in State administration of foreign investment*³⁶

Provincial people's committees shall be responsible for:

1. Preparing and promulgating master planning and lists of projects calling for foreign investment within their localities after reaching an agreement with the Ministry of Planning and Investment on the basis of the approved planning for socio-economic development and co-ordination with the relevant ministries and branches; calling for and promoting investment;

³⁵ As amended by article 1.27 of Decree 27-2003-ND-CP of the Government dated 19 March 2003 (as corrected by Official Letter 187-PG-QHQT of the Office of Government dated 1 April 2003).

³⁶ As amended by article 1.28 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

2. Presiding over evaluation, issuing investment licences and amending investment licences, making decisions on dissolution of enterprises with foreign owned capital and termination of business co-operation contracts prior to expiry of their duration with respect to those projects falling under their authority;
3. Participating in the evaluation of projects within their localities for which investment licences are issued by the Ministry of Planning and Investment;
4. Exercising functions of State administration of foreign invested projects within their localities with respect to the following main aspects:
 - (a) Supervision of capital contribution and of implementation of the provisions of investment licences and other relevant legal documents;
 - (b) Supervision of performance of provisions on financial obligations, labour relations and wages, social order, safety and protection of the ecological environment, fire and explosion prevention and fighting;
 - (c) Granting certificates of land use rights; organizing implementation of site clearance; permitting establishment of head offices and branches; registering residence of foreigners; introducing Vietnamese employees to enterprises and granting certificates in accordance with current provisions;
 - (d) Dealing with difficulties of investors within their authority and making recommendations to ministries and branches on dealing with matters beyond their authority;
 - (dd) Presiding over, or co-ordinating with ministries and branches in, the checking and inspection of the operation of enterprises with foreign owned capital;
 - (e) Evaluating the socio-economic efficiency of foreign direct investment activities within their localities;
5. Provincial people's committees shall submit quarterly, semi-annual and annual reports on foreign investment activities within their localities to the Ministry of Planning and Investment on a periodical basis.

Article 117 *Functions of Ministry of Planning and Investment in State administration of foreign investment*³⁷

1. The Ministry of Planning and Investment shall be the co-ordinating body in dealing with matters arising from the promotion, formation and implementation of investment projects, including:
 - (a) Guiding and co-ordinating ministries, branches and provincial people's committees in the preparation of master planning, plans and lists of national projects calling for foreign investment; building programs and plans for promotion and calling for investment; making proposals for appointment of officials and establishing representatives of investment promotion organizations in those regions and countries with potential investment in Vietnam for submission to the Prime Minister of the Government; and conducting investment promotion activities;
 - (b) Presiding over evaluation, issuing investment licences and amended investment licences for investment projects which fall within its authority;
 - (c) In accordance with decisions of the Prime Minister, delegating to industrial zone management boards the authority to issue, amend and withdraw investment licences with respect to foreign investment projects in industrial zones, export processing zones and high-tech zones on the basis of proposals from provincial people's committees or from the Ministry of Science and Technology (for high-tech zones);
 - (d) Conciliating disputes where required;
 - (dd) Organizing checks and inspections of foreign investment activities;
 - (e) Conducting the overall evaluation of the socio-economic efficiency of foreign direct investment activities in Vietnam;
 - (g) Making decisions on dissolution of enterprises with foreign owned capital and early termination of business co-operation contracts for those projects which fall within its authority.
2. The Ministry of Planning and Investment shall annually summarize the status of issuance of investment licences and foreign investment activities

³⁷ *As amended by articles 1.29 and 1.32 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

in Vietnam in order to report to the Prime Minister of the Government and to notify the relevant ministries and branches thereof.

3. The Ministry of Planning and Investment shall participate and co-ordinate with the Ministry of Justice in reviewing on a regular basis all legal instruments relating to foreign investment activities, and shall make recommendations to authorized bodies in relation to amendment of, addition to, or repeal of any legal instruments that contravene the laws on foreign investment and other legal instruments of higher validity.

Article 118 *Functions of ministries, ministerial equivalent bodies and Government bodies in State administration of foreign investment*

Ministries, ministerial equivalent bodies and Government bodies shall be responsible for:

1. Co-ordinating with the Ministry of Planning and Investment in law-making, policy and planning formulation relating to foreign investment;
2. Preparing planning, plans and lists of projects calling for foreign invested capital within branches and promoting investment;
3. Contributing opinions on the issues falling within their authority during the evaluation of projects, issuance and amendment of investment licences;
4. Promulgating policies and providing guidelines for implementation of policies; dealing with procedures relating to implementation of investment projects;
5. Conducting specialized inspections; and evaluating the socio-economic efficiency of investment projects within the scope of management of the line ministry;
6. Issuing technical regulations and processes relating to a specialized technical and economic sector;
7. Performing other duties within their authority in accordance with law.

