Pursuant to the Government's Decree No. 24/2000/ND-CP of July 31, 2000 detailing the implementation of the Law on Foreign Investment in Vietnam:

Pursuant to the Government's Decree No. 175/CP of October 18, 1994 guiding the implementation of the Law on Environmental Protection:

Pursuant to the Government's Official Dispatch No. 782/CP-QHQ/T of August 23, 2000 guiding the implementation of Decree No. 24/2000/ND-CP.

The Ministry of Science, Technology and Environment hereby provides guidance on:

- Criteria of high-tech industrial projects, projects on production of new materials, rare and precious materials; application of new bio-technologies, new technologies for production of communication and telecommunications equipment; treatment of environmental pollution or waste treatment and processing, which are classified as projects of special investment encouragement;

- Matters related to environmental impact assessment reports;

- Import of used machinery, applicable to foreign-invested enterprises in Vietnam.

Chapter I

GENERAL PROVISIONS

A. Objects of application

Foreign-invested projects operating under the Law on Foreign Investment in Vietnam, which are specified in Article 1 of the Government's Decree No. 24/2000/ND-CP of July 31, 2000 detailing the implementation of the Law on Foreign Investment in Vietnam, shall be objects of application of this Circular.

B. Interpretation of terms

1. Advanced technological lines mean specialized production lines which are organized according to the mechanization method, in which programmed automatic equipment must represent at least one third of their equipment; the production lines which do not involve heavy manual labor; the production lines which are arranged in a space where industrial hygiene, labor safety and environmental sanitation criteria are ensured. The enterprises' managerial systems must be advanced ones (with a number of phased being computerized, such as technology management, supplies, marketing...).

2. High-tech industrial projects mean projects on the list of high-tech industrial projects specified by the Ministry
of Science, Technology and Environment in Appendix 1 to this Circular.

3. “New materials” mean those on the list of new materials specified by the Ministry of Science, Technology and Environment in Appendix 4 to this Circular.

4. “Rare and precious materials” are those on the list of rare and precious materials specified by the Ministry of Science, Technology and Environment in Appendix 5 to this Circular.

5. “New technologies” mean those on the list of new technologies specified by the Ministry of Science, Technology and Environment in Appendices 6 and 7 to this Circular.

The lists included in Appendices 1, 4, 5, 6 and 7 to this Circular may be amended and supplemented to suit the reality in each period.

6. “Environmental pollution” means changes in the environmental characteristics in the worse direction, breaching the environmental standards prescribed by the State of Vietnam.

7. “Treatment of environmental pollution” means man’s acts to reduce the extent of environmental pollution and ensure the environmental standards prescribed by the State of Vietnam.

8. “Wastes” are substances discharged from daily life, production processes or other activities in Vietnam. Wastes may be in solid, gaseous, liquid and other forms.

9. “Waste treatment and processing” mean the application of technologies and technical solutions to turning wastes into useful products and/or reducing environmental pollution.

10. “Environmental protection” means activities to keep the environment healthy, clean and beautiful, to improve the environment, ensure ecological balance, prevent and overcome adverse consequences caused by human beings and nature to the environment, rationally and economically exploit and use natural resources.

11. Number of heads for calculation of norms specified in this Circular is the total number of laborers (Vietnamese and foreign) working in the year, excluding those who work for less than three months.

12. Turnover is the total of revenues calculated according to invoices on sale of finished products and/or high-tech components, parts made by enterprises, and/or earned from high-tech services, excluding revenues from the sale of products, components and parts purchased from whatever sources, or brought about by normal services, and other revenues.

Chapter II

DETERMINATION OF HIGH-TECH INDUSTRIAL PROJECTS, PROJECTS ON PRODUCTION OF NEW MATERIALS, RARE AND PRECIOUS MATERIALS, APPLICATION OF NEW BIO-TECHNOLOGIES, NEW TECHNOLOGIES FOR PRODUCTION OF COMMUNICATION AND TELECOMMUNICATIONS EQUIPMENT, TREATMENT OF ENVIRONMENTAL POLLUTION OR TREATMENT AND PROCESSING OF WASTES

I. OBJECTS OF APPLICATION

- High-tech industrial projects;
- Projects on production of new materials, rare and precious materials;
- Projects on application of new bio-technologies;
- Projects on new technologies for production of communication and telecommunications equipment;
- Projects on treatment of environmental pollution or treatment and processing of wastes.

