



POSITION PAPER OF EUROPEAN CHAMBER OF COMMERCE IN VIETNAM AT THE ANNUAL VIETNAM BUSINESS FORUM 2018

The European Chamber of Commerce in Vietnam (EuroCham) appreciates the recent efforts of the Vietnamese Government to further improve the business environment and increase Vietnam's competitiveness. In preparation for the upcoming ratification of the EU-Vietnam Free Trade Agreement (EVFTA) in 2019, and its subsequent implementation phase, EuroCham would like to bring your attention to issues which we consider to be challenges for Vietnam to meet the international standards in key industries. We believe that, by addressing these challenges, the business environment in Vietnam will be able to take full advantage of the upcoming opportunities of the EVFTA.

I. HEALTHCARE SECTOR

1. Healthcare Forum under EuroCham¹: Working together toward life sciences sector development

Vietnam continues to attract great interest from leading international companies in the life sciences sector. The EuroCham Healthcare Forum – with members from the innovative pharmaceutical industry (Pharma Group), the international quality generics industry (IQGx SC), and the medical devices and diagnostics industry (MDD SC) – applauds the continued efforts of the Government to improve the healthcare sector in Vietnam. The EuroCham Healthcare Forum sees an opportunity to further strengthen dialogue and partnership with the Government, developing an attractive investment environment and a top-tier healthcare system for Vietnamese patients.

In order to achieve this vision, the EuroCham Healthcare Forum identifies two key elements:

a. A viable, sustainable legal framework to attract investment and enable partnership

Through dialogue with the Vietnamese Government, the international healthcare industry is encouraged by Vietnam's openness for foreign investment and the acknowledgement of our critical role in bringing high-quality products for patient treatment, investment and partnerships that transfer global knowledge into Vietnam. In order to invest and partner, international companies require the following enablers:

i. A clear, viable legal framework for operations

We thank the Government for providing international companies with a stronger legal framework to operate and become long-term partners in Vietnam, in particular for the pharmaceutical sector. We look forward to continuing the dialogue with the Government on the effective implementation of this legal framework; and

ii. A feasible, predictable transition period to ensure business continuity

This will enable companies to continue operating with the high quality and compliance standards required, and fulfilling their obligations with regards to quality and safety of treatment solutions. With Government support for this transition period, companies will have the trust and confidence to further invest in Vietnam.

¹ EuroCham's Healthcare Forum is a coordination platform for Sector Committees operating in the Healthcare industry – at present International Quality Generics (IQGx), Medical Devices and Diagnostics (MDD SC) and Pharmaceuticals (Pharma Group). The Healthcare Forum enables industry representatives to discuss, share and advocate on common interests and topics. Given its inherently diverse nature, it also covers different interests of those industry representatives. All Sector Committees are equally supported by EuroCham.

Vietnam has the opportunity to build a high-value, self-sustaining life sciences sector and position itself as an attractive investment destination in ASEAN. The EuroCham Healthcare Forum stands ready to have solution-oriented dialogues with the Government on the above enablers, with the overarching objective to develop an attractive investment environment and a sustainable healthcare system.

b. A continued strengthening of ethical standards to enhance trust and integrity

The Vietnamese healthcare landscape is evolving rapidly. Together, trust and integrity in Vietnam play an increasingly important role in shaping relationships between healthcare professionals and the pharmaceutical and medical devices industry that truly serve the best interest of patients. EuroCham Healthcare Forum members believe that with our global experience, our strong ethical values and practices, we can bring meaningful contributions in promoting high ethical standards, fairness, integrity and transparency amongst all actors in healthcare.

Through our industries' self-regulated Codes of Ethics, Pharma Group, IQGx SC, and MDD SC have established and upheld international ethical standards as the basis for our members' activities in Vietnam. We continue to proactively monitor global standards, and have been updating our respective Codes in the recent months, to set the bar even higher. These Codes are not only in line with Vietnamese laws and ethical guidelines, but also (i) put patient as our first priority, and (ii) promote scientific and educational activities with the highest ethical global standards. The new Codes will take effect in early 2019.

