

# Viet Nam

**A DESTINATION FOR  
FOREIGN INVESTMENT**



**A guide for business and investment  
in Viet Nam**



# Why Viet Nam?

- a stable political and economic environment
- a growing economy with great potential
- a secure and comprehensive legal framework for investment
- a firm commitment to integrate into the world trading system
- an attractive package of investment incentives
- an emerging market with nearly 80 million people
- a new investment location with diverse opportunities
- highly skilled and low cost labour

## Acknowledgements

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Investment Legislation and Promotion Department  
Ministry of Planning and Investment

*Information contained in this book has been prepared based on the existing legislation as of September 2002 and is only intended as a general guide for businessmen and investors. Where specific investment activities and/or any other related transactions are being contemplated, definitive provisions of proper laws and regulations should be sought.*

## Message from His Excellency, the Minister of Planning and Investment, Vo Hong Phuc

Ha Noi, October 2002

Dear investors,

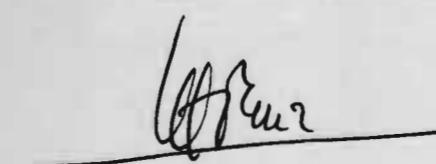
As a result of the renovation policy initiated since 1986, Viet Nam has an impressive record of achievements with an economic growth rate averaging 8.2% annually during the 1991-1995 period, and 7% from 1996 to 2000. The continued growth of domestic savings is an important condition for Viet Nam to bring into full play its advantages in attracting and using foreign capital sources.

Since the introduction of the Law on Foreign Investment in 1987, foreign direct investment ("FDI") in our country has strongly contributed to the implementation of socio-economic goals, leading our country out of economic crisis and strengthening its position and power on the international stage.

Having entered the new millennium with new opportunities and challenges for the country's socio-economic development, the Vietnamese Government consistently commits to integrate its economy into the multi-lateral trading system, and confirms that an economy with foreign invested capital is an important part of our socialist-oriented market economy. The Government encourages the long-term development of FDI and its equality with other sectors of the economy.

With the potential and opportunities that exist in a broad range of economic sectors of today's Viet Nam, it is my pleasure to invite you to invest in this very promising market in order to share its success.

Minister of Planning and Investment



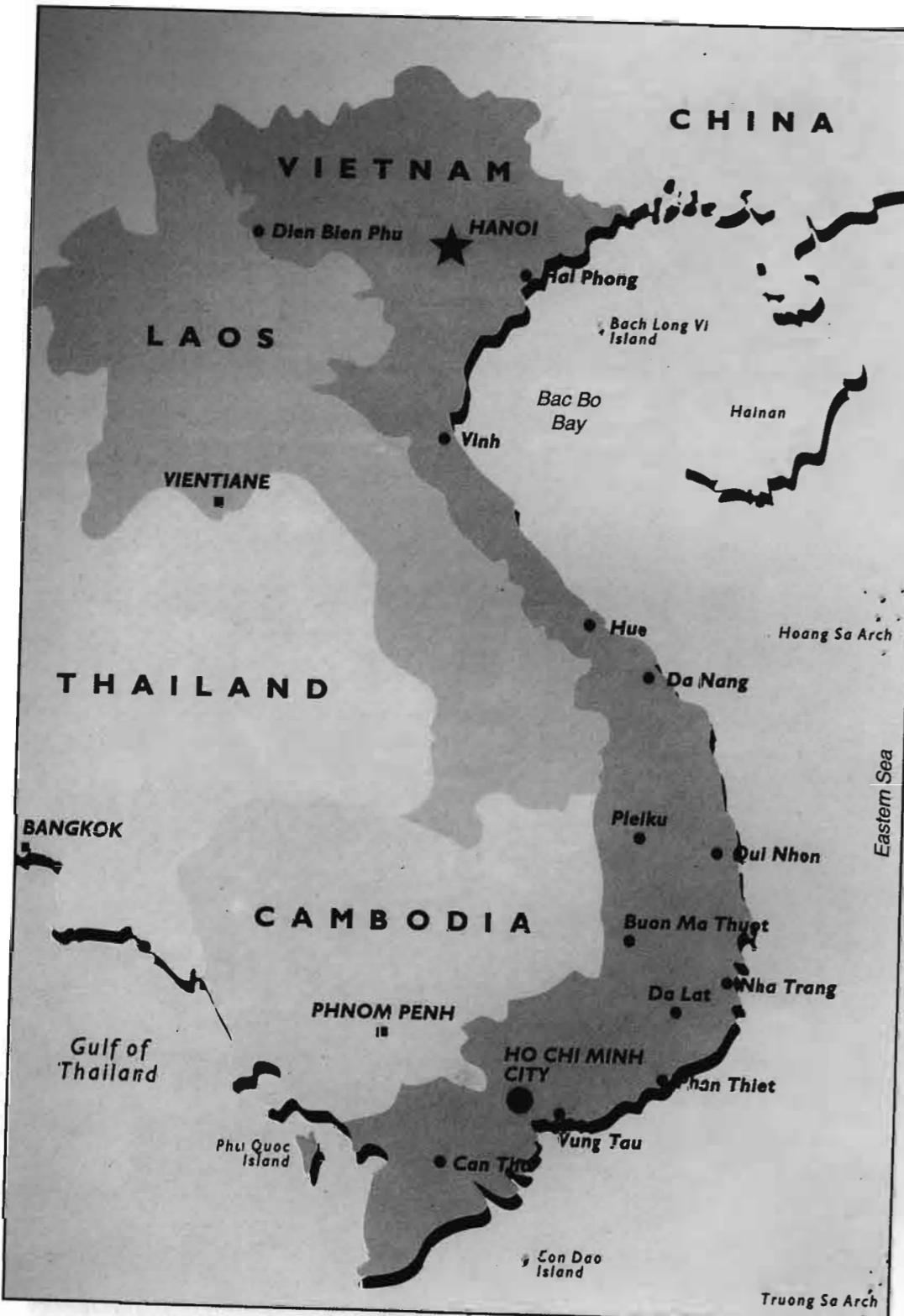
Vo Hong Phuc

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VIET NAM -  
COUNTRY  
AND PEOPLE





**Capital**

Ha Noi

**Location**

The country is situated in the East of the Indochina peninsula, in the centre of Southeast Asia. It borders China to its North, Laos and Cambodia to its West, the ocean to its East and South.

**Area**

331,689 sq. km (Mountains and tropical forests cover three-quarters of the country). The distance between the northernmost and southernmost points is 1,650 kms.

**Coastline**

3,260 kms

**Major cities**

In the North: Ha Noi, Hai Phong  
In the Centre: Hue, Da Nang, Qui Nhon  
In the South: Ho Chi Minh City, Nha Trang, Can Tho

**Topography**

The North consists of highlands and the Red River Delta. The South is divided into coastal lowlands, central highlands with a high plateau and the Mekong River Delta.

The two "Rice baskets" are the Red River Delta (15,000 sq. km) and the Mekong River Delta (40,000 sq. km).

Major rivers: the total length of all rivers is 41,000 kms with a water flow of approximately 300 billion cubic meters and 3,100 kms of channels.

The Red River is 1,149 kms long, of which 510 kms flow in Vietnamese territory. The Mekong River is 4,220 km long, of which 220 kms flow in Vietnamese territory.

**Climate**

Viet Nam lies wholly within the monsoon tropics. Its weather is hot and humid, and rainfall varies according to the season.

Humidity averages 84%. Average annual rainfall is around 223cm. Viet Nam has two climatic regions:

- The Southern and Central Regions have a tropical climate with a rainy and a dry season and they are warm and humid throughout the whole year. The temperature varies from 25°C to 39°C.



POLITICAL,  
LEGISLATIVE,  
ADMINISTRATIVE  
SYSTEMS,  
AND  
INTERNATIONAL  
RELATIONS

## Political and administrative system

Viet Nam is a socialist country operating under the leadership of the Communist Party. A nation-wide Congress of the Viet Nam Communist Party is held every five years when the country's orientation and strategies are examined, and its chief policies on and solutions for socio-economic development are adopted.