II. DETERMINATION CRITERIA

1. Criteria of high-tech industrial projects:

a/ Industrial projects on production of high-tech products in the fields of electronics, micro-electronics, informatics, telecommunications, automation and precise engineering, with turnover from production and sale of high-tech industrial products (specified in Appendix 1) accounting for 70% or more of their total turnover.

b/ Technological lines must be advanced ones; products are exportable or products for domestic consumption must have a quality similar to that of imported products of the same kind. The enterprises’ product quality management systems must satisfy ISO 9000 standard.

c/ The per-head value of equipment and technology must be USD 40,000 or more.

Projects specialized in computer software production shall be considered as meeting the criteria prescribed in this Section.

d/ The value of high-tech components and parts made by the projects themselves (the localization rate) must account for at least 2% of annual turnover, or the total value of high-tech components and parts made by the projects and other industrial enterprises in Vietnam must account for at least 15% of the projects’ annual turnover.

e/ Number of laborers in the projects:

+ At least 40% of the projects’ employees with college
or university degree, have had their professional practice overseas (at research and development establishments and/or modern production establishments).

+ 100% of intermediate-level employees and workers shall be provided with professional or skill training by the projects, at least 5% of whom shall be given overseas training on modern production lines.

f/ Expenses for research and development, training activities must represent not below 2% of the annual turnover.

For research and development, training activities conducted free of charge (or partially free of charge), the free value shall be also calculated.

Particularly for projects with large annual turnover of USD 10,000,000 or more, the total research and development, training expenses must be at least USD 200,000 each year.

For projects involving technology transfer contracts already approved by the Ministry of Science, Technology and Environment, they shall be considered as meeting the criteria specified at this point.

g/ Per-head annual turnover must be equivalent to USD 70,000 or more.

For projects having the local capital of above USD 30,000,000 and employing more than 1,000 laborers, they shall be exempt from this criterion.

h/ Ensuring the environmental standards prescribed by the Vietnamese State.

2. Criteria for determination of projects on production of new materials or rare and precious materials

a/ The projects’ products must be new materials (specified in Appendix 4) or rare and precious materials (specified in Appendix 5); projects on exploitation or fashioning of rare and precious materials are excluded.

b/ Technological lines are advanced ones.

c/ Ensuring the environmental standards prescribed by the Vietnamese State.

3. Criteria for determination of projects on application of new bio-technologies

a/ Technologies applied in the projects must be new technologies (specified in Appendix 6).

b/ Technological lines are advanced ones.

c/ The application of new technologies must create high-productivity and high-quality products.

d/ Ensuring the biological safety standards of the world, Asia and Vietnam.

e/ Ensuring the environmental standards prescribed by the Vietnamese State.

4. Criteria for determination of projects on new technologies for production of communication and telecommunications equipment

a/ Technologies applied in the projects must be new technologies (specified in Appendix 7).

b/ Technological lines are advanced ones.

c/ The application of new technologies must create high-productivity and high-quality products.

d/ Ensuring the communication and telecommunications economic-technical standards of the world and the region.

e/ Ensuring the environmental standards prescribed by the Vietnamese State.

5. Criteria of projects on treatment of environmental pollution or treatment and processing of wastes

a/ The projects production and business activities must conform to the production and business fields specified in Appendix 8. For projects on treatment and processing of wastes, at least 50% of their materials must be wastes.

b/ The projects must apply independent cost-accounting, having 70% of the total turnover or more generated from production and/or business activities of treating environmental pollution or treating and processing wastes.

c/ The projects must comply with Vietnam’s law provisions on environmental protection.

