



**SPEECH OF AMERICAN CHAMBER OF COMMERCE IN VIETNAM
AT MIDTERM VIETNAM BUSINESS FORUM 2018**

*Presented by
Mr. Michael Kelly
AmCham's Chairman*

Good morning and thank you for the opportunity to speak about AmCham's perception of the business environment in Vietnam. This year, the American Chamber of Commerce celebrates 24 years serving as the "Voice of American Business" in Vietnam and our members remain committed to helping improve business conditions in order to strengthen the private sector and promote economic and social development here.

Trade is the cornerstone of the US-Vietnam relationship and featured prominently in President Trump's visit here last November. During President Trump's meetings in Hanoi, the two countries pledged to deepen and expand bilateral trade and investment relations - in line with the U.S. President's commitment to pursuing fair and reciprocal trade with key trading partners.

We see many American companies operating across the spectrum of economy activity here, including many efforts to help Vietnam become more productive, efficient, safe and cleaner. American companies have invested billions of dollars here, integrating Vietnam into the global supply chain, creating quality jobs for Vietnamese workers, and opening a new market for US goods and services.

President Trump's State visit helped highlight the great opportunities available to American companies here. However, we often see investments that do not materialize due to challenges dealing with corruption and an over-complicated, restricted, and unclear licensing and regulatory environment. Our members need greater reform efforts that help create a fairer and more competitive environment where decisions are made faster, procedures are less complicated, rules are fairly enforced, and companies compete on their merits - including access to land and other opportunities.

AmCham is pleased that the Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTPP) is moving forward. We hope that the United States will be able to participate in this agreement in the future and we are pleased that President Trump recently ordered his trade advisors to take a fresh look at the agreement. If the President is serious about reengaging in TPP discussions, this is good news for American and Vietnamese companies, investors, workers, farmers and consumers. Regardless of the fate of TPP, US-Vietnam commercial relations remain very important for both countries - and for the business people of both countries and we very much support a robust TIFA process in the meantime. Many issues in this paper are part of the TIFA process and we hope the process can be accelerated and solutions found.

1. Encouraging a Clean and Safe Environment

Continued economic growth and the strengthening of the private sector creates opportunities for job creation, wealth creation and a better standard of living. With fair, uniform and transparent law enforcement, rapid development can be managed to promote environmental, social and human benefits. Good decision making and new technology can enable Vietnam to tackle the already serious environmental concerns and mitigate many environmental problems that countries like the United States and China experienced during their high-growth phases.

Ongoing environmental concerns demonstrate the importance of understanding the links between business operations and society, and the importance of conducting business in a way that creates both long-term economic and social value. We believe in the rule-of-law and encourage the government of Vietnam to improve and enforce environmental regulations as the economy continues to grow.

2. Energy to Power Vietnam's Future

The quality of Vietnam's operating environment and indeed the quality of life of its citizens rely on environmentally friendly and dependable infrastructure. With respect to power needs, there is a clear and urgent need to address the growing shortfall in the supply vs. the demand for electrical power. Our member companies are global leaders in this sector and want to help ensure that Vietnam's energy development meets the environmental, health, economic and geopolitical security goals of the country. We encourage the Government to move forward quickly on the Blue Whale project, the Son My LNG project, and meaningful renewable projects. Vietnam should also update and improve energy transmission delivery mechanisms by utilizing a wide arrange of resource-efficient wire and cable technologies that will promote better, safer and less wasteful energy use. Our companies are ready and these projects will help the power shortfall in a manner that is sustainable from a financial, environmental and supply chain perspective.

In addition, to capture the billions of dollars in private sector investment, job creation and technology that Vietnam needs in this sector, we need a bankable Power Purchase Agreement, more efficient and timely decision-making procedures for investment projects, and a market-driven power pricing road map for the next five years.

3. Fair and Equal Treatment

Whether a result of corruption, protectionism, tax collection, or the government trying to pick winners and losers, our members often see areas where inconsistencies, inefficiencies, and unfair practices persist - and in some cases new unfair practices are being enacted. We believe that it is vital that laws and rules be designed to be enforced fairly and equally. Better results in this area will improve the trust consumers have in the market place. It is also an important issue when considering ways to attract high-quality investment and strengthen the private sector here.