**The National Assembly** is the highest organ of State and legislative power in accordance with the 1992 Constitution (as amended in December 2001). The National Assembly decides fundamental domestic and foreign policies, socio-economic policies, and national defence and security issues etc. Each Legislature of the National Assembly runs for a term of five years and the National Assembly holds two regular sessions each year and, whenever necessary, extraordinary sessions are convened.

**The Standing Committee of the National Assembly** is a permanent body of the National Assembly that is entitled to enact ordinances and resolutions. The Standing Committee also supervises the implementation of the Constitution and resolutions of the National Assembly, as well as the activities of the executive and juridical branches of government and locally elected bodies.

**The State President** is elected by the National Assembly for a term equivalent to that of the National Assembly. Among the duties and powers of the State President is to promulgate the Constitution, laws and ordinances; and to negotiate and sign international agreements on behalf of the Socialist Republic of Viet Nam.

**The Government** is the executive organ of the National Assembly and the highest body of the State administration of the Socialist Republic of Viet Nam. The Government exercises administrative power at all levels of the administrative system.

**The Prime Minister**, who is charged with the day to day handling of the Government, has the right to nominate and dismiss members of his cabinet, though only with the approval of the National Assembly.

**The People's Supreme Court** is the highest judicial body of the Socialist Republic of Viet Nam.

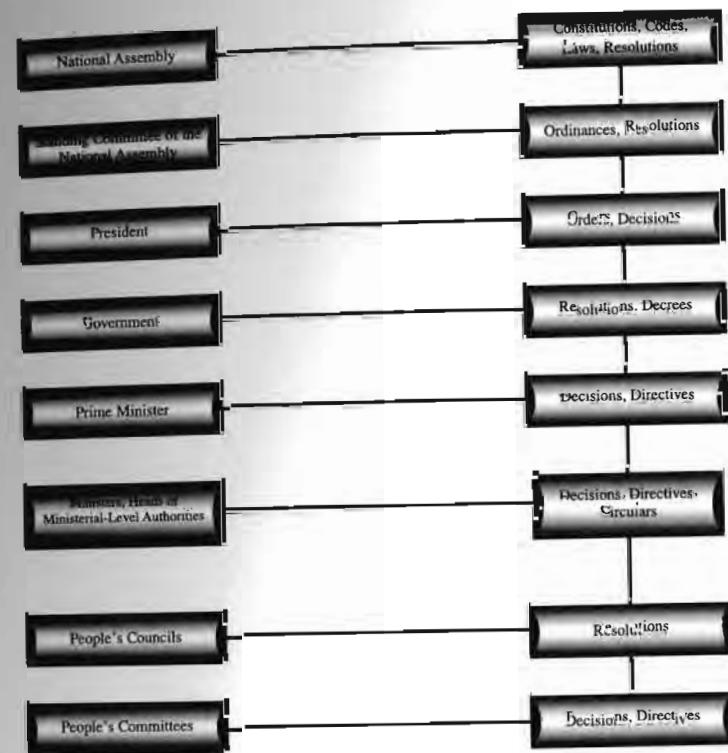
**The People's Supreme Procurary** exercises the right of prosecution and supervision in respect of the jurisdictional activities.

**Local government consists of:**

- People's councils of various administrative levels elected by the population of the locality.
- People's committees of various levels representing the executive arm of the people's councils.
- The local People's Court and the local People's Procurary is set up at provincial and district levels.

## Current law system

In descending order, the hierarchy of laws in Viet Nam comprises:



## International relations

Today, Viet Nam currently maintains diplomatic relations with 167 countries, including all the world powers, and has economic and trade links with more than 150 countries and territories. The nation's international and regional economic integration process is expanding. Viet Nam became an official member of ASEAN in July 1995, a founder member of ASEM in 1996, and has been a full member of APEC since 1998. The country has normalised diplomatic relations with the US since 1995 and in the same year, signed the Framework Agreement on co-operation with the EU. Simultaneously, the relationship with multinational financial institutions such as the World Bank, the International Monetary Fund, and the Asian Development Bank has been re-established.

Viet Nam recognizes the substantial role and significance of the WTO in the development of the global economy as well as the economic growth of individual countries. The country has therefore decided to apply for WTO membership with a view to expanding its economic, trade and investment ties with other WTO members, reflecting a firm resolve to continue the process of integration of Viet Nam's economy into the world trading system.



## ECONOMIC ENVIRONMENT



## Overview of the economy

Viet Nam has been carrying out economic reforms since 1986 under the "Doi Moi" (Renovation) policy, focusing on market oriented economic management; restructuring to build a multi-sectoral economy; financial, monetary and administrative reform; and the development of external economic relations. One of the most important aspects of economic reform in Viet Nam is the encouragement of domestic and foreign direct investment. The Enterprise Law (which replaced the Company Law and the Law on Private Enterprises) has had a profound impact on the development of the private sector in Viet Nam. The Law on Foreign Investment was promulgated in 1987 and amended in 1990, 1992, 1996 and 2000. The Law is now considered among the most liberal investment laws in the region.

The 1992 Constitution (as amended on 25 December 2001) reaffirms that the State of Viet Nam undertakes a policy of treating equally economic sectors in various forms regardless of the type of ownership. Accordingly, all economic sectors are integral parts of the socialist oriented market economy, and organizations and individuals of all economic sectors are entitled to manufacture and do business in the sectors which are not prohibited by law, and to develop for the long term, collaboratively, equally and competitively under the law.

Since 1986 Viet Nam has recorded important achievements in socio-economic fields. During the period of 1991-1995, GDP grew by 8.2% per annum on average. Between 1996 and 2000, despite adverse impacts caused by the regional financial crisis, GDP growth continued to reach nearly 7%. As a result, GDP in 2000 doubled that of 1991. This greatly helps to improve people's living conditions and to take the country to a higher level of development.

## Principal economic sectors

GDP Growth Rate by economic sectors

	1996	1997	1998	1999	2000	2001	2002*
GDP	9.3	8.1	5.8	4.8	6.7	6.8	7.0
Agriculture-forestry & fishery	4.4	4.0	3.5	5.2	4.0	2.7	5.0
Industry & construction	14.4	13.5	8.3	7.7	10.1	10.4	12.2
Services	10.6	10.0	5.1	2.3	5.6	6.1	6.7

Source: General Statistics Office

\* Estimated

Achievements during the past few years include the following highlights:

- *Agriculture has continued to maintain its relatively good development with an annual growth rate of over 5.7%. This has contributed to maintaining the socio-economic stability of the country and providing improved support to the hunger eradication, poverty alleviation and employment creation programs. The cropping structure has changed and per hectare agricultural productivity has increased in many regions. Aquaculture and fishing have increased rapidly, and now account for 15% of the total value of agricultural production. Export income from aquatic products has increased considerably.*
- *Difficulties and challenges in the industrial sector have been overcome, bringing about positive results. Industrial growth averaged 13.5% over the last five years. In 2001 alone, the industrial production value increased by 14.5%, with a relatively good growth rate of 19.5% in private business. This is attributed to the policies and positive impacts of the Enterprise Law.*

Production capacity has risen in several industries, not only ensuring adequate food, clothing, shelter, transport, education and other fundamental consumer needs, but also being available for increased exports. Growth has also been recorded in several key strategic products, which has had a major impact on high growth economic sectors.

The industrial structure has changed considerably, developing some leading products, some industrial areas, and some industrial zones that utilize modern production technologies. The mining industry accounted for 15% of the total value of industrial production, of which oil and gas alone accounted for 11.2%; manufacturing accounted for 79%, of which the food processing industry accounted for 23.6%; and power supply and distribution and water supply accounted for 6.0%, of which power supply accounted for 5.4%.