We trust that commitments to high ethical standards amongst all actors in healthcare will not only benefit patients, but also promote responsibilities and fair competition, leading to a more attractive investment environment in Vietnam. Therefore, PG, IQGx, MDD SC look forward to share our best practices and new Codes of Ethics with other partners in healthcare. The Consensus Framework for Ethical Collaboration in Vietnam that we have proudly signed with Vietnam Medical Devices Association, Vietnam Pharmaceutical Companies Association, Vietnam Medical Association and Vietnam Women's Union Association, will be the perfect platform for this joint effort.

We thank the Ministry of Health and the Government for your attention, and seek your support to our efforts in promoting high ethical and compliance standards, towards the development of a higher quality healthcare system in Vietnam, through:

- i. Industry associations – foreign and local – to adopt industry self-regulated Codes of Ethics with the same high ethical standards; and
- ii. Enhance dialogues with all stakeholders in healthcare, including the medical community, through the Consensus Framework forum.

2. Medical Devices Sector: Socialisation in medical devices and the model of placing equipment in health establishments

Socialisation in medical devices is the key policy of the Vietnamese Government and the Party. It aims to equip hospitals with modern machines and enhance the quality of medical examination and treatment for people. This is to be achieved by leveraging capital investments from the private sector, being independent investors, medical device distributors or vendors. According to statistics from Social Insurance of Vietnam, over 3,420 pieces of equipment are placed in 59 provinces throughout the country via different forms of socialising medical devices.

In a large number of medical applications requiring both an installed system (e.g. In Vitro Diagnostics analysers) and consumables (e.g. In Vitro Diagnostics reagents), the placement of a system by a 3rd party investor under a "payment by procedure" model (e.g. "pay per In Vitro Diagnostics test") is a model very commonly used worldwide and promoted by many governments (including in G7 countries) as a way to reduce capital expenditures within hospitals while enabling access to a state-of-the-art application.

However, at present, many Government documents do not provide specific guidance on the model of placing equipment in the form of renting, socialisation or "payment by procedure" model. Members

of EuroCham’s Medical Devices and Diagnostics Sector Committee have also received much feedback from domestic partners on incoherent policy regarding the model of placing equipment in public health establishments among MOH, Ministry of Finance (MOF) and Vietnam Social Security (VSS). In March 2018, VSS issued Official Letter No. 701/BHXH-CSYT regarding ‘Payment of Technical Service Fee provided by rental or installed equipment’. Accordingly, VSS would not continue paying technical service fee provided by rental or installed machine in public health establishments. In April 2018, with Official Letter No. 2009/BYT-KHTC, MOH requested VSS to continue the health insurance payment for medical examination and treatment conducted by equipments that are installed or borrowed from a winning-bidder on testing reagents to ensure the benefits of the health insurance beneficiaries. However, in May of 2018, MOF issued Official Letter No. 6009/BTC – QLTS requesting VSS to work with MOH on guiding health establishments not to borrow or allow installed equipment, and requesting MOH to guide on renting equipment via bidding.

Incoherent documents issued from VSS, MOH, and MOF on the model of placing equipment in health establishments has caused difficulties for companies and health establishments when choosing the appropriate model of placing equipment in line with the current demand. In addition, both companies and health establishments are facing difficulties in managing equipment and machines which are currently installed, putting continuity of care in these establishments at high risk.

We are very concerned by the potential risk of delayed diagnostic tests and treatment, especially those which are urgent and vital to patients, i.e. hemodialysis, sample collection, and surgery. Along with the risk, health establishments would lose the opportunities for technology transfer from developed countries. Moreover, both the Government and health establishments would face increased capital expenditure and financial burden when investing and purchasing medical devices. From a business perspective, this issue causes difficulties in the management and maintenance of medical devices which have been and will be installed in health establishments.

Meanwhile, the policy of socialising medical equipment is crucial, thanks to which Vietnam now has a great number of modern devices for medical examination and treatment for its people. Using modern medical devices will enhance the quality of diagnostics and treatment as well as introduce new medical techniques to Vietnam, which helps to strengthen Vietnam’s position in the region.

In light of the above reasons, we respectfully suggest the Government and competent authorities:

- i. Examine the Public-Private model for the healthcare sector and provide diverse and feasible socialisation models (e.g. “pay per procedure” models);
- ii. As soon as possible, issue official documents of consistent policy from relevant ministries (MOH, MOF, and VSS) regarding the model of equipment placing in public health establishments, to create an open and transparent legal framework; and
- iii. Circulate the documents and provide training for relevant Ministries to allow better understanding of the policy as well as full compliance with the law.