Article 119 *Provisions on inspection and checking*

1. The inspection and checking of the operation of enterprises with foreign owned capital or of business co-operation parties shall be conducted in strict compliance with functions and powers and the provisions of the law on foreign investment and the law on inspection and checking.

2. The bodies in charge of inspection and checking shall be responsible for formulating plans for periodical checks and inspections and submitting them to the Ministry of Planning and Investment, relevant provincial people's committees and industrial zone management boards for coordination in checking and inspection. Periodical and specialized inspections of any enterprise shall not be conducted more than once a year.
3. Any person who makes unlawful decisions to conduct checks and inspections or who misuses a check or inspection to seek gain from, to harass or to cause inconvenience to the business operations of an enterprise shall, depending on the seriousness of the breach, be disciplined or prosecuted for criminal liability; and shall be obliged to pay compensation in accordance with law if loss is caused.
4. Any foreign investor, enterprise with foreign owned capital, business cooperation party, organization or individual shall have the right to lodge a complaint or to take legal action against any unlawful decision or conduct of State bodies or officers which causes difficulties or inconvenience. Such complaints or legal actions and the resolution thereof shall be in accordance with the provisions of the law on complaints and denunciations.

CHAPTER XII

Investment Guarantee and Dispute Resolution

Article 120 *Investment guarantee*

1. The Government of Vietnam shall guarantee to provide equitable and fair treatment to foreign investors investing in Vietnam in accordance with the *Law on Foreign Investment*. Where an international agreement to which the Socialist Republic of Vietnam is a signatory or participant contains provisions which are inconsistent with the provisions of this Decree and other legal instruments, the provisions of such international agreement shall apply.
2. The signing of agreements or the application of measures for security and guarantees regarding investment shall only apply to specially important projects where investment is made in accordance with a Government program in the field of infrastructure or in the form of BOT, BTO and BT contracts and to other specially important projects.

Article 121 *Investment guarantee in case of change-in-law*

1. Where changes in the law of Vietnam damage the interests of enterprises with foreign owned capital and business co-operation parties, such enterprises with foreign owned capital and business co-operation parties shall continue to enjoy the preferential treatment as provided for in their investment licences, 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 business co-operation parties shall be set off against the taxable income of the enterprise;
 - (d) Consider payment of fair compensation in a number of necessary cases.

With respect to projects licensed by provincial people's committees or industrial zone management boards, the provincial people's committee or the industrial zone management board must, prior to taking any of the above measures, reach agreement with the Ministry of Planning and Investment and the Ministry of Finance.

- 2.³⁸ Any current provisions which are more favourable than the relevant previous provisions shall apply automatically. The investment licence-issuing body shall, upon request by investors, make amendments to investment licences in order to permit the investors to enjoy such favourable treatment as from the date of effectiveness of the current legal instrument providing for such favourable treatment.

³⁸ *As amended by article 1.30 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

Phillips Fox Note: Article 1.30 of Decree 27-2003-ND-CP refers to this clause as "clause 3" for consistency with the official Vietnamese text of Decree 24-2000-ND-CP which incorrectly numbered this second clause as "3".

Article 122 *Dispute resolution*

1. Disputes between parties to a joint venture enterprise, disputes between business co-operation parties, disputes between enterprises with foreign owned capital and foreign organizations or individuals, and disputes between foreign parties to a joint venture enterprise or foreign business co-operation parties with Vietnamese economic organizations shall be firstly resolved through negotiation and conciliation between the disputing parties.

Where conciliation fails, the disputing parties may agree on the selection of one of the following dispute resolution alternatives:

- (a) A Vietnamese court;
 - (b) A Vietnamese arbitration body or a foreign arbitration body or an international arbitration body;
 - (c) An arbitration tribunal established pursuant to the agreement of the parties.
2. Disputes between enterprises with foreign owned capital or disputes between enterprises with foreign owned capital and Vietnamese economic organizations shall be resolved by Vietnamese arbitration organizations or by Vietnamese courts in accordance with the law of Vietnam.
 3. Disputes between foreign investors and authorized State bodies arising from BOT, BTO and BT contracts; and disputes between BOT enterprises and Vietnamese economic organizations shall be resolved in accordance with the methods agreed by the parties in the contract in accordance with regulations of the Government on investment in the form of BOT, BTO and BT contracts applicable to foreign investment in Vietnam.

