

## **THE GOVERNMENT**

### **DECREE No. 13/2001/ND-CP OF APRIL 20, 2001 ON THE PROTECTION OF NEW PLANT VARIETIES**

#### **THE GOVERNMENT**

*Pursuant to the Law on Organization of the  
Government of September 30, 1992;*

*Pursuant to the Civil Code of October 28, 1995;*

*At the proposal of the Minister of Agriculture and  
Rural Development,*

#### **DECREES:**

##### *Chapter I*

#### **GENERAL PROVISIONS**

##### **Article 1.- Scope of application**

1. This Decree is promulgated to protect the interests of organizations and individuals that select, create or have the legitimate right to inherit new plant varieties on the Vietnamese territory (including agricultural and forest plant varieties, called new plant varieties in this Decree); to encourage organizations and individuals of all economic sectors to invest in selecting, creating and using new plant varieties, contributing to the agricultural and rural development.

2. This Decree lays down the principles and conditions for being granted the titles of protection of new plant varieties (called the protection titles for short); the order and procedures for granting of the protection titles; interests and obligations of the protection title holders; the suspension and cancellation of the protection titles; the State management and sanctions related to the protection of new plant varieties.

3. New plant varieties owned by organizations and individuals of the countries which have together with Vietnam signed or acceded to international agreements on the protection of new plant varieties, shall be protected in Vietnam according to the provisions of this Decree, except otherwise provided for in international agreements which the Socialist Republic of Vietnam has signed or acceded to.

4. New plant varieties selected and created by domestic organizations and individuals, which are related to

national interests and need to be kept secret, shall be subject to separate regulations of the State.

##### **Article 2.- Interpretation of terms**

In this Decree, the following terms are construed as follows:

1. "Plant variety" is a group of plants of the lowest level in the botanic classification, which should meet the following conditions:

a/ Being recognized through the manifestation of characteristics dictated by their genotype;

b/ Being distinguishable from any other group of plants through the manifestation of at least one characteristic mentioned at Point a of this Clause;

c/ Being stable in the multiplicative process.

2. "New plant variety" means a plant variety which is distinctive, uniform, stable and not widely-known.

3. "Protected new plant variety" means a new plant variety which is granted the protection title.

4. "Plant varieties actually originated from protected plant varieties" mean plant varieties newly created from the protected plant varieties (original varieties) by some selective creation methods, for example: variation selection (natural or artificial mutations, somatic variations, selection of individual variations from original plants), backcrossing, gene transfer, cell fusion, which basically retain characteristics like the original varieties and differ from the original varieties in one or several characteristics.

5. "Widely-known plant varieties", including:

a/ New plant varieties protected by the State;

b/ New plant varieties with the applications for protection thereof having been filed and published by the competent bodies on a specialized journal;

c/ Plant varieties recognized as national varieties;

d/ Specialty plant varieties of localities, recognized by the provincial/municipal Agriculture and Rural Development Services;

e/ Varieties mentioned at Points a and b of this Clause, of the countries that have signed agreements with Vietnam on the protection of new plant varieties.

6. "Stock" means whole trees or parts thereof such as seeds, saplings, cuttings, grafts, tissues, cells, budding tuber, trunk sections used for production of new plants.

7. "Harvested products" are whole trees or any part thereof collected from the cultivation of the stocks of protected varieties.

8. "Authors of new plant varieties" mean individuals or a group of persons who have used the plant gene source to select, create or transform wild plants into new plant

varieties.

9. "Protection title holders" are organizations and individuals that are granted the protection titles or entitled to transfer or inherit the protection titles and have the right to lawfully own new plant varieties.

10. "Assay of distinctiveness, uniformity and stability" (hereinafter called DUS assay) means the assay on fields or in laboratories according to the set procedures to determine the distinctiveness, uniformity and stability of new plant varieties.

11. "Licensing" means the transfer of the right to use plant varieties to those who need to use them.

