

LAW ON INVESTMENT

In order to mobilize and utilize effectively sources of capital, natural resources, labor, and other potential of the country, to contribute to speeding up national industrialization and modernization; further accelerating economic reform; ensuring freedom and equal right of enterprises of all economic sectors before laws in investing and doing business; protecting legitimate right and interest of investors; encouraging business and investment activities in various sectors and locations in order to promote socio-economic development; and improving the efficiency of State management of business and investment activities;

Pursuant to the Constitution of the Socialist Republic of Vietnam enacted in 1992 as amended and supplemented in accordance with the Resolution No. 51/2001/QH10 dated 25 December 2001 by the 10th National Assembly at its 10th session.

This Law makes provisions on investments by organizations and individuals of all economic sectors in the Socialist Republic of Vietnam.

CHAPTER I GENERAL PROVISIONS

Article 1

This Law provides for the investment and business activities of organizations and individuals of all economic sectors including their right to conduct business and investment activities; for the assurance of rights and profits of investment activities and investment incentives in order to mobilize all resources for investment in the national socio-economic development in the areas of industry, agriculture, commerce, services and other activities in the territory of the Socialist Republic of Vietnam.

The Socialist Republic of Vietnam encourages both domestic and foreign investors to invest in Vietnam on the basis of respect of independence, sovereignty and laws of Vietnam.

The Socialist Republic of Vietnam protects the ownership rights and other legitimate rights of investors, treat them equally on a non-discriminatory basis; provides favourable conditions and adopts simple and prompt procedures to investors.

Article 2.

This Law applies to the following subjects:

- a. Business and production organizations including State owned enterprises (SOEs), limited liability companies, joint stock companies, partnerships, private enterprises and cooperatives.
- b. Individuals including individual business households, business individuals and groups of business individuals.

Style Definition: List Bullet 2:
Justified

- c. Foreign organizations and individuals; overseas Vietnamese people and foreigners permanently residing in Vietnam.

Article 3.

1. All investment and business activities carried out by organizations and individuals in the Vietnamese territory must comply with this Law and other relevant legislation.

In case there is a difference between the provisions of this Law and those of a specialized law, the provisions of the latter shall be applied, except where those provisions of the specialized law are contrary to the principles of this Law.

Provisions of the specialized laws which are contrary to the principles of this Law are hereby repealed as stated in the Appendix attached to this Law.

2. If the Government of Vietnam enters into or takes part in an international treaty on investment encouragement and protection which contains different provisions from those of this Law, the former shall be applied. If current laws provide for more favourable conditions as compared with those granted under international treaties, the current laws shall prevail.

Article 4.

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

1. "An investor" includes:
 - a. A natural person having Vietnamese or foreign nationality.
 - b. A legal entity or any subject established or constituted in accordance with the existing provisions of the Vietnamese law and foreign laws to invest for the purpose of profit making which is under private or Government ownership or management.
2. "Investment" means all types of assets under direct or indirect ownership or management of investors including:
 - a. shares, stock, and other forms of equity participation in an enterprise;
 - b. bonds and debts;
 - c. contractual rights, such as under turnkey, construction or management contracts, product or revenue sharing contracts;
 - d. claim for money or a claim for performance of any task under the contract which has financial value;
 - e. intellectual property rights, including trademarks, industrial designs, copyright, inventions, trade names, appellations of origin;

- f. concessions including rights to explore and exploit natural resources;
 - g. tangible and intangible property, including moveable and immoveable property, and any relevant property-related rights, such as right to lease, mortgage, lien and pledge;
3. “Business investment activities” mean the activities aimed at using property, funds and other investments to invest in the business activities in accordance with the law for the purpose of making profits.
 4. “Domestic investment” means a business investment activity carried out in Vietnam by the investors being Vietnamese organizations and individuals or by overseas Vietnamese people.
 5. “Foreign directive investment” means the bringing of capital into Vietnam in the form of money or any assets by foreign investors for the purpose of carrying out business investment activities on the basis of setting up an enterprise or other forms as provided for by the Vietnamese law.
 6. “Incentive investment activities” include production, service, commercial activities or other products which are of national importance and strategic to Vietnam and which are entitled to incentives in accordance with the procedures and order provided for by this Law.
 7. “Geographical location where investment is encouraged” means a location where investments are encouraged by the Government and entitled to investment incentives in accordance with the procedures and order provided for by this Law.

Article 5.

1. The promulgation of legal documents concerning investment must ensure that such legal documents are not contrary to the provisions of this Law and those of international treaties which Vietnam has signed or acceded to.
2. Legal documents concerning investment to be issued by ministries, ministerial-level agencies, Government agencies and people’s committees of provinces and cities under central authority (to be referred to as **provincial people’s committees**) must be approved by the Minister of Planning and Investment before publication.

**CHAPTER II
PROVISIONS ON THE RIGHT TO INVEST AND INVESTMENT PROTECTION**

Article 6.

1. Investors of all economic sectors shall have the right to set up and register their businesses in accordance with the Enterprise Law, the Law on SOEs, the Law on Cooperatives, Individual business households under Decree 66/HDBT dated 2 March 1992 and in other forms of investment as provided for by laws.
2. Foreign investors shall be allowed to set up and register their businesses in Vietnam in the forms and in accordance with the procedures and order prescribed in the Enterprise Law

and other relevant legislation.

Article 7.

When making investments in Vietnam, investors may, at their own discretion, select investment projects, forms of investment, areas of investment and investment counterparts and may decide the scale of their investment projects and the market for their product consumption.

Article 8.

