BỘ NGOẠI GIAO

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CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc

Số: 50/2012/TB-LPQT

Hà Nội, ngày 27 tháng 11 năm 2012

THÔNG BÁO
Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định tại khoản 3 Điều 47 của Luật Ký kết, gia nhập và thực hiện điều ước quốc tế năm 2005, Bộ Ngoại giao trân trọng thông báo:

Hiệp định giữa Chính phủ nước Cộng hòa xã hội chủ nghĩa Việt Nam và Chính phủ Vương quốc Đan Mạch về hợp tác phát triển liên quan đến hỗ trợ nghiên cứu khối doanh nghiệp giai đoạn cuối (2013 - 2014), ký tại Hà Nội ngày 08 tháng 11 năm 2012, có hiệu lực kể từ ngày 08 tháng 11 năm 2012.

Bộ Ngoại giao trân trọng gửi Bản sao Hiệp định nêu trên theo quy định tại Điều 68 của Luật nêu trên./.

TL. BỘ TRƯỞNG
VỤ TRƯỞNG
VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ

Nguyễn Thị Thanh Hà

AGREEMENT BETWEEN

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM

AND

THE GOVERNMENT OF THE KINGDOM OF DENMARK

ON

DEVELOPMENT COOPERATION

REGARDING

THE "BUSINESS SECTOR RESEARCH PHASING-OUT SUPPORT (2013-2014)"

WHERAS the Government of the Socialist Republic of Viet Nam (hereinafter referred to as 'GoV') has requested the support of the Government of the Kingdom of Denmark (hereafter referred to as "GoDK") to contribute towards the funding of the "Business Sector Research Phasing-out Support (2013-2014)" (hereinafter referred to as the 'Project');

WHEREAS GoDK has agreed to support the implementation of the Project as defined in the Project Description with up to an amount of DKK 4.5 million on a grant basis (hereafter referred to as "the Grant"), as a financial and technical assistance to the Central Institute of Economic Management (CIEM), General Statistics Office (GSO) under the Ministry of Planning and Investment (MPI), Institute of Labour Science and Social Affairs (ILSSA) under the Ministry of Labour, Invalids and Social Affairs (MOLISA) (hereafter referred to as the Implementing Agencies), who will implement the Project;

WHEREAS the general provision of this agreement is set forth in the agreement between GoV and GoDK named General Terms and Procedures of Development Cooperation dated 25th August 1993;

WHEREAS the GoV and GoDK have agreed that the Ministry of Foreign Affairs of Denmark will sign subsidiary administrative agreements with the implementing agency under this agreement. The administrative agreements will define common procedures for consultation and decision-making, disbursement mechanisms, financial management, reporting and

audit, and exchange of information and cooperation with implementing agency and the Danish Ministry of Foreign Affairs;

WHEREAS commitment to international law and conflict prevention, respect for human rights, democratic principles, including free and fair elections, the rule of law, independence of the judiciary, free, transparent and democratic processes, accountability and the fight against corruption, sound macro-economic policies and the commitment to poverty reduction govern the policies of GoV and GoDK, and which are prerequisites for this agreement, and hence constitutes essential elements of this agreement;

WHEREAS the GoV and GoDK shall abide by the local laws and by applicable international instruments, including the UN Convention on the Rights of the Child and International Labour organization Convention;

WHEREAS GoV and GoDK is committed to the principles of harmonisation and to strive for the highest degree of alignment with the budgetary and accountability system of the implementing agencies and the legislation of the GoV so as to enhance effective implementation, to reduce the administrative burden, to minimise transaction costs and increase transparency and accountability of the support provided;

NOW THEREFORE GoV and GoDK have decided as follows:

Article 1

Definitions

For the purpose of this Agreement, unless otherwise stated, the terms listed below mean the following:

a) "**Competent authorities**" in the case of the Government of Denmark/GoDK refers to the Ministry of Foreign Affairs, Embassy of Denmark (EDK) in Viet Nam, and in the case of the Government of the Socialist Republic of Viet Nam/GoV refers to the Ministry of Planning and Investment or for both Parties any other authority empowered to perform the functions exercised by said authorities.

b) "**The Parties**" means the competent authorities.

c) "The Project Description" refers to the Document which, by signature, has been approved by the Ministry of Planning and Investment and the Embassy of Denmark on 02 November 2012 and is attached as Annex 1 to this Agreement, hence constituting an integral part hereof. Changes to the Project Description are subject to approval by joint decision of the Parties.

Development objectives as described in the Project Description and the total amount of the Danish contribution cannot be changed.

d) "Project period" means the 2-year period of project implementation from 1 January 2013 to 31 December 2014.

Article 2

Objectives of the Project

a) The development objective of the Project is "Strengthening the competitiveness of Vietnamese enterprises and creating good jobs", as stated in the Project Description.

b) The intermediate objective of the Project is: "Improve research and analytical capacity for guiding economic policy-making in Viet Nam" as stated in the Project Description.

