

# ANNUAL VIETNAM BUSINESS FORUM 2016

Hanoi, December 5, 2016

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## OPENING REMARKS

### **Government of Vietnam – H.E. Mr. Nguyen Chi Dung, Minister of Planning and Investment**

We can consider 2016 “a year for businesses” in Vietnam because not only did it mark a journey to overcome many business community difficulties and challenges heading to a new era of integration, cooperation and mutual development, but also a year when it received unprecedented political and societal attention to develop a strong business sector to drive Vietnam’s growth and development. Prime Minister Nguyen Xuan Phuc has asserted the Government will create favorable conditions for investors and businesses to promote economic growth and development. However, despite encouraging results we remain concerned about some difficulties and challenges of upcoming integration.

With the topic “Strengthening the Private Sector”, our forum today will focus on strengthening links between this country’s private sector and foreign investments across sectors, with a focus on barriers to private sector development to find solutions and build effective cooperation models between government and businesses and more importantly among businesses themselves, including FDI and domestic ones. Specifically:

*Firstly*, Vietnam’s private sector is large, yet uncompetitive and short of international standards for effective integration. Can businesses reach the level required to participate in the global value and supply chains.

*Secondly*, as the number of FDI businesses is growing rapidly, there is little integration with domestic private businesses and a lack of connections and cooperation between the two business sectors.

*Thirdly*, environmental concerns have emerged and now paying attention to environmental issues from start to project operation is a prerequisite for an effective, sustainable and long-term investment project. This is a core issue of green growth and sustainable development.

*Fourthly*, rankings for economic competitiveness and the business environment have improved, but there has been no ASEAN region breakthrough which will make attaining ASEAN 3 or ASEAN 4 difficult.

*Fifthly*, State support for business development is necessary, especially for SMEs. The Government is committed to “laying a favorable path” so businesses can “walk on their own feet, cooperate and support each other on a fast track to destination.”

The National Assembly recently passed the Economic Restructuring Plan 2016-2020 to innovate the growth model and enhance the economy. The National Assembly also provided inputs on the draft Law on Supporting Small & Medium Enterprises. This presents great opportunities for Vietnam’s private businesses to develop and actively participate in integration, joining the global supply and production chains. As the lead Government agency organizing this forum, we will gather business community recommendations and report to the Prime Minister for consideration and agency action. We highly appreciate business community proposals and ministries’ determination to review and address the recommendations to build a safe and effective investment environment.

**International Finance Corporation – Mr. Kyle Kelhofer, Senior Country Manager, Vietnam, Lao PDR, Cambodia.**

For nearly two decades, the VBF has enjoyed a productive relationship with the Ministry of Planning and Investment (MPI) and it is anticipated this will continue under Minister Dzung's leadership. Overall, significant progress was made in enhancing Vietnam's business environment in 2016. Achievements include the country's "Doing Business" ranking jumping nine places, economic growth tipped to hit 6% and its emergence as a global manufacturing and development hub. However, linkages to domestic suppliers must be strengthened to benefit all domestic and foreign businesses.

Resolution 19 is another step to creating a business-enabling environment, provide opportunities to attract investment into sustainable business practices and renewable, clean energy. In an era of renewable energy innovation there is great global interest in bringing innovation and investment to Vietnam to help address its rapidly increasing energy demand. The Government's focus on economic stability, including oversight of the 65% debt to GDP limit, is a further positive sign. Private sector investment could further consolidate this progress in providing additional renewable energy, while reducing national debt limit demands. To close, it is also greatly encouraging the Party Congress in 2016 recognized the private sector's role as an important driver of the economy and the country's leadership is committed to creating conditions for all private companies to become more internationally competitive.

**Vietnam Business Forum Consortium – Mr. Ryu Hang Ha, Co-chair**

This was an important year for Vietnam, with a smooth leadership transition and steady economic growth. Overall, the Government is to be congratulated for improving the business environment. In particular, the National Assembly's recent amendments to the Investment Law, which especially affect the auto industry, are to be applauded. Today's discussions will serve to link domestic and foreign enterprises, while supporting green and climate sensitive development. Fostering a close public and private sector relationship to create a thriving business environment is another key objective and the VBF stands ready to contribute to new rules and looks forward to sharing best practices with regulators.