The MDDSC and EuroCham are willing to support and collaborate with the Government in addressing this above issue, for a solution served patients’ best interest.

II. CONSUMER CHOICE AND PROTECTION

1. Automotive Market

1.1. Decision 1254/2018/QĐ-TTg on Decree 116/2017/ND-CP amendment:

The automobile market is delighted to know that in Decision No. 1254/QĐ-TTg dated 26 September 2018, His Excellency the Prime Minister has stressed that:

“Point a clause 2 Article 6 of the Decree No. 116/2017/ND-CP prescribes that imported brand-new motor vehicles must be subject to the quality management body’s inspection in accordance with regulations on each imported vehicle shipment. The motor vehicle model typical for each type of vehicle contained in the imported shipment shall be inspected and tested in terms of gas emissions and technical safety and quality in accordance with regulations in force. This regulation may cause the prolonging of customs clearance time, increase warehousing costs and quality inspection fees (emissions quality inspection fee). Even though they are the same model but belong to different shipments, they still have to be subject to inspection.”

Based on the above direction, His Excellency the Prime Minister has asked the Ministry of Transport (MOT) to **“consider amending and supplementing inspection procedures to ensure that their management is based on the measurement of the levels of risk to goods and the levels of compliance with laws at enterprises. As a result, only vehicles typical for each vehicle type in all shipments, instead of each one, must be inspected.”**

In view of the upcoming EVFTA, EuroCham and the Mobility SC would like to express our full support for the direction of His Excellency the Prime Minister. **To maintain quality control on vehicles imported while also facilitating trade for the period 2018-2020, EuroCham’s Mobility Sector Committee recommends that MOT:**

- i. Identifies importers with a good track record in technical compliance with Vietnam Register and good standing as a tax contributor with Customs;
- ii. Instructs Vietnam Register in 2018 that only vehicles typical for each model type in all shipments - instead of each one - must be inspected until a change of model occurs, and;
- iii. Randomise sampling according to the compliance level of CBU importers with vehicle homologation conformity

1.2. Circular No. 41/2018/TT-BGTVT on the list of potentially unsafe commodities under the management of MOT

Ensuring the safety of vehicles repaired in Vietnam is key to ensuring customer satisfaction and developing professional automotive dealer networks between dependable imported and assembled vehicles and local suppliers as well as supporting industries toward a strong and competitive automobile industry in Vietnam. In this spirit, Mobility SC understands and supports the efforts of the Ministry of Transport when issuing the recent Circular No. 41/2018/TT-BGTVT dated 30 July 2018 on the list of potentially unsafe commodities under the management of the Ministry of Transport (“Circular 41”). However, in its practical implementation, we are concerned that there are certain challenges which, if unresolved, could potentially make the automobile market unstable and have a negative and direct impact on customers and others including importers, dealers, vehicle testing centers and insurance companies. In summary, we have 4 key concerns, outlined below:

i. Discrepancies in terms:

- **Circular 41, Appendix II, Paragraph I, Section E/13:** “*materials used in interior structure of cars*” (“*vật liệu nội thất xe ô tô*”) (with HS Code 8708.99.80), has to follow the standard 53:2013/BGTVT; meanwhile
- **The Standard 53:2013/BGTVT** (regulated under Circular No. 40/2013/TT-BGTVT) “*stipulates requirements for the burning behavior of materials used in the interior structure of passenger vehicles having maximum mass exceeding 5 tonnes and comprising at least 22 seats including the driver’s seat.*”

According to **TCVN 6211**, “passenger cars” is defined as “*having structure and equipment primarily for the transport of people, luggage and/or cargo; with a seating capacity, including driver seat, of no more than 9 passengers*”. Based on this definition and the scope of the standard

53:2013/BGTVT, if we understand the term “cars” in Circular 41 as meaning “passenger cars”, the “materials used in interior structure of cars” cannot be regulated by the standard 53:2013/BGTVT. Importers currently understand that this provision under Circular 41 does not apply to passenger cars but to other types of cars. Therefore, Mobility SC would like to receive the confirmation from the Ministry of Transport.