Article 3

Management and Execution

a) Oversight and coordination of project activities rests with CIEM. CIEM will appoint a Project Director in charge of managing the day-to-day activities of the project.

b) The project will be managed and implemented by CIEM based on a Memorandum of Understanding between Danida and CIEM. CIEM will also establish a Memorandum of Understanding between CIEM and GSO for the implementation of the Enterprise Survey in 2014 and between CIEM and ILSSA for implementation of the SME Survey in 2013/14.

c) To ensure cooperation between the different partners, a *Research Cooperation Group* (RCG) will be formed, comprised of one senior member each of CIEM, GSO and ILSSA, and the international research partner.

Article 4

Obligations of Government of Viet Nam

Under this Agreement, the Government of the Socialist Republic of Viet Nam shall:

a) Promptly inform GoDK of any condition which interfere or threaten to interfere with the successful implementation of the Project;

b) Within a reasonable time advice on all reports, recommendations and other matters properly referred for advice by GoDK, in order not to delay or disrupt the execution of the services or the works of the Project;

c) Ensure that all relevant provisions in the General Terms and Procedures of Development Cooperation dated 25th August 1993 regarding the GoDK execution of activities are honoured;

d) Investigate matters, if misuse of funds, fraud or corruption within the Project is discovered. The appropriate authorities i.e. the Government Inspectorate and the Inspectorates of MoLISA and the Ministry of Planning and Investment of Viet Nam are expected to participate in this endeavour. Where Project funds have been lost in such a manner as described above, the Parties will cooperate in order to have the implementing agency repay such funds to the project, in order to ensure that planned activities will not be disrupted;

e) Provide office facilities and relevant support for the international research team while in Viet Nam, personal emoluments (all salaries and allowances) and administrative expenses of the participating Vietnamese research staff;

f) Ensure the tax exemption of expatriate personnel and their family members follows the Regulation on expatriate personnel for ODA programmes and projects in Viet Nam which is Decision No. 119/2009/QD-Ttg dated 1/10/2009 of the Prime Minister of Viet Nam and other documents on amendment, addition, or replacement of this Decision;

g) Equipment, materials, supplies and spare parts to be purchased for the Project by the GoDK, if any, will be exempted from any duties, VAT, taxes, and public fees and charges other than user's fee and charges, etc. in accordance with Vietnamese regulations. The refunded VAT and other charges from these equipment and materials will be transferred to the Project funds for the following fiscal year;

h) Ensure timely settlement of any other related formalities that might keep the Project behind schedule;

i) Maintain all Project accounting materials within 5 years after the Project's end for possible use of the National Audit Office of Denmark.

Article 5

Obligations of GoDK

a) GoDK will provide the following financial means for the implementation of the Project:

CIEM: 700,000 DKK

ILSSA: 825,000 DKK

GSO: 935,000 DKK

International research partner: 1,980,000 DKK

Audit costs: 60,000 DKK

Total: 4,500,000 DKK

All commitments of GoDK are made in Danish Kroner (DKK).

b) Interest accrued from the remittances shall be returned by the implementing agencies to GoDK.

c) The Danish support for the Project will be passed on to the implementing agencies as grant without any repayment conditions to the GoV.

d) GoDK will cooperate and communicate fully and in a timely manner with the GoV on all matters relevant to the implementation of the Project as defined in the Project Document and this Agreement.

e) GoDK will inform any changes regarding the years of commitments or the schedule of disbursements for discussion between the two Parties before such adjustments are made.

f) GoDK will not bear any responsibility and/or liability to any third party with regard to implementation of the Project.

Article 6

Obligations of both Parties

Both Parties will:

a) Strengthen aid effectiveness by endeavour to co-ordinate efforts under this agreement with other development partners, be they states, international organisations or non-governmental organisations;

b) Use best endeavours to optimise the use of Project resources in line with the Project's objectives.

Article 7

Information, reporting, monitoring and evaluation

a) The Parties shall collaborate fully to ensure that the purposes of this Agreement be accomplished. To this end, the Parties shall exchange views with regard to matters relating to the Project and provide each other with all available data, documentation and information; shall provide appropriate mutual assistance required in the discharging of the Parties' duties; and provide all necessary support to facilitate the due implementation of the Project.

b) The following reports should be submitted to the Embassy of Denmark:

- Activity and financial reports every six months from the start of the project;
- An annual report one year after the start of the project;
- A completion report at the end of the project period.