**Article 3.-** General principles for the protection of the rights over new plant varieties

1. The State recognizes and protects the rights over new plant varieties in the form of granting protection titles.

2. All activities of selecting, creating, producing, trading in and using new plant varieties protected by the State shall have to comply with the provisions of this Decree and other relevant legal documents.

3. Titles of protection of new plant varieties shall be granted only once to those entitled to own protection titles after the appraisal of the dossier form and the appraisal of the dossier contents; no re-granting shall be made.

4. Grantees of the titles of protection of plant varieties shall have to pay an appraisal fee and annual fees to maintain the effect of their protection titles.

## Chapter II

### CONDITIONS, ORDER AND PROCEDURES FOR GRANTING OF PROTECTION TITLES

**Article 4.-** Conditions for new plant varieties to be protected

To be protected, new plant varieties must meet all the following conditions:

1. New plant varieties must belong to the branches and species of plants on the list of protected plants, publicized by the Ministry of Agriculture and Rural Development.

2. New plant varieties must be distinctive.

A plant variety shall be regarded as being distinctive if it bears one or many principal characteristics obviously distinctive from plant varieties that are widely known at the time the applications for protection are filed.

3. New plant varieties must be uniform.

A plant variety shall be regarded as being uniform if all of its plants manifest the same principal characteristics,

excluding disparities within a permitted extent for some specific characteristics during the multiplicative process.

4. New plant varieties must be stable

A plant variety shall be regarded as being stable if when being multiplied by the gamogenetic or clonal method, its principal characteristics still retain the manifestations as initially described, without any changes after each multiplicative crop or at the end of each multiplicative cycle.

5. New plant varieties must be commercially new.

A plant variety shall be regarded as being commercially new if at the time the application for its protection is filed, the stock or harvested product of such plant variety had not yet been sold or distributed for the purposes of plant variety trading by the person entitled to file such application or by a legally authorized person one year before the date the application is filed on the Vietnamese territory and six years before the date the application is filed outside the Vietnamese territory for groups of woody and bine plants, and four years for other groups of plants.

6. New plant varieties must bear appropriate appellations, easily distinguishable from those of other plant varieties of the same species, which are widely known. The appellations of new plant varieties shall, after being approved in writing by the competent bodies, be the official appellations, even after the expiry of the protection duration and nobody may use them freely.

The following ways of appellation shall not be accepted by the State:

a/ Consisting of only numerals;

b/ Violating social ethics;

c/ Easily causing misunderstanding of the characteristics and properties of the species or the author's biography;

d/ Being identical or confusingly similar to protected trademarks, origin appellations of products; being identical or similar to harvested products of such plant varieties.

**Article 5.-** Subjects entitled to request the granting of protection titles

1. Organizations selecting and creating new plant varieties with the source of State budget capital or their own sources of capital shall be entitled to file applications for protection titles.

For individuals (variety authors) performing the task of selecting and creating new plant varieties, assigned by particular organizations, such organizations shall be entitled to file applications for protection titles.

2. Individuals selecting and creating new plant

varieties with their own efforts and financial sources shall be entitled to file applications for protection titles.

3. For new plant varieties selected and created under cooperation contracts between the parties, the right to file applications shall be agreed upon by the parties to the contracts: where the party entitled to file an application is not specified in the contract, the party that hires persons to create new plant varieties shall be entitled to file an application.

4. Where more than one organization or individual file applications for protection titles related to the same new plant variety, the organization or individual that is the first to file the dossier shall be accepted and considered for the granting of the protection title for the new plant variety according to the provisions of this Decree.

5. Where the subjects stated in Item 4 of this Article file their applications on the same day, the application of the organization or individual that is the first to select and create the new plant variety at issue shall be accepted and considered for the granting of a protection title. Where it is impossible to identify which organization or individual is the first to create the new plant variety, the competent body may refuse to accept their applications. The above organizations and individuals may agree with one another on together filing a sole application and being co-holders of the granted protection title.