Investors from all economic sectors when investing in Vietnam shall not be subject to any restrictions as to their rights, namely:

1. To be required to export a certain level or portion of goods and services;
2. To achieve a certain portion or percentage of localization content;
3. To purchase, use or give priority to, goods and services provided in their own region, or to purchase goods, services of provided by a natural person, legal entity or any other subject in their region.
4. To be bound by an import quantity and value in relation to the export quantity and value or foreign currency revenue related to investment of such investor.
5. To provide restrictions on the sale of goods and services respectively made or provided by investors in certain area, therefore, resulting in the binding in terms of export quantity or value or foreign currency revenue.
6. To require the transfer of technology, production process or another exclusive knowledge to a natural person, a legal entity or any other subject;
7. To locate their head office in a specific area or the international market within their domain.
8. To appoint individuals of any nationality to be the director or members of the Board of Management.

Article 9.

Investors of all economic sectors shall:

1. have the right to, at its own discretion, to conduct business investment activities in accordance with the objectives of their business registration or with their investment licences; to import, either directly or on a mandate basis, equipment, machinery, raw materials and means of transport for their business investment activities; and to directly export and consume their products either directly or on a mandate basis;
2. have the right to advertise their products and services by way of direct negotiations with advertising organizations such as televisions, broadcasting stations, advertising business

entities on the basis of non-discriminations as to the advertising fees and charges;

3. investors of all economic sectors shall have the right to get access to products and services provided by the State including public utilities on a non-discriminatory basis.
4. investors shall have the right to get access to data about national economy or data about each of the economic sectors for being used in their investment activities, except for confidential information.

Article 10

Investors of all economic sectors shall have the right to get access to and use credit sources of the State for their business and investment activities on a non-discriminatory basis.

Article 11

1. Pursuant to the socio-economic development targets, the State shall construct and plan for the development of the technical and social infrastructure facilities. Any investment or business activities in the construction of a technical or social infrastructure facility.
2. With regard to the master plan for a production sector or product, the preparation of such planning is aimed at orientations of investment activities.
3. The management of investment activities that involve the use of State capital sources shall be carried out in accordance with the provisions of laws on management of investment activities using State capital sources. With regard to investment activities that do not involve using State capital sources, investors shall make their own decisions.

Article 12

1. The Socialist Republic of Vietnam shall ensure that legal documents concerning investment as well as investment projects and procedures shall be made public in the mass media official gazette.
2. Any investment-related information support activities requested or proposed by an investor must be dealt with and guided by the investment regulatory agency in a prompt manner using a “one-stop” principle.
3. The Government shall make detailed provisions for the organization and conduct of investment support activities on a “one-point and one-stop” basis.

Article 13

1. Investors of all economic sectors shall be ensured to be treated equally and appropriately and be entitled to assurance in terms of safety and security when making investments.
2. The State shall not confiscate or nationalize or take any other similar measure, except in the following cases:

- (a) for the public purpose;
- (b) on a non-discriminatory basis;
- (c) strictly in accordance with the procedures provided for by law;
- (d) damages must be paid

The damages must be equal to the market value of an investment to be confiscated as it is applicable immediately before the time such confiscation takes place and shall be payable without delay and in an effective manner. For a foreign investor, damages shall be paid in a freely convertible currency which can be freely remitted overseas.

3. An investor suffering loss due to a war, an event of national emergency, riot or other similar events shall be treated by the State on a fair and non-discriminatory basis when taking appropriate support measures.

Article 14

For foreign investments, the State shall ensure that investors may remit overseas [the following]:

- a. Profits gained from their business activities.
- b. Sums of money payable for the provision of technical and other service.
- c. The principal and interest on foreign loans.
- d. Investment capital.
- e. Other sums of money and assets under their legal ownership.

The State of Vietnam shall ensure that the above payments shall be remitted overseas without delay in a freely convertible currency at the exchange rate applicable on the date of their remittance.

Article 15

1. Where the incentives applicable to an investor who has been issued with an investment incentive certificate are changed as a result of changes in any provisions of the Vietnamese law, the investor shall be allowed to continue enjoying the previously applied incentives.
2. If, under the newly changed provisions of laws, investment incentives become more favourable as compared with the previously granted incentives, the new incentives shall be automatically entitled to the new incentives. The agency in charge of issuing investment licences, at the request of the investor, shall amend the investment licence or the investment incentive certificate for the investor to enjoy new incentives as from the effective date of the legal documents providing for such incentives.

Article 16

The State shall not carry out any new investment activities for the purpose of competing with investment incentive beneficiaries

Article 17

The State shall not hold monopoly in selling any products or goods similar with or identical to the products or goods made or assembled by incentive beneficiaries.

Article 18

The State shall not impose its price control on products and goods of incentive beneficiaries, except where it is necessary to do so for the purpose of socio-economic development and national security.

Article 19

The State shall not allow any State agency, Government organization or State owned enterprise to import to Vietnam, or to provide import duty exemptions to, any types of products or goods similar to those made or assembled by incentive beneficiaries if such products or goods of the investors are comparable in terms of their quality and are sufficient in terms of their quantity to meet consumption demand.

Chapter III SECTORS WHERE INVESTMENTS ARE PROHIBITED AND RESTRICTED

Article 20

Investors may make investments in Vietnam in any sector of the national economy except for the sectors where investments are prohibited and restricted and referred to in Articles 21 and 22 of this Law.

Article 21

1. Investors of all economic sectors are prohibited from conducting business in a sector or area detrimental to national defence and security, social security and safety, historical and cultural traditions, moral and fine customs of Vietnam and people's health or detrimental to natural resources or environment.
2. A list of sectors and areas where investment and business are prohibited is provided for in Appendix I to this Law.
3. Any amendment or supplement of the sectors where investments are prohibited referred to in Appendix I of this Law shall be decided by the Standing Committee of the National Assembly and must be reported by the Standing Committee to the National Assembly in its earliest session. Where it is deemed necessary to invest and conduct business in any sector of this List and the list has not yet been amended, the Standing Committee of the National Assembly must give its consent thereto.