III. DOSSIERS OF PROPOSAL AND COMPETENCE TO CONSIDER PROJECTS

1. Dossiers of proposal on projects of special investment encouragement

a/ For new projects:

Apart from the dossier contents prescribed in Articles 106 and 107 of the Government’s Decree No. 24/2000/ND-CP of July 31, 2000 detailing the implementation of the Law on Foreign Investment in Vietnam, the following are also required:

- An application for recognition of project of special investment encouragement.

- An economic-technical exposition of the project (in which comparison with the criteria specified in Section II of this Chapter should be made; particularly for projects mentioned at Point 5, Section II, it is necessary to clearly describe the technological process to treat pollution, treat and process wastes, the proportion of wastes to be used as raw materials for the treatment and processing process,
the proportion of turnover generated from production and business activities of treating environmental pollution, treating and processing wastes, the compatibility of the projects’ production and business fields with the fields entitled to preferences mentioned in this Circular;

b/ For ongoing projects, the following are required:

- An application for recognition of project of special investment encouragement.

- An economic-technical exposition of the project (in which comparison with the criteria specified in Section II of this Chapter should be made; particularly for projects mentioned at Point 5, Section II, it is necessary to clearly describe the technological process to treat pollution, treat and process wastes, the proportion of wastes to be used as raw materials for the treatment and processing process, the proportion of turnover generated from production and business activities of treating environmental pollution, treating and processing wastes, the compatibility of the projects’ production and business fields with the fields entitled to preferences mentioned in this Circular);

- A valid copy of the investment license.

2. Dossiers of proposal for recognition of projects of special investment encouragement shall be addressed to the investment-licensing bodies.

3. Competence to certify special investment encouragement

a/ For projects to be licensed by the Ministry of Planning and Investment: On the basis of the written certifications by the Ministry of Science, Technology and Environment that the technologies applied in the projects are compliant with the provisions of this Circular, the Ministry of Planning and Investment shall determine the special investment encouragement regime in the investment licenses and send their copies to the Ministry of Science, Technology and Environment.

b/ For investment projects falling under decentralized licensing competence:

On the basis of the written certifications by the provincial/municipal Science, Technology and Environment Services that the technologies applied in the projects are compliant with the provisions of this Circular, the local investment-licensing bodies or the management boards of industrial parks, export-processing zones or high-tech parks (which are authorized to license investment) shall determine the special investment encouragement regime in the investment licenses and send their copies to the concerned provincial/municipal Science, Technology and Environment Services.

c/ For cases where projects meet (or fail to meet) the criteria for enjoying investment preferences, the State management bodies in charge of science, technology and environment shall, within the ambit of their authorized competence (stated at Point a or b of this Clause), have to certify thereof (or refuse to certify and clearly state the reason therefor) and notify such in writing to the investment-licensing bodies within 15 days (after the date of receipt of complete and valid dossiers).

d/ During the time of enjoying investment preferences, starting from the commencement of production, annually the project owners must send reports (according to the set form) to the concerned investment-licensing bodies and the State management bodies in charge of science, technology and environment.

e/ The State management bodies in charge of science, technology and environment shall discharge the inspection and supervision function according to their assigned management competence so as to ensure that the projects realize their commitments. In cases where the projects have not yet met the criteria specified in this Circular, they shall propose to the investment-licensing bodies to adjust the preferences inscribed in the investment licenses and request the project owners to indemnify the preferences they have enjoyed.

f/ The project owners may lodge their complaints to the competent authorities about their enjoyment or unenjoyment of preferences, in accordance with the provisions of the Law on Complaints and Denunciations.

Chapter III

PROVISIONS ON ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

The elaboration and evaluation of environmental impact assessment reports shall comply with the Government's Decree No. 175/CP of October 18, 1994 guiding the implementation of the Environmental Protection Law and Circular No. 490/1998/TB-KHCNMT of April 29, 1998 of the Ministry of Science, Technology and Environment guiding the elaboration and evaluation of environmental impact assessment reports (hereinafter referred to as Circular No. 490/1998/TB-KHCNMT for short), with a number of following adjustments:

1. The time limit for evaluation of environmental impact assessment reports shall not exceed 45 days, counting from the date the State management bodies in charge of environmental protection receive complete and valid dossiers. Where dossiers fail to meet requirements, within 5 days the evaluating bodies shall have to inform the project owners thereof for modifications and supplements thereto. Within 10 days after the environmental impact assessment reports are approved, the evaluating agencies shall have to issue decisions approving the environmental impact
assessment reports to the projects.