**Article 6.- Dossiers of application for protection titles**

1. The applicant for a protection title shall submit a dossier consisting of:

a/ An application for a protection title;

b/ Documents describing the variety according to the set form together with its photos;

The dossier must be in Vietnamese; where a foreign organization or individual applies for a protection title, the Vietnamese-language dossier must be enclosed with an English-language version.

2. Organizations or individuals applying for protection titles shall have to directly submit or authorize other organizations or individuals to represent them in submitting their dossiers to the competent bodies.

3. Foreign organizations or individuals that have lawful representatives in Vietnam and apply for protection titles may directly submit or authorize other organizations or individuals having the legal person status to represent them in submitting their dossiers to the competent bodies.

Where foreign organizations or individuals have no lawful representatives in Vietnam and wish to apply for protection titles, they shall have to submit their dossiers and carry out related procedures through representation service organizations having the legal person status to

represent them in submitting their dossiers.

4. Where dossiers of application for protection titles are compliant with the provisions of Clause 1 of this Article, the competent bodies shall have to certify the date of submission and clearly inscribe the applications' number signs.

**Article 7.- Appraisal of the form of the dossiers of application for protection titles**

1. Within 15 days after the date on which the dossiers are submitted, the competent bodies shall have to complete the appraisal of the dossier form, determine the dates of submission of valid dossiers and the priority dates. If detecting that the dossiers are incomplete or imperfect, they shall have to notify the dossier submitters thereof. Within 30 days after the date of receipt of such notice, the dossier submitters shall have to come and give explanations or revise and make additions to their dossiers. Where revised or supplemented dossiers remain inappropriate or no revision or supplement is made, the competent bodies may decline to consider them.

2. The date of submission of valid dossier is determined as the date on which the dossier no longer contains any error or the date on which the dossier is completed by the submitter and accepted by the competent body.

3. Within 90 days after the date the applicants for protection titles submit valid dossiers, the competent bodies shall have to complete the step 1- appraisal of the following contents:

a/ Whether or not the dossier submitters are eligible as prescribed in Article 5 of this Decree;

b/ Whether or not the new plant varieties belong to the branches and species on the list of those protected by the State as prescribed in Clause 1 of Article 4;

c/ Whether or not the new plant varieties fall into the categories specified in Clauses 3 and 4, Article 1 of this Decree;

d/ Whether or not the new plant varieties meet the condition on commercial newness as prescribed in Clause 5, Article 4 of this Decree;

e/ Whether or not the appellations of the new plant varieties comply with Clause 6, Article 4 of this Decree. If the appellations of the new plant varieties do not comply therewith, the competent bodies shall have to notify the dossier submitters thereof. The dossier submitters shall have to give new appellations and submit them to the competent bodies within 15 days after receipt of the latter's notices. If the varieties' new appellations still fail to comply, the competent bodies may decline to consider such dossiers.

4. In the process of appraising the dossier content, the

competent bodies may request the dossier submitters to correct errors related to the content and form of their dossiers. If the dossier submitters do not come to supplement and/or revise them, the competent bodies may reject such dossiers.

5. In cases where the competent bodies accept the dossiers in writing, after conducting the step 1-appraisal, they shall publish the notices thereof on a specialized journal and inform such to the applicants for the latter to come and carry out the procedures for the step 2-appraisal.

**Article 8.-** Appraisal of the contents of dossiers of application for protection titles

1. Within 15 days after receipt of the notices prescribed in Clause 5, Article 7 of this Decree, the dossier submitters shall have to submit their variety samples to the DUS-assay agency.

2. DUS assay shall be conducted according to assay procedures applicable to each new plant species, which are issued by the Ministry of Agriculture and Rural Development. The competent bodies shall conduct the step 2-appraisal of the distinctiveness, uniformity and stability of the new plant varieties on the basis of the DUS assay results of the assay agency.