Industrial growth (% increase on 1994 price)

	Total	By ownership		
		State	Non-state	FDI
1996	14.2	11.6	11.5	21.7
1997	13.8	10.8	9.5	23.2
1998	12.5	7.7	7.5	24.4
1999	11.6	5.4	10.9	21.0
2000	15.7	12.3	18.3	18.6
2001	14.2	12.7	20.3	12.1

➤ *The services sector has developed its operations despite serious difficulties, and has improved its quality, meeting the demands of economic growth and the people.*

Trade has been growing relatively well. Markets are more open and transparent with the in almost all economic sectors. Business methods have become more diversified, and there has been an annual average increase of about 12.7% in total retail sales.

Further progress has been recorded in the tourism industry. Numerous tourist centres have been upgraded and renovated and the types of tourism have diversified, resulting in an average increase in total tourism revenue of 9.7% per year.

Transport services basically have met the demands of cargo and passenger transportation. The physical infrastructure of the transport sector improved considerably. The volume of cargo and passengers transported annually increased by 12% and 5.5% respectively.

Post and telecommunications services have developed rapidly. The basic telecommunications network has been modernized. Many modern communication modes to the international network have taken shape, meeting the public's initial communication and trading requirements. Growth in revenue has averaged more than 15% per year.

The insurance services market has been formed with the participation of domestic and foreign enterprises from all economic sectors. Significant renovation has been achieved in financial and banking services. Other services, like legal, scientific and technical consulting services, have started growing.

#### Major economic objectives of 2001-2005

The IX Party Congress has formulated the following key economic targets for the Five Year Plan for 2001-2005

- ⇒ GDP will growth annually at 7.5% to reach double 1995 levels by the end of the period
- ⇒ Growth for each sector is targeted at:
  - agriculture, forestry & fishery 4.3% p.a.
  - industry & construction 10.8% p.a.
  - services 6.2% p.a.
- ⇒ Industrial output will increase:
  - agriculture, forestry & fishery 4.8% p.a.
  - industry & construction 13.0% p.a.
  - services 7.5% p.a.
- ⇒ Export revenue to increase by 16% p.a.
- ⇒ Target GDP structure by 2005 will be:
  - agriculture, forestry & fishery 20% to 21%
  - industry & construction 38% to 39%
  - services 41% to 42%

## External trade

During the period of 1996-2000, total export revenue increased by 21.5% per year, three times that of 1991-1995. Both the structure and quality of exports are much improved. The proportion of industrial products, especially handicraft exports, has risen considerably. Total imports increased 13.3% per year. The trade deficit decreased from 49.6% in 1995 to 6.3% in 2000. Export revenue reached US\$186 per capita in 2000. While this is still slow, Viet Nam is classified as an economy with a developing foreign trade system.

Despite a downturn in the global market in 2001, and sharply reduced prices for many goods, such as rice and coffee, export revenue for 2001 increased by 8%, and the trade balance is improving, creating balance of payments stability and an increase in foreign exchange revenue.

## Official Development Assistance (ODA)

Since 1993, Viet Nam has received considerable assistance from the international community for socio-economic development. ODA has played an important role in helping to create opportunities for Viet Nam to achieve economic growth, alleviate poverty, and improve living standards.

Up to now, Viet Nam has established strong development cooperation relations with some 25 bilateral and 15 multilateral donors and 482 non-government organizations (NGOs). Eight Consultative Group Meetings (CG Meetings) for Viet Nam have been organized successfully since 1993, with the international donor community committing to provide Viet Nam with US\$19.94 billion.

To utilise committed ODA, the Government of Viet Nam and donors have signed detailed agreements with a total ODA value of US\$ 14.3 billion from 1993 to 2001. About US\$12.0 billion (83.9%) of total ODA has been provided as loans and about US\$2.3 billion (16.1%) as grant aid.

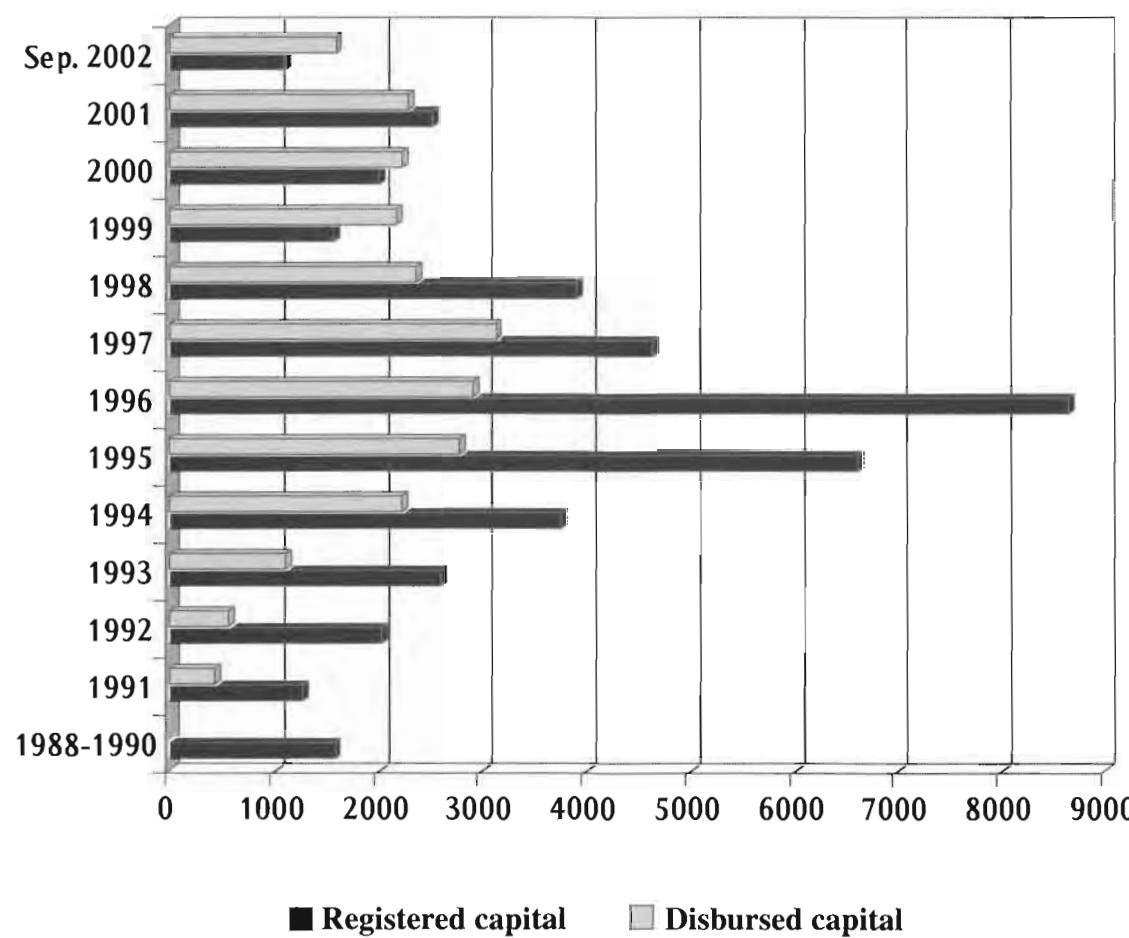
## Foreign Direct Investment (FDI) in Viet Nam

### Current status

Since the introduction of the Law on Foreign Investment in 1987, there have been 3,770 licensed foreign investment projects with more than US\$41 billion registered capital. Leaving aside projects which have expired or been withdrawn, there are 3,047 active licenced projects with a total US\$38.9 billion registered capital.