CHAPTER XIII

Rewards and Dealing with Breaches**Article 123** *Rewards*³⁹

1. Enterprises with foreign owned capital, business co-operation parties and individuals making outstanding achievements in foreign investment activities in Vietnam shall be rewarded in accordance with the provisions of the law.
2. Based on the achievements of enterprises or individuals in production and business and based on their contribution to society and their compliance with the law of Vietnam, the competent State bodies shall make decisions on the forms of reward, including:
 - (a) Decorations and Medals of the State;
 - (b) Decorations and Medals of the State President;
 - (c) Diplomas of merit of the Prime Minister of the Government;
 - (d) Diplomas of merit of ministers or heads of ministerial equivalent bodies;
 - (dd) Diplomas of merit of chairmen of provincial people's committees.
3. Criterion, conditions and procedures for reward shall be in accordance with the regulations of the Government on emulation and reward.

Article 124 *Dealing with breaches*

1. Any Vietnamese public officer and State administration body abusing power to cause troubles and difficulties for or hinder foreign investment activities shall, depending on the seriousness of the breach, be dealt with in accordance with law.

If loss and damage is caused by such breach, the public officer or State administration body must pay compensation to the organization or individual suffering the loss.

2. Enterprises with foreign owned capital, business co-operation parties, and foreign investors or employees breaching the provisions of investment

³⁹ As amended by article 1.31 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.

licences or of the law of Vietnam shall be dealt with in accordance with the provisions of the law.

CHAPTER XIV

Implementing Provisions

Article 125 *Implementing provisions*

1. This Decree shall be of full force and effect as of 1 August 2000 and shall replace Decrees of the Government No. 12-CP dated 18 February 1997 and No. 10-1998-ND-CP dated 23 January 1998. All previous provisions which are inconsistent with this Decree are hereby repealed.⁴⁰
2. Ministers, heads of ministerial equivalent bodies, heads of Government bodies, and chairmen of people's committees of provinces and cities under central authority shall be responsible for implementation of this Decree.

On behalf of the Government
Prime Minister

PHAN VAN KHAI

⁴⁰ *Phillips Fox Note: Decree 27-2003-ND-CP of the Government dated 19 March 2003 is effective as of 7 May 2003. All previous provisions which are inconsistent with Decree 27-2003-ND-CP are repealed.*

Appendix I⁴¹**I. List of Specially Encouraged Investment Sectors**

- Producing, processing for export at least eighty (80) per cent of products;
- Processing agricultural, forestry (except for wood) and aquaculture products from domestic material sources for export of at least fifty (50) per cent of products;
- Producing various kinds of new strains with high quality and high economic efficiency;
- Cultivation of agricultural, forestry and aquaculture products;
- Production of high-quality steel, alloy, non-ferrous metal, special metal, steel billet, sponge iron; iron metallurgy;
- Manufacturing of machinery, equipment and component packs for oil and gas exploitation, mining, and energy fields; manufacturing of large-scale lifting equipment; manufacturing machine tools for metal processing, metallurgy equipment;
- Producing medical equipment for analytical and extractive technologies in medical sector;
- Manufacturing equipment for testing toxicity in foodstuffs;
- Manufacturing new materials and precious and rare materials; applying new bio-technology and new technology for manufacturing communications and telecommunications equipment;
- Manufacturing information technology products;
- High-tech industry;
- Investment in research and development (R&D) of 25% of turnover;
- Producing equipment for waste treatment;
- Treatment of pollution and protection of environment; treatment of waste;
- Producing materials for antibiotic drugs;
- Investment under BOT, BTO and BT contracts.

