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**DECREE OF THE PRESIDENT OF THE REPUBLIC OF BELARUS
dated August 6, 2009 N 10**

**ON CREATION OF ADDITIONAL CONDITIONS FOR INVESTMENT
ACTIVITIES IN THE REPUBLIC OF BELARUS**

(in the wording of the Decrees of the President of the Republic of Belarus
dated 13.09.2010 N 7, dated 06.06.2011 N 4)

In order to create additional conditions for investment activities in the Republic of Belarus and in accordance with part three of Article 101 of the Constitution of the Republic of Belarus:

1. To establish that:

1.1. the implementation of investment projects in the territory of the Republic of Belarus can be performed by means of conclusion of investment agreement between the investor or investors and the Republic of Belarus (hereinafter referred to as the Investment Agreement) on such terms and conditions determined by the Investment Code of the Republic of Belarus, this Decree and other legislative acts;

1.2. the investment agreement shall be concluded based on the decision:

of the republican body of state administration, other state organization that is subordinate to the Government of the Republic of Belarus, the Executive Secretariat of the President of the Republic of Belarus (hereinafter referred to as the State Body), regional (Minsk City) executive committee (hereinafter referred to as the Executive Committee), if such an investment agreement does not assume the provision to the investor and (or) the organization in the manner established in the Republic of Belarus by this investor or with his participation of additional benefits and privileges, except for those established by this Decree, other decisions of the President of the Republic of Belarus and the legislative acts;

of the Council of Ministers as agreed with the President of the Republic of Belarus, if this investment agreement assumes the provision to the investor and (or) the organization in the manner established in the Republic of Belarus by this investor or with his participation of benefits and privileges, not established by the legislative acts, this Decree and other decisions of the President of the Republic of Belarus. This decision of the Council of Ministers shall determine the order of confirmation of the use of these privileges and preferences, as well as the state body, the executive committee or other state body (organization), not specified in the second subparagraph of this part,

authorized to sign this investment agreement and coordinate its implementation.

For the conclusion of investment agreements referred to:

in the second subparagraph of the first part of this subsection a business plan of the investment project implemented under this investment agreement (hereinafter referred to as the investment agreement), and the performance of a state comprehensive expert examination of the investment project shall not be required;

in the third subparagraph of the first part of this subsection a business plan of the investment project and the performance of a state comprehensive expert examination of the investment project shall be required;

1.3. the projects of investment agreements shall be subject to mandatory legal analysis performed by the legal services of the respective state bodies and the executive committees taking decisions on the conclusion of investment agreements, or the Ministry of Justice, if the decision on the conclusion of investment agreements shall be taken by the Council of Ministers of the Republic of Belarus as agreed with the President of the Republic of Belarus. The concluded investment agreements shall be subject to the state registration in the State register of investment agreements with the Republic of Belarus, the order of maintenance shall be determined by the Council of Ministers of the Republic of Belarus;

1.4. the investment agreement as a mandatory condition should determine:
the object, the amount and the terms of investments, as well as the terms for the implementation of the investment project and the validity of the investment agreement;

the rights and responsibilities of the investor (investors) and the Republic of Belarus - the parties of the investment agreement;

the responsibility of the parties of the investment agreement for failure to comply with its conditions, including the compensation to the investor (investors) for actual damages suffered as a result of unlawful actions (inaction) of executive officers of the state bodies and (or) executive committees or other state body (organization), not specified in the second subparagraph of the first part of sub-item 1.2 of this clause, as well as the right for the unilateral refusal of the Republic of Belarus to perform its obligations under the investment agreement in case of non-compliance or an inadequate compliance of obligations by the investor (investors);

the requirement of confidentiality of information;

the procedure and the body for the settlement of disputes between the parties of the investment agreement connected with the provisions of the investment agreement. As a body for settling the dispute there may be determined a foreign court, the arbitration court (tribunal) created on the territory of a foreign state if the investor is a natural person or a legal entity of a foreign state and the international agreement concluded by the Republic of

Belarus, including on the protection of investments, such a court shall be determined as the competent body on the settlement of a dispute;