- ii. **Lack of competent vehicle testing centers:** it has been nearly two months since the effect of the new Circular. However, to date, there have been no testing centers officially appointed or officially declared as competent to perform the standard conformity declaration for required commodities, which creates prevent the certification and thus, the selling of spare-parts.
- iii. Circular 41 has many new requirements for various commodities. Therefore, we consider **the transition period for the industry to adapt is inadequate**, which leads to an interruption in providing vehicle repair, technical recall or warranty service for customers. We would like to requests **a six-month transition time before the effectiveness of Circular 41. During this transition period, spare parts and accessories related to safety which have already been imported since 15/09/2018 can continue to be provided to both dealers and customers.** By allowing this transition period, not only MOT can clarify any pending confusion from the industry but also all stakeholders from importers, dealers to testing centers could have enough time to prepare for the implementation of the Circular 41 without interrupting the continuous provision of spare parts and accessories for vehicles repair, technical recall or warranty.
- iv. In view of the upcoming EVFTA due to come into force in 2019, we recommend that Ministry of Transport already anticipates compliance with EVFTA by **accepting ECA documents for vehicles, spare parts and components without any testing nor retesting. We recommend that such certification be done once only, the first time upon the first importation of such commodities.**

2. The ban on wines and spirits sales on the Internet

The sale of wines and spirits is allowed in the physical market, whereas on the Internet, the sale of alcohol above 15% abv (alcohol by volume) is prohibited under the Government’s **Decree 105/2017/ND-CP** dated 14 September 2017 on wine and spirits business. In addition, the ban on the sale of alcohol via the Internet has been proposed in Article 20 of the Draft Law on Prevention and Fighting against the harmful effects of Wine & Spirits and Beer (“**Draft Law**”).² **The prohibition is not consistent with the trend of e-commerce development, and actually diminishes its role to effectively control legitimate sales and supply.** International experience shows that allowing the e-commerce trade of alcohol will not increase but rather help to monitor consumption, tackle underage purchasing, provide greater education and information on the products, and counter illegal products, specifically:

- i. **E-commerce helps to prevent underage purchase:** The permission for sale of wines and spirit on the Internet will prevent underage consumers from purchasing alcohol, because of the age-gate, and the purchase will require bank accounts or bank payment cards, which underage consumers do not have.
- ii. **Education & information provision:** The permission for licensed producers and traders of alcohol to sell their products on the Internet will allow consumers to access to products’ information (e.g. country of origin, alcoholic content, style, licensed importers / traders, etc.) and responsible drinking information (e.g. no supply of alcohol to people under 18 years old) and make an appropriate choice for their purchase.

² Nevertheless, there have been comments that this prohibition is not feasible and could put consumers’ health at risk: <http://www.antv.gov.vn/tin-tuc/kinh-te/quang-cao-buon-ban-ruou-tren-mang-internet-van-tran-lan-219739.html>; <https://baomoi.com/quang-cao-ruou-manh-tran-lan-tren-mang-internet-co-quan-quan-ly-keu-kho/c/23827640.epi>

- iii. **Countering smuggled, unclear origin, low-quality, or counterfeit products:** The ban on e-commerce currently exposes consumers to products of dubious origin. Currently, despite the ban, it is not difficult for consumers to find and purchase alcohol products online. However, as such sales are not compliant with the regulation, consumers that choose to purchase from these channels are not offered the same protection as those buying from authorised retailers, as there is no assurance of the source of the products. This exposes them to greater risk of purchasing smuggled, unclear origin, low-quality, counterfeit products, which could have severe health implications for consumers. By opening up the e-commerce market to legitimate operators, consumers will be awarded greater choice and certainty about the products they are purchasing.
- iv. **Increasing Government revenue and monitoring consumption.** One of the positive attributes of e-commerce is its ability to capture a wide range of data which helps governments to monitor trade and alcohol purchase activities. For instance, e-commerce allows governments to actively track alcohol sales and helps authorities to develop a more holistic understanding of total alcohol consumption and consumer demographics. E-commerce also has the ability to help the Government to track and collect more tax revenue because its transactions leave digital trails and payments are processed by banks.
- v. Given all the above benefits, it is understandable that alcohol e-commerce is allowed in many countries around the world including the United Kingdom and the United States. Within the Asia region, China, Cambodia, Hong Kong, Japan, Malaysia, the Philippines, and Singapore permit the electronic sale of alcohol products to consumers. A ban on e-commerce would make Vietnam an anomaly in the region. **Therefore, we respectfully request that the ban on licensed producers and traders to sell alcohol on the Internet is removed.**