Article 22

1. Foreign investors are restricted from making investments in the areas or sectors of List II attached to this Law. If a foreign investor makes investment in any of these sectors, he/she must obtain an approval from the Prime Minister on the basis of the Minister of Planning and Investment.
2. The Ministry of Planning and Investment (**MPI**) must annually revise the list of sectors where investments are restricted listed in this Appendix and submit the list to the Government for amendments and supplements.

Any amendment or supplement to the list of sectors where foreign investment are restricted must be based on the socio-economic development requirements from time to time, on the competitiveness of Vietnamese industries and must not be contrary to the undertakings given under international treaties.

3. Ministries, ministerial-level agencies and provincial people's committees are not allowed to promulgate any documents to provide for additional sectors where investments are prohibited, restricted or conditional.

Article 23

Foreign investors already investing in Vietnam in a sector where investments are not prohibited or restricted which, however, becomes a sector where investments are restricted or prohibited under Articles 21 and 22 of this Law after amending or supplementing the list of sectors where investments are restricted or prohibited shall be allowed to continue its operations in such sector. However, they have to re-register their business at the relevant business registration authority or the agency in charge of issuing investment licences.

Article 24

A foreign investor can make investments or conduct business under the List set out in Appendix II to this Law in the circumstance where the minimum equity capital held by Vietnamese investors is no less than 51% of the chartered capital of the enterprise. In special cases, this percentage may be lower than 30% but an approval must be obtained from the State investment regulatory agency.

CHAPTER IV INVESTMENT ENCOURAGEMENTS AND INCENTIVES

Article 25

1. The State of Vietnam encourages investors to invest in the following sectors and locations:
 - (a) Sectors:
 - Produce exports;
 - Husbandry and process agricultural, forestry and aqua-cultural products;

- Apply high technology, modern technique, protect ecological environment, invest in R&D;
- Use intensive labour, process natural materials and effectively utilize natural resources in Vietnam;
- Construct basic infrastructural facilities and important industrial production facilities.

(b) Locations:

- Locations where investments are encouraged including investments in industrial zones and export-processing zones;
- Locations where investments are specially encouraged;

2. Pursuant to the socio-economic development planning and strategies from time to time, the Government shall issue lists of sectors and locations where investments are encouraged.

Where it is deemed by MPI that it is no longer necessary to encourage investments in a sector or location out of the list of sectors and locations where investments are encouraged, MPI may temporarily or permanently suspend encouragement in such specific sector or location and shall report it to the Prime Minister to remove such sector or location from the list.

3. Where it is necessary to encourage the development of an especially important industry or of a whole region or location, the Government may provide for separate incentives other than those referred to in this Law.
4. Ministries, ministerial-level agencies and provincial people's committees may not issue any provisions concerning investment incentives.

Article 26

The State of Vietnam shall encourage, and provide favourable conditions to, Vietnamese investors to make outbound investments in the sectors of exploitation and use of natural resources in the investment receiving location or country; use of advance technology, market expansion and export of subordinated products in Vietnam; generation of substantial foreign currencies; improvement of competitiveness in the world and regional market.

The Government shall make detailed provisions for outbound investment activities by Vietnamese investors.

Article 27

An investor making investments in a sector or location where investments are encouraged shall be entitled to the investment incentives provided for in this law.

A person seeking for entitlement to investment incentives must lodge application documents for investment incentives with the agency in charge of investment incentive management. Procedures and form of application documents shall be provided by MPI.

Application documents for investment incentives before establishment of an enterprise shall be in accordance with the procedures and form provided for by MPI.

Article 28

1. An investment project applying for investment incentives must be economically and socially feasible. Evaluation criteria shall be as follows:
 - (a) The sector and location where investments are encouraged;
 - (b) The number of producers and current capacity in Vietnam and proposed capacity of the project;
 - (c) Perspective of this incentive activity in terms of its possibility to expand the market for the products or goods to be produced or assembled in Vietnam and its possibility to encourage production and assembly activities in Vietnam.
 - (d) The number and proportions of resources to be raised in Vietnam including capital sources and technology.
 - (e) The amount of foreign currencies which might be saved or generated for Vietnam.
 - (f) The compatibility of the production or assembly line or process.
 - (g) Other requirements which might be deemed necessary and appropriate by the investment incentive granting authority.
2. An investment project which might be considered and granted investment incentives must be the one that can take appropriate measures to prevent and control adverse impact on the eco-environment and public health.

Article 29

1. If the investment granting agency grants investment incentives to an applicant, it shall issue the applicant with an investment incentive certificate which sets out specific incentives and conditions for such incentives, specifically:
 - a. The quantity and capital source.
 - b. Scope of operations including categories of products, goods or services; assembly process and capacity of such items.
 - c. Quantity of domestic raw materials to be used.
 - d. Training and recruitment of human resources.

- e. Preventative and control measures with regard to the factors detrimental to the environment.
 - f. Commencement date of the incentive project.
 - g. Date of commencement of operations.
 - h. Distribution of products or goods made or assembled or services supplied.
 - i. Exportation of products or services respectively made or assembled.
 - j. Specific incentives, incentive rates and duration of such entitlement.
2. When the incentive granting agency has decided to grant incentives, it shall notify the applicant in writing in respect of such decision and conditions for such incentives within 15 days from the date of such decision.

If the applicant agrees with the conditions for entitlement to such incentives, he/she must confirm it with the investment incentive granting agency within 30 days from the date of being so noticed and the relevant investment incentive licence shall take effect 30 days after the date it is granted to the incentive beneficiary.

3. An investment incentive certificate shall be issued in a uniform format provided for by MPI. An investment incentive certificate must be kept in a public place at the business premises of the investor.

