

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE KINGDOM OF BELGIUM

AND

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM

ON THE CREATION OF A BELGO-VIETNAMESE STUDY AND CONSULTANCY FUND

The Government of the Kingdom of Belgium, hereinafter referred to as "the Government of Belgium"

and

The Government of the Socialist Republic of Vietnam, hereinafter referred to as "the Government of Vietnam"


Considering the "Accord Cadre de Coopération Economique, Industrielle et Technique entre le Gouvernement du Royaume de Belgique et le Gouvernement de la République Socialiste du Vietnam", signed in Hanoi on October the 11th, 1977;

Considering the "Memorandum of Understanding on Development Cooperation between the Kingdom of Belgium and the Socialist Republic of Vietnam", signed in Hanoi on September the 7th, 1993, where the decision to install a Belgo-Vietnamese Study and Consultancy Fund has been taken;

Considering the "Minutes of Bilateral Discussions on Belgo-Vietnamese Development Cooperation for the period 1996-1998", signed in Hanoi on December the 7th, 1996;

Considering the wish of both parties to improve and accelerate the implementation of the Belgo-Vietnamese International Co-operation;

Have agreed as follows:



Article 1 - Objectives

- 1.1. The contribution of the Study and Consultancy Fund, hereinafter referred to as "the Fund", will be used on the basis of mutual agreement by both the Government of Vietnam and the Government of Belgium.
- 1.2. It aims at financing, in full or in part, investigation, identification, preparation and follow up studies, consultancies, missions and services (including elaboration of specification and contracting documents,...) of projects and programmes, hereinafter referred to as "Study", in the framework of the Belgo-Vietnamese International Co-operation.
- 1.3. The projects or programmes which will be studied in the framework of this Fund will fit (a) with the Belgo-Vietnamese Indicative Co-operation Programme as defined by common agreement, (b) with the Vietnamese development policy when this policy is relevant in the framework of Belgo-Vietnamese Indicative Co-operation Programme.
- 1.4. The funding of a Study through the Study Fund doesn't necessarily commit the Government of Belgium to any further action (formulation or implementation).

Article 2 - Financial means

- 2.1. The Government of Belgium shall, on terms and conditions set forth or referred to in this Agreement, extend a grant of 15,000,000 BEF (fifteen million Belgian Francs), i.e. the equivalent of 371,840 EUR, to the Government of Vietnam for the establishment of the fund.
- 2.2. The Fund could be replenished after examination of its utilization. The replenishment is subject to the approval of the competent authorities of both parties.
- 2.3. The maximum amount for each Study financed by the Fund is 2,500,000 BEF (two and a half million Belgian Francs), i.e. the equivalent of 61,973.38 EUR. This limit can however be exceeded subject to approval of both the Government of Vietnam and the Government of Belgium.

Article 3 - Responsibilities

- 3.1. The Fund will be managed by both the Governments of Vietnam and of Belgium.
- 3.2. The Government of Vietnam appoints the Ministry of Planning and Investment, hereinafter referred to as "MPI", as entity responsible for the administration of the Fund.

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MPI designates a Vietnamese Fund Director within the MPI who will be responsible for the Vietnamese approval of the Study proposals submitted in the framework of the present Agreement, the contractual arrangements concluded in the framework of the present Agreement, and the approval of expenditures chargeable to the Fund.

The Vietnamese Fund Director will also be the organiser and co-ordinator of the different Vietnamese intervening authorities.

The Vietnamese Ministry which will benefit from a Study to be carried out in virtue of the present Agreement, hereinafter referred to as "The Vietnamese Technical Ministry" is appointed as executing agency responsible for the technical follow-up of the Study.

For each Study, the Vietnamese Technical Ministry will appoint a Vietnamese Supervising Officer responsible for the follow up of the awarding process and the approval of the services rendered.

- 3.3. The Government of Belgium appoints the Directorate General of International Co-operation, hereinafter referred to as "DGIC", of the Ministry of Foreign Affairs, Foreign Trade and International Co-operation as entity responsible for the co-administration of the Fund. DGIC is represented in Vietnam by the Belgian Embassy in Hanoi.

DGIC designates the Attaché, in charge of the International Cooperation within the Belgian Embassy, responsible for the Belgian approval of Study proposals submitted in the framework of the present Agreement.

DGIC appoints the Belgian Technical Cooperation, hereinafter referred to as "BTC", as executing agency responsible for the follow up of the implementation of the Study.

BTC designates its Resident Representative as Belgian Supervising Officer, responsible for the follow up of the awarding process, the approval of the services rendered and the certifying approval of expenditures chargeable to the Fund.