2. The time limit for consideration of the “written registrations for environmental standard satisfaction” and granting of the “certification cards” shall not exceed 20 days counting from the date the State management bodies in charge of environmental protection receive complete and valid dossiers. Where dossiers fail to meet requirements, within 5 days after such dossiers are filed the evaluating bodies shall have to inform the project owners thereof for modification and supplement thereto.

3. The following types of projects are added to the list of projects subject to submission of environmental impact assessment reports for approval, which is included in Circular No. 490/1998/TBKHCMNT:
   - Projects on waste processing.
   - Projects on waste treatment and environmental pollution treatment.

Chapter IV

PROVISIONS ON THE IMPORT OF USED EQUIPMENT

1. These provisions shall be applicable to used machinery (in single units or lines) to turn out production materials and goods; means of transport and loading, vehicles and machines in service of construction of works, and other used special-use equipment belonging to foreign-invested projects.

   Used equipment temporarily imported for re-export or leased for performance of processing contracts, goods production or construction of works by winning bidders, and used equipment imported in forms of donated or aid goods, shall not fall under the regulation scope of of this Circular.

2. To be imported into Vietnam, used equipment must ensure that their standards and quality are compatible with the production requirements, environmental protection and labor safety requirements and that they are specified in the economic-technical expositions included in the dossiers of application for investment license.

   Except for used equipment and machinery banned from import (on the list of used equipment banned from import stated in Section 3 below), the project owners shall make decisions on and take responsibility for the economic-technical efficiency and all consequences of the importation of used equipment.

   To be imported, used equipment must ensure the following general technical requirements:

   a/ Their residual quality must represent 80% or above of their original quality.

   b/ They must ensure all Vietnam’s labor safety and hygiene and environmental sanitation standards.

   The certification of the used equipment’s quality compatibility with the above general technical requirements shall be expressed through quality certificates issued by foreign expertise organizations or Vietnamese expertise organizations with the legal person status. Such expertise organizations shall take full responsibility before the laws of Vietnam for the expertise results.

   In case of necessity, the Ministry of Science, Technology and Environment and/or the investment-licensing bodies may request re-expertise of the quality of used equipment which the project owners propose to import.

   Where there are complaints about the difference of the expertise results, the Ministry of Science, Technology and Environment shall make final decisions.

3. List of used equipment banned from import:

   a/ Equipment in the oil and gas processing and power industries, cement production, ore sorting and metal casting lines. Equipment in the base chemical, fertilizer and pesticide production industries.

   b/ Equipment in the manufacturing industries requiring high precision such as measuring, experimental, testing devices, equipment used in the postal and telecommunications networks.

   c/ Equipment requiring high safety such as steam boilers, lifts, nuclear reactor controlling devices, devices for testing and controlling safety systems.

   d/ Equipment that would affect large areas such as waste treatment equipment, sluice-gates, production line equipment used at phases prone to cause serious environmental pollution incidents.

4. For special cases: On the basis of the written proposals of the ministries, branches or People’s Committees of the provinces or centrally-run cities, the Ministry of Science, Technology and Environment shall consider and decide on adjustments of the list of used equipment permitted for or banned from, import.

Chapter V

IMPLEMENTATION PROVISIONS

This Circular takes effect 15 days after its signing.


Any problems arising in the course of implementation of this Circular should be reported by the agencies to the Ministry of Science, Technology and Environment for study and handling.