Chapter V

INTERESTS IN RELATION TO INVESTMENT INCENTIVES AND REVOCATION OF SUCH INTERESTS

Article 30

The investment incentive granting agency, on the basis of the characteristics of the incentive investment activities and on the basis of the criteria and conditions set out in Articles 28 and 29 of this Law shall grant incentives relating to corporate income tax (CIT) and decide the durations for CIT reductions and exemptions for incentive investment activities as follows:

- a. An incentive CIT rate ranging from ten per cent (10%) to twenty per cent (20%) shall apply to the incentive investment activities.
- b. A CIT exemption for a maximum period of four (4) years in respect of the incentive investment activities and 50% CIT for the next 9 years following the year in which profits are derived from such incentive investment activities;
- c. In special cases where investments are specially encouraged, the Prime Minister may decide a longer period for entitlement to CIT reductions or exemptions than that referred to in clause a and b above, however the maximum period must not exceed 10 years;

Article 31

An enterprise which suffers loss after finalizing tax with the tax authority in relation to its incentive investment activities shall be able to carry forward such loss to the following years which shall be offset against the taxable income. The maximum period during which the carrying forward of losses is allowed shall not exceed five (5) years from the expiry date of the period for tax exemption. An incentive beneficiary may select to offset his/her loss amounts against the net profits of any one or several specific years.

Article 32

With regard to incentive activities entitled to CIT exemptions, dividends from such activities shall be exempt from income tax during the period in which a person is entitled to CIT¹.

Article 33

An investor making investments in a location where investments are encouraged as referred to in clause 1(b) of Article 25 of this Law shall be entitled to the following incentives:

- a. A 50% reduction in the CIT rate applicable to incentive investment activities for a maximum of two years from the expiry date of the incentive period provided for in Article 30 of this Law (For those investment projects entitled to incentives in accordance with the sector).
- b. Other investment activities carried out in a location where investments are encouraged shall be exempt from CIT for a maximum period of no more than four (4) years and shall be entitled to a 50% reduction in CIT for the following four (4) years.
- c. An investor making investments in a location where investments are encouraged shall be entitled to a deduction in any twofold amount of the costs of transportation, electricity and water supply incurred if the incentive beneficiary carries out the incentive activities in a location where investment are specially encouraged. Procedures and conditions for the above entitlement shall be decided by the investment incentive granting agency and shall be stated in the investment incentive certificate.
- d. An investor making investments in a location where investments are especially encouraged shall be entitled to deduct from his/her net profits an amount of no more than 25% of the construction or installation costs of those facilities used during taxable activities. Specifically, the incentive beneficiary, in addition to ordinary depreciations, may select to offset the above proportion of costs against the net profits of any or several specific years during 10 years as from the date he/she earns income from incentive activities.

Article 34

¹ Translator's note: Vietnamese text is unclear.

If an investor makes investment in a project in which investments are encouraged he/she shall be entitled to a part of the whole of CIT already paid in respect of the profits used for reinvestment purpose.

Article 35

1. An investor carrying out incentive investment activities 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; or to mix or assemble incentive products provided that raw materials or supplies of the same quality cannot yet be produced in Vietnam or cannot meet the consumption demand. The period of import duty exemption referred to above shall not exceed five (5) years.
 - (e) Construction materials, which are not yet domestically produced
2. Raw materials and supplies imported for the implementation of BOT, BTO and BT projects; and plant varieties or animal breeds or specialized agricultural and pharmaceutical products permitted to be imported for the implementation of agricultural, forestry and fishery projects shall be exempt from import duties.
3. The import duty exemption for the imports referred to in clauses 1 and 2 of this Article shall also apply in the cases of expansion of a project scale or replacement or renewal of technology.
4. Investors making investments in a location where investments are specially encouraged as referred to in the List set out in the Appendix to this Law shall be entitled to an import duty in respect of production materials, supplies and components for five (5) years from the time when production commences, provided that such raw materials or supplies of the same quality cannot yet be produced in Vietnam or cannot meet the consumption demand.
5. Materials, spare parts, components and supplies imported for production of exports shall be exempt from import duty.

Article 36

1. Investors producing goods for exports shall be entitled to temporarily defer the payment of

import duty in respect of materials and supplies imported for production of exports for the period of time stipulated in the Law on Import and Export Duties. With regard to certain categories of exports, subject to the production requirements or the production cycle, MOF shall determine the period for deferred payment of duty.

Beyond the above period of time, enterprises must pay import duty and, upon export of finished products, shall be entitled to a refund of the import duty already paid in respect of the imported materials and supplies in accordance with a proportion appropriate to the proportion of the finished products exported.

2. Enterprises selling their products to another enterprise in order to directly produce goods for export shall be entitled to an import duty exemption with respect to the quantity of raw materials appropriate to the volume of such products.

Article 37

1. Equipment, machinery, materials, supplies or means of transport imported free of duty as referred to in Articles 35 and 36 of this Law for a period of no less than 5 years and no more than 15 years shall not be used for the following purposes:
 - a. sale, donation or use for other purposes other than those for carrying out incentive activities;
 - b. removal from the location stated in the incentive certificate
2. In special cases, where it is necessary to use them for other purposes outside the time limit referred to in clause 1 of this Article, permission from the Ministry of Trade must be obtained and relevant enterprise must reimburse the import duty amount already exempted with regard to such equipment, machinery, raw materials, supplies and means of transport.
3. If an enterprise is liquidated or resolved or if any of the equipment, machinery, materials, raw materials or means of transport referred to above is used for mortgage or pledge during the time limit set out in clause 1 of this Article, the enterprise must reimburse the import duty amount already exempted with regard to such equipment, machinery, materials, raw materials and means of transport.

Article 38

1. An investor carrying out incentive investment activities shall not be liable to pay value added tax in respect of the following:
 - (a) Equipment, machinery and specialized means of transport which form part of a technological line not yet domestically produced and which are imported to form fixed assets of the enterprise;

If an imported complete line of machinery and equipment is not liable for payment of VAT but comprises of certain machinery and equipment which can be produced domestically, VAT shall not be imposed on such 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;
- (c) Materials imported for production of products for supply to other enterprises directly producing goods for export.