3. Information and Communication Technology

Cybersecurity is a growing issue and challenge globally. All countries, including Vietnam, are faced with the need to achieve the optimum balance between three key factors: National security & public safety, data protection & privacy, and socio-economic development through the digital economy, with the latter being driven by the free-flow of cross-border data and an open and thriving Internet.

Businesses in Vietnam are leveraging ICT innovations and capabilities to better enable business and participate in cross-border trade. Many companies use cloud computing, social media, e-payments, and smart technologies to run their business. Many such technologies are provided by international providers, which are not based in Vietnam and which require the free-flow of cross-border data to provide their services and tools.

In the context of ASEAN, Vietnam's future attractiveness and competitiveness in attracting high-tech and innovation-driven FDI will be impacted by the Cybersecurity Decree in comparison to other ASEAN member countries. This is because the treatment of data and its cross-border flows forms a significant part of the new, innovative and emerging business models driven by the international business community. In consideration of this contextual reality, we recommend:

- i. **Vietnam ought to further study and assess the effects of the proposed Cybersecurity Decree** on Vietnam's national economy and socioeconomic development goals.
- ii. Vietnam will soon be the only country in ASEAN with a national data residency requirement. To ensure Vietnam remains regionally competitive and aligned with best practices and increasingly secure global standards, **Vietnam ought to adopt a data classification system** whereby only national security data must remain in Vietnam – countries such as Indonesia are adopting this approach:
 - **Tier 1: Non-sensitive data (public data)** can be stored outside of Vietnam without any restrictions. This is usually 90% of all data, including data related to public websites, and non-sensitive commercial data.

- **Tier 2: Restricted or semi-sensitive data (most commercial data)** must be encrypted (so if a data breach ever occurs, the data is unreadable) but can be stored outside Vietnam. This is usually 7% of all data, including business data, email, CRM systems, financial records, and medical records.
 - **Tier 3: Government work related to highly-confidential data (national security, defense and intelligence data)** must remain in Vietnam. This is usually 3% of all data, including national security, defense and intelligence data.
- iii. The data localisation requirements may potentially disrupt Vietnam’s digital economy and Fourth Industrial Revolution ambitions, without meaningfully improving national security or cybersecurity. This is the conclusion shared by other ASEAN member nations, particularly since it is widely understood that data localisation policies are proven to significantly reduce FDI and associated technology transfer.
- iv. Many Vietnamese enterprises and startups already rely on global ICT services. **It will most likely be disruptive and costly for all Vietnamese companies that use global payment, cloud, and advertising services to store data in Vietnam.**

Public and business trust in data protection and privacy is fundamental to its widespread usage and utility, fueling Vietnam’s next wave of socioeconomic development and high-tech FDI investment. Hence, the need to classify data as previously highlighted, ensuring an appropriate balance is reached between national security & public safety, data protection & privacy and socioeconomic development through a thriving digital economy.

4. Online enforcement of copyright

Online enforcement of copyright is considered to be one of the primary challenges to the effective protection of IPRs. The lack of a sufficient legal framework has led to increased copyright piracy and domain name infringements, amongst others. Furthermore, civil and criminal proceedings have proved to be inadopted for online enforcement of copyright, while the judicial capacity in dealing with IP cases still needs improvements. Long-standing issues regarding legal procedures and information transparency also hamper the effectiveness of IP protection and enforcement.

We suggest a number of measures to address this issue. **Firstly, the Government should amend the Law on Intellectual Property and its subordinate regulations** to accommodate enforcement of IPRs in the online environment; increase levels of administrative fines against individuals committing copyright infringements; strengthen enforcement efforts against infringing websites; and implement Joint Circular 07/2012/TTLTBTTTT- BVHTTDL.³ **Secondly, it should ensure the provision of ‘notice and take down’ measures and the application of a more practical approach by setting limitations and exemptions for the liability of infringements against copyright and related rights** as required by the EVFTA. **Thirdly, it should cover infringements against industrial property rights, adopting a Uniform Domain-Name Dispute-Resolution Policy (UDRP)-type system for resolution of ‘.vn’ domain name disputes and cybersquatting, or amend either IP laws or Information Technology (IT) laws** for administrative enforcement authorities to settle cases more effectively – including against absent registrants.