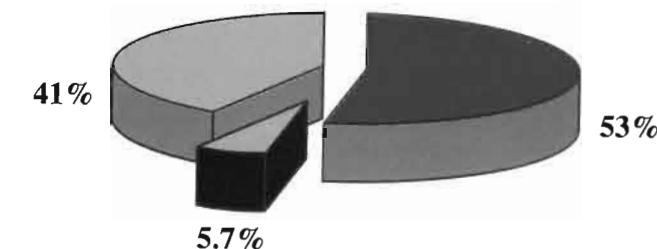
Up to now investors from more than 70 countries and territories have invested in Viet Nam. Asia accounts for 64%, Europe 21%, and North American and Caribbean countries 13%. The top five are Singapore, Taiwan, Japan, Hong Kong and South Korea. These five countries and territories have invested in 2,250 projects (59.7% of the licensed projects) with total investment capital of US\$22 billion (53.5% of the total foreign investment capital of Viet Nam). The next five countries and territories are France, British Virgin Islands, England, Russia and the USA. These "top ten" countries and territories account for over 3/4 of the total licensed projects and foreign registered capital in Viet Nam.

#### FDI Flow into Viet Nam in the period 1988-2002



From 1996 to 2002 there has been a tendency towards investment in producing goods for export, construction of infrastructure, producing import substitutes and in labor-intensive industries. There are more than 2,500 projects in the manufacturing and construction industries with a total capital of about US\$26 billion, accounting for 67% of the registered capital.

#### FDI Distribution by Sectors



■ Industries    □ Agriculture    □ Services

There are foreign invested projects in most provinces and cities in Viet Nam. However most foreign investors invest in the key economic areas in the South such as Ho Chi Minh City, Dong Nai, Binh Duong, Ba Ria Vung Tau, and in the North in Ha Noi, Hai Duong, Hai Phong and Quang Ninh, but particularly in Ha Noi and Ho Chi Minh City which have more developed infrastructure, higher purchasing power and a more skilled labor force.

The key economic area in the South of Viet Nam accounts for about 60% of the licensed projects and 53% of the total registered capital, whereas the Northern one accounts for 19.4% of the licensed projects and 26.4% registered capital.

In recent years there has also been an increase in projects in the 100% foreign owned form. These projects now account for 61% of the total licensed projects and 32.8% of the registered capital, while the projects in the joint venture form make up 34.2% and 53% respectively. There are also 6 BOT projects in operation in Viet Nam (water supply plants and electricity plants) with a total registered capital of US\$1.3 billion.

The foreign invested sector has seen rapid growth, gradually asserting itself as a dynamic component of the economy, and has made an important contribution to enhancing the competitiveness and efficiency of the economy. In recent years, the foreign invested sector has accounted for a quarter of the country's total investment, for 34% of industrial output, for 23% of the national export (excluding oil and gas), and for 13% of the GDP of Viet Nam.

#### FDI Contribution to GDP (%)

	1996	1999	2000	2001
GDP	100.0	100.0	100.0	100.0
State	39.9	38.7	39.0	39.0
Non State	52.7	49.1	47.7	48.0
FDI	7.4	12.2	13.3	13.0

Source: General Statistics Office

### Future directions and solutions for FDI attraction

On 28 August, 2001, for the first time, the Vietnamese Government issued a separate Resolution on further attracting and improving the efficiency of FDI. The Resolution has set out the following objectives, directions and solutions for FDI attraction in the period of 2001-2005:

#### 1. Objectives:

- Registered capital of newly licensed projects: Approximately US\$12 billion.
- Disbursed capital: Approximately US\$11 billion.
- By 2005, capital contribution of around 15% of GDP, 25% of the total export turnover, and approximately 10% of the total budget revenue for the whole country (excluding petroleum).

#### 2. Directions:

- To strongly encourage the attraction of foreign direct investment to processing industries, to industries producing exported goods, and to industries servicing agricultural development and the rural economy; to strongly encourage projects applying informatics technology, biotechnology, petroleum, electronics, new materials, telecommunications, the production and development of socio-economic infrastructure, and the modern technology industries in which Viet Nam has a competitive edge, creating more jobs and helping to transform them into an economic structure.
- To continue to attract foreign direct investment to geographical areas with resources which can be harnessed. To provide maximum incentives to foreign direct investment in areas with difficult socio-economic conditions, and to promote infrastructure construction in such areas with other funding in order to facilitate the foreign direct investment activities. To attract foreign direct investment especially into the industrial zones which have already been built in accordance with the approved planning.
- To attract foreign direct investors from all countries and territories into Viet Nam, especially those with substantial financial backing and those from countries which have developed advanced technology, and to continue to attract foreign direct investors from the region.

#### 3. Solutions:

- Further improvement of the legal system in respect of foreign investment, making it more attractive, open, transparent and stable, subsequently, to establish a common legal basis for both foreign and domestic investors.
- Development of a policy system to improve the competitiveness of the business environment with the following directions: (i) to continue to reduce fees and charges for certain services; (ii) to improve the land, foreign exchange and tax regulations to facilitate the implementation of the licensed projects; (iii) to adopt more incentives for the businesses producing exports and businesses manufacturing spare parts and or components.
- Diversification of the form of investment to deploy more investment options, experimental equitisation of selected foreign enterprises. Gradually opening the real-estate market, service and commercial sectors to be in line with world economic integration.
- Improvement of State management capability at all levels, expanding the authorities and responsibilities of local authorities in order to resolve problems of investors in a timely manner.
- Simplifying administrative procedures to save time and costs for businesses, strengthening the confidence of investors. Reviewing and eliminating unnecessary regulations and licences that are obstructing business activities. Expanding the list of projects that are required only to register for investment licences.
- Further improvement of and investment in infrastructure such as the supply of electricity, water, information, etc., as well as improving the quality of banking, financial and technological services to make them more favorable for business activities.
- Improving the supply of information on the investment environment and policies, and strengthening investment promotion activities.



As the first licensed foreign law firm in the country, Phillips Fox has enjoyed a long and successful presence in Vietnam.

Phillips Fox has fully licensed branch offices in Hanoi and Ho Chi Minh City which are staffed by seven expatriate lawyers who between them have over 30 years experience in Vietnam.

Phillips Fox provides a complete range of legal services in Vietnam including the following:

- With the assistance of local lawyers, advice on Vietnamese law, particularly foreign investment law.
- Advice on all matters involving international and general commercial law.
- Negotiation, drafting and translation of international and Vietnamese legal documents in English and Vietnamese.
- Assistance throughout licensing and implementation of all foreign investment projects.
- Identification of business partners and referral service.
- Undertaking local research in relation to various inquiries.
- Presentation of seminars, workshops and lectures to government authorities and visiting delegations.
- Translating and interpreting.

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# Freehills

Freehills' involvement in Vietnam goes back to 1987 when we started a fly-in, fly out operation to suit our clients' needs. In 1994 we established our offices in Hanoi and Ho Chi Minh City and in 1996 Freehills was in the first group of foreign law firms to be granted branch office status.

Freehills, which was formerly known as Freehill Hollingdale & Page, merged all of its State offices in Australia on 1 July 2000, to form one national partnership, formally unifying our considerable resources across Australia and Asia.

In Vietnam, we advise international companies on all aspects of foreign investment including telecommunications, water, power, port and construction projects, mining, oil and gas, industrial sectors, services sectors, banking and finance and intellectual property.

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# VISION

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Patent & Trademark Agents  
Investment & Management Consultants

**VISION** is a Vietnamese professional consulting and law firm in Vietnam. Our partners, lawyers, associates and consultants have varied legal, financial, business, investment and technical backgrounds. The Firm is structured into three practice groups, namely Consulting Practice Group, Legal Practice Group and Intellectual Property Practice Group, which work closely with one another to take advantages of combined knowledge of three practice groups in order to provide comprehensive services to clients. The partners' extensive experience in the major areas of the practice, including substantial national and international contacts, allow the Firm to advise clients on variety of domestic and international matters. The Firm's lawyers and consultants are qualified to meet the diverse needs of our clients.

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The Firm's Intellectual Property Practice covers not only Vietnam, but also Laos and Cambodia through the Firm's associated offices.