3. After the step 2-appraisal results are made available, the competent bodies shall have to:

a/ Publish on a specialized journal their intention to grant the protection titles if the new plant varieties comply with the provisions of Clauses 2, 3 and 4, Article 4 of this Decree;

b/ Within 30 days after the competent bodies publish on a specialized journal notices of their intention to grant the protection titles, if there are no opinions against such notices, they shall complete the procedures for granting the protection titles; if there are opinions against such notices, within 30 days after receiving such opinions, the competent bodies shall have to consider them and make conclusions;

c/ Reject the applications and notify the dossier submitters, publish on a specialized journal the notices that the dossiers are, after undergoing the step 2-appraisal, not compliant with the provisions of Clauses 2, 3 and 4, Article 4 of this Decree.

4. If disagreeing with the rejection of their applications, within 30 days after receiving the application-rejecting notices, the dossier submitters may lodge written complaints with the Minister of Agriculture and Rural Development.

5. For varieties eligible for being granted the protection titles, the Minister of Agriculture and Rural Development shall sign decisions to grant the protection titles.

At the requests of the protection title holders, the

Ministry of Agriculture and Rural Development may grant copies of the protection titles to their holders if the latter can give plausible reasons therefor.

**Article 9.-** Term of protection of new plant varieties

The term of protection is 20 years for new plant varieties; 25 years for woody plants, as from the date of granting of the protection titles.

The term of protection of new plant varieties shall be counted from the date of granting of the protection titles to the end of the date of expiry of the effective terms of the protection titles or to the date of termination of the effect thereof.

**Article 10.-** Priority right

1. The applicants for the titles of protection of new plant varieties may request the enjoyment of priority right if they file, within 12 months after filing first applications in the countries which have, together with Vietnam, signed or acceded to international agreements on the protection of new plant varieties, second applications for the protection of the same plant varieties on Vietnam's territory.

2. Within 90 days after submitting the second dossiers, organizations and individuals that wish to enjoy the priority right shall have to submit to the competent bodies the copies of dossiers of the first applications with certification by the bodies that received them, samples and other evidences to prove that the new plant varieties are the same in the two applications.

3. The applications for the protection titles enjoying the priority right shall have the corresponding priority date being the date of filing of the first valid applications.

### **Chapter III**

#### **INTERESTS AND OBLIGATIONS OF PROTECTION TITLE HOLDERS AND AUTHORS OF NEW PLANT VARIETIES**

**Article 11.-** Rights of protection title holders

1. The holders of the titles of protection of new plant varieties may permit or not permit the use of the stocks of the protected varieties, harvested products from the cultivation of the stocks of the protected varieties in the following activities:

- a/ Production or multiplication for the business purpose;
- b/ Processing of varieties for the business purpose;
- c/ Sale offers;
- d/ Sale or other forms of business;

e/ Export;

f/ Import;

g/ Storing for conducting activities specified at Points a, b, c, d, e and f of this Clause

2. During the time from the date they file valid applications to the date they are granted the titles of protection of new plant varieties, the protection title holders may request other organizations and/or individuals to pay compensation for damage caused by their acts related to the protected plant varieties' stocks and harvested products according to the provisions of Clause 1 of this Article, which are not yet permitted by the protection title holders.

3. The protection title holders' rights over the activities specified in Clauses 1 and 2 of this Article shall also apply in the following cases:

a/ New plant varieties actually originated from the protected varieties which themselves are not actually originated from another protected variety;

b/ New plant varieties which are not obviously distinctive from protected varieties;

c/ New plant varieties the multiplication of which requires the repeated use of protected varieties.

4. The protection title holders may themselves exploit or transfer the right to exploit new plant varieties to other organizations and/or individuals. Contracts for transfer of the right to exploit new plant varieties shall be made in writing and registered with competent bodies.

5. The protection title holders may inherit and transfer the right to own the protection titles according to law provisions.

6. The protection title holders may request the competent bodies to handle acts of infringing upon their rights and request the infringers to pay compensation for damage.

7. The holders of the titles of protection of varieties may not enjoy the right to protection of their varieties in the following cases:

a/ Varieties used for personal purposes and not for commercial purposes;

b/ Farmers who cultivate stocks of the protected varieties use the harvested products as strains for subsequent crops at their farms or for exchange among farming households;

c/ Varieties used for cross-breeding to create other new plant varieties, except cases where such varieties are actually originated from the protected varieties.