We recommend the Government strengthen the ability of People’s Procuracies, People’s Courts and Ministry of Public Security to prosecute criminal enforcement against serious IPR infringements once the threshold is met. Changes should be made to the Law on Intellectual Property Rights (which should provide for injunctions and provisional measures applicable on IP infringements, simplified proof of ownership in IP enforcement, especially regarding copyright and related rights) and Civil Procedure Code and its guiding regulations which shall empower the courts to order the publishing of judicial decisions in relation to IP enforcement.

³ Joint Circular 07/2012/TTLT-BTTTT-BVHTTDL dated June 19 2012 of the Ministry of Information and Communications and the Ministry of Culture, Sports and Tourism, providing the responsibility of intermediary service providers for protection of copyright and related rights on the Internet and in telecommunication networks.

III. HUMAN RESOURCES AND TRAINING SECTOR

1. Human Resources

The strategy contemplated under this digital world focuses on driving development through technology and education. In order to successfully realise its objectives, this strategy requires foreign investment and overseas talent to bring technology to Vietnam and to train Vietnamese workers. Accordingly, we recommend the following legislative changes:

1.1. Work permit issues

Presently, multinational companies (“MNCs”) face difficulties in transferring employees to Vietnam from subsidiaries within the same corporate group. The term “intra-company transferee” is defined as a manager, executive director, expert or technician of a foreign enterprise which has established a commercial presence in Vietnam and who was employed by the foreign enterprise at least 12 months prior to being transferred. In practice, MNCs have numerous subsidiaries around the world and often relocate their staff to different countries to maximise the skills of their global workforce. Unfortunately, intra-company transferees may only be recognised in Vietnam if they are assigned from the subsidiaries or headquarters registered on the business license in Vietnam as the investors or owners of the entities in Vietnam.

In addition, due to the strict requirements on the legalisation of documents issued overseas, **the time required to prepare documents for a work permit application can range from 2 to 3 months – or even longer due to the complicated procedures of legalisation in different countries. This is a continuing issue for both employers and foreign workers.**

We highly appreciate and recognise that recently the Vietnamese Government has made great efforts to replace existing the paper-based procedures by an online one including registration and issuance of work permit to foreign workers, submission of finalisation tax return and tax registration under company tax code, social insurance registration and social insurance claims. The introduction of Circular 23/2017/TT-BLDTBXH of the Ministry of Labour, Invalids and Social Affairs dated 15 August 2017 detailing guidance on online issuance of work permit to foreign workers in Vietnam (“Circular 23”) has led to a faster and more straightforward process compared to the existing paper-based procedure.

However, some issues remain with its implementation in different locations. The processing time to receive the application, proceed and release the results of work permit through the online procedure may take longer than the existing paper-based procedure due to the technical problems of the online system. Furthermore, some local authorities are not familiar with the system and lack the resources to properly handle online applications.

In light of these difficulties, we recommend: (i) broadening the definition of “intra-corporate transferee” to include employees working at a subsidiary within the corporate group of the Vietnamese entity, rather than limiting it to employees from the direct parent company of the Vietnamese entity; (ii) permitting a fast-track procedure for work permit applications where documents can be supplemented later on; (iii) ensuring the online system for work permit applications runs smoothly and has experienced staff handling applications in order to avoid any delays in the process of online issuance work permit; and, (iv) setting out detailed instructions on how employers should collect work permits from foreign employees once their assignments in Vietnam have finished.

1.2. Foreigners’ participation in statutory social insurance

Foreign employees have recently been forced to participate in statutory social insurance. This increased cost may deter employers from using foreign labour, and bringing overseas talent to Vietnam who could train and assist in the development of the Vietnamese workforce.

Under the Law on Social Insurance 2014 and Government Decree 43/2018/ND-CP dated 15 October 2018, from 1 January 2018, foreigners working in Vietnam will be subject to statutory Social Insurance (“SI”) contributions. Foreign workers will be subject to the social insurance scheme if they:

- Work under a work permit or practice certificate or practice license; and
- Maintain a labour contract with an indefinite term or a definite term of one year or more with a Vietnamese company.