Article 39

1. In accordance with the procedures provided for in legislation on entry and exit, foreign individuals are allowed to enter into Vietnam to explore investment opportunities or [to conduct] any other activities relating to investment activities.
2. Foreigners referred to in clause 3 of this Article and their spouses and children are allowed to enter into Vietnam to carry out investment activities. The period of time in which they are permitted to stay in Vietnam shall be in accordance with the legislation on entry and exit.
3. Enterprises may directly recruit Vietnamese and expatriate employees in accordance with the labour legislation. The recruitment of expatriates who are managers, technicians and experts shall be conducted subject to the business requirements and there shall be no restrictions as to the number.

Article 40

1. Investors of all economic sectors shall be allocated or leased land to carry out their investment activities in Vietnam in accordance with the Law on Land.
2. Foreign investors shall have the right to lease land for a term of 99 years in order to carry out their incentive investment activities if they satisfies one of the following conditions:
 - (a) Their investment projects have been issued with an investment incentive certificate.
 - (b) Their projects are carried out in a location with especially difficult socio-economic conditions.
 - (c) The costs of site clearance and compensation must be at least equal to the land rentals payable for the whole project life.
3. Where the incentive beneficiary referred to in clause 2 of this Article is a foreign investor who terminates its operations, he/she must transfer the relevant land lot which he/she is permitted to use within a maximum period of two (2) years from the date of its termination. Beyond such time limit, the land administration authority shall recover such land lot in accordance with the Law on Land.
4. The State allows foreign investors to acquire land use rights to carry out their investment projects on a contractual basis, in form of a tender or auction. If land is acquired in such a manner, it may be assigned or sub-leased.

Article 41

1. The State shall set up, and encourage the establishment of, investment support funds. An investment support fund shall provide medium and long term loans with preferential interest rate, provide partially preferential assistance or apply partially preferential interest rates to the investment projects in respect of which an investment credit guarantee is granted. The Government shall provide re-guarantee through the State Bank of Vietnam in the same manner as that applicable to credit funds of investment support funds.
2. The State shall set up development support funds to provide State support for development [activities] through investment loans, post-investment support, or guarantee of investment credits in accordance with current legislation on investment and development credits of the State.

Article 42

1. The Government shall set up, and encourage the establishment of, export support funds. Capital for establishment and operations of an export support fund shall be contributed by organizations and individuals in accordance with the Law on Credit Institutions.
2. The National Export Support Fund shall be set up by the Government as a non-banking credit institution operating under the Law on Credit Institutions.
3. The National Export Support Fund shall provide preferential, export credits or guarantee export credits to support those enterprises producing goods for export or carrying out export activities to expand their export market.

Article 43

1. The Government shall set up a national support fund for scientific and technological development. The national support fund for scientific and technological development shall be a non-banking credit institution operating in accordance with the Law on Credit Institutions.
2. The national support fund for scientific and technological development shall provide credits with favourable conditions and preferential interest rate to support investors in carrying out scientific and technological research and application, technology transfer and technology renovation.

Article 44

The Government shall make specific provisions for the duties, powers and operating structure of investment support funds, export support funds and support funds for scientific and technological development as referred to in Articles 41, 42 and 43 of this Law.

Article 45

1. Where an incentive beneficiary breaches, or fails to meet, the conditions stated in the incentive certificate, the incentive granting authority shall revoke either part or the whole of the rights and interest already granted to such beneficiary, and may provide for the time limit for such revocation.
2. Where an incentive beneficiary breaches, or cannot meet, those conditions for unintentional reasons, the incentive granting authority shall request him/her in writing to rectify the breach or to meet such conditions within a prescribed time limit. Beyond such time limit, if the incentive beneficiary still fails to do so without legitimate reasons, the incentive granting authority shall carry out the revocation in accordance with clause 1 of this Article.

Article 46

1. Where the incentive granting authority recovers the import duty, the person subject to such recovery must reimburse the income tax amount already exempted and the import duty which is determined on the basis of the conditions and prices of relevant goods items and the import duty rate applicable to such goods on the date of their importation or exportation.
2. For the purpose of reimbursement of the import duty, an incentive beneficiary shall register with the local Customs department or customs office where a relevant goods item was imported within one (1) month as from the date of a notice of the revocation of the relevant rights and interest. The incentive beneficiary shall reimburse such import duty amount at the customs office as designated by the local customs department within one (1) month from the date of the notice of the payable amount. If the incentive beneficiary fails to register for tax payment or fails to pay additional import/export duty within the prescribed time limit referred to in this Article, he/she shall be liable to pay a tax penalty at a rate of 1% for each of the delayed months which is applicable from the expiry date. If the incentive beneficiary cannot do this, he/she shall be dealt with in accordance with customs legislation. For the purpose of calculation of the tax penalty any period of time being less than one (1) month shall be rounded up to one (1) month.

Article 47

1. In case of revocation of CIT-related rights and interest, the incentive beneficiary shall be regarded as not being entitled to any CIT exemptions or reductions for the relevant financial year in which such revocation takes place.
2. The incentive granting authority may revoke CIT-related rights and interests and such revocation may have retroactive effect back to the financial year in which an incentive beneficiary commits a breach of, or fails to meet the conditions stated in, the incentive certificate. An incentive beneficiary shall register with the provincial tax department where his/her head office is located for payment of tax and shall pay all types of tax within one (1) month from the date of notice of such revocation. [With regard to] the CIT rate applicable for the financial year in which the incentive beneficiary fails to register or fails to pay taxes and CIT within the above time limit, he/she shall be liable to pay a tax penalty in accordance with the Law on CIT [calculated for the period] from the expiry date of the time limit for registration or tax payment to the date of actual payment. If the incentive beneficiary fails to do this, he/she shall be regarded as evading tax payment and shall be dealt with in accordance with the Law on CIT.