#### **Article 12.- Obligations of the protection title holders**

The protection title holders shall have the following

obligations:

1. To personally preserve or authorize other persons to preserve the stocks of the protected varieties and supply such stocks at the requests of the competent bodies for custody at the gene bank, for use as standard samples for cultivation to enable the inspection of the distinctiveness, uniformity and stability of the protected varieties;

2. The protection title holders being Vietnamese organizations and individuals shall have to pay remuneration to the variety authors stated in Article 5 of this Decree. If there is no other agreement between the authors and the protection title holders, the minimum remuneration level shall not be lower than 20% of the profits earned by the protection title holders from the exploitation of the new plant varieties each year; or 30% of the total payment the protection title holders receive from each sale of license or from the compensation for the granting of non-voluntary licenses;

3. To pay fees when submitting the dossiers of application for the appraisal of the forms and contents of the dossiers of application for protection titles and pay annual fees as from the year they are granted the protection titles so as to maintain the effect of such protection titles;

4. Vietnamese organizations and individuals may transfer the right to own the titles of protection of new plant varieties to foreign organizations and individuals when so permitted by the Ministry of Agriculture and Rural Development.

#### **Article 13.- Restrictions on the rights of the protection title holders**

1. The holders of the titles of protection of new plant varieties may exercise the right to exploit the new plant varieties for mass production on Vietnam's territory only when such new plant varieties are recognized as national varieties according to the regulations of the Ministry of Agriculture and Rural Development.

2. In the national interests or public interests, the competent bodies may issue decisions to grant non-voluntary licenses to exploit the protected new plant varieties. The granting of non-voluntary licenses shall be effected only under the conditions specified in Article 802 of the Civil Code.

The Ministry of Agriculture and Rural Development is the State body competent to consider and issue decisions to grant non-voluntary licenses to exploit the protected plant varieties.

Organizations and individuals that are granted non-voluntary licenses shall have to pay a variety exploitation fee to the protection title holders at a rate agreed upon by themselves according to law provisions.

Within 30 days after receiving the decisions to grant

non-voluntary licenses, if the protection title holders disagree with such decisions, they may lodge complaints with the competent State bodies according to the provisions of the Law on Complaints and Denunciations.

**Article 14.-** Rights and obligations of the authors of new plant varieties

1. The authors of new plant varieties, who are specified in Clauses 1, 2 and 4, Article 5 of this Decree, shall have the following rights:

a/ To have their names inscribed in the titles of protection of new plant varieties and in the national register of new plant varieties;

b/ To receive remuneration from the protection title holders according to the provisions of Clause 3, Article 12 of this Decree;

c/ To request the competent bodies to handle or initiate lawsuits against the infringement upon their rights specified at Points a and b, Clause 1 of this Article.

2. The authors of new plant varieties shall have the duty to help the protection title holders to perform the obligation of preserving the stocks of the protected new plant varieties.

#### **Chapter IV**

### **SUSPENSION AND CANCELLATION OF PROTECTION TITLES**

**Article 15.-** Suspension of protection titles

1. The protection titles shall be suspended when one of the following violations is committed:

a/ The protection title holders fail to perform the obligations specified in Article 12 of this Decree;

b/ The plant varieties fail to ensure their uniformity or stability as at the time the protection titles are granted.

2. Any third party may send written requests to the competent bodies to consider the suspension of the effect of the protection titles for the reasons specified in Clause 1 of this Article.

3. The protection titles shall resume their effect after their holders have performed all obligations specified in Article 12 or regained their uniformity or stability as at the time they are granted.

**Article 16.-** Cancellation of protection titles

The protection titles shall be cancelled in the following cases:

1. The plant varieties no longer maintain their inherent characteristics and properties as at the time the protection

titles are granted;

2. The holders of the titles of protection of new plant varieties voluntarily request a competent body to cancel the protection titles.