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# INVESTCONSULT GROUP

CONSULTANTS, LAWYERS, PATENT AND TRADEMARK ATTORNEYS

## COMPANY PROFILE



Chairman/ General Director:  
Mr. Nguyen Tran Bat

With over 14 years of development, InvestConsult Group nowadays has become a group of leading business and legal consultancy companies in Vietnam with 220 full-time staffs and nearly 100 part-time collaborators. Operating in its offices in Hanoi, Ho Chi Minh City and Can Tho, InvestConsult Group is now known not only as leading professional consulting company, having most experiences involved in hundreds of foreign investment projects in Vietnam, but also being a high-level development consultant for various central and provincial authorities in Vietnam.

## MAIN SERVICES

### Consulting services for investment projects

- Survey and analysis in market and business environment
- Consulting services for foreign investment projects (pre- and post-licensed)
- Representative office/ branch office establishment
- Investment preferential

### Consulting services for development projects

- Sociological surveys
- Policy and institutional development
- Technical assistance for development projects

### Legal consulting

- Enterprise establishment and restructure
- Insurance and labor
- Disputes settlement, debt recovery
- Translation service and Legal Update

### Intellectual property services

- Protection of trademark and other intellectual property objects
- Patent, utility solution and industrial design
- Licensing, franchising, technology transfer
- Copyright
- Enterprise equitization

### Business promotion and public relation

- Organizing communication events, review and press conference
- Information advertisement

### Ho Chi Minh Branch office

15 Nguyen Thi Dieu, Ho Chi Minh City

### Can Tho Branch office

131D Tran Hung Dao, Can Tho

BUSINESS  
AND  
INVESTMENT  
CLIMATE



## 1. An overview of the legal framework for FDI in Viet Nam

The main legislation governing foreign direct investment (FDI) activities is the Law on Foreign Investment in Viet Nam adopted by the National Assembly in 1987. This Law has been continuously amended and supplemented in 1990, 1992, 1996 and the latest changes were made in 2000.

With a view to creating a comprehensive legal framework for FDI activities in accordance with international standards, Viet Nam has signed and acceded to various bilateral and multilateral arrangements on investment, such as agreements for the promotion and protection of investments with 45 countries and territories, the ASEAN Framework Agreement on Investment (AIA), the bilateral trade agreement with the United States of America which contains an extensive investment chapter, the Convention on the Establishment of the Multilateral Investment Guarantee Agency (MIGA), and other related international investment agreements.

It should be noted that where the above international agreements contain provisions inconsistent with the provisions of the legal instruments on FDI, the provisions of those international agreements apply.

The application of foreign laws for FDI activities in Viet Nam is also allowed in cases where the Vietnamese law does not yet have provisions, provided that the application of the foreign laws is not inconsistent with the basic principles of the Vietnamese law.

### LIST OF BILATERAL AGREEMENTS FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

No	Countries/Territories	Date of signing
1	Italy	18 May 1990
2	Australia	5 March 1991
3	Thailand	30 October 1991
4	Belgium and Luxembourg	24 January 1992
5	Malaysia	24 January 1992
6	Philippines	27 February 1992
7	Germany	3 April 1992
8	France	26 May 1992
9	Switzerland	3 July 1992
10	Belarus	8 July 1992
11	Indonesia	25 October 1992
12	Singapore	29 October 1992
13	China	2 December 1992
14	Armenia	13 December 1992

No	Countries/Territories	Date of signing
15	Chinese Taipei	21 April 1993
16	Republic of Korea	13 May 1993
17	Denmark	25 August 1993
18	Sweden	8 September 1993
19	Finland	13 September 1993
20	Netherlands	10 March 1994
21	Ukraine	8 June 1994
22	Russia	16 June 1994
23	Hungary	26 August 1994
24	Poland	31 August 1994
25	Rumania	1 September 1994
26	Austria	27 March 1995
27	Latvia	27 September 1995
28	Cuba	12 October 1995
29	Lithuania	6 November 1995
30	Laos	14 January 1996
31	Uzbekistan	28 March 1996
32	Argentina	3 June 1996
33	Bulgaria	19 September 1996
34	Algeria	23 October 1996
35	India	8 March 1997
36	Egypt	6 September 1997
37	The Czech Republic	25 November 1997
38	Tajikistan	19 January 1999
39	Chile	16 September 1999
40	Mongolia	17 April 2000
41	Myanmar	12 May 2000
42	Cambodia	26 November 2001
43	P.D.R. Korea	3 May 2002
44	United Kingdom	1 August 2002
45	Iceland	20 September 2002

## 2. Investment guarantees

Under its laws and international obligations, the Vietnamese government provides a wide range of investment guarantees to foreign investors, including:

- \* guarantee of fair and equitable treatment between foreign investors and progressively phasing in non-discriminatory treatment for foreign investors and domestic investors;
- \* guarantee that the capital and other lawful assets of foreign investors will not be expropriated by administrative measures, except for a public purpose, under due process of law, on a non-discriminatory basis and with prompt, adequate and effective compensation;
- \* non-retrospective application in the event that the interests of investors are damaged by a change in the provisions of any law of Viet Nam;
- \* guarantee of ability to transfer profits derived from business operations, payments received from the provision of technology and services, the principal of, and interest on, any foreign loan obtained during the course of operation, investment capital, and other sums of money and assets lawfully owned.

## 3. Sectors and locations for investment encouragement

Foreign investors may invest in any sector of Viet Nam's economy other than the sectors or regions that may have an adverse effect on national defence, national security, cultural and historical heritage, customs and traditions, or the ecological environment. In particular, the Vietnamese government encourages FDI in the following sectors and regions:

- \* production of exports;
- \* animal husbandry, farming and processing of agricultural produce, forestry, and aquaculture;
- \* utilization of high technology and modern techniques, protection of the ecological environment and investment in research and development;
- \* labour intensive activities, processing of raw materials and efficient utilization of natural resources in Viet Nam;
- \* construction of infrastructure facilities and important industrial production establishments;
- \* regions with difficult and specially difficult socioeconomic conditions.

However, the Vietnamese laws also provide for a list of sectors in which licensing of investment is allowed subject to compliance with certain conditions. Except for those sectors included in such a list, an investor may on its own initiative select investment projects, investment partners, the form of investment, the locality, the duration of investment, the markets for the sale of products and its legal capital contribution ratio.

## 4. Investment forms and facilities for business and investment

### ❖ Business Cooperation Contract (BCC)

A BCC is a document signed by a Vietnamese party and a foreign party for the purposes of conducting investment and business in Viet Nam without creating a legal entity.

### ❖ Joint Venture Enterprise (JVE)

This is a limited liability company established on the basis of a joint venture contract signed by a Vietnamese party and a foreign party for the purpose of conducting investment and business in Viet Nam. In special circumstances, a JVE may be established on the basis of an agreement signed by the Government of Viet Nam with the Government of another country.

### ❖ 100 % Foreign Owned Enterprise (FOE):

A 100% FOE is established as a limited liability company, wholly owned by the foreign investor which manages the business itself and takes full responsibility for its business results.

**In the course of operations, subject to certain restrictions where investment sectors require certain forms of investment to be used, investors may convert their forms of investment or reorganize their licensed enterprises (i.e. by division, demerger, merger or consolidation).**

### ❖ Other facilities for investment and/or business presence

\* **Investing in industrial zones (IZs), export processing zones (EPZs) and high-tech zones (HTZs):** Foreign investors may invest in these zones in any of the above investment forms for the production of exports, industrial goods, conduct of export activities, and the provision of services for these activities.

\* **Investing under the forms of Build-Operate-Transfer (BOT), Build-Transfer-Operate (BTO) and Build-Transfer(BT) contract:** The construction and commercial operation of an infrastructure facility can be conducted using the form of a BOT, BTO and BT contract signed between foreign investors and an authorized Vietnamese State body.

