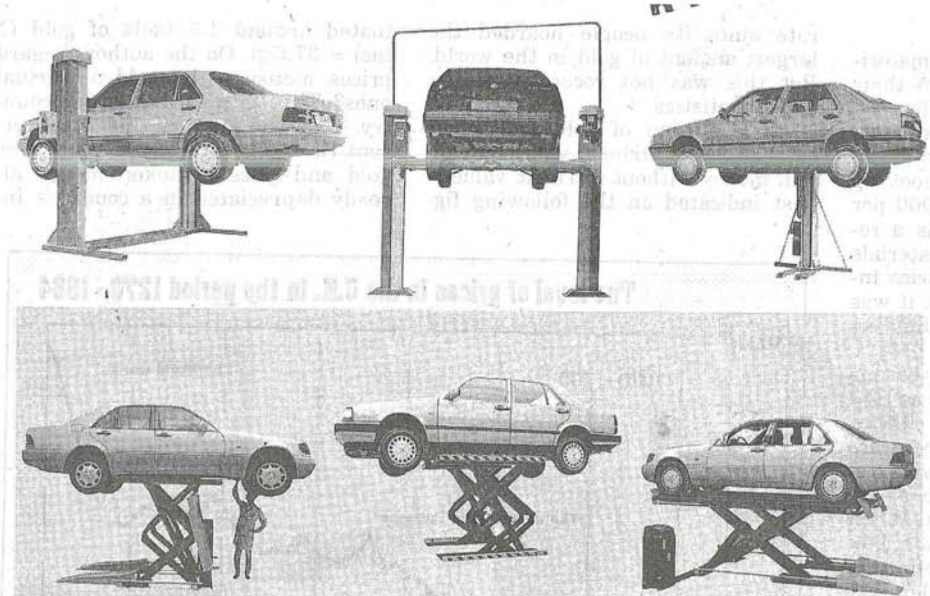

MEASURES TO ENCOURAGE AND ENSURE FOREIGN DIRECT INVESTMENT IN VIETNAM

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I. AN OUTLINE OF THE PROCESS OF AMENDING THE FOREIGN INVESTMENT LAW

In 1986, the economic reform policy introduced by the 6th National Congress of the VCP opened a bright future to the economy and helped with integrating it into the world community. The Foreign Investment Law was first promulgated on Dec.29, 1987 in an effort to attract foreign investment with a view to developing the socialism-oriented market economy under the government management. In the following years, reality of economic activity allowed the Government to amend the law in order to make it more open and attractive, and many policies were adopted to ensure and encourage foreign investment. The following are main contents of these amendments.

a. The first amendment made on June 30, 1990:

- Allowing all economic concerns with legal status to cooperate with foreign partners.
- Recognizing the principle by which different parties cooperate to form joint ventures.
- Giving preferential treatment in terms of income tax.

b. The second amendment made on Dec. 23, 1992:

- Allowing the building of export processing zones.
- Calling for BOT investment.
- Encouraging increases in stake held by Vietnamese parties in joint ventures and change from foreign-owned companies to joint ventures.
- Increasing the term of foreign investment to 70 years.
- Allowing the opening of accounts in banks in foreign countries.
- Offering the same tax incentives to both foreign-owned companies and joint ventures formed by Vietnamese and foreign parties.

In the new Constitution promulgated on April 18, 1992, the Article 22 in the Chapter II dealing with "Economic Activity" reads "Enterprises in all sectors are allowed to cooperate with local or foreign individuals or organizations according to regulations set by laws"; and the Article 25 reads "The Government encourages foreign individuals and organizations to invest capital and technology in Vietnam according to Vietnam laws and international laws and practices; ensures foreign individuals and organizations the legal ownership of capital and assets along with other interests. Enterprises with foreign investment are not nationalized."

Reviewing the realization of the Foreign Investment Law in the light of the Constitution 1992, policy-makers pointed out shortcomings to overcome:

- Orientation for foreign investment is unclear.
- Some policies are ambiguous.
- There are contradictory regulations set by the bulk of subordinate legislation.

There is a need for a new and more perfect Foreign Investment Law, instead of more amendments.

In the process of perfecting the Foreign Investment Law in new conditions, the legislative body paid more attention to the following matters:

+ Attracting foreign investment of better quality and quantity (about US$13-15 billion for the the next 5-year period from 1996 to 2000).

+ Helping to alter the structure of industry, promote export, import new technology, beef up productive forces and make the best use of national resources.