3. When it is detected that the protection title holders are not eligible subjects as prescribed in Article 5 of this Decree.

**Article 17.-** Effect of the suspension and cancellation of protection titles

1. When the titles of protection of new plant varieties are cancelled, their holders shall have to return the whole or part of the expenses to the license purchasers to exploit the new plant varieties or to the transferees of the right to own such protection titles.

2. The decisions to suspend or cancel the protection titles ahead of time shall not affect the previous decisions of the Court or the Minister of Agriculture and Rural Development regarding acts of infringing upon the protection title holders' rights.

3. During the time of suspension of the protection titles, their holders shall not enjoy the rights specified in Article 11 of this Decree.

4. If the protection title holders disagree with the decisions to suspend or cancel the effect of their protection titles, they may lodge their complaints thereabout and shall have their complaints settled according to the Law on Complaints and Denunciations.

#### **Chapter V**

### **STATE MANAGEMENT OVER THE PROTECTION OF NEW PLANT VARIETIES**

**Article 18.-** Tasks and powers of the Ministry of Agriculture and Rural Development in the State management over the protection of new plant varieties

1. The Ministry of Agriculture and Rural Development shall perform the State management over the protection of new plant varieties and have the responsibility to:

a/ Submit to the competent State bodies for promulgation or promulgate according to its competence legal documents on the protection of new plant varieties;

b/ Grant or withdraw protection titles;

c/ Organize the personnel training to meet the requirements of the protection of new plant varieties;

d/ Supervise, inspect and handle violations of the protection of new plant varieties;

e/ Settle complaints and denunciations related to the protection of new plant varieties.

2. The Ministry of Agriculture and Rural Development shall assign competent agencies to perform the State management over the protection of new plant varieties, with the task of organizing and guiding the compilation, receipt and appraisal of dossiers and submitting them to the Ministry's leadership for granting, suspension, cancellation or withdrawal of the titles of protection of new plant varieties.

**Article 19.-** Responsibilities of the People's Committees of the provinces and centrally-run cities

The People's Committees of the provinces and centrally-run cities shall perform the function of State management over activities of protecting new plant varieties in their respective localities and have the following tasks:

1. Organizing the management of new plant varieties within their respective localities under the guidance of the Ministry of Agriculture and Rural Development;

2. Inspecting and handling according to their competence acts of infringing upon the new plant variety copyright in their respective localities.

#### *Chapter VI*

### **HANDLING OF VIOLATIONS**

**Article 20.-** Handling of violating organizations and individuals

Organizations and individuals that commit acts of violating the law provisions on the protection of new plant varieties shall, depending on the nature and seriousness of their violations, be sanctioned or examined for penal liability before law; if causing serious damage, they shall have to pay compensation according to law provisions.

**Article 21.-** Handling of persons with positions and powers, who commit acts of violation

Those who abuse their positions and powers to commit acts of violating the regulations on the protection of new plant varieties, on the granting of protection titles, cover up violators of the legislation on the protection of new plant varieties and commit other acts contrary to the law provisions on the protection of new plant varieties, shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability according to law provisions.

#### *Chapter VII*

### **IMPLEMENTATION PROVISIONS**

**Article 22.-** Implementation effect

This Decree takes effect 15 days after its signing; all previous provisions contrary to this Decree are all annulled.

#### **Article 23.-** Implementation provisions

1. The Ministry of Agriculture and Rural Development shall assume the prime responsibility and coordinate with the Ministry of Science, Technology and Environment in guiding the implementation of this Decree.

2. The Ministry of Finance shall have to coordinate with the Ministry of Agriculture and Rural Development in guiding the rates and use of charges and fees for the protection of new plant varieties.

3. The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

*On behalf of the Government*  
*Prime Minister*  
**PHAN VAN KHAI**

## **THE PRIME MINISTER**

### **DECISION No. 467/QĐ-TTg of April 17, 2001 on the establishment of the Vietnam Steering Committee on Smoking and Health**

To establish the Vietnam Steering Committee on Smoking and Health -VINACOSH, which is composed of the Minister of Health as its Chairman, a vice minister of health and a vice minister of culture and information as its vice chairmen, and 11 representatives of concerned ministries and branches as its members.