In addition, foreign individuals and companies may establish other forms of business in Viet Nam which are not governed by the Law on Foreign Investment, including:

- \* **Representative offices:** A foreign business wishing to seek and promote opportunities for its investment and/or commercial activities in Viet Nam may apply for a representative office licence from the local People's Committee. Such a representative office is not allowed to conduct any profit-making activities.
- \* **Branch of a foreign company:** Foreign banks and foreign law firms may set up their branch in Viet Nam to provide banking and legal services respectively. In addition, a foreign business can apply for a branch licence from the Ministry of Trade. However, such a branch is only established for the purpose of exporting a limited number of goods stipulated by the Government such as handicrafts, and processed agricultural products (except rice or coffee in any form), industrial consumer goods, and meat from cattle and poultry and processed food stuffs.
- \* **Foreign contractors:** A foreign business may engage in construction services and have a management contract with a Vietnamese legal entity. In the contract, it will act as a foreign contractor operating on a project basis for a fixed period of time which may be extended as required.
- \* **Equity acquisition in a domestic enterprise:** As provided for in the Law on Encouraging Domestic Investment, foreign investors may acquire no more than 30% of a domestic enterprise's registered capital. However, foreign shareholdings in such enterprises are allowed only in some areas as stipulated by the Government.

## 5. Restrictions on foreign ownership

The establishment of a 100% foreign owned enterprise is not allowed in the following sectors: (i) telecommunications services (only allowed in the form of a BCC); (ii) exploration and exploitation of oil and gas, and precious and rare minerals; (iii) consultancy services (except for technical consultancy); (iv) air, rail and sea transportation; public passenger transportation; airport and port construction (only allowed for BOT, BTO and BT projects); (v) production of industrial explosives; (vi) afforestation; (vii) travel tours; and (viii) culture.

The legal capital of a foreign owned enterprise must be at least 30% of its investment capital and can not be reduced during the investment term. There is no ceiling on the foreign capital contribution to the legal capital of a joint venture enterprise but it must not be less than 30%.

## 6. Investment duration

In principle, the duration of an investment project is decided by investors but must not be more than fifty (50) years. Under regulations made by the Standing Committee of the National Assembly, the Government, on a project by project basis, may allow a longer duration but the maximum duration must not exceed seventy (70) years.

## 7. Tax & investment incentives

	SCOPE OF APPLICATION	TAX RATES AND INCENTIVES
Corporate Income Tax (CIT)	<p>Corporate Income Tax is levied on the profit earned by joint venture enterprises, 100% foreign owned enterprises, foreign parties to business cooperation contracts and joint venture banks.</p> <p>Note: Domestic enterprises, branches of foreign companies (including foreign bank branches) and foreign contractors are subject to separate regulations.</p>	<ul style="list-style-type: none"> <li>❖ <b>Standard rate:</b> 25%. Oil and gas and rare and precious natural resources projects are taxed at higher rates ranging from 32% to 50%.</li> <li>❖ <b>Preferential rates</b> of 10%, 15% and 20% apply for 15 years, 12 years and 10 years respectively starting from the commencement of operating activities where certain investment encouragement criteria are satisfied. Some specially-encouraged projects are entitled to preferential rates during the whole duration of the project.</li> <li>❖ <b>Tax holidays</b> in the form of a full exemption from CIT for a fixed period (1-8 years) starting from the first profit making year apply for projects subject to preferential tax rates. The tax holiday is usually followed by a period (up to 4 years) where a 50% tax reduction is available.</li> <li>❖ <b>Refund</b> of a portion or all of the tax paid on the income reinvested for at least 3 consecutive years is available if certain specific conditions are met.</li> </ul>
Value Added Tax (VAT)	<p>VAT applies to all goods and services used for production, trading and consumption in Viet Nam, other than those items which are specifically exempted under the VAT Law. Businesses engaged in the production or trade of goods/services subject to VAT must charge VAT on the value of the goods or services supplied.</p> <p>VAT also applies at the import stage. The importer must pay VAT to the customs office at the same time as it pays import duties. Import VAT may be exempted for certain imported goods.</p>	<ul style="list-style-type: none"> <li>❖ <b>VAT rates:</b> 0%, 5%, 10% (common rate), and 20% depending on the nature of the goods and services.</li> <li>❖ <b>VAT exemptions</b> are granted for some specific goods and services, including goods/services subject to Special Sales Tax. Where a business provides goods/services which are exempt from VAT, the business cannot claim input VAT.</li> <li>❖ <b>VAT refunds</b>, generally, are available where the input VAT exceeds the output VAT on a quarterly basis.</li> </ul>

	SCOPE OF APPLICATION	TAX RATES AND INCENTIVES
Import Duties	<ul style="list-style-type: none"> <li>- Generally, all imports are subject to duty in accordance with the Law on Export and Import Duties.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Import duty rates fall into 3 categories: <ul style="list-style-type: none"> <li>- Preferential rates are applicable to goods imported from countries which enjoy MFN treatment from Viet Nam;</li> <li>- Ordinary rates (which are equal to 150% of the respective preferential rate) are applicable to goods imported from countries which do not enjoy MFN treatment from Viet Nam;</li> <li>- Specially preferential rates apply to goods imported from countries which have a special preferential agreement with Viet Nam (e.g. ASEAN/CEPT).</li> </ul> </li> <li>❖ Exemptions from import duty are generally applicable to machinery, equipment, special means of transport and construction materials forming fixed assets of foreign invested projects which are not yet able to be domestically produced; and raw materials imported for processing goods for export, or for implementing BOT, BTO and BT projects.</li> </ul>
Export Duty	<ul style="list-style-type: none"> <li>- In principle, all exports are subject to export duty.</li> <li>- However, in practice, export duty is only imposed on a few items, mainly natural resources, minerals, forest and marine products &amp; scrap-metal.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Standard rates: 0% (common rate) to 45%</li> <li>❖ Exemptions from export duty are applicable to goods exported from an EPZ.</li> </ul>
Profits Remittance Tax (PRT)	<ul style="list-style-type: none"> <li>- PRT is levied on the profits remitted overseas by foreign investors.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Tax rates: 3%, 5%, 7% depending on the size of the capital contribution to legal capital of foreign invested enterprises or capital to implement business cooperation contracts (over US\$ 10 mil, between US\$ 5 mil and US\$ 10 mil, and less than US\$ 5 mil, respectively).</li> </ul>

	SCOPE OF APPLICATION	TAX RATES AND INCENTIVES
Capital Assignment Tax	<ul style="list-style-type: none"> <li>- Levied on the net gain derived by foreign investors from the assignment of capital or an interest in a foreign invested enterprise or a business cooperation contract.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Special rate of 3% or 5% regardless of the size of capital contribution applies to certain encouraged projects, such as projects in IZs, EPZs, HTZs, etc.</li> <li>❖ Standard tax rate: 25%</li> <li>❖ Exemption from capital assignment tax if the assignee is a State-owned enterprise</li> <li>❖ 50% reduction if the assignee is a Vietnamese enterprise other than State-owned enterprises</li> </ul>
Personal Income Tax (PIT)	<p>Levied on:</p> <ul style="list-style-type: none"> <li>- the world-wide income of foreigners who stay in Viet Nam for more than 182 days in a tax year (i.e. tax residents);</li> <li>- Viet Nam-sourced income of foreigners who stay in Viet Nam for between 30-182 days in a tax year (i.e. non-residents);</li> <li>- world-wide income of Vietnamese citizens either living in Viet Nam or working overseas.</li> </ul> <p>Both regular income and irregular income are subject to tax.</p>	<ul style="list-style-type: none"> <li>❖ Tax rates for regular income <ul style="list-style-type: none"> <li>- Flat rate of 25% applicable to Vietnamese non-residents.</li> <li>- Progressive tax rates vary from 10% to 50% in respect of monthly income exceeding VND 3 mil of Vietnamese citizens and foreigners settling permanently in Viet Nam;</li> <li>- Progressive tax rates vary from 10% to 50% in respect of monthly income exceeding VND 8 mil of foreigners who are Vietnamese tax residents, and Vietnamese citizens working overseas;</li> </ul> </li> <li>❖ Tax rates for irregular income <ul style="list-style-type: none"> <li>- Progressive tax rates: 10% to 30% applicable to both Vietnamese citizens and foreigners.</li> </ul> </li> <li>❖ PIT exemptions are applicable to some types of income such as hardship allowances, severance retrenchment allowances, etc. Dividends, interest and capital gains are currently not subject to PIT.</li> </ul>

It should be noted that apart from the above-mentioned taxes, depending on the nature and area of investment, there are several other taxes or financial obligations that may affect certain investors and/or foreign invested enterprises, including special sales tax, natural resources tax, foreign contractor withholding tax, land rentals, etc.