Article 48

1. Where an incentive beneficiary terminates its operations, is reorganized or is assigned to another enterprise, its incentive certificate shall be valid for no more than three (3) months from the date of such termination, reorganization or assignment.
2. If the new manager of the operations so merged or assigned wants to take over those incentive activities under the same conditions as those stated in the incentive certificate, he/she shall lodge an application for incentives within the time limit referred to in clause 1 of this Article. If it is deemed by the incentive granting authority necessary to grant incentives, an incentive certificate shall be granted to the beneficiary and the rights and interests provided for in this Law shall be as favourable as those granted to the original beneficiary.

CHAPTER VI STATE ADMINISTRATION OF INVESTMENT ACTIVITIES

Article 49

Details of State administration of investment comprise the following:

1. Formulation of strategies, master plans, plans and policies relating to investment.
2. Promulgation, dissemination and organization of documents.
3. Providing guidelines to various sectors and localities in carrying out related activities to investment activities.
4. Providing guidelines and support to investors in carrying out their investment projects and dealing with their queries and questions.
5. Organizing business registration, and granting investment licences.
6. Granting or refusing to grant investment incentive certificates with respect to incentive investment activities.
7. Inspect, examine and supervise investment activities.

Article 50

The Government shall uniformly carry out State management of investment and encourage investment throughout the country.

The Government shall provide for the appraisal and grant of investment licences (applicable to those investment projects which remain to apply the appraisal system for the grant of an investment licence); shall, on the basis of the socio-economic development master plan and plans, on the basis of each sector, the nature and scale of each project, decide the allocation of authority to grant investment licences to provincial people's committees; shall decide whether or not to grant investment licences to investment projects in industrial zones, export-processing zones and

other economic zones.

Article 51

MPI shall be the investment State regulatory agency which assists the Government in managing investment activities in Vietnam.

MPI shall have the following duties and powers:

1. To take the lead in formulation and submission to the Government of strategies for raising various capital sources for investment and development; draft legal projects and policies relating to investment and investment encouragement including policies for mobilization of capital sources from economic sectors; Formulation of regulations and planning for development and investment; policies and regulations for administration of investment improvement of investment efficiency; avoidance of loss of State invested capital; revise and remove any barrier to investment activities.

To co-ordinate with ministries, ministerial-level agencies and Government agencies in carrying out State management of investment and provide guidelines to provincial people's committees for carrying out policies and measures relating to investment;

2. To make and consolidate a list of investment projects, to provide guidelines relating to investment procedures, to carry out State management of investment promotion activities, and to set up and manage those agencies in charge of administration of investment promotion activities overseas.
3. To organize business registration; receive investment projects and take lead on appraisal for granting investment licences to investment projects under its authority.
4. To grant investment incentive certificates for investment activities under its authority;
5. To adopt one-stop mechanism in supporting and guiding investors in carrying out their investment projects and in dealing with queries and concerns of investors during the establishment and execution of their investment projects.
6. To assess the socio-economic efficiency of investment activities.
7. To examine, inspect and provide relevant guidelines to examine and inspect investment activities in accordance with the law. To supervise and examine business registration activities, grants of investment licences, investment incentive certificates of people's committees of cities under central authority.

Article 52

Ministries, ministerial-level agencies and Government agencies shall carry out State management within the scope of their respective functions and authority:

1. Coordinate with MPI in formulation of laws, policies and master plans relating to investment.

2. Formulate plans and lists of projects calling for investment capital of the sector; organize investment promotion activities.
3. Be involved in appraisal of projects.
4. Provide guidelines and deal with procedures for implementation of projects.
5. Assess the socio-economic efficiency of investment activities in the sector under their control.
6. Carry out other duties under their authority as provided for by law.

Article 530

Provincial people's committees shall carry out the function of State administration of investment activities in their respective localities within the scope of their function and authority:

1. On the basis of the socio-economic development master plan already approved, to prepare and make public a list of projects calling for investment capital in their locality and organize investment promotion activities.
2. To appraise and grant investment licences under the authority assigned to them, to grant or refuse to grant investment incentives for incentive activities under their authority.
3. To adopt one-stop mechanism in supporting and guiding investors in carrying out their investment projects and in dealing with queries and concerns of investors during the establishment and execution of their investment projects
4. To assess the socio-economic efficiency of investment activities in their location
5. To examine and inspect investment activities in their location and inspect investment activities in accordance with the law.

Article 54

1. Investors carrying out business registration in accordance with the law applicable to the relevant subject, Enterprise Law, the Law on SOEs, the Law on Cooperatives, Individual business households under Decree 66/HDBT dated 2 March 1992.
2. Foreign investors carrying out investment projects in Vietnam shall have the right to register their businesses in accordance with the Enterprise Law and shall be granted with an investment licence in accordance with Article 55 of this Law.

Article 55

1. Foreign investors carrying out investment projects subject to business registration must meet the following conditions:

- a. not falling within Group A as referred to in Article of this Law;
 - b. falling within a production sector with a scale up to US\$ million;
 - c. not falling within the list of projects for which an EIA report must be prepared.
2. Agency authorized to grant investment licences may not refuse to grant an investment licence to an investment project which has satisfies all the conditions for a licence.
 3. The remaining projects shall be liable for appraisal before being issued with an investment licence.
 4. Procedures and application documents for registration or appraisal for the grant of an investment licence shall be provided for by the Government.
 5. A business registration certificate and/or an investment licence must be kept in a public place at the business premises of the investor.

