

MEMORANDUM OF UNDERSTANDING

between

The Government of the Socialist Republic of Viet Nam

and

The Government of the Kingdom of Belgium

concerning

the management and utilization of Belgian Concessional ODA Financing

The Government of the Socialist Republic of Viet Nam represented by the Ministry of Finance (hereafter named MoF) and the Government of the Kingdom of Belgium represented by the Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation and the Federal Public Service Finance (hereafter named 'Finexpo'), hereunder called the 'Signatories'.

With regard to the current and updated Vietnamese regulations on management and utilization of ODA and concessional loans of foreign donors.

With regard to the Royal Decree of the Kingdom of Belgium of 30 May 1997 enhancing the effectiveness of instruments for financial assistance for exports, to the Royal Decree of the Kingdom of Belgium of 15 July 1997 laying down the composition and the terms of reference of the Finexpo Committee, to article 457 of the Belgian program law of 24 December 2002, to the Royal Decree of 25 February 2003 on amending the Royal Decree of 15 July 1997 laying down the composition and working methods of the Committee on Financial Support for Export and to article 139 of the *"loi portant des dispositions diverses"* of 20 July 2006.

With regard to the OECD Arrangement on Officially Supported Export Credits.

1 – General Provision

The Signatories will endeavour, within the framework of their respective existing laws, regulations and policies as well as their international obligations to promote and expand financial co-operation.

2 – Support

To continue the cooperation between the Signatories and for the purpose of promoting and expanding financial co-operation, Finexpo is prepared to support the provision of tied aid credits on concessional terms.

3 – Overview of Belgian concessional financing – FINEXPO

MoF is aware that Finexpo can offer under its concessional program the following instruments with the obligation of obtaining infrastructure goods and services from a Belgian company:

- Grants: Finexpo provides a grant (equivalent to 35% of the contract amount) for the full payment of the Insurance Premium firstly and then for the partial payment of the contract price, the balance of the remaining contract price has to be provided in the form of commercial financing or be paid in cash”.
- Interest bonification with grant: the borrower benefits of an interest rate of 0% while Finexpo bears the full interest rate linked to the credit granted to the client. An additional grant will be added in order to make the reimbursement period shorter. This instrument has a 38% grant element.
- Mixed credit: a concessional State-to-State Loan (SSL) combined with a commercial credit. The ratio between the State-to-State loan and the commercial credit is 2/3 SSL and 1/3 commercial credit. The grant element of the total financing is 35%.
- Grant for technical assistance: can be granted in addition to an untied State to State loan or an interest stabilization in order to give a competitive advantage to Belgian companies participating in international competitive bidding procedures.
- Innovation instrument: Finexpo finances to 100% of the contract amount as grant in order to help Belgian SME's showcase an innovative product.

Further information concerning the different financial instruments can be found in the Finexpo vademecum, which is attached to the Memorandum of Understanding as annex 1.

4 – Financial terms

The terms and conditions of the loans will be set in conformity with international obligations resulting from the 'Arrangement on Officially Supported Export Credits' under the auspices of the OECD. Accordingly, the concessionality level will be at least 35%.

Further information concerning the different financial terms of the different financial instruments can be found in the Finexpo vademecum, which is attached to the Memorandum of Understanding as annex 1.

5 - Borrower/lending

Export credits to be subsidised after approval by the Signatories will be provided by the Belgian commercial banks acting as Lender. The Borrower is the Ministry of Finance on behalf of the Government of the Socialist Republic of Viet Nam.


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6 – Lending

ODA loan agreements are negotiated directly between commercial banks acceptable within the Belgian export financing system as lenders and the Ministry of Finance of the Socialist Republic of Viet Nam as the borrower.

The fees and costs of the Belgian commercial banks will be negotiated case-by-case between the banks acting as lender and borrower. The grant element of the total Financing must be at least 35% based on all-in-cost calculation.

7 – Eligible Projects

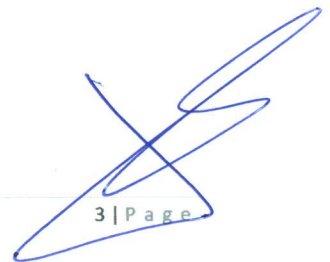
Finexpo can finance projects involving buyers from Vietnamese public entities. This financing will concern capital goods and related services that have a minimum 50% Belgian content. Further explanation of eligibility criteria can be found in annex 1 Finexpo vademecum to this Memorandum of Understanding.

The concessionally financed projects cannot be commercially viable, which means, according to article 37 of the OECD Arrangement, that only projects which, with appropriate pricing determined on market principles, lack capacity to generate cash flow sufficient to cover the projects operation costs and to service the capital employed.