4. Removal of Barrier to Enable and Encourage the Private Sector

To sustain and grow our bilateral trade and investment relationship, trade must be free and fair. Importing products into Vietnam remains more costly and complicated than it should be, and, given Vietnam's growing and worrisome trade surplus with the United States, it is particularly important for Vietnam to be seen as seriously addressing the numerous non-tariff *technical barriers to trade* mostly encountered at the border, and the so-called *behind the border barriers* which restrict the activities of companies and hamper the flow of US exports into Vietnam.

AmCham members remain optimistic about business prospects in Vietnam. However, we are concerned with recent changes in policy and regulations, which are not consistent with international best practices. These changes expose many foreign investors to considerable risks and obstacles in executing their investments.

5. Cybersecurity Law

For example, the recently approved Law on Cybersecurity is unique, because besides measures to protect cyber security, it also covers the control of Internet information, which is already regulated by other legislation in Vietnam. AmCham strongly supports the Government's objective of promoting the development of the Internet and digital economy in Vietnam while ensuring data security and the protection of Vietnamese Internet users. We also strongly support Vietnam's efforts to establish a legal framework on cybersecurity. However, our members have serious concerns about local office requirements, rules regarding data users and local storage of data, and other unnecessary and costly burdens that hurt businesses but will not help improve Vietnam's cyber security posture. Our member companies operate around the world and have experience with dozens of national approaches aimed at addressing cyber risk. This background has afforded our members a broad understanding of what makes for an effective national cybersecurity approach. Our companies want to help Vietnam develop an enabling regulatory environment for the digital economy, which includes principles of free flow of data across borders, a pro-growth, "light touch" approach to fledgling technologies, and a level playing field among market participants.

6. Auto Imports

Another example that hinders US exports to Vietnam is Decree No. 116/2017/NDD-CP on automobile imports that created unexpected technical barriers to our companies in the automotive sector here. The new requirements in the Decree represent a significant shift from Vietnam's existing policy on imported vehicles. We urge the Government to delay implementation of the Decree for a period of 18 months. During that time, our members look forward to working with the Government to help develop policy modifications to Decree 116.

7. Custom Audits

Vietnam has made improvements in customs clearance and efficiency. However, very frequent – and largely unnecessary – post-import audits are creating burdens for companies. One company had over ten audits in a two-month period even though there has been little reason for Customs to consider the company a high-risk importer. We believe that in order for Vietnam's economy to reach full potential, non-productive red tape must be controlled. Vietnamese and foreign invested businesses alike need a supportive environment to thrive and we encourage Customs to adopt a more focused approach to target reviews of high-risk importers, rather than legitimate traders. This includes providing clearer differentiation in customs clearance process, customs inspections, price reviews and audits between AEO-qualified importers and general importers.

8. Effective Tax Policy

We believe in a pro-growth tax regime and our companies want to help the Ministry of Finance and other agencies work on comprehensive tax reforms that will generate further growth for the economy and greater revenue for the government budget. Tax policy needs to be carefully considered. For example, we believe that excise taxes on sweetened drinks would be an uncommon and ill-advised practice. Only four countries in the entire Asia-Pacific region, accounting for approximately two percent of the population in the region, impose excise taxes on

sweetened beverages. Most countries do not impose this tax because it harms the economy and has not been proven to protect health.

9. Enabling Financial Services

AmCham is pleased that the State Bank of Vietnam (SBV) delayed some provisions related to electronic card payments as stipulated in Circular 19/2016/TT-NHNN. However, there are still outstanding issues that have been consistently raised by US payment companies, banks and industry associations regarding the risk and unfairness of the operations of a single National Payment Gateway (NPG) and to ensure that the implementation of the Circular meets the goals of the government while not impeding the security, speed and reliability of the transactions, and the competitiveness of foreign payment companies. To achieve the government's goal of far greater use of non-cash payments, it is critical that Vietnam maintains a conducive environment that continues to allow competition between and among local and foreign players to promote innovation, better cybersecurity and more cost-effective solutions and products.

US bank branches play a critical role in facilitating foreign investments (both direct and portfolio) and business operations of multinational companies in Vietnam. Their corporate governance and risk management methodology directly follows US parent banks and international practices that ensure efficient business operations. We believe the Government should allow branches of US banks to adopt their parents' corporate governance structure and prudential risk management methodologies.