1.5. the investment agreement shall be drawn up in Russian or Belarusian. If a party of the investment agreement is a foreign legal entity or a natural person, an investment agreement shall be drawn up in Russian or Belarusian, as well as in a foreign language as agreed by the parties;

1.6. on the issue of attracting investments, conclusion of investment agreements and implementation of investment projects the investor can cooperate in the manner established by the Council of Ministers of the Republic of Belarus with the state bodies and executive committees, National Agency for Investments and Privatization State Agency, or with natural persons or legal entities authorized to represent the interests of the Republic of Belarus on the issues of attracting investments to the Republic of Belarus;

1.7. changing the investment agreement and its termination by the agreement of the parties shall be performed in the manner that is similar to the manner determined for the conclusion of such an investment agreement.

In this case a business plan of the investment project and the performance of a state comprehensive expert examination of the investment project shall be required only in case of providing to the investor and (or) the organization in the manner established in the Republic of Belarus by this investor or with his participation of additional benefits and privileges, not established by the legislative acts, this Decree and other decisions of the President of the Republic of Belarus.

2. The investor and (or) the organization created in the Republic of Belarus by this investor or with his participation after the conclusion of the investment agreement during the implementation of the investment project:

2.1. shall be entitled for:

the construction of the objects provided by the investment project, in parallel with the development, expert examination and approval of the necessary project documentation for each stage of the construction in the established manner with the simultaneous project planning of the subsequent stages of the construction. In case of application of the project documentation developed in accordance with the international norms and standards in the field of construction, entered into force on the territory of the Republic of Belarus, the works on linking the objects to the place of their accommodation taking into account the technical specifications for engineering and technical support and the results of geologic and geodetic surveys shall be performed. In other cases the application of the project documentation that was developed abroad, its adjustment for bringing to correspondence with the requirements of normative legal and technical regulations of the Republic of Belarus shall be performed;

leasing of a land plot of the required size without holding of an auction for the right to lease a land plot in the proposed location for the placement of the construction of the objects provided by the investment project (hereinafter

referred to as the Land Plot), with the execution of the necessary documents for the allotment of the land plot at the same time performing the works on the construction. In this case the investor prior to the state registration in the established manner of the creation of the objects, provided by the investment project, and the emergence of rights on them shall not be entitled to make deals with these objects and (or) the provided land plot which involves the transfer of rights (providing the possibility of the transfer of rights) to other persons;

the construction of objects provided by the investment project, with the right of removal of the objects of flora without making compensation payments for the objects of flora to be removed. The timber obtained in this case shall be sold in the manner prescribed by the law;

the deduction of the full amount of value added tax (except for the tax amounts not deductible under the law), paid during the acquisition (the import to the territory of the Republic of Belarus) of the goods (works, services), property rights used for the project planning, construction (reconstruction), equipment of the objects provided by the investment project, regardless of the amount of value added tax, calculated on the sale of the goods (works, services), property rights. The amount of value added tax that is deductible in full shall be determined by means of separate accounting of tax deductions depending on the direction of use of the acquired (imported to the territory of the Republic of Belarus) goods (works, services), property rights. The basis for such a deduction shall be a list of the goods (works, services), property rights acquired (imported into the territory of the Republic of Belarus) and used for the project planning, construction (reconstruction), equipment of the facilities provided by the investment project with the indication of the amounts of value added tax provided by the investor and (or) the organization created in the Republic of Belarus by this investor or with his participation in the established manner to the tax authorities. This list, unless otherwise established by the President of the Republic of Belarus, should be agreed by the state body or the executive committee concluded the investment agreement or authorized by the Council of Ministers of the Republic of Belarus on its approval by the state body (organization), including those not listed in the second subparagraph of the first part of sub-item 1.2. of clause 1 of this Decree, in case of conclusion of the investment agreement in accordance with the third paragraph of the first part of sub-item 1.2. of clause 1 of this Decree. The procedure for the approval of this list shall be determined by the Council of Ministers of the Republic of Belarus;

the determination without holding a tender of the general project organization, the general contractor, the subcontractor project, construction and other organizations for the construction of the objects provided by the investment project, as well as their repairs, reconstruction, restoration and creation of living environment;