## List of Agreements on Avoidance of Double Taxation

No	Countries/Territories	Date of signing	Effective Date
1	Australia	13 October 1992	30 December 1992
2	France	10 February 1993	1 July 1994
3	Thailand	23 December 1992	31 December 1992
4	Russia	27 May 1993	21 March 1996
5	Sweden	24 March 1994	8 August 1994
6	Republic of Korea	20 May 1994	11 December 1994
7	United Kingdom	9 April 1994	15 December 1994
8	Singapore	2 March 1994	9 December 1994
9	India	7 September 1994	2 February 1995
10	Hungary	26 August 1994	30 June 1995
11	Poland	31 August 1994	21 December 1994
12	Netherlands	24 January 1995	25 October 1995
13	China	17 May 1995	18 October 1996
14	Denmark	31 May 1995	24 April 1996
15	Norway	1 June 1995	14 April 1996
16	Japan	24 October 1995	31 December 1995
17	Germany	24 October 1995	31 December 1995
18	Rumania	8 July 1995	24 April 1996
19	Malaysia	7 September 1995	13 August 1996
20	Laos	14 January 1996	30 September 1996
21	Belgium	28 February 1996	25 June 1999
22	Luxembourg	4 March 1996	19 May 1998
23	Uzbekistan	28 March 1996	16 August 1996
24	Ukraine	8 April 1996	22 November 1996
25	Switzerland	6 May 1996	12 October 1997
26	Mongolia	9 May 1996	11 October 1996
27	Bulgaria	24 May 1996	4 October 1996
28	Italy	26 November 1996	20 February 1999
29	Belarus	24 April 1997	26 December 1997
30	The Czech Republic	23 May 1997	3 February 1998
31	Canada	14 November 1997	16 December 1998
32	Indonesia	22 December 1997	10 February 1999
33	Chinese Taipei	6 April 1998	6 May 1998
34	Algeria	6 December 1999	
35	Myanmar	12 May 2000	
36	P.D.R. Korea	3 May 2002	

## 8. Accounting, auditing and insurance

A foreign invested enterprise and a foreign party to a BCC must apply the Vietnamese Accounting System. In cases where there is a legitimate reason for needing to apply a different commonly used foreign accounting system, the approval of the Ministry of Finance must be obtained. An independent auditing company licensed to operate in Viet Nam must audit the annual financial statements.

A foreign invested enterprise and a foreign party to a BCC may take out insurance under policies entered into with insurance companies licensed to operate legally in Viet Nam in accordance with the law.

## 9. Intellectual Property and Technology Transfer

The most comprehensive legal instrument on this matter is the Civil Code which provides, among other civil and ownership matters, for industrial property rights (e.g. inventions, utility solutions, industrial designs, trademarks, appellations of origin and other rights specified by law), and copyright.

Viet Nam is a signatory to several international conventions on intellectual property, including: (i) the Stockholm Convention Establishing the World Intellectual Property Organization (WIPO); (ii) the Paris Convention for the Protection of Industrial Property; (iii) the Madrid Agreement Concerning the International Registration of Marks; and (iv) the Patent Cooperation Treaty. Since 1996, Viet Nam has ratified the ASEAN Framework Agreement on Intellectual Property under which conformity with WTO-TRIPs is regarded as a basis for cooperation between ASEAN member countries in this field. Furthermore, under the bilateral trade agreement signed with the United States of America, Viet Nam has committed to fully comply with the obligations that coincide with those relating to the WTO-TRIPs Agreement.

In respect of technology transfer, Vietnamese laws provide for various ways in which foreign entities and individuals may transfer technology in Viet Nam, particularly:

- \* transfer of the title or the right to use inventions, patents, utility solutions, industrial designs, trade marks, and other intellectual property;
- \* transfer of technical know-how and knowledge in the form of technological solutions, documents, designs, formulae and technical specifications with or without equipment;
- \* technical assistance and provision of consultancy services, including training and the provision of information.

Any technology transfer contract must be made in writing and registered with, or approved by, the authorised State body.

## 10. Banking and Foreign Exchange

Vietnamese credit institutions comprise State owned credit institutions, joint stock or shareholding institutions, and cooperative credit institutions. Foreign credit institutions such as joint venture banks, foreign bank branches, and non-banking credit institutions with 100% foreign capital may be set up. To date, over 50 joint stock banks and 4 major State owned commercial banks are operating in Viet Nam with branches countrywide. In addition, there are 24 licensed foreign banks operating 29 branches, and along with local banks, these institutions are financing State and privately owned enterprises and foreign owned enterprises in local and foreign currencies.

Under the Law on Foreign Investment, foreign owned enterprises may open bank accounts in both Vietnamese currency and foreign currency at Vietnamese banks, joint venture banks or foreign bank branches established in Viet Nam. In special cases where approved by the State Bank of Viet Nam, an enterprise with foreign owned capital is allowed to open an overseas account.

The latest amendments to the Law on Foreign Investment have cancelled the former strict provision requiring foreign owned enterprises to self-balance their foreign currency requirements; they may now purchase foreign currency from banks authorised to trade in foreign currency in order to meet the demands of their current transactions and other permitted transactions in accordance with current foreign exchange control regulations.

A *Government guarantee of balancing foreign currency* is granted to specially important investment projects investing in accordance with Government programs in any one period. The Vietnamese Government also gives an assurance of assistance in balancing foreign currency for projects investing in the construction of infrastructure facilities and some other important projects.

## 11. Export, import and other commercial activities

Export, import and other trading activities of a FDI project are subject not only to the Law on Foreign Investment but also to the generally applicable Vietnamese laws on these matters. Under the Law on Foreign Investment and other prevailing related regulations, FOEs and parties to BCC have the right to conduct the following activities:

- \* importing machinery, equipment, materials etc. for the purpose of implementing an investment;
- \* exporting directly or authorizing an agent to export their products and acting as an authorized agent to export in accordance with the law;
- \* purchasing goods and products directly in the Vietnamese market to process for export or to export, except those goods and products in the list of prohibited exports or in the list of conditional exports;

- \* selling directly or through an agent the products allowed to be produced and sold in Viet Nam without limitation on localities for the sale of those products;
- \* acting as an agent to sell products of the same type that other enterprises manufacture in Viet Nam;
- \* processing or reprocessing products for local and foreign entities or engaging local entities to process a part of the products or stages if the capacity of the machinery, equipment or technological line does not allow for that production.

However, the Commercial Law provides for certain trading activities in respect of which some restrictions and/or separate regulations apply to FDI projects. Consequently, the establishment of a FDI project specialized in trading activities (import, export, distribution, etc.) is not allowed. Under the Viet Nam-US bilateral trade agreement this will be allowed, with some exceptions, on a progressive basis phased in over a certain period of time.

## 12. Land Ownership and Use

Under Vietnamese laws, land belongs to all of the people and is managed by the State. No domestic or foreign organization and individual is entitled to land ownership. Foreign investors and FOEs have the right to lease land for implementing their investment projects and must pay land rent under separate regulations. The duration of a land lease contract will correspond with the duration of an investment project. Exemptions from, and/or reductions in, payment of land rental may be granted to BOT, BTO, BT projects and investment projects in regions with difficult socio-economic conditions and regions with specially difficult socio-economic conditions.

For the purpose of borrowing capital for its business, a FOE may take a mortgage over the value of land use rights and assets attached to land for a term not exceeding the term of the lease of land or sub-lease of land with Vietnamese credit institutions, with foreign bank branches operating in Viet Nam and with joint venture banks between a Vietnamese party and a foreign party in accordance with the Law on Credit Institutions.