- 3.4. The experts involved in the Study will be referred hereafter to as "Consultants".
- 3.5. A Fund Steering Committee, composed of the Vietnamese Fund Director, the Attaché, a representative of the Vietnamese Technical Ministries, and the Belgian Supervising Officer, will meet at least every 12 months. The Fund Steering Committee will monitor the implementation of the Study Fund and will undertake all necessary steps in order to achieve a good implementation of the Fund.
- 3.6. The responsibilities of the Study Fund management are summarised in the table in appendix.

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Article 4 : Study Proposal

The study proposal will be submitted by or channelled through a Vietnamese Technical Ministry. Any request for funding shall be sent at the same time to the Vietnamese Fund Director and the Attaché and for information to the Belgian supervising officer, and will contain the following standard information items:

- a) identification of the requesting institution (name, objectives, address, tel., fax,...);
- b) subject of the Study;
- c) the competent Technical Ministry as executing agency;
- d) relevance of the proposed Study as to the realisation of the objectives expressed in Article 1 here above;
- e) draft of terms of reference of the Study following a format commonly accepted by both Governments;
- f) cost estimate;
- g) timetable.

The Technical Ministry may request the Vietnamese Fund Director or the Attaché's advice for the elaboration of the study proposal.

Article 5 - Procedure for the Study approval

Within 60 calendar days after receiving the request, the Vietnamese Fund Director and the Attaché will examine the request on an ad hoc basis and will commonly agree whether the study proposal is approved for funding.

If the Study costs more than 2,500,000 BEF (two and a half million Belgian Francs), the equivalent of 61,973.38 EUR, the approval of DGIC-Brussels and of the MPI is necessary. The Vietnamese Fund Director and the Attaché will commonly notify their decision to the Technical Ministry in writing. They will also inform BTC about each approved Study.

Article 6 - Procedure and criteria for the selection of the candidates

The Vietnamese Supervising Officer and the Belgian Supervising Officer will, in the framework of the Vietnamese law, determine by mutual agreement the procedure for awarding the contract (negotiated, invitation to tender,...) and the criteria for the selection of the candidates.

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Article 7 - Awarding process

The process of selecting the consultant/consulting firm that will provide the required Study will be as follows:

- 7.1. The Vietnamese Supervising Officer in collaboration with the Belgian Supervising Officer (the Belgian Supervising Officer is entitled to designate a consultant or a technical manager within the BTC to carry out the awarding process) will set up:
 - the short list of minimum three consultants (selected on the basis of the criteria set up under art. 6),
 - the finalized terms of reference of the Study,
 - the administrative conditions including the awarding criteria.
- 7.2. These three documents will be submitted for approval to the Vietnamese Fund Director before issuing the invitation to tender.
- 7.3. If a restricted invitation to tender procedure is applied, the Vietnamese Supervising Officer and the Belgian Supervising Officer are invited at the tender opening session.

After the receipt of the offers or quotations, the Vietnamese Supervising Officer and the Belgian Supervising Officer will analyse the quotations and negotiate the offers if relevant. In function of the best offer, the Vietnamese Supervising Officer and the Belgian Supervising Officer will decide, by mutual agreement, the assignment of a Consultant and will draw up a contract to be signed with the latter.

- 7.4. The contract proposal will be submitted for signature to the Vietnamese Fund Director.
- 7.5. Any aspect of the tenders and contracts not specifically stipulated in this Agreement will be managed in accordance with the Vietnamese regulations.

Article 8 - Disbursement Procedures

- 8.1. The Government of Belgium will make the grant available to the Government of Vietnam through a specific account opened in the name of the "Belgo-Vietnamese Study and Consultancy Fund".

The account will be opened in US\$ or in Euro with a local commercial bank in Vietnam. Interests produced by this account, if any, will be capitalised on the same account and will be utilised in the same manner.

The account can be operated conditional upon the double signature of the Vietnamese Fund Director and the Belgian Supervising Officer.

8.2. The account will be credited by installments:

A first amount of 5,000,000 FEB will be transferred on the local account as soon as the first study request is accepted.

A second and third installment of 5,000,000 FEB will be transferred after examination and approval by the DGIC-Brussels of the utilization of the previous deposits, justified by invoices and related documents.

8.3. For the payment to be done, the Consultant will submit his invoices with the requested relevant documents. A payment by installment, possibly including an advance payment of maximum 30 percent, may be foreseen in the consultants contract. The Vietnamese Supervising Officer and the Belgian Supervising Officer shall verify all the invoices and sign those with the mention "for services rendered".

The last payment, which will represent at least 40 percent of the total contract amount, will occur after the approval of the Study report. The Vietnamese Supervising Officer and the Belgian Supervising Officer are responsible for this approval through certifying in close cooperation with the beneficiaries that the terms of reference and the conditions of the contract have been respected and that the services are of acceptable quality.