The VBF has increased its membership, activities and reputation as well as built a strong relationship between the business community and Government during the nearly 20 years of its existence. These achievements have been made possible thanks to the great efforts of 16 VBF chambers, 16 working groups, government ministries and the MPI's support. We would recommend the VBF Forum be held twice a year and to work with the new government to ensure that VBF continues to play a meaningful role in helping Vietnam modernize and grow in this increasingly competitive region.

**SESSION 1: PRESENTATIONS BY 6 CHAMBERS**

**Vietnam Chamber of Commerce and Industry (VCCI) - Mr. Vu Tien Loc, Chairman**

The business community congratulates the Prime Minister and Government on business environment improvements in 2016, with a clear action plan outlined in Resolution 19, Resolution 35/2016 to be an ASEAN 4 country and have one million effective businesses by 2020. However, significant work remains to close the gap on advanced counterparts. Next year will remain challenging for businesses. In this context, we need strengthened institutional reform, better use of resources, a strong domestic private sector connected to the global value chain and FDIs for sustainable development.

To create breakthroughs, VCCI encourages the Government to consider:

1. Tighten enforcement discipline, strengthen oversight and feedback of people and businesses. Establishment of the Task Force, under the Prime Minister, to promote implementation.
2. Prepare the draft One Law to amend legislation on business and investment environment in the next congressional meeting.
3. Developing an action program supporting conversion of household enterprises into businesses, modify inappropriate administrative procedures, tax and credit policies. Legislative affected by amendments should be incorporated into the SME Law or amendments of laws on business and investment enacted in the next congressional session.
4. Implement comprehensive education reform towards international standards ensuring real-life business practicality to improve human resources.
5. Propose the National Assembly amend the Labor Law towards more flexible regulations on overtime and adjusting policies on wages and social insurance.
6. Proposing the Law on Supporting Industry to the National Assembly. Connect domestic SMEs with transnational corporation production supply chains requires a strong legal framework to boost the supporting industry.
7. In administrative reform, successful models and technology reforms piloted in selected localities and agencies should be broadly applied. Accelerating implementation of electronic government, implement the Public Administration Service Center model and have an independent investment promotion and support agency under direct leadership of provincial leaders.
8. To enhance connections between transnational corporations and FDI with domestic SMEs, VCCI has signed a cooperation agreement with the US-ASEAN Business Council on establishment of the US-Vietnam Business Coalition and implementation of the Vietnam SME Supporting Program for capacity building to connect with large US businesses.
9. In 2017, the APEC Summit will be held in Vietnam. VCCI has been tasked by the Prime Minister to chair the APEC CEO Summit and preside over the year's business activities. In addition, VCCI also hosts the Business Forum with Vietnam and APEC Entrepreneurship Forum. VCCI invites the honorable presence and guidance of the Prime Minister and VBF members to cooperate with VCCI for these events.

#### **American Chamber of Commerce (AmCham) – Mrs. Virginia B. Foote, Chairwoman**

AmCham congratulates Vietnam for the high level of stability and growth enjoyed by companies and investors in 2016 that is the envy of many regional competitors. While much progress has been made, tension between economic growth and the environment is emerging – but AmCham believes rapid development does need not come at the expense of the environment nor risks to citizens' health and safety. When environmental or regulatory laws are broken, the Government is supported to take fair and transparent action.

AmCham has worked with other chambers for regulatory fixes to enable a stronger “Made in Vietnam” energy plan that places greater emphasis on Vietnam's domestic potential for cleaner efficiencies, renewables and offshore natural gas. A public education campaign for consumers, farmers and enterprises is needed on this issue. To improve the business climate, administrative burdens that hamper growth and lead to corruption, an over-complicated licencing and regulatory environment must be addressed. AmCham and the VBF will continue working with VCCI and Government to promote good governance and anti-corruption.

Initiatives to strengthen the private sector are encouraging and it is hoped State Bank Circular 19 on e-payment will not impose a mandatory process on top of international systems that are already effective. The internet is a crucial business tool, but cybercrime has emerged as a major threat and Vietnam is especially vulnerable. AmCham and member companies will continue to address this and a special conference next year will share best practices with domestic companies and government agencies. AmCham highly appreciates the establishment of a National Committee on Trade Facilitation and AmCham will continue technical assistance to it.

