

**No. 50885**

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**United States of America  
and  
Viet Nam**

**Project Incentive Agreement between the Government of the United States of America and the Government of the Socialist Republic of Viet Nam regarding the operations of the Export-Import Bank of the United States in Viet Nam. Hanoi, 9 December 1999**

**Entry into force:** *9 December 1999 by signature, in accordance with article 6*

**Authentic texts:** *English and Vietnamese*

**Registration with the Secretariat of the United Nations:** *United States of America, 18 June 2013*

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**États-Unis d'Amérique  
et  
Viet Nam**

**Accord de promotion de projets entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République socialiste du Viet Nam concernant les opérations de la Banque export-import des États-Unis au Viet Nam. Hanoï, 9 décembre 1999**

**Entrée en vigueur :** *9 décembre 1999 par signature, conformément à l'article 6*

**Textes authentiques :** *anglais et vietnamien*

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** *États-Unis d'Amérique, 18 juin 2013*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**PROJECT INCENTIVE AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM  
REGARDING THE OPERATIONS OF  
THE EXPORT-IMPORT BANK OF THE UNITED STATES IN  
VIETNAM**

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA and THE GOVERNMENT  
OF THE SOCIALIST REPUBLIC OF VIETNAM;**

**AFFIRMING** their common desire to establish and develop mutually beneficial and equitable trade and investment cooperation on the basis of mutual respect; and

**RECOGNIZING** that this objective can be promoted through financing provided or supported by the Export-Import Bank of the United States ("Ex-Im Bank"), a financial institution and an agency of the United States of America, in the form of loans, guarantees, and credit insurance in support of the export of goods and services of United States origin;

**HAVE HEREBY AGREED** as follows:

**ARTICLE I**

As used in this Agreement, the following terms have the meanings herein provided. The term "Financing" refers to any loan, loan guaranty or credit insurance, including guarantees or insurance against political risks, that may be provided by the Issuer in connection with a project or other transaction in the territory of Vietnam. The term "Issuer" refers to Ex-Im Bank and any successor agency of the United States of America. The term "Taxes" means all present and future taxes and tax-like obligations imposed by the Government of the Socialist Republic of Vietnam and all liabilities with respect thereto.

## ARTICLE 2

(a) The Issuer shall not be subject to the regulatory laws of the Socialist Republic of Vietnam specifically applicable to insurance or financial organizations. Except to the extent otherwise provided in this Agreement or in other agreements between the Governments of the United States and the Socialist Republic of Vietnam, the operations of the Issuer in Vietnam shall be subject to appropriate Vietnamese law and applicable international law.

(b) As the Issuer is a government agency acting for the purpose of trade promotion and encouragement and support of investors, all operations and activities undertaken by the Issuer in connection with any Financing, and all payments, whether of interest, principal, fees, dividends, premiums or the proceeds from the liquidation of assets or of any other nature that are made, received or guaranteed by the Issuer in connection with any Financing shall be exempt from Taxes. The Issuer shall not be subject to any Taxes in connection with any transfer, succession or other acquisition which occurs pursuant to paragraph (c) of this Article or Article 3(a) hereof. Any project in connection with which Financing has been provided shall be subject to applicable Vietnamese taxes, including in the case of liquidation, but shall be accorded tax treatment no less favorable than that accorded to similar projects benefitting from the trade or investment finance programs of any other national or multilateral trade or development institution which operates in Vietnam.

(c) If the Issuer makes a payment to any person or entity, or exercises its rights as a creditor or subrogee, in connection with any Financing, the Government of the Socialist Republic of Vietnam shall recognize the transfer to, or acquisition by, the Issuer of any cash, accounts, credits, instruments or other assets in connection with such payment or the exercise of such rights, as well as the succession of the Issuer to any right, title, claim, privilege or cause of action existing, or which may arise, in connection therewith.

(d) With respect to any interests transferred to the Issuer or any interests to which the Issuer succeeds under this Article, the Issuer shall assert no greater rights than those of the person or entity from whom such interests were received, provided that nothing in this Agreement shall limit the right of the Government of the United States of America to assert a claim under international law in its sovereign capacity, as distinct from any rights it may have as the Issuer pursuant to paragraph (c) of this Article.