Thereupon, the invoices will be forwarded to the Vietnamese Fund Director and the Belgian Supervising Officer for approval. Payments from the account will be made against invoices signed by the Vietnamese Fund Director and the Belgian Supervising Officer with the mention "Read and approved". They will undertake the necessary steps to proceed to the payment of the invoices.

8.4. Any amount not used for the execution of a consultancy contract will be left in the account and used to finance subsequent consultancy contracts.

8.5. The Vietnamese Fund Director, the Belgian Supervising Officer and the Attaché will receive a copy of the bank statements as and when they are issued by the bank.

Article 9 - Information

- 9.1. The Vietnamese Fund Director will forward the name of the Vietnamese Supervising Officer appointed for a Study to both the Attaché and the Belgian Supervising Officer through a copy of the designation-decision.
- 9.2. The Vietnamese Fund Director will provide a copy of the signed contract to the Attaché, the Vietnamese Supervising Officer and the Belgian Supervising Officer.
- 9.3. All official correspondence exchanged with the Consultant will be transmitted to both the Vietnamese Supervising Officer and the Belgian Supervising Officer.
- 9.4. The Consultant will provide copies of all reports elaborated as part of the consultancy contract to the Vietnamese Fund Director, the Attaché, the Vietnamese Supervising Officer and the Belgian Supervising Officer.
- 9.5. An annual Study Fund progress report will be issued by the Steering Committee and will be transmitted to the DGIC-Brussels and to the MPI.

Article 10 - Ownership of the studies

The studies, which are financed under the present Agreement, are property of the Government of Vietnam. However, the Government of Belgium is entitled to make use of these studies for cooperation purposes.

Article 11 - Taxes, charges and import duties

The Belgian contribution shall not be used for the financing of public taxes, other public charges and import duties set up by the Vietnamese authorities. The Vietnamese authorities will take the necessary measures to ensure these exemptions of public taxes.

Article 12 - Duration, prolongation, denunciation and modification

- 12.1. At the expiration of the present Agreement, the unspent Study Fund already transferred to the account will be reimbursed to the Government of Belgium.
- 12.2. The present Agreement has a duration of four (4) years.

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12.3. The present Agreement may be amended and/or extended by an Exchange of Letters.

12.3. If any disputes arise relating to the implementation of the present Agreement, there will be consultation between both parties with a view to securing successful realisation of the purpose of this Agreement. In case no compromise can be reached, the present Agreement may be cancelled by the Government of Belgium as well as by the Government of Vietnam at three months' notice and by an Exchange of Letters. Contracts signed with a Consultant before the end of the notice will have to be respected by both parties.

Article 13- Addresses

Communications shall be addressed:

- For the Government of Vietnam, to :
The Ministry of Planning and Investment (MPI)
2 Hoang Van Thu Street, Hanoi - Vietnam
- For the Government of Belgium, to :
The Directorate General for International Co-operation (DGIC)
6, rue Brederode, 1000 Brussels - Belgium
Represented in Vietnam by the Belgian Embassy in Hanoi

Article 14 - Entering into force

This specific agreement shall be provisionally applied upon the date of its signing and shall enter into force on the date of notification by the parties of the completion of the internal procedures required for bringing it into force.


In witness whereof the undersigned persons, being duly authorized thereto, have signed this Agreement.

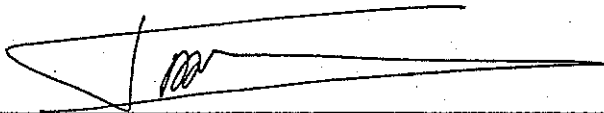
Done at Hanoi on 08 August 2000 in two original copies in the English language.

For the Government of Belgium

For the Government of Vietnam

Frédéric Renard
Ambassador of Belgium


Vo Hong Phuc
Vice-Minister of Ministry of Planning and
Investment



APPENDIX : RESPONSIBILITIES OF THE STUDY FUND MANAGEMENT

	Vietnamese side	Belgium side
DECISION RESPONSIBILITY		
Approval of the Study	Vietnamese Fund Director	Attaché
IMPLEMENTATION OF THE STUDY		
Determination of the awarding procedure & criteria for the selection of the candidates	Vietnamese Supervising Officer	Belgian Supervising Officer
Establishment of the short list, the technical & admin. documents for tendering	Vietnamese Supervising Officer	Belgian Supervising Officer
<i>Approval of invitation to tender</i>	<i>Vietnamese Fund Director</i>	-
Assessment of tender and awarding decision	Vietnamese Supervising Officer	Belgian Supervising Officer
<i>Signature of contract</i>	<i>Vietnamese Fund Director</i>	-
Approval of service rendered	Vietnamese Supervising Officer	Belgian Supervising Officer
Financial responsibility : bank account operation, signature of invoices,....	Vietnamese Fund Director	Belgian Supervising Officer

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