Individuals are exempt from mandatory SI contribution if they:

- Work in Vietnam under the form of an intra-corporate transferee as regulated in Decree 11/2016/ND-CP); or
- Have exceeded the retirement age in accordance with the Labour Code (55 years old for women, 60 years old for men).

However, as of 1 January 2022, foreign employees will be subject to all the social insurance regimes, and the same rates applicable to Vietnamese workers will be applicable to foreigners. This means that, after 1 January 2022, employers must contribute 17.5%, and employees must contribute 8%, subject to the capped salary of 20 times the general minimum wage (which is currently VND 27.8 million, but will likely increase by 2022).

These contributions will represent a significant cost for businesses employing many foreign workers which are essential to Vietnam's strategy for development, such as educational institutions and technology-dependent industries. Accordingly, we recommend refraining from applying the pension and survivorship regimes to foreign workers and instead put simple procedures in place whereby foreign employees can claim a lump-sum allowance upon repatriating from Vietnam.

2. Training and Education

The Fourth Industrial Revolution provides a great number of opportunities for the continued development of the Vietnamese economy. In manufacturing hubs across the country, we are already beginning to see subtle yet significant evidence of the innovative ways in which computers and automation are coming together. The advent of complex systems and tools requiring little input from human operators is expected to become more common. While this promises to increase efficiency, it provides an incentive to develop highly-skilled workers to ensure people are not left behind.

The paramount role of education and training is clear. Equipping existing and future workers with adaptive skills necessary to drive economic growth and participate actively to Vietnam's rapid development is a wise investment. Vietnam has already demonstrated true dedication to equipping its labour force with the training and access to quality education needed to empower workers to work more productively. Education has long been a priority in Vietnam, and today, training and quality education to prepare young people with workplace skills has never been more important. The quality of training and education in Vietnam benefits from being at the highest possible standard. The country has made truly significant improvements in this area in the past year with the passing of Decree 86, and this committee is optimistic about the pace of these advances.

At the top end of the workforce, Vietnamese students can prepare for their careers by gaining access to top international universities both overseas and within the country. Learning opportunities at international institutions operating in Vietnam help students gain admission to top institutions once they reach university level, and also provide students with international exposure and cultural sensitivity through the presence of foreign educators. A high percentage of the faculty at international educational institutions in Vietnam are foreign nationals, and thus the law on social insurance places an unduly large burden on these institutions with the implementation of social insurance deductions for foreigners, particularly at a time when Decree 86 has allowed for increased access for Vietnamese nationals to these institutions. **The Government should consider relieving the pressure on international education institutions by implementing an exemption on contributions to social insurance by foreign educators.**

To further encourage foreign investment in this sector, local public education institutions might be encouraged to partner with private international education institutions to train teachers working in the public-school system. Partnerships with private institutions that offer flexible, blended online and face-

to-face teacher training programs, English and soft skills training can be used to upskill Vietnamese educators in public schools, and also help Vietnamese students and fresh graduates entering the workforce. Focusing on developing teachers with the confidence and aptitude to effectively incorporate technology into their teaching practices as well as to adopt a student-centred approach to education, will help students not only acquire both workplace abilities but also an appreciation for lifelong learning – an attitude towards learning which will be of major importance as industries and technologies continue to revolutionise.

IV. CONCLUDING REMARKS

The European Chamber of Commerce in Vietnam would again like to thank the Government for the opportunities to share our perspectives. We encourage the Vietnamese Government to address the issues outlined in this Position Paper, which are made for the common benefit of the European business community and Government's long-term strategy of development.

EuroCham will continue to support and partner with the Vietnamese Government in dealing with issues described in this Position Paper, aiming for a better business environment. We commit to our mission in promoting European sustainable investment and trade through good corporate citizenship, and collaboration, technology transfer, capacity building, and engagement with Vietnamese society. We are therefore looking forward to continuing our regular dialogue and follow-up meetings with the Government through the Vietnam Business Forum, in the spirit of the upcoming EVFTA for a peaceful and prosperous Vietnam.

EuroCham website: <https://www.eurochamvn.org/>