Article 56

1. Procedures for the Government to decide group A projects are as follows:
 - a. Projects regardless of their investment capital scale in the following sectors:
 - construction of infrastructure facilities in industrial zones, export-processing zones, high-tech zones, urban areas, BOT, BTO or BT projects;
 - construction and operation of seaports, airports; operations of seaborne and airborne transportation;
 - petroleum activities;
 - post and telecommunications services;
 - production and publication of cultural products; printing services (except for projects for printing technical materials, packaging, goods label, ordinary features in textiles and garments and footwear), media; broadcasting and televisions; advertising services attached to issues of advertisements; cinematographic activities, art performances, game services with prizes; medical examination and treatment establishments; popular education, training at the college, university, post-graduate or similar levels, scientific research, production of human medicines;
 - insurance, finance and accounting, survey;
 - exploration and exploitation of rare and precious natural resources;
 - construction of residential houses for sale;

- projects in the sector of national defence or security;
 - catching of aquatic products in the internal waters, territorial waters, exclusive economic areas and continental shelf;
 - exploitation of wood
 - purchase of shares in SOEs;
 - distribution projects;
- b. Projects with investment capital of more than US\$ 40 million in the sectors of electricity, mining, metallurgy, cement, engineering, chemicals, hotels, office and apartment building for lease, entertainment-recreation and tourism resorts.
- c. Projects using an area of urban land of more than 5 hectare and of other types of land of more than 50 hectares.
2. MPI shall decide Group B projects (being those not referred to in clause 1 of this Article) except for those referred to in clause 3 of this Article.
3. Provincial people's committees shall decide those investment projects not falling within A group referred to in clause 1 of this Article.

Provincial people's committees shall not be allocated authority to grant investment licences to those investment projects regardless of their scale in the sectors of construction of national highways, railways, cement production, metallurgy, electricity, sugar, alcohol, beer, cigarettes; tourism travel; construction and operation of supermarkets.

Article 57

MPI shall grant investment incentive certificates to investors entitled to incentive:

1. Grant or refuse to grant investment incentive certificates to SOEs established under a Prime Ministerial decision or group A projects;
2. Pursuant to the nature of incentive activities and criteria and conditions for grants of investment incentive certificates, MPI shall agree with relevant ministries and sectors upon investment incentive measures for the purpose of granting investment incentive certificates;
3. Provincial people's committees shall grant or refuse to grant investment incentive certificates to those incentive investment activities of enterprise established under the Enterprise Law, the Law on Cooperatives and individual business households and projects not falling within Group A.
4. The Government shall make detailed provisions for procedures to consider and grant investment incentive certificates. An investment incentive certificate shall be issued in the form uniformly provided by MPI.

Article 58

If an incentive beneficiary faces any difficulty carrying out of the incentive activity, he/she may make claim or request the agency which granted the investment incentive certificate referred to in Article 57 of this Law to deal with such difficulty or to request relevant ministries, sectors or local authorities and other concerned bodies in providing assistance in a prompt manner.

If any of such requests by an incentive beneficiary are not dealt with by ministries, sectors or agencies or concerned bodies, a report must be given to MPI specifying the reason therefor within 15 days from the date of receipt of such request.

Article 59

Representatives of the competent authority on investment incentives shall have right to access to the establishments of the applicants in the business hours to inspect the matters related to applied or granted investment incentives.

The inspection shall be prior informed in writing, which must be signed by the head of the competent authority granting investment incentives except in the case of emergency.

[State officials] shall be prohibited to contact the investment incentives applicants regarding investment incentives matters outside the office granting Investment Incentive Certificate.

Chapter VI REWARDS AND DEALING WITH BREACHES

Article 60

Investors making achievements in business and production activities and contributing to the production promotion, improvement of investment efficiency and making major contributions to the cause of national construction and development shall be rewarded and respected in accordance with the provisions of the law, depending on the level of their achievement and contribution.

Article 61

In any of the following circumstances, if an investor commits the following breaches:

1. Breaching the conditions for business registration as referred to in Article 9 of the Enterprise Law including when an investor is expelled from the territory of Vietnam or a foreigner illegally resides in accordance with the law.
2. Making business investments contrary to the provisions of the business registration certificate or investment license.
3. A foreign investor invests or conducts business in a sector where investments are prohibited or restricted in accordance with Article 24 of this Law.

In case of committing any of the above breaches, the investment regulatory agency shall request and give guidelines to the investor to make appropriate adjustments. If any investor refuses to comply with such request without legitimate reasons, the investment regulatory agency may suspend the business registration certificate or investment licence for no more than 60 days from the date of such guidelines. Beyond this time limit, if none adjustment is made, the investment regulatory agency may consider and revoke the business registration certificate or investment licence.

Article 62

If an investor whose business or investment activities have been suspended or whose business registration certificate or investment licence has been revoked continues its investment activities shall be subject to a monetary fine of between VND100 million to VND500 million.

Article 63

1. Any person who conducts business investment activities in accordance with this Law which investment, in its essence, are owned by a foreigner and which are not permitted under this Law and which are for the purpose of avoiding the law shall be subject to a monetary fine of between VND 500 million to VND 1 billion and shall have his/her business registration certificate or investment licence revoked.
2. Any Vietnamese national or Vietnamese legal entity that assists or encourages or takes part in the business activities of a foreigner which are prohibited under this Law or that conducts business investment activities in order to assist a foreign in evading the law shall be subject to a monetary fine of between VND 500 million to VND 1 billion.

Article 64

Any person committing the following breaches shall be subject to a monetary fine of between VND 50 million to VND 100 million:

1. Failure to register his/her business and/or failure to be issued with an investment licence but continuing to carry out business investment activities.
2. Changing the head office or business establishment without notifying it to the investment regulatory agency within 15 days from the date of such change.
3. The investor is the one that is not permitted to conduct business investment activities under this Law and relevant laws or invests in a sector where investments are prohibited or restricted as provided for by this Law.

Article 65

Any person who does not comply with the requirements or a summon of the investment regulatory agency or does not provide explanation or submission at the request or under a summon or does not assist the investment regulatory agency in carrying out its duties without reasons shall be subject to a monetary fine of between VND 10 million to VND 20 million.