Tourism is also an important driver of the private businesses. While AmCham is pleased with new one-year visas, AmCham is very surprised that previously one-month visas are withdrawn. AmCham urges the government to provide both types of visa to Americans.

While it is disappointing the US has yet to ratify the Trans-Pacific Partnership (TPP), the business community will continue to foster closer ties between the US and Vietnam and to help the latter's reform and modernization agenda.

Finally, AmCham looks forward to the Vietnam-hosted APEC 2017 and a year of opportunities to highlight the country's economic progress and growth. AmCham is pleased to convene a major conference in Hanoi on March 10 and will be active in hosting many international visitors in 2017.

### **European Chamber of Commerce (EuroCham) - Mr. Tomaso Andreatta, Vice Chairman**

EuroCham's three main focus areas to benefit companies doing business in Vietnam are Government efficiency, sustainable processes to produce quality products and preparation for opportunities created by the EU-Vietnam FTA. It is essential to enhance the administrative environment through a major simplification of laws and procedures to reduce abuse, guarantee transparency and accountability, improve State employees' salaries and help companies navigate through laws and regulations. This will make Vietnam's investment environment more attractive than ASEAN competitors. Banking reform will also boost the local economy and provide sufficient credit to companies and boost restructuring of SMEs.

In particular the food and agriculture industry, which often fails to meet safety and quality control standards, requires special attention. It is essential to guarantee the content and quality of value added branded food products and this can be achieved through creation of new processed food companies in Vietnam, but also through control of pesticides, fertilizers and pollutants by educating farmers and enhancing capacity of quality control labs.

While pollution and environmental degradation are significant issues facing Vietnam, capital dedicated to cleaner production of energy and goods is increasingly easy to adopt and attract. In the energy field, setting a long-term price roadmap and opening of markets are needed so electricity prices reflect full production costs along with guaranteed clean sources. Facilitating the spread of cleaner and energy efficient automobile and motorcycle technologies, such as hybrid and electric, will bring longer-term investment to the sector. Tourism stands to lose from pollution, environmental degradation and overbuilding as does agriculture, which will not survive coal pollution if the energy balance is not further tilted towards locally available environmental-friendly resources.

European companies, already model citizens here in terms of business, labor and environmental practices, need Vietnam and Vietnamese companies to rapidly align to best practices to grow larger and more knowledgeable to cooperate along the value chain. The EU-Vietnam FTA is expected to become effective in 2018 to project Vietnam as a connection point for trade and

investment between 600 million Europeans and 600 million South East Asians. The majority of European companies coming to Vietnam might be SMEs, which will offer knowledge transfers, upskilling and fair partnerships.

### **Response from Ministry of Health (MOH) – Mr. Le Tuan, Deputy Minister**

For recommendations of EuroCham's Pharma Group: The Law on Pharmaceuticals was approved by the National Assembly on April 6, 2016 and will take effect on January 1, 2017. It regulates a series of provisions to improve access to medicine, ensure safe and effective use of medicine by encouraging its professional distribution and circulation. It also improves access to new medicine, with chemical and biological medicines circulated in at least one country with sufficient safety data, are waived from clinical testing in Vietnam instead of circulated for five years or longer. For vaccines, as the majority of the population is healthy, safety requirements are upheld. Accordingly, vaccines circulated in at least one country with sufficient clinical data are still required for clinical testing before first registration.

Medicine registration process: Registration takes 18-28 months, as highlighted by EuroCham, because pharmaceutical companies are required to provide additional technical records such as stability, similar biological testing or CTP. As for the Law on Pharmaceutical of 2016, requirements on re-licensing application have been simplified to shorten the process. Besides, it stipulates the licensing agency is required to return the re-licensing result within three months.

Intellectual property: The MoH shares EuroCham's opinion that thorough preparation for legal framework revision is needed to prepare for intellectual property commitments stipulated in free trade treaties ratified by Vietnam. Intellectual property protection for pharmaceutical invention, brings opportunities to manufacturers of original special drugs and challenges to the authority to supply sufficient medicine at reasonable prices, putting Vietnamese at risk of high-priced medicine due to exclusive rights.