Minister of
Science, Technology and Environment
CHUTUANNHA

Appendix 1

LIST OF HIGH-TECH INDUSTRIAL PROJECTS

High-tech industrial projects are projects producing the following products:

1. Components used in the electronic field like circuit boards, capacitors, potentiometers, impedances, relays, coils, electronic-ray guns;

2. Hydraulic power- or compressed air-control valves, CAM structures, gyro sets, precision tools, gauging devices used in the fields of automation, mechanics and machine-building.

3. Photo-electronic and mechano-photo-electronic components;

4. Technologies for manufacture of flat screens and high-definition screens;

5. Technologies for manufacture of ICs;

6. Technologies for manufacture of sensors;

7. Technologies for manufacture of multi-functional and integrated receivers (TV-videos, monitors...);

8. Technologies for manufacture of high-grade medical electronic equipment (scanners, electrocardiographs, electroencephalographs, endoscope, microsurgery...);

9. Technologies for manufacture of hard-disk drives, technologies for the manufacture of laser disks;

10. Technologies for manufacture of computers and peripheral devices;

11. Technologies for manufacture of large-capacity random access memory (RAM);

12. Technologies for manufacture of digital electronic measuring devices;

13. Technologies for electro-mechanical processing with laser and plasma;

14. Technologies for manufacture of robots in service of production automation;

15. Technologies for manufacture of software products, especially multimedia-oriented software technologies;

16. Technologies for manufacture of simulation mechanisms;

17. Technologies for manufacture of human-robot communication systems with the aid of language and images;

18. Modicum chemical products, pure chemicals, catalysts, stimulants, premix, enzymes;

19. Computer software used in automatic equipment control systems, in communication equipment, enterprise management and technology management equipment systems.

Note: Appendices 2, 3 and 3b are not printed herein.

APPENDIX 4

LIST OF NEW MATERIALS

1. Various kinds of alloy steel of high durability;

2. Various kinds of mechanical abrasion-resistant steel;

3. Spring steel, shock absorbers, vehicle wheels, mooring flanges;

4. Chemical and thermal corrosion-resistant steel;

5. Molding steel, stainless steel;

6. Low alloy steel of high durability;

7. Low two-phase steel alloy;

8. Metal composite materials;

9. High-voltage electricity-insulating ceramic materials;

10. High-tech ceramic materials (refractory ceramics, abrasion-resistant ceramics) for use in the ceramics, porcelain and walling and flooring tile-making industry;