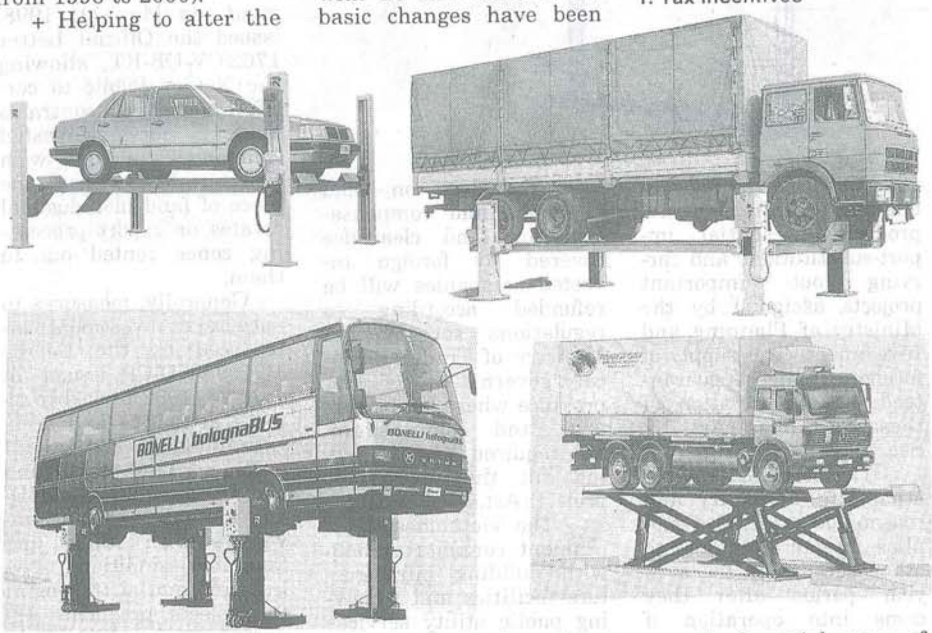
+ Clarifying measures to encourage investment, especially foreign one, and orient it towards main targets and industries of top priority.

+ Making all regulations more precise, and turning important and effective regulations into laws.

+ Making the Foreign Investment Law more appropriate to the Vietnam's law system.

+ Perfecting the mechanism for controlling foreign investment and simplifying investment procedures with a view to supplying better services to foreign investors.

c. To meet these requirements, the National Assembly of the 9th term passed a new Foreign Investment Law in its 10th session on Nov. 12, 1996 and the Law was promulgated on Nov.23, 1996. The Law includes an introduction and six chapters containing 68 articles. In comparison with the old Foreign Investment Law (1987), the new one is supplemented with 26 new articles: 20 basic changes have been made and 56 important supplements added.



II. MEASURES TO ENCOURAGE AND ENSURE FOREIGN INVESTMENT INTRODUCED BY THE DECREE 10/1998/NĐ-CP OF THE GOVERNMENT

The Chapter III, including Articles 20-24, of the Law sets forth "Measures to ensure investment" (not including articles in other chapters also dealing with encouragement to foreign investment). The Government also issued the Decree 12/CP on Feb. 18, 1997 providing "Detailed guidelines on the Foreign Investment Law" included in 15 chapters (104 articles). In this Decree, the Chapter XIV (including Articles 101-103) deals with " Ensuring investment and handling conflicts and violations".

Especially, the Government also issued the Decree 10/1998/NĐ-CP on Jan. 23, 1998 providing "Measures to encourage and ensure foreign direct investment in Vietnam" (along with the PM directives No 11/1998/CP-TTg signed on March 16,1998 on "Procedures for foreign direct investment"). Main measures set forth in this Decree are:

1. Tax incentives

- Preferential rates of profits tax is offered to especially-encouraged investment projects during their term of operation (Art.6, Sec. 2, Chap. III).

- Regarding projects licensed before the promulgation of the Foreign Investment Law (1996), the preferential profits tax rates and the term in which they enjoy will be revised according to criteria for encouraging investment set forth in Articles 53, 54, 55 and 56 of the Decree 12/CP (Feb. 18, 1997) and in the Decree 36/CP (April 24, 1997) that provides regulations on Industrial Estates, Export Processing Zones and Hi-tech Industrial Parks.

- Especially-encouraged investment projects and projects in areas enjoying encouragement to investment are exempt from profits tax for four years from the first profit-making year and enjoy a 50% reduction of profits tax for another four (Art. 7).

- Companies producing goods for export are allowed to defer payment of import duties on imported materials needed for making exports for a period set by the Customs Duties Law (Art. 8).

- Prices used for tax purposes are prices quoted in invoices of imports. If there is no invoice, the price is calculated according to regulations set by the Ministry of Finance(Art. 9).

- Imported equipment, machines and specialized means of transport classified as fixed assets are duty-free. Building materials that can't be made locally imported for building fixed assets and all capital goods needed for production are also duty-free. This exemption is also applicable to technological innovation and project expansion.