Additionally, AmCham welcomes proposed changes to modernize the insurance industry. The insurance sector plays an important role in the development of Vietnam's infrastructure and support of government expenditures through the purchase of government bonds. This is in addition to the sector's primary role of providing opportunities to secure the financial future for Vietnamese consumers and citizens. Currently, Vietnam Insurance regulations currently do not recognize non-cash assets as capital towards legal capital requirements. Regulations around minimum legal capital for new and existing Life Insurance businesses need to align with global practices in order to boost investment and better technology into the market which will benefit Vietnamese consumers and will promote growth in the country.

10. Providing Better Healthcare

As Vietnam seeks to provide better healthcare options for its citizens, we hope the Government will commit to providing faster market access and reimbursement for innovative medicines. Our companies can help Vietnam develop a sustainable healthcare market if foreign invested enterprises are entitled to a viable operating model consistent with other import entities in other markets and that enables Pharmaceutical companies to meet their international quality and safety standards. Decree 54/2017/ND-CP guiding the implementation of the Pharmaceutical Law includes provisions that are inconsistent with the Law and their enforcement would impose serious burdens and expenses on foreign investors. It may also lead to the disruption of supply of thousands of life-saving medicines.

11. Modernizing Education and Ensuring Appropriate Labor Costs

The foundation for improving the operational efficiency and competitiveness of Vietnamese-based businesses is workforce productivity. Numerous studies show that educational curricula in Vietnam are outdated, teachers overwhelmed and underpaid, and graduates lack the job-ready skills sought by the private sector. To continue attracting investment and to upgrade the skills of its workforce, the Government should take further action to modernize and upgrade its national

education system, particularly at the vocational and university levels. Modernizing education will ensure that Vietnam has a skilled workforce of managers, engineers, and manufacturing technicians that can move up the value chain as the economy grows.

Workforce development initiatives will improve worker output, but efficiency also depends on one critically important input: labor costs. Over the years, the rises in wages and the costs of mandatory insurance schemes have simply not been matched by increases in productivity. The result is that many companies across Vietnam are experiencing declines in productivity for each dollar invested in human resources. This is simply not sustainable. A particular cost concern is the Ministry of Labor's announcement that it is going ahead with a controversial provision requiring expat workers in Vietnam to contribute into Vietnam's social insurance fund. This has raised concerns among foreign workers and businesses regarding aggravated costs and is unjustified given the likelihood foreign employees will ever benefit from such contributions.

12. Strengthening Travel and Tourism Potential

The Prime Minister wants tourism to represent ten percent of Vietnam's GDP and we agree that this goal is not only attainable, but is also good for job creation, wealth creation and development of the country. Tourism is an excellent example of the synergies between FDI, domestic enterprises and SMEs. We are encouraged that the government will soon allow Vietnamese citizens who meet appropriate criteria to enter domestic casinos. This supports the goal of strengthening the domestic tourism industry. We encourage the Government to ensure a level playing field for foreign invested projects currently operating casinos in Vietnam as it selects locations for piloting local gaming.

We also note that the fast growing hospitality, tourism and meetings (MICE) industries contribute significantly to Vietnam's GDP and create thousands of new jobs every year. Despite the fact that the tourism industry has been identified as a key industry heading Vietnam's national economic development, a coherent strategy and persuasive road map are missing. Vietnam has real potential to become a leading tourism, meetings and events destination in Asia, however a smart and appropriate set policies needs to be developed.

13. Creating a more Attractive, Transparent and Stable Business Environment

We believe that Vietnam, working in partnership with US companies and investors, can further grow the economy by taking advantage of the best inputs and technology and by employing international standard best practices. We also support Vietnam's effort for a transparent and competitive process for equitization.

As major investors here, American companies have an interest in Vietnam's continued success. The issues raised above highlight our belief that the business climate can best be helped by actions that increase productivity and reduce the costs and risks of doing business in Vietnam. More importantly, decreasing the cost and complication of doing business will benefit Vietnamese-owned businesses - many of which are SME's - and will spur entrepreneurship, which will, in turn, ensure Vietnam's future competitiveness and growth. AmCham will continue to play a helpful and constructive role, not just to complain but also to work to identify and implement solutions, and to be a strong advocate for a better business environment and a stronger private sector in Vietnam.

I wish good health, happiness and success to the leaders, distinguished guests, and our members here today, and I thank you for this opportunity to address the Vietnam Business Forum.