CIEM is responsible to compile reports from individual implementing agencies and make one consolidated report to GoDK.

c) Responsibility for monitoring, i.e. achievement of intermediate and immediate objectives as well as outputs, rests with the Project Director. Indicators for measuring success of the project are presented in the LFA Matrix, Annex 1 of the project document.

d) GoDK shall have the right to carry out any technical or financial mission that is considered necessary to monitor the implementation of the Project. To facilitate the work of the person or persons instructed to carry out such monitoring missions, the GoV shall provide these persons with all relevant supports if deemed necessary.

e) Representatives of the Auditor General of Denmark shall have the right to:

(i) Carry out any audit or inspection considering necessary as regards the use of the Danish funds in question, on the basis of all relevant documentation.

(ii) Inspect accounts and records of suppliers and contractors relating to the performance of the contract, and to perform a complete audit.

Article 8

Financial management, procurement and audit

a) Funds to be used by CIEM will be transferred from the Danish Embassy to the Ministry of Finance (MoF)'s external account for the project. MoF in turn will release funds to CIEM on the basis of approved biannual work and budget plans.

Funds to cover the survey costs will be transferred from CIEM to GSO and ILSSA on the basis of the MoU signed between CIEM and the institutions. Funds to the selected international research partner will be transferred from the Ministry of Foreign Affairs upon financial statements and funds requests counter-signed by the Project Director.

b) GSO and ILSSA will be independently responsible for management of the financial resources received under the Project.

c) The international research partner will be recruited through an open tender following Danida rules. The Danish Ministry of Foreign Affairs (MFA) is responsible for the recruitment of the international research partner with in close consultation with the Danish Embassy and CIEM.

d) The implementing partners are subject to an external audit arranged by the Embassy every year.

Article 9

Transfer of ownership

a) The implementing partners responsible for the implementation of the Project shall maintain updated inventories of all equipment financed by earmarked support from GoDK, e.g. vehicles, computers, furniture and tools.

b) Equipment, material, supplies and facilities purchased by Denmark, which are used during the implementation of the Project, e.g. vehicles, computers, furniture and tools, remain the property of Denmark, until such time as the Parties may agree otherwise.

c) Transfer of ownership of the above-mentioned assets to the implementing partners may take place during the Project period. Before Project termination, the Parties will assess and agree on final transfer of such assets, which can be justified on the basis of a final request from the implementing partners. Any remaining assets will be disposed of by Denmark.

Article 10

Corruption

No offer, payment, consideration or benefit of any kind, which could be regarded as an illegal or corrupt practice, shall be made, promised, sought or accepted - neither directly nor indirectly - as an inducement or reward in relation to activities funded under this agreement, incl. tendering, award, or execution of contracts. Any such practise will be grounds for the immediate cancellation of this agreement or parts of it, and for such additional action, civil and/or criminal, as may be appropriate. At the discretion of the GoDK, a further consequence of any such practise can be the definite exclusion from any projects funded by the GoDK.

Article 11

Child labour

The authority, organisation and/or consultant shall abide by the local laws and by applicable international instruments, including the UN Convention on the Rights of the Child and International Labour Organisation conventions.

The authority, organisation and/or consultant shall ensure that no one under 14 years of age or the age of the end of compulsory schooling in that area, whichever is lower, is engaged by the authority, organisation and/or consultant or anyone working or acting under the authority of the authority, organisation and/or consultant.

Article 12

Suspension

In case of non-compliance with the provisions of this Agreement and/or violation of the essential elements mentioned in this Agreement, GoDK reserves the right to suspend with immediate effect further disbursements to the implementing partners under this Agreement. Non-compliance includes inter alia:

- The Project develops unfavourably in relation to the development objective and intermediate objective mentioned in Article 2,
- Substantial deviations from agreed plans or budget occur,
- Financial management of the activities has not been satisfactory,

- Resources to be allocated by the GoV are not provided as agreed.

If serious irregularity in the Project or suspicion thereof has been ascertained, either Party may suspend Project implementation, wholly or in part, until the suspending Party decides to resume the implementation.

Article 13

Settlement of disputes

If any dispute arises between the Parties as to the interpretation, application or implementation of this agreement, they will consult each other in order to reach an amicable solution.

Article 14

Entry into force, duration and termination

This Agreement shall enter into force on the date of signature.

The cooperation between the Parties under this Agreement will have the duration of 2 years. The duration of the cooperation may be extended by mutual agreement of the Parties (MPI and EDK) and within the agreed budget.

Notwithstanding the previous clause, each Party may terminate the Agreement upon 6 months written notice.

In witness hereof, the Parties hereto have caused this Agreement to be signed in two (02) originals in the English language in Ha Noi, Viet Nam on this day of..08...November 2012.

FOR THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM	FOR THE GOVERNMENT OF THE KINGDOM OF DENMARK
Mr. Dao Quang Thu Vice Minister of Planning and Investment	Mr. John Nielsen Ambassador of Denmark to Viet Nam

VĂN PHÒNG CHÍNH PHỦ XUẤT BẢN

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