

KEYNOTES FOR SESSION 3

*Presented by
Mr. Tetsu Funayama - JBAV*

Good morning everyone, this is Funayama from Japan Business Association in Vietnam. It is my great pleasure and honor to moderate this session.

In this session, I would like to raise up an issue of "how to enhance efficiency in implementation and enforcement of current law", which now seems to become a structural problem across the board on foreign enterprises in making FDI to Vietnam. We understand this issue is also seen in domestic enterprises for their own start up of new businesses.

The issue lies in the fact that when we engage whatever business activities based on certain laws in Vietnam, the ambiguity of its contents makes different translations and interpretations among several ministries or administrative organizations. In due course, it may take quite long time to find a most appropriate interpretation in making certain business decision. We are afraid this may lead to a relatively negative image on the attractiveness of Vietnam in making FDI in competing against several surrounding countries.

Several studies of international organizations such as Japanese Bank for International Cooperation already pointed out the issue, which we well note that Your Excellency Mr. Nguyen Xuan Phuc already acknowledged. At the dialogue with domestic and foreign enterprises on May 17, we were very impressed that Mr. Phuc positively expressed to make an immediate solution to this issue.

Taking this opportunity, in this session we would like to share with Deputy Prime Minister Mr. Vuong Dinh Hue and other relevant ministers and high government officials from concerned parties several facts which foreign enterprises are facing, while being stuck in the gap between the law and its actual implementation.

In order to find an appropriate solution with relevant authorities from Vietnamese side, it is vital for us to go into the nature and roots of this issue. That is the reason why today we are asking our colleagues from different industries and from different nationalities such as real estate, capital markets, infrastructure, tax, and so on, to make concrete updates of their real experiences. With such persuasive examples, we are most likely to come to a conclusion that it is necessary to positively revise and change specific clauses in certain laws which are stipulated with such ambiguity, in order to make common, clear-cut, and single interpretation of these laws. Consequently, I hope all of you present here will also recognize the importance of establishing definite "scheme" to fully support such positive action to fill in the gap between the law and its actual implementation. Our experience in Japan several decades ago facing the same situation, may serve to establish such scheme.

In this context, I would like to make two proposals today to realize such scheme, to which we sincerely hope that the Vietnamese government would pay positive attention.

The first is, to establish an independent organization within Vietnamese Government which has an authority to change the current ambiguity in certain laws and regulations. When both domestic and foreign enterprises face difficulty to make an immediate business decision due to the delay of authorized action from the government caused by the said gap between the law and its actual implementation, this organization will positively act to make a concrete solution. In

other words, this organization will have a function to stand between enterprises and certain related administration offices, and to listen carefully the remarks from both sides, and once acknowledging the nature of the gap, this organization immediately take necessary action in order to actually revise the contents of concerned laws and regulations. We understand currently in Vietnamese administrative structure, the Government Office is designated to "assume the prime responsibility for carrying out administrative procedure reform and implementing single-window and inter-agency mechanisms in carrying out administrative procedures at state administrative agencies." In this sense, we strongly believe that the Government Office is an appropriate organization to play this new role which I just mentioned, possibly enforcing the current status on its authorized function.

The second proposal is to enforce the present function of the current "Official Letter" scheme, so that both domestic and foreign enterprises will be able to easily get official interpretation of certain laws, with unified rules and administrative back-up from Vietnamese Government. At present, we understand each ministry has an authorized function to issue "Official Letter" to private enterprises. In the "Official Letter", the ministry announces its own interpretation on whether certain enterprise's business transactions are in accordance with specific clauses in certain law or not. The issue here is that such Official Letter is not regarded as legislative documentation, and the unified rule across these ministries to proceed to issue such letters is not well prepared yet. We are confident if there is a clear unified rule for this Official Letter scheme, many enterprises would like to utilize this scheme more and more.

These are two proposals that we would like to ask for the kind consideration of Deputy Prime Minister Mr. Vuong Dinh Hue and other related leaders.