⁴¹ *As amended by article 1.33 of Decree 27-2003-ND-CP of the Government dated 19 March 2003.*

II. List of Encouraged Investment Sectors

- Exploration, mining and down-stream processing of minerals;
- Producing, processing for export at least fifty (50) per cent of products;
- Producing, processing for export at least thirty (30) per cent of products and using many domestic raw materials and materials (with a value of at least thirty (30) per cent of total production costs);
- Regular employment of five hundred (500) or more employees;
- Processing agricultural, forestry (except for wood from domestic natural forest) and aquaculture products from domestic raw materials;
- Preserving foodstuffs; post-harvest preservation of agricultural products;
- Development of petro-chemical industry; construction and operation of oil and gas pipelines, oil storage and ports;
- Manufacturing precision mechanical equipment, equipment for safety examination and control; manufacturing jig and dies for metal and non-metal products;
- Manufacturing high and medium voltage electric devices;
- Manufacturing diesel engines with advanced techniques and technology; manufacturing dynamic and hydraulic machinery, parts and compressing machines;
- Manufacturing automobile and motorcycle parts; manufacturing and assembly of equipment, vehicles and machinery for construction; manufacturing technical equipment for transportation industry;
- Building ships; manufacturing marine engines, equipment and parts for transportation ships and fishing ships;
- Manufacturing communications and telecommunications equipment;
- Manufacturing electronic equipment and components;
- Manufacturing agricultural and forestry equipment, parts and machines, irrigation equipment;
- Manufacturing equipment for the textiles and garment industry;
- Producing various types of materials for pesticides;
- Manufacturing various types of insecticide, plant protection agents and veterinary drugs with a localized value added portion of forty (40) per cent or more;
- Producing basic chemicals of various kinds, purified chemicals and dyes; specialized chemicals;
- Producing materials for cleansing chemicals and additives for chemical industry;
- Producing special cement, composite materials, and sound, electricity and heat insulating materials, and wood-substitute synthetic materials, fire-proof materials, construction plastic and fibreglass;
- Manufacturing light construction materials of various kinds;
- Producing paper pulp;
- Producing special silk, fibres and fabric for industry;
- Producing high-quality raw materials and auxiliary materials for manufacturing footwear and garments for export;
- Producing high-quality packages for exports;

- Producing medicine materials; medicine products for treating humans with international GMP standard;
- Upgrading and developing energy sources;
- Public passenger transportation;
- Construction and upgrading of bridges, roads, railways, airports, ports, railway stations;
- Construction of water plants and water supply and drainage systems;
- Construction and operation of infrastructure facilities of industrial zones, export processing zones and high-tech zones;
- Technical services for agriculture, forestry and fisheries.

III. List of Regions In Which Investment is Encouraged

No.	Province/City	Section A <i>Areas with specially difficult socio-economic conditions</i>	Section B <i>Areas with difficult socio- economic conditions</i>
(1)	(2)	(3)	(4)
1.	Ha Giang	All districts and towns	
2.	Cao Bang	All districts and towns	
3.	Lai Chau	All districts and towns	
4.	Lao Cai	All districts and towns	
5.	Son La	All districts and towns	
6.	Bac Kan	All districts and towns	
7.	Tuyen Quang	All districts and towns	
8.	Lang Son	All districts and towns	
9.	Yen Bai	All districts and towns	
10.	Thai Nguyen	All districts and towns and Thai Nguyen City	
11.	Bac Giang	All districts and towns	
12.	Vinh Phuc	Lap Thach, Tam Duong and Binh Xuyen Districts	Districts not in Section A
13.	Phu Tho	All districts and towns and Viet Tri City	
14.	Hoa Binh	All districts and towns	
15.	Bac Ninh		Que Vo, Yen Phong, Gia Binh, Luong Tai and Thuan Thanh Districts
16.	Hanoi		Soc Son District
17.	Ha Tay		Ba Vi, My Duc, Phuc Tho, Quoc Oai, Thach That and Ung Hoa Districts
18.	Quang Ninh	Districts including Ba Che, Binh Lieu, Dam Ha, Hai Ha, Hoanh Bo, Tien Yen, Dong Trieu and Mong Cai Town	Yen Hung District and Cam Pha and Uong Bi Towns
19.	Hai Phong		Vinh Bao and Tien Lang Districts
20.	Hai Duong	Chi Linh District	All districts not in Section A
21.	Hung Yen		All districts and towns
22.	Thai Binh		All districts and towns
23.	Ha Nam		All districts and towns
24.	Nam Dinh		All districts and Nam Dinh City
25.	Ninh Binh	Nho Quan, Yen Mo and Gia Vien Districts	Tam Diep Town and districts not in Section A