Article 66

A person who takes advantage of his/her position or duties to obstruct investment activities or who commits an act of causing troublesome to investors or does not promptly deal with the request of an investor or breaches other provisions of this Law shall be, depending on the nature and seriousness of the breach, be disciplined or prosecuted for criminal liability. If any loss occurs, compensation must be made in accordance with the law.

Chapter VII INSPECTION, EXAMINATION AND DISPUTE RESOLUTION

Article 67

1. Any inspection of the operations a business or production establishment must be carried out within proper functions, authority and in compliance with the law. Such inspection must be carried out publicly on a working day at the head office or relevant business or production establishment of the investor. An economic or financial inspection must be carried out no more than once a year and for a period of no more than 30 days. In special cases, the length of an inspection may be extended under a decision of the competent agency but not exceeding 30 days. An extraordinary inspection shall only take place on the basis of an indication that a production or business establishment commits a breach of laws.
2. An inspection must be carried out under a decision of a competent person. At the end of an inspection, there must be a minute of inspection conclusions. The head of an inspection team must be held liable for the minute and inspection conclusions.
3. A person who makes an inspection decision contrary to the law or takes advantage of an inspection for his/her personal benefit or in order to cause troublesome or burdensome to business investment activities shall be, depending on the nature of the breach, disciplined or prosecuted for criminal liability. If any loss occurs, compensation must be made to the investor in accordance with the law.

Article 68

If any officers of an investment regulatory agency wants to access to a production or business establishment of an investor to carry out a duty as assigned under this Law or relevant legislation, he/she must obtain a written approval from the head of the investment regulatory agency and such examination must be carried out during working hours at the head office or relevant business or production establishment of the investor. When an examination is completed, a report must be submitted to the head of the investment regulatory agency.

Article 69

1. Disputes between investors in Vietnam relating to business investment activities shall be resolved by a Vietnamese arbitration organization or Vietnamese court in accordance with the Vietnamese law.
2. Disputes between related parties or BCC parties, disputes between foreign organizations

or individuals and foreign invested enterprises shall first be resolved through negotiations and mediations between the dispute parties.

If mediation fails, the dispute parties may agree to select one of the following resolution methods:

- a. By a Vietnamese court
 - b. By a Vietnamese or foreign or international arbitration
 - c. By arbitration agreed upon by the parties.
3. [With regard to] the disputes between an investor and the Vietnamese Government relating to an investment in the territory of Socialist Republic of Vietnam, all the efforts shall be made to resolve such disputes by mediation and negotiation between the dispute parties.

If a dispute cannot be resolved by mediation and negotiation within six (6) months, the investor has the right to refer such dispute to a Vietnamese, foreign or international arbitration organization for resolution.

If the Vietnamese Government has entered into an Agreement on Investment Promotion and Protection, such disputes shall be resolved in accordance with the provisions of such Agreement.

Chapter VIII IMPLEMENTATION PROVISIONS

Article 70

This Law comes into effect from to, 2006

All the previous provisions contrary to this Law are hereby repealed.

Article 71

Investors being entitled to incentives under the Law on Domestic Investment Promotion, the Law on Foreign Investment in Vietnam, the Law on Cooperatives, the Law on SOEs, and the Law on Individual Business Households shall continue enjoying those incentives for the remaining period of the investment incentive certificate already granted.

Article 72

An investment project operating before the effective date of this Law, if the investment provisions of this law are more favorable, may request the competent agency to adjust the investment incentives they are currently entitled to in accordance with this Law.

Article 73

If as a result of the promulgation of this Law if any previous investment activities now become

restricted or prohibited, the relevant investors shall be allowed to continue its business investment activities in such sector, but they have to re-register their business at the relevant competent investment regulatory agency.

Article 74

This Law replaces the Laws and provisions of relevant Laws set out in Appendix II attached to this Law.

The Government shall make detailed provisions for implementing this Law.

**LIST I
SECTORS WHERE INVESTMENTS ARE PROHIBITED**

1. Media, broadcasting and television
2. Exploitation and processing of natural wood
3. Catching of aquatic products in sea areas and exclusive economic areas (applicable to foreign investors)
4. Trading of antiques or national historical items (applicable to foreign investors)
5. Doing business in land (applicable to foreign investors)
6. Manufacture and repairs of guns, ammunition, gunpowder and various types of military weapon, facilities and appliances to be used for wars (except for military enterprises and other designated enterprises)
7. Conducting business in human bodies
8. Printing of various types of currency and other paper of economic value.

**LIST II
SECTORS WHERE INVESTMENTS ARE RESTRICTED**

1. Production and publication of cultural products
2. Exploration and exploitation of petroleum and precious and rare minerals
3. Investment in the insurance sector.
4. Investment in the banking and finance sector
5. Investment in the sector of securities brokerage and trading, monetary and other related service sectors.
6. Construction, installation, operation and maintenance of telecommunications equipment
7. Construction and operation of river ports, seaports, airports; transport of passengers by railways, waterway, airway or land.
8. Trading of immoveable property.
9. Purchase of shares in SOEs.

10. Investments in services sectors (except for those service sectors as committed in the international treaties which shall comply with the provisions of relevant international treaties).
11. Investment in the production of NPK fertilizer.
12. Production of beer and cigarettes.
13. Production and assembly of automobiles and motorbikes.
14. Production and distribution of electricity.
15. Distribution, wholesale and retail services.

**LIST OF THE LAWS
AND PROVISIONS OF THE LAWS TO BE REPLACED**

1. The Law on Foreign Investment in Vietnam
2. The Law on Domestic Investment Promotion
3. The Law (Articles.....)
4. The Law (Articles)
5. The Law (Articles)
6. The Law (Articles)
7. The Law (Articles)
8. The Law (Articles)
9. The Law (Articles)