(e) Recognizing that Financing will normally be in the form of, or in support of, debt investments denominated in currencies other than that of the Socialist Republic of Vietnam, all approvals issued by the Government of the Socialist Republic of Vietnam, or any agency or instrumentality thereof, for the establishment and use of accounts in financial institutions outside of Vietnam for the purpose of accumulating foreign currency reserves and making operating expense and debt service payments by a project that has received Financing shall be irrevocable and remain in full force and effect for the given period of the license (i.e., until the expiration of the repayment period) or so long as such Financing remains outstanding except where such account is used for purposes other than those specified in the license.

### ARTICLE 3

(a) Amounts in the currency of the Socialist Republic of Vietnam, including cash, accounts, credits, instruments or otherwise, acquired by the Issuer upon making a payment, or upon the exercise of its rights as a creditor, in connection with any Financing provided by the Issuer for a project in Vietnam, shall be accorded treatment in the territory of the Socialist Republic of Vietnam no less favorable as to use and conversion than the treatment to which such funds would have been entitled in the hands of the person or entity from which the Issuer acquired such amounts.

(b) Such currency and credits may be transferred by the Issuer to any person or entity and upon such transfer shall be freely available for use by such person or entity in the territory of the Socialist Republic of Vietnam in accordance with its laws.

### ARTICLE 4

Neither the Government of the Socialist Republic of Vietnam nor any agency or instrumentality thereof will either: (i) terminate, or prevent the exercise or enforcement of, legal rights underlying any Financing, including without limitation, enforcement of debt obligations in connection with Financing and collateral security arrangements established to support such debt obligations; or (ii) take or permit to be taken any action that (x) prevents the legal operation of a project receiving Financing or (y) constitutes or results in the confiscation or expropriation of all or any material portion of the property of such a project. If, however, the Government of the Socialist Republic of Vietnam, or any agency or instrumentality thereof, should nonetheless, with respect to any project that has received Financing, take, or permit to be taken, any such action as is described in the preceding sentence, the Government of the Socialist Republic of Vietnam hereby agrees to be deemed to have guaranteed, with its full faith and credit, repayment of the debt obligations outstanding in connection with such Financing for such project.

### ARTICLE 5

(a) Any dispute between the Government of the United States of America and the Government of the Socialist Republic of Vietnam regarding the interpretation of this Agreement or which, in the opinion of either party hereto, presents a question of international law arising out of any project or activity for which Financing has been provided shall be resolved, insofar as possible, through negotiations between the two Governments. If, six months following a request for negotiations hereunder, the two Governments have not resolved the dispute, the dispute, including the question of whether such dispute presents a question of international law, shall be submitted, at the initiative of either Government, to an arbitral tribunal for resolution in accordance with paragraph (b) of this Article.

(b) The arbitral tribunal referred to in paragraph (a) of this Article shall be established and shall function as follows:

(i) Each Government shall appoint one arbitrator. These two arbitrators shall by agreement designate a president of the tribunal who shall be a citizen of a third state and whose appointment shall be subject to acceptance by the two Governments. The arbitrators shall be appointed within three months, and the president within six months, of the date of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of any other agreement, request the Secretary-General of the International Centre for the Settlement of Investment Disputes to make the necessary appointment or appointments. Both Governments hereby agree to accept such appointment or appointments.

(ii) Decisions of the arbitral tribunal shall be made by majority vote and shall be based on the applicable principles and rules of international law. Its decision shall be final and binding.

(iii) During the proceedings, each Government shall bear the expense of its arbitrator and of its representation in the proceedings before the tribunal, whereas the expenses of the president and other costs of the arbitration shall be paid in equal parts by the two Governments. In its award, the arbitral tribunal may reallocate expenses and costs between the two Governments.

(iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

## ARTICLE 6

(a) This Agreement shall enter into force from the date of the second signature set forth below.

(b) This Agreement shall continue in force until six months from the date of a receipt of a note by which one Government informs the other of an intent to terminate this Agreement. In such event, the provisions of this Agreement shall, with respect to Financing provided while this Agreement was in force, remain in force so long as such Financing remains outstanding, but in no case longer than twenty years after the termination of this Agreement.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this Agreement.