No.	Province/City	Section A <i>Areas with specially difficult socio-economic conditions</i>	Section B <i>Areas with difficult socio-economic conditions</i>
26.	Thanh Hoa	Lang Chanh, Thuong Xuan, Quan Hoa, Ba Thuoc, Ngoc Lac, Nhu Xuan, Cam Thuy, Thach Thanh, Quan Son and Muong Lat Districts	Districts not in Section A
27.	Nghe An	Ky Son, Tuong Duong, Con Cuong, Quy Chau, Que Phong, Quy Hop, Nghia Dan, Anh Son, Tan Ky, Thanh Chuong and Do Luong Districts	Cua Lo Town and other districts not in Section A
28.	Ha Tinh	All districts	Ha Tinh Town
29.	Quang Binh	All districts	Dong Hoi Town
30.	Quang Tri	Quang Tri Town and all districts	Dong Ha Town
31.	Thua Thien Hue	All districts	Hue City
32.	Da Nang		Hoa Vang, Thanh Khe, Ngu Hanh Son and Lien Chieu Districts
33.	Quang Nam	All districts and Hoi An Town	Tam ky Town
34.	Quang Ngai	All districts	Quang Ngai Town
35.	Binh Dinh	All districts	Quy Nhon Town
36.	Phu Yen	All districts	Tuy Hoa Town
37.	Khanh Hoa	Khanh Son and Khanh Vinh Districts	Districts not in Section A
38.	Binh Thuan	All districts	Phan Thiet Town
39.	Ninh Thuan	All districts	Phan Rang Town
40.	Kon Tum	All districts and towns	
41.	Gia Lai	All districts and towns	
42.	Dak Lak	All districts and Buon Ma Thuot City	
43.	Lam Dong	All districts and towns and Da Lat City	
44.	Dong Nai	Dinh Quan, Tan Phu and Xuan Loc Districts	
45.	Binh Phuoc	All districts and towns	
46.	Binh Duong		Ben Cat, Phu Giao, Tan Uyen and Dau Tien Districts
47.	Tay Ninh		All districts
48.	Ho Chi Minh City		Can Gio and Cu Chi Districts

No.	Province/City	Section A <i>Areas with specially difficult socio-economic conditions</i>	Section B <i>Areas with difficult socio- economic conditions</i>
49.	Ba Ria - Vung Tau		Long Dat and Xuyen Moc Districts
50.	Long An	All districts	Tan An Town
51.	Dong Thap	All districts and towns	
52.	Tien Giang	All districts and towns	My Tho City
53.	Ben Tre	All districts and towns	
54.	Vinh Long	All districts and towns	
55.	Tra Vinh	All districts and towns	
56.	An Giang	All districts and Long Xuyen City	
57.	Can Tho	All districts and towns	Can Tho City
58.	Soc Trang	All districts and towns	
59.	Bac Lieu	All districts and towns	
60.	Ca Mau	All districts and towns	
61.	Kien Giang	All districts and towns	

IV. List of Sectors In Which Licensing of Investment is Conditional

1. Conditions regarding the investment form:
 - 1.1 Investment only in the form of a business co-operation contract and the Vietnamese Party shall be a specialized entity which is licensed to conduct business in the sector:
 1. Establishment of public telecommunications networks, provision of telecommunications services; business of domestic or international courier services;
 2. Press, radio and television activities.
 - 1.2 Investment only in the form of a business co-operation contract or joint venture enterprise:
 - Exploitation and processing of oil and gas and precious and rare minerals;
 - Air, railway and sea transportation; public passenger transportation; airport and port construction (except for BOT, BTO and BT projects);
 - Maritime and aviation business services;
 - Culture (except for projects for printing of technical material, printing on packaging, printing of labels of goods, and printing on textiles and garments, leather and footwear; printing of computer graphics onto animated films; entertainment and sports areas);
 - Afforestation (except for indirect afforestation via Vietnamese organizations, family households and individuals to which or whom the State assigns or leases land which is located in productive or protective forests and to which investors grant assistance with funding, seedlings, technical assistance, fertilizer or in procurement of products pursuant to contract);
 - Travel tours;
 - Production of industrial explosives;
 - Consultancy services (except for technical consultancy).
2. Conditions for projects to include investment in development of raw material sources:
 - Dairy production and processing;
 - Production of vegetable oil and cane sugar;
 - Processing of wood (except for projects using imported wood).
3. Investment projects in import services and domestic distribution services and offshore fishing and exploitation of sea-products shall be implemented in accordance with separate provisions of the Prime Minister of the Government.

V. List of Sectors In Which Investment Will Not Be Licensed

1. Projects which are prejudicial to national security, defence and public interests;
2. Projects which are detrimental to historical and cultural relics, fine customs and traditions of Vietnam;
3. Projects which may adversely affect the ecological environment; projects for treatment of toxic wastes brought into Vietnam from abroad;
4. Projects for production of toxic chemicals or utilizing toxic agents prohibited under an international treaty.