VINACOSH shall be tasked to:

- Elaborate and submit to the Prime Minister for approval the national plan of action for the prevention of and fight against harms caused by smoking;

- Organize, urge and inspect the implementation of such national plan of action.

**DECISION No. 53/2001/QĐ-TTg OF APRIL 19,  
2001 ON POLICIES TOWARD BORDER GATE  
ECONOMIC ZONES**

**THE PRIME MINISTER**

*Pursuant to the Law on Organization of the Government of September 30, 1992;*

*At the proposal of the Ministry of Planning and Investment in Report No. 2933/BKH/QLKT of May 18, 2000, and the suggestions of the ministries and central-level branches and concerned provinces;*

**DECIDES:**

**Article 1.- Types of business in border gate economic zones.**

1. The following types of business are allowed in the border gate economic zones: export-import, temporary import for re-export, transport of transit goods, bonded warehouse, duty-free shop, exhibition-fair, product showroom, establishments producing or processing imports and exports, representative branches of domestic and foreign companies, border gate markets, investment in infrastructure, service, tourism...

2. It is allowed to set up a tax suspension area in the border gate economic zone, but it must be located separately from other functional areas in the border gate economic zone.

**Article 2.- Preferences.**

**1. Investment in building infrastructure in border gate economic zones**

a/ On the basis of the actually collected annual revenues of the State budget in the border gate economic zone (excluding value added tax and special consumption tax on imports, revenues not involved in the local budget balance according to the assignment of responsibilities, such as: confiscation of smuggled goods, contributions by the population, school fees, hospital charges, foreign aid...), the State shall invest back to build the infrastructure of the border gate economic zones at the following rates:

- Reinvestment of 100% in the border gate economic zones with budget revenues of less than VND 50 billion/year.

- Reinvestment of VND 50 billion and 50% of the remaining actually collected revenues of the border gate economic zones with budget revenues of VND 50 billion/year upward.

- Reinvestment of no more than 50% of the actually

collected revenues of the border gate economic zones having operated for 5 years (after the test operation) and with actually collected revenues of more than VND 100 billion/year.

b/ Border gate economic zones are eligible for preferential loans from the State (the Development Assistance Fund) to develop their infrastructure and for the use of funds stipulated at Point a, Clause 1, Article 2, to repay principal and interest.

c/ The provincial People's Committee shall make dispositions in the annual budget to invest in the border economic zones with low actually collected budget revenues. The investment in the infrastructural works in the border gate economic zone shall be decided by the provincial People's Committee according to the current regulations and on the basis of the approved planning and plans.

d/ If the infrastructural projects in the border gate economic zone have received all-embracing and complete investments, it can use the remaining fund stipulated at Point a, Clause 1, Article 2 as assistance investment in other projects outside the border gate economic zone (including new border gate economic zones) which are related to and directly serve the border gate economic zone. The president of the provincial People's Committee shall take responsibility for his(her) investment decision. At the same time he (she) shall inform the Ministry of Planning and Investment thereof for integration and overseeing.

**2. Trade and tourism**

a/ Business enterprises stipulated in Clause 1, Article 1 are eligible for State preferential loans to invest in the building of business establishments at the border gates.

b/ Commercial activities shall enjoy border trade preferences according to the current regulations of the State and the commitments that our country has signed with neighboring countries.

c/ The non-duty mechanism shall apply at the tax suspension areas as at the bonded warehouses.

d/ Investors of touristic investment projects are eligible for preferences as stipulated in Article 15 of Domestic Investment Promotion Law (amended) No. 03/1998/QH10 of May 20, 1998.

**3. Land**

Domestic and foreign investors investing in a border gate economic zone, when renting land and water surface, besides enjoying the current preferences, are eligible for another 50% reduction of the land and water surface rent rates compared to those currently applied at this border gate economic zone.

**4. Taxation**