## 13. Labor, Salary and Social Insurance Regulations

Foreign owned enterprises are allowed to directly recruit and employ labour to meet their business requirements. The recruitment and use of labour in Viet Nam are governed by the Labour Code and other related regulations. Accordingly, labour contracts must be made in writing using the model prescribed by the Ministry of Labour, War Invalids and Social Affairs. Oral agreements are acceptable for recruiting temporary employment for periods of less than three months. A labour contract can be signed for the following cases:

- \* an indefinite term labour contract, applicable to jobs which are regular and have a duration of one or more years;
- \* a fixed term labour contract with a period of employment of between one to three years;
- \* a labour contract for a specific or seasonal job with a duration of less than one year.

Foreign employees must apply for work permits at the Provincial Departments of Labor, War Invalids and Social Affairs or the Provincial Management Board of an IZ and EPZ. The duration of the work permit corresponds with the term of the labour contract signed between the enterprise and foreign employee.

Employers are required to contribute 15% of the total amount of the wages of employees to the social insurance fund and 2% to the health insurance fund. An employee's contributions to these funds are 5% and 1% respectively.

## 14. Dispute Resolution

Generally, disputes arising out of civil, commercial and economic transactions in Viet Nam may be resolved at Vietnamese courts and arbitration centers, including:

- \* Civil Courts and Economic Courts under the People's Court system, containing a court of first instance and an appeal court;
- \* Economic Arbitration Centers established as social and professional organizations to resolve disputes arising: (i) from economic contracts; (ii) between a company and its members or between its members; (iii) from the establishment, operation and dissolution of a company; or (iv) from sales or purchases of shares or debentures;
- \* Viet Nam International Arbitration Center (VIAC) established as a non-government organization belonging to the Viet Nam Chamber of Commerce and Industry to resolve disputes relating to international economic relations, including foreign trade contracts, international investment contracts, tourism, transport, technology transfer, and international insurance, credit, payments etc

Specifically, foreign investment legislation provides that disputes between parties to a joint venture enterprise (JVE) or a business cooperation contract (BCC), disputes between foreign owned enterprises and foreign organizations or individuals, and disputes between foreign parties to a JVE or BCC with Vietnamese economic organizations, shall be first attempted to be resolved through negotiation and conciliation. Where conciliation fails, the disputing parties may agree on the selection of one of the following dispute resolution alternatives:

- \* a Vietnamese court;
- \* a Vietnamese arbitration body, a foreign arbitration body or an international arbitration body;
- \* an arbitration tribunal established by agreement between the parties.

However, disputes between two FOEs or disputes between FOEs and Vietnamese economic organizations shall be resolved by Vietnamese arbitration organizations or by Vietnamese courts in accordance with Vietnamese laws.

According to its international arrangements and Government regulations on FDI under the form of BOT, BTO and BT contracts, Viet Nam recognizes the mechanism for dispute resolution between the State and the investors of other States, under which administrative tribunals, courts of the host country, foreign arbitration centers, UNCITRAL and other methods agreed to in the contract, as the case may be, are used to resolve those disputes. Viet Nam will commit to using the ICSID mechanism when Viet Nam accedes to the 1965 Washington Convention on this matter. Since 1995, Viet Nam has been a member of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards.

### The Viet Nam - United States Bilateral Trade Agreement (BTA)

The BTA was signed on July 13, 2000 in Washington D.C. and entered into force on December 10, 2001. It contains the following highlights:

#### Trade in goods

- Upon ratification, Viet Nam enjoys "normal trade relations" which will reduce the tariffs on Vietnamese goods entering the United States from an average of 40% to an average of around 4%. On its part, Viet Nam commits to MFN tariff treatment for all U.S. imports (it imposes a 50% surcharge on countries with whom it does not have MFN relations). It will also reduce tariffs on certain imports from the United States by one-third over a period of 3 years, and eliminate its quantitative restrictions on many agricultural and industrial products over 3-10 years.
- For the first time, the right to import and export will be granted to U.S. invested companies, over a 3-10 year period, subject to certain restrictions.
- On the basis of WTO rules, Viet Nam commits: (i) to eliminate all discretionary import licensing, (ii) to phase in valuation methods based on GATT principles for customs valuation, and to limit custom fees to cost of services rendered, over a two year period, (iii) to apply technical standards, sanitary, and phytosanitary measures on a national treatment basis.

## Intellectual Property Rights

- Viet Nam agrees to comply, within 12-18 months, with the obligations on protection of intellectual property rights in accordance with the provisions of the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement (e.g. patent and trademark protection, and copyright and trade secret protection).
- In addition, Viet Nam agrees to take measures in several other areas, including encrypted satellite signals, patent protection for plants and animals, and protection of confidential test data submitted to governments. Protection for satellite signals will be phased in within 30 months.

## Trade in services

- In respect of its general commitments, Viet Nam agrees to comply with WTO General Agreement on Trade in Services (GATS), including obligations on MFN, National Treatment, and disciplines on domestic regulations. Viet Nam has also committed to phase out its licensing regime in most sectors.
- Specifically, with some restrictions and within a certain period, Viet Nam commits to grant market access and National Treatment to U.S. service providers in 8 service sectors that contain 54 sub-sectors, including: (i) professional services (legal, accounting, architecture, engineering, computer, advertising, market research, management consulting); (ii) telecommunication services (value added telecom, basic telecom, voice telephone, audio, visual); (iii) construction services; (iv) distribution services (wholesale and retail distribution); (v) educational services; (vi) financial services (insurance, banking and related financial services); (vii) health services; (viii) tourism services.

## Development of Investment Relations

Upon entry into force of the BTA, Viet Nam has committed to:

- General obligations on granting the better of MFN or National Treatment to investments of U.S. national and companies;
- Non-nationalization and expropriation of investments of U.S. nationals and companies;
- Granting to U.S. nationals and companies the better of National Treatment or MFN with respect to all transfers into and out of Viet Nam;
- Providing U.S. nationals and companies with an effective means of asserting claims and enforcing rights with respect to investments;
- Ensuring transparency of its laws, regulations and administrative procedures of general application that pertain to or affect investments;

- Permitting U.S. nationals and companies to transfer employees of any nationality, subject to its laws relating to the entry and sojourn of aliens;
- Non-application of conditions for transfer technology except when applying generally applicable environmental laws;
- Phasing out of requirements on trade balancing, and foreign exchange controls on imports in accordance with WTO Agreement on Trade Related Investment Measures (TRIMs).

With some exceptions and within a certain period, Viet Nam commits to:

- Phase out export performance requirements for certain industrial products over a 7 year period;
- Shift to a registration regime for investment licensing including simplified procedures over a 2, 6 or 9 year period with exceptions in certain sectors;
- Eliminate restrictions on legal capital contribution, and capital transfers of U.S. nationals and companies, over 3 year period;
- Eliminate restrictions on management structure and organization of a US joint venture enterprise over a 3 year period;
- Phase out all discriminatory pricing to U.S. investors including goods and services under the State control (e.g. electricity and water supply, telecommunication services, airfare, etc.), immediately or over a 2-4 year period.

## Business facilitation

Viet Nam commits to facilitate business operations by allowing U.S. investors to import and use office and other equipment in connection with the conduct of their activities; to provide access to and use of office space and living accommodations; to allow the engagement of agents, consultants and distributors based on prices and terms mutually agreed between the parties; to allow advertising for investors' products and services; and to allow the stocking of adequate supply of samples and replacement parts for after-sales service.

## Transparency

Viet Nam commits to publish all laws, regulations and general administrative procedures and to the extent possible permit public comment regarding the formulation of such measures. In addition, Viet Nam commits to provide access to economic and trade data and enforce measures that are published. It will designate an official journal for the publication of all measures of general application and administer measures in a uniform, impartial and reasonable manner. Viet Nam will maintain administrative and judicial tribunals for the prompt review of administrative action related to the agreement and permit the right to appeal an adverse decision.