- Companies in the service industry (hotel and accomodation industry, office and residential blocks for rent, tourism, technical; banking; insurance; advisory; auditing, etc. services) are allowed to enjoy just for one time the exemption from import duties for all equipment used as fixed assets.

- Especially-encouraged investment projects and projects in mountainous and remote areas are allowed to enjoy the exemption from import duties for raw materials needed for production for a 5-year period as from the start of production(Art. 10).

- Foreign-invested companies act as suppliers for companies producing exports are allowed to enjoy the exemption from import duties for raw materials and from turnover tax for goods supplied to said companies (Art. 13).

2. Preferences for loss transfer, profit reduction and adjustment to export ratio

- The Ministry of

Trade will revise the annual plan for sale of products as required by foreign-invested companies which fail to meet the export ratio requirement stated in the investment license. If the companies fail to meet this requirement for three consecutive years, the investment license granting body will make adjustment to the export ratio and preferential treatment offered or withdraw the license if need be (Art. 13).

- Foreign-invested companies are allowed to transfer losses made in any fiscal year to the next one and charge these losses against gross profit made in the following five years at max (Art. 11).

- Spending made by foreign-invested companies and foreign parties in joint ventures to Vietnamese charitable and humanitarian organizations (or individuals) is also allowed to be deducted from gross profit when calculating taxable profit (Art. 12).

3. Preferences for purchase and distribution of products

- Foreign-invested companies are allowed to buy goods from local suppliers to export (with or without processing them) according to regulations set by the Ministry of Trade (Art. 13, Sec. 3).

- Foreign-invested companies are allowed to sell a permitted amount of their products on local markets without limit on locality. Prices of these products are determined by the companies (Art. 14, Sec. 1 & 2).

- Foreign-invested companies are allowed to export goods on consignment or act as consignees for other companies according to regulations set by law (Art. 13, Sec. 3).

4. Supply of foreign exchange

- The State Bank of Vietnam ensures the supply of foreign exchange to

companies engaging in building infrastructure, producing essential import-substitutions and carrying out important projects assigned by the Ministry of Planning and Investment. The supply of foreign exhange is guaranteed for the duration of these companies (Art. 15, Sec. 1).

- The State Bank of Vietnam, in necessary and reasonable cases, also supplies foreign exchange to other companies for a 3-year period after they come into operation if they want to import raw materials needed for production in the fiscal year; import spare parts for replacement; and pay interest on loans (these needs are arranged in order of importance) (Art. 15, Sec. 2).

- The State Bank of Vietnam will consider, when required, allowing companies in the service industry to buy foreign exhange according to regulations on exchange control (Art. 15. Sec. 3).

5. Land using right and infrastructure

- Foreign-invested companies have to pay land rent or arrears of land using fee (in cases where Vietnamese parties' stake is the value of land using right) as from the day the companies are officially granted the land using right (Art. 17, Sec. 2).

- Expenses on land clearance and compensation for land clearance covered by foreign invested companies will be refunded according to regulations set by the Ministry of Trade and local government of the province where land clearance and compensation are required when carrying out the investment project (Art. 17, Sec. 2)..

- The Vietnamese Government commits to help with building infrastructure facilities and supplying public utility services to the entrance to factory buildings or industrial estates. In urgent cases, the Government allows foreign-invested companies to cooperate with infrastructure construction companies (or public utilities companies) to accelerate the building of technical infrastructure facilities (Art. 18, Sec. 1).

- The Government allows Industrial Park Infrastructure Development Companies to rent out land to both foreign and local companies that want to build their factories or offices in industrial parks, or want to rerent it to other companies (Art. 18, Sec. 2).

In HCMC, the People Committee issued the Official Letter 1242/UB-KT on April 16, 1998 allowing foreign-invested companies to make procedure for renting land from the Government, and at the same time, asking for investment license.

6. Recognition of the right to mortgage assets

- Foreign-invested companies can mortgage their assets according to regulations set by laws when doing business inVietnam (Art. 16).

The HCMC government, on May 11, 1998, issued the Official Letter 1762/CV-UB-KT allowing the Notary Public to certify mortgage contracts made by foreign-invested companies along with their right to use the piece of land in industrial estates or export processing zones rented out to them.

Generally, measures to encourage investment introduced by the Decree 10/1998/NĐ-CP issued on Jan. 23, 1998 proved to be more attractive and accurate. Both the Foreign Investment Law (1996) and the Decree 10/1998/NĐ-CP aim at providing investors with stable and favorable conditions, giving preferential treatment to projects producing exports or using high technologies; and projects in areas where special encouragement is offered to investment, simplifying investment procedures, and encouraging all sectors to attract foreign investment. So we have reasons to believe that the foreign- invested sector will make good progress in the coming years■

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