11. Piezoelectric porcelain;

12. High-voltage electricity-insulating glass materials;
13. Electricity-insulating polymeric porcelain;

14. Composite polymer materials for electric and electronic technical uses under the harsh environmental conditions;

15. Organic electronic materials;

16. Super-pure inorganic oxides;

17. Super-durable materials for use in the silk, fiber, textile and footwear leather industries;

18. Composite materials with polymeric base;

19. Technical rubber materials;

20. Synthetic rubber;

21. Metal-metal glues;

22. Metal-rubber glues;

23. Carbon fiber-polymer composites;

24. Special-purpose paints; oil-, heat- or chemical-proof;

25. Electricity-conducting polymers;

26. Emulsive polymers (Acrylic Copolymer, Styrene Acrylic, Polyvinyl Acetate Copolymer, Polyvinyl Acetate Homopolymer);

27. PVC plastic;

28. Composite capacitors;

29. Sensors-manufacturing materials;

30. Electronic ceramic materials;

31. Materials for the production of optical-electronic components;

32. Materials for the production of various kinds of light amplifying optical fiber;

33. Manufacture of underground high-voltage electricity cables (used for voltage of 6 kV or higher);

34. Electronic and electro-optical materials based on polymers;

35. New materials with energy-storing properties for use in electric and electronic equipment;

36. Polymer materials for medical use;

37. Polymer materials for pharmaceutical use;

38. Polymer materials for cosmetic use;

39. Polymer materials for veterinary use;

40. Polymer-carbon fiber composite materials for medical use;

41. Special polymeric membrane materials;

42. Thin-membrane materials;

43. Exosmotic membrane materials;

44. High-grade magnetic materials;

45. Photonic-electronic and photonic materials;

APPENDIX 5

LIST OF PRECIOUS AND RARE MATERIALS

1. Titanium materials;

2. Platinum materials;

3. Other precious and rare metal materials (W, Mo);

4. Rare earth metal materials;

5. Rare earth metal oxide materials;

6. Rare earth ferro materials;

7. High-tech materials based on rare earth;

8. Zirconium materials;

9. Strontium materials;

10. Artificial diamond materials.

APPENDIX 6

LIST OF NEW BIO-TECHNOLOGIES

1. Technologies for the production of new-generation vaccines for human use;

2. Technologies for the production of antibiotics for human use;

3. Technologies for the production of bio-preparations for use in human disease diagnosis and treatment;

4. Technologies for the cell and tissue culture and transplantation for medical use;

5. Technologies for the production of suture and bio-membranes for medical use;

6. Technologies for the preservation, storage and extraction of preparations from blood for use in human disease diagnosis and treatment;

7. Technologies for the production of new-generation veterinary vaccines (cattle and poultry);

8. Technologies for the KIT production for diagnosis
and treatment of plant and animal diseases;

9. Technologies for the production of plant varieties with improved transplanted tissues, tissue and cell culture, anther culture and genetic modification, which can resist diseases and harmful insects and adverse climatic conditions;

10. Technologies for the production of biological pesticides

11. Technologies for the production of bio-fertilizers

12. Bio-technologies for treatment of wastes (solid or liquid)

13. Technologies for the production of hormones controlling fishes’ unisexuality;

14. Technologies for breeding and transplanting zygotes of buffaloes, cows and goats;

15. Technologies for the production of nutritious preparations (from animals and plants) in service of the protection of human and domestic animal health.

APPENDIX 7

LIST OF NEW TECHNOLOGIES FOR MANUFACTURE OF INFORMATION AND TELECOMMUNICATIONS EQUIPMENT

1. ATM (asynchronous transfer mode) technology;

2. SDH (synchronous digital hierarchy) technology;

3. Technologies for the manufacture of optical-fiber, cable;

4. Technologies for the manufacture of electronic digital switchboards with a high capacity (10,000 numbers or more) and capable of providing multimedia services, being used in the intelligent network (IN) and the band-width integrated services digital network (B-ISDN);

5. Technologies for the manufacture of intelligent circuit-switching systems (according to the neuron principle);

6. Technologies for the manufacture of high-speed photo and radio transmission equipment;

7. Technologies for the manufacture of multimedia terminal equipment, network-accessing equipment, and terminal equipment of the satellite and space communication systems;

8. Technologies for the manufacture of global mobile phones;

9. Laser information technologies;

10. Technologies for the manufacture of encrypted transmission and reception devices in different waves.

Appendix 8

PROJECTS FOR TREATMENT OF ENVIRONMENTAL POLLUTION, TREATMENT OF WASTES AND PROCESSING OF WASTES

1. Projects for treatment of environmental pollution:

1.1 Projects to clean up water areas, lakes, rivers, canals and ditches which are so seriously polluted that they lead to environmental deterioration and/or environmental incidents.

1.2 Projects to clean up land areas which are so seriously polluted that they lead to environmental deterioration and/or environmental incidents.

1.3 Projects to control and overcome air and/or noise pollution.

1.4 Project to treat hospital waste water.

2. Projects to treat wastes:

2.1 Projects to collect and treat solid wastes at urban centers and industrial parks.

2.2 Projects to treat waste water discharged from industrial parks, export-processing zones and urban centers.

2.3 Projects to treat and destroy hazardous wastes, hospital wastes.

2.4 Projects to use wastes as fuels in the production process.

2.5 Projects to treat industrial wastes.

3. Projects to re-cycle, process wastes into useful products:

3.1 Projects to re-cycle wastes being paper, plastic, wooden and metal packings.

3.2 Projects to process wastes into fertilizers.

3.3 Projects to process industrial wastes, farm wastes and daily-life wastes into useful products.

3.4. Projects to restore damaged products into products with original quality standards.

4. Projects to manufacture products for use in the field of environmental protection. Projects to manufacture oil-absorbing materials, sheets or fibers.