

GOVERNANCE AND INTEGRITY WORKING GROUP POSITION PAPER

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2016 has been a significant year for Vietnam both politically and commercially. Changes to the Government's leadership and conclusion of important and wide-ranging trade deals have been most notable. As economic growth and integration continues apace so has the Vietnam Business Forum (VBF) increased its efforts to promote transparency, good governance and integrity as a means of supporting and preparing Vietnam for global best practices. The VBF Governance and Integrity Working Group (G&I WG) addresses organizational and structural matters to promote an equitable and sustainable business environment and aims to support the Government to enable this through regulation and implementation. The overall intention is to improve the competitiveness of the private sector in Vietnam, build a level playing field, and assist small and medium sized enterprises to be regionally and internationally competitive.

Supply chain issues

A key area of focus for the wider business community and where the G&I WG can play a role is in connection with supply chain integration and efficiency. Exports play a critical part in Vietnam's economic growth and improving the conditions for, and efficiency of, supply chains and value chains are critical to strengthening overall export capacity and competitive advantages, especially in light of the ever-more complicated and strict international trade conditions agreed to in modern trade agreements. Vietnam has signed up for several important trade agreements that offer both the promise and challenge of rules of origin and upgrading global best practises for increasing the value in the supply chains of multinational manufacturers, especially in the agriculture, electronics, textile and high-tech supply.

In a conference related to support for supply chains in Vietnam in October 2016, the International Finance Corporation (IFC) noted that 21% of Vietnamese enterprises participate in global supply chains, which is relatively low compared to Thailand's 30% and Malaysia's 46%. In practice, the number of Vietnamese enterprises participating in global supply chains is limited due to a number of factors. The Ministry of Planning and Investment's Enterprise Development Agency recently noted that Vietnamese SMEs encounter difficulties accessing financial support due to lack of transparency in their operations. Lack of transparency is one reason why up to 50% of Vietnamese SMEs are rejected when seeking finance for supply chain activities, compared to just 10% of multinational companies, according to a World Bank survey.

An important factor in this is illustrated by a recent survey released by the Central Institute of Economic Management that found that more than 40% of SMEs had to make unofficial payments to Government agencies in the course of operating their businesses. Unrecorded cash payments of this nature are one important reason many Vietnamese enterprises maintain separate accounting books and, consequently, a reason why lenders lack trust and incur higher-than-normal due diligence costs when making lending decisions.

Research shows that corruption constrains economic growth, and is particularly damaging to international trade. This raises the issue of how to enhance the transparency of companies' operations in Vietnam and increase their abilities to participate and add value in global supply chains; a fundamental part of accessing the benefits the Vietnamese Government has negotiated hard to win in international trade deals. Put simply, the more transparent enterprises become, the more opportunities they have to access financial support and win contracts required to participate profitably in global supply chains. In this effort, both the enterprises themselves and the

Government play important roles, the latter being responsible for implementing policy and enforcing regulation to encourage, facilitate and mandate more transparency.

There is no question that the Government is, step by step, increasing initiatives to address and combat corruption. The Prime Minister issued Directive 12/CT-TTg on 28 April 2016 to direct enhancement of inspecting and handling corruption-related matters and instruct Ministries, People's Committees and the Government Inspectorate to coordinate the fight against corruption. Yet the perception remains that corruption is more entrenched and growing in Vietnam, according to the PCI questions on unofficial payments.

We welcome that the Government is in the process of drafting a law to support SMEs, which will introduce comprehensive measures to support SMEs through the establishment of synchronized policies and support programs for SMEs. The latest available draft indicates it will address issues related to improving the business environment, access to financial support, corporate income tax incentives, technology support, and promoting market expansion. It is hoped that, when passed, the law will increase opportunities for SMEs to enhance their role in global supply chains. This should be considered a key component of a strategy to improve integration between domestic, foreign-invested and foreign companies involved in bringing goods to market.

The G&I WG believes that additional meaningful and practical steps could be taken. For example, we are not aware of any regulations that mandate the use of non-cash payments when dealing with Government services. Use of information technology to facilitate such payments and further automate certain processes is another means of improving the environment. Similarly, specific, authorized 'fast track' services similar to those used in other economies could be legitimately adopted and introduced to address the need – perceived or otherwise – to make receipt-based facilitation payments to Government officials to speed-up or allow certain services within their purview. There are many fees and fines systems used globally to good effect that should be carefully studied and considered for adoption to cut down on avenues for corruption.

Another area of growing concern is the regulatory environment that gives discretionary authority of too many decision to the government, making the private sector vulnerable to the possibility of using connections and payments to secure licenses or approvals. Governments are rarely successful in picking long term economic winners and losers and often it is poor decisions for the country that are made based on friendships, relations, or unofficial payments to individuals. To address this, we urge that the government continue to look at international best practices and work with Ministries and SOEs at national and local levels on establishing brighter lines between regulation and economic participation.

For enterprises themselves, in order to join the global supply chain, they need to be willing and able to adapt and satisfy international level standards, including with respect to transparent operations and good corporate governance. Such transparency is evidenced not only by clean and accurate accounting books but also by adopting and implementing internal policies and codes of conduct that satisfy the increasingly wide-ranging scope of global anti-corruption and integrity legislation that affects companies in Vietnam even when it may not directly govern them. In this regard, the G&I WG was pleased to note that the Penal Code 2015 introduced a new crime of maintaining two or more accounting books and also, importantly, the concept of private commercial bribery, bringing it into line with legislation in many international jurisdictions, including most ASEAN jurisdictions. This is an important step to promote a clean and healthy market, though implementation and enforcement of such new crimes will be carefully observed. It is sincerely hoped that these aspects of the new Penal Code will remain following the postponement of that law's effectiveness earlier this year.

To make this effective, we recommend a rapid closing of the still important differences between Vietnamese Accounting Standards (VAS) and International Financial Reporting Standards (IFRS). This gap affects investors and enterprises cost and operations when they often must comply with both. The integration of Vietnam into global supply and value chains requires the comprehensive alignment of the VAS with the IFRS.

G&I WG activities and additional recommendations:

The G&I WG has been involved in various initiatives to help show that clean and transparent business is good business and plays a role in supporting policy development and legislative initiatives. We seek to support and assist both government and private sector to identify and pursue practical, results-driven strategies to achieve such ends. We consider our role to be cross-cutting with all other VBF Working Groups and intend to work further with each to devise and implement practical strategies. Among other matters, we actively contribute our comments to support criminalization of private bribery, increasing the requirements for non-cash payment issues and online systems to decrease face-to-face transactions and bring greater transparency to business environment.

We, in conjunction with Towards Transparency, are in the process of carrying out a study of companies' experiences with risky business practices in Vietnam. The aim is to provide a snapshot of the extent and nature of foreign and foreign-invested companies' experiences of high risk activities in Vietnam in order to highlight major risk areas, help companies develop policies and practices to address the same and generally educate on the day-to-day challenges that may face investors doing business in Vietnam. We will present that report to the VBF and look forward to dialogue with the Government Inspectorate and other involved agencies to determine what positive changes can come as a result.

We recognize that, in addition to efforts by public and private sector groups, active participation of the broader community plays a very important role. The G&I WG wishes to contribute where possible to helping ensure that there is greater general knowledge and awareness of the issues and support for regions and provinces seeking to inform and involve the broader community, and to achieving concrete results. Corruption is a global problem, the G&I WG hopes to contribute to ideas and solutions the government is addressing with international best practices and successful systems globally.