Appendix II

I. Detailed Provisions on Machinery, Equipment and Means of Transportation Which Form Fixed Assets of Enterprises with Foreign Owned Capital and Business Co-operation Parties Which are Entitled to Exemption from Import Duties

1. Main machinery and equipment forming part of a technological line, comprising:

Production machinery and equipment; accompanying materials, components, spare parts for installation of equipment system, and moulds and patterns accompanying production machinery, equipment and tools, and so forth, to complete production activities provided for in investment licence.

2. Supporting machinery and equipment forming part of a technological line, comprising:

1. Electricity systems: all equipment, machinery and materials to be used for complete installation of electricity supply system.
2. Water supply and drainage system: all equipment, machinery, materials, pipelines, and so forth, to be used for complete installation of water supply and drainage system and waste water treatment.
3. Lighting system: all equipment, machinery and materials to be used for complete installation of lighting system.
4. Air conditioning and ventilation systems for production areas.
5. Laboratory equipment and instruments.
6. Equipment and instruments for fire fighting and prevention, anti-lightning equipment, labour safety equipment, and so forth.
7. Communications systems.
8. Machinery and equipment necessary for product designs, office equipment and facilities for production management.

3. Specialized means of transportation forming part of a technological line, comprising:

1. Specialized means of transportation to be used for business activities as provided for in investment licence.
2. Means of transportation to be used for transportation of raw materials and products in a technological line.

II. Detailed Provisions on Groups of Furniture and Equipment Entitled to Exemption from Import Duties of Enterprises Engaged in Fields of Hotels, Offices, Apartments for Lease, Residential Housing, Commercial Centres, Technical Services, Supermarkets, Golf Courses, Tourist Resorts, Sports Centres, Entertainment Centres, Medical Examination and Treatment Establishments, Training, Culture, Finance, Banking, Insurance, Auditing and Consultancy Services

- A. List of groups of furniture and equipment entitled to exemption from import duties in accordance with general provisions:
1. Water supply systems of various kinds (pumps, filter machines, water meters, boilers, and so forth).
 2. Air conditioning and ventilation systems (central air conditioning systems or separate air conditioners and their synchronous materials and parts, and so forth).
 3. Fire fighting and prevention systems.
 4. Electricity and lighting systems (lights of various kinds, projectors, and so forth).
 5. Garbage and waste water treatment systems.
 6. Communications systems.
 7. Transportation systems (lifts, trams, trolleys of various kinds).
 8. Washing and ironing systems.
 9. Security systems.
 10. Furniture and equipment for sports rooms, swimming pools, tennis courts, hairdressers, discotheques, karaoke, recreation and entertainment, sauna massage (except for furniture and equipment referred to in Section B of this Appendix, if any).
 11. Machinery and equipment relating to lawn care (lawn cutters, insecticide sprayers, and so forth).
 12. Water sprinkler, irrigation and drainage systems.
 13. Medical machinery, equipment and instruments and laboratory tools.
 14. Teaching and learning facilities (including desks, benches, boards, teaching utensils, experimental tools, and so forth).
 15. Parts accompanying the above machinery, furniture and equipment.
 16. Machinery and equipment of various types which are exclusively used in banking and finance sectors (safety boxes, computers of various kinds, money counting machines, counterfeit note checking machines, communications systems, security guard machines, cash rollers).
 17. Office furniture and equipment for management and business (computers, printers, facsimile machines, telex, photocopiers, tables and chairs, filing cabinets, and so forth).

- B. List of groups of furniture and equipment entitled to once-off exemption from import duties, not applicable for their replacements:
1. Furniture and equipment for hotel rooms and interior decoration (beds, wardrobes, tables, chairs, telephone sets).
 2. Sanitaryware (bathtubs, toilet bowls, washbasins, accessories used for installation of sanitaryware, mirrors, and so forth).
 3. Furniture and equipment for reception rooms (tables, chairs).
 4. Equipment and appliances for kitchens, dining rooms, restaurants, bars (cookers of various kinds and cooking utensils).
 5. Paintings, statues, carpets and other decorative items.
 6. Fridges, television sets, microwave ovens, smoke-inhaling machines, vacuum cleaners, deodorizers, glasses, cups, plates, bowls.
 7. Video and audio equipment.
 8. Golf articles.