2.2. shall be exempted from:

the payment for the right to conclude a lease agreement for the land plot transferred to the republican or local budget or to the development fund of the corresponding free economic zone;

the land tax or the lease payment for the land plots being the state property, provided for the construction of the objects assumed by the investment project for the period of the project planning and construction of such objects up to December 31 of the year following the year in which the construction of the mentioned objects was completed;

the compensation for losses of agricultural and (or) forestry production, caused by the seizure of the land plot;

the deductions to the innovative funds for the duration of the investment agreement;

the import duties (taking into account the international obligations of the Republic of Belarus) and the value added tax levied by the customs authorities during the import of the processing equipment into the territory of the Republic of Belarus (components and spare parts to it) for its use on the territory of the Republic of Belarus within the framework of the investment project. The document confirming the application of such benefits shall be a list of the goods imported by the investor and (or) organization, created in the in the Republic of Belarus by this investor or with his participation in the established manner for the implementation of the investment projects. This list, unless otherwise established by the President of the Republic of Belarus, should be agreed by the state body or the executive committee concluded the investment agreement or authorized by the Council of Ministers of the Republic of Belarus on its approval by the state body (organization) including those not listed in the second subparagraph of the first part of sub-item 1.2. of clause 1 of this Decree, in case of conclusion of the investment agreement in accordance with the third paragraph of the first part of sub-item 1.2. of clause 1 of this Decree. The procedure for the approval of this list shall be determined by the Council of Ministers of the Republic of Belarus. In case of the unauthorized use of the goods imported with the provision of such benefits, the customs duties and value added tax shall be levied in accordance with the law;

the payment of the state duty for the issuance of permits to attract the foreign labour force into the Republic of Belarus, special permits for work in the Republic of Belarus, and foreign citizens and stateless persons, attracted by the investor and (or) organization, created in the Republic of Belarus by the investor or with his participation in the established manner for the implementation of the investment project - for the issuance of permits for temporary residence in the Republic of Belarus. In this case the term for taking a decision about the issuance (the refusal to issue) of special permits for work in the Republic of Belarus to foreign citizens and stateless persons engaged by the investor for the implementation of the investment project may not exceed seven calendar days, and the term for the submission of the conclusion about

the possibility (impossibility) to attract a foreign citizen, a stateless person - two working days;

the value added tax and the income tax the obligation on the payment of which arises in connection with the gratuitous transfer of capital structures (buildings, constructions), isolated premises, assets under construction and other fixed assets transferred in the manner prescribed by the law for the implementation of the investment project to the property of the investor, and (or) the organization created in the Republic of Belarus in the established manner by this investor or with his participation.

3. Control over the compliance with the conditions of the investment agreements concluded and registered in the State register of investment agreements with the Republic of Belarus, including the performance by the investor of obligations committed by him shall be performed by the Council of Ministers, the relevant state bodies (organizations) and the executive committees, as well as the Committee of State Control.

4. For the Council of Ministers within three months from the date of official publication of this Decree:

to make proposals in the established manner on bringing the legislative acts into compliance with this Decree;

to bring the decisions of the Government of the Republic of Belarus into compliance with this Decree and to take other measures on its implementation;

to ensure bringing by the state bodies of their normative legal acts into compliance with this Decree.

5. To recommend to the regional and Minsk city Councils of deputies to provide the exemption of investors and (or) organizations created in the Republic of Belarus in the established manner by these investors or with their participation implementing the investment projects from the payment of target duties to local budgets.

6. This Decree shall enter into force three months after its official publication, except for paragraph 4 and the first part of this paragraph entering into force on the date of the official publication of the Decree, shall be temporary and in accordance with part three of Article 101 of the Constitution of the Republic of Belarus submitted for consideration of the National Assembly of the Republic of Belarus.

This Decree shall not be applied to the investment agreements concluded before the entry of this Decree into force.

President of the Republic of Belarus

A.Lukashenko

* unofficial translation *