Projects involving the production of military or paramilitary equipment, alcoholic beverages and tobacco products are not eligible for financing. Further explanation of eligibility criteria can be found in annex 1 Finexpo vademecum to this Memorandum of Understanding.

8 – Project Selection

- a) The project approved by the Vietnamese Government will be presented to the Belgian Authority.
- b) The Belgian Council of Ministers will take the decision on the Belgian concessional financing in the case of a state-to-state loan and the Finexpo Committee will give an advice on the concessional financing in the case of an interest bonification and inform the Ministry of Finance of Viet Nam through diplomatic channels.
- c) The project approved by both sides shall take the next step pursuant to current Vietnamese regulations on utilization of ODA loans.
- d) Projects in the following thematic areas are eligible to the Belgian side:
 - Highly technological projects that have offer Belgian expertise.
 - High tech health care.
 - Environmental technology.
 - Smart and sustainable agriculture.
 - Smart and sustainable cities.



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9 – Commercial contracts

The loans provided are to be utilized for the purchases of Belgian goods and services, which may include up to 50% goods and services originating outside Belgium with a maximum of 30% local costs. Commercial contracts to be financed with export credits subsidised can be based on a competitive bidding among Belgian suppliers and/or consortiums led by a Belgian company. This bidding procedure would be conducted by the project owner in accordance with Vietnamese law and regulations on bidding.

10 – Export Credit Guarantee

An export credit guarantee from Credendo, Belgian credit insurance group, covering at least 95 per cent of the outstanding amounts of each loan granted is required. The guarantee premium will be covered by a grant from the Government of Belgium mentioned in article 3.

11 – Taxes and Duties

Any taxes, duties to be paid in connection with the contract implementation shall be pursuant to current Vietnamese laws. The exemption of any income taxes levied in the Socialist Republic of Viet Nam would follow the Double Taxation Avoidance Agreement between two governments of Viet Nam and Belgium.

12 – Review

The Signatories will on an annual basis or whenever they deemed necessary review progress made in implementing this Memorandum of Understanding. Signatories will meet at least twice a year in a Joint Working Team to follow-up the existing projects and to evaluate those in execution. They report to the Joint Economic Commission on their findings for it to take the necessary actions.

13 – Evaluation

In order to evaluate the use of the concessional loans and the sustainability of the corresponding projects, the Signatories will facilitate the provision of all necessary documentation for evaluation, auditing and monitoring of the projects. The evaluation will be undertaken by Finexpo or by the Belgian Embassy in Hanoi and may involve site visits. Finexpo will exchange views with MoF and MPI of the review conclusion before any official announcement.

14 – Disputes

The Signatories jointly decide that they will strive to resolve any differences arising under this Memorandum of Understanding through diplomatic channels.



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15 – Fraudulent Practice

The Signatories may cancel the implementation of the Memorandum of Understanding, or projects supported by Finexpo in Viet Nam, if it determines that, with respect to the Belgian funds:

- 1) Corrupt or fraudulent practices were engaged in by the representatives of the borrower or lender or of the buyer or seller during procurement or during execution of a contract; and
- 2) Timely and appropriate action satisfactory to the Contracting Parties to remedy the situation has not taken place.

Firms may be barred from contracts financed with Belgian funds, either indefinitely or for a specific period of time if the Government of Belgium determines that the firm is engaged in corrupt or fraudulent practices in competing for or in executing a contract financed with Belgian funds.

16 – Final understandings

This Memorandum of Understanding will come into effect upon signature by both Signatories.

This Memorandum of Understanding may be terminated by either Signatory giving one month's written notice to the other.

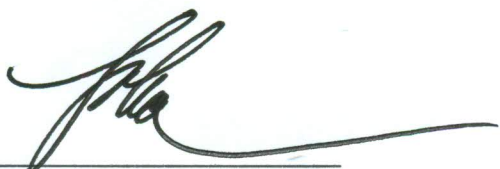
One of the Signatories may suggest to the other Signatory alterations to this Memorandum of Understanding, in writing and in the English language. Alteration will only come in operation when signed by both Signatories.

This Memorandum of Understanding does not create any rights or obligations under international law.

The foregoing record represents the understandings reached between the Signatories on matters referred to therein.

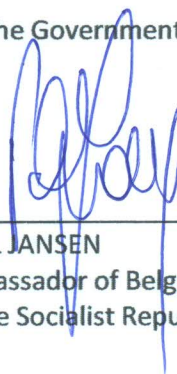
Signed in duplicate in Hanoi on 02/28/2020 in the English language, both texts having equal validity.

For the Government of the Socialist Republic of Viet Nam



TRAN XUAN HA
Vice Minister
Ministry of Finance

For the Government of the Kingdom of Belgium



PAUL JANSEN
Ambassador of Belgium
to the Socialist Republic of Viet Nam