Therefore, the MoH will carefully consider the revision of intellectual property protection to ensure a balance between interests of intellectual property owners and the community, improve medicinal quality and ensure supply coverage, encourage investment in research and implementation of new products, and control abuse of exclusive rights.

The MoH is willing to cooperate with EuroCham and relevant agencies to finalize legal systems and strengthen enforcement bodies in Vietnam to ensure implementation of international commitments on intellectual property and facilitate manufacturing of novel medicine in Vietnam.

For recommendations on nutrition content tolerance: The MoH has captured the recommendations and is revising the Decree.

For promotion and marketing of formula milk stipulated in Paragraph 4, Article 7 Law on Advertising of 2012: This was discussed between MOH and other ministries, agencies and National Assembly committees. Issues raised by EuroCham were properly explained and communicated. Since WHO and UNICEF recommend encouraging breastfeeding for the first six months, Paragraph 4, Article 7 of Law on Advertising and Decree 100 (revision of Decree 21) restricts advertising of alternative formula milk for infants of 24 months and younger. This was well recognized by WHO and UNICEF.

Regarding EuroCham's opinion, the MoH believes restricting advertisements for alternative formula milk for infants of 24 months and younger does not prevent access to information.

Mothers and other family members are advised to use alternative formula milk by medical staff where necessary and can access to manufacturer and distributor details on labels and company websites. Advertised information is inaccurate because manufacturers usually “exaggerate”, which misleads mothers that these products can replace breastfeeding which affects childcare in a negative way.

For improvements in communication: The MoH will coordinate with the Ministry of Information and Communication and dedicated agencies to improve communication to mothers for suitable consumption.

### **Korean Chamber of Commerce (KoCham) - Mr. Han Dong Hee, Chairman**

KoCham would like to highlight the need for improved linkages between domestic and FDI enterprises. Policies are needed so FDI companies can expand commercial relationships and procure parts and products from Vietnamese companies. To achieve this, a tentatively named Investment Cooperation Council must be pursued to secure business opportunities. A policy is also needed to select, reward and proactively promote foreign investment companies that have facilitated exchanges.

Secondly, it is also important to address legal issues problematic for Korean investors, the first of which is to minimize difficulties surrounding the import of used machinery and equipment. Circular No.23 on the import of used machinery, equipment and manufacture lines has proved overly rigid in practice. Removing the regulation relating to age of used equipment not exceeding 10 years, regulations that clearly state which authority certifies used equipment for new investment and expanded investment projects and the Ministry of Science and Technology promulgating more detailed criteria for used equipment will help address this issue.

Thirdly, it is important to relax the import duty for financing leasing assets applied to export processing companies. KoCham encourages authorities in current regulations to recognize the same content of Article 22, from Decree 16/2001/ND-CP that taxes on machinery, equipment, means of transport and other movable assets financial leasing companies purchase in Vietnam or import for lease shall be the same as lessees that directly purchase or import such assets.

### **Response from the Ministry of Science & Technology (MoST) - Mr. Tran Viet Thanh, Vice Minister**

With regard to Circular 23 on the importation of used machinery, equipment and technological lines issued in November 2015, it aims to prevent Vietnam from becoming a technological wastebasket resulting in environmental pollution, energy inefficiency and insecurity. It will also protect Vietnam’s competitiveness upon entry into free trade agreements by minimizing use of obsolete machinery. During the drafting process, MoST conducted research on experiences of other countries and extensive consultations with ministries, enterprises, business associations and VCCI. Concerning comments about the threshold age of the equipment, i.e. no more than 10 years, Clause 1, Article 6 of the Circular specifies that the age of the equipment may not exceed 10 years and must conform to the technical standards and specifications of Vietnam or G7 countries in terms of safety and energy efficiency.

While regulating the age of equipment is necessary, for new and expanded investment projects Clause 2, Article 6 of Circular 23 also stipulates that a list of used equipment should be incorporated in investment dossiers submitted to authorities or business registration agencies for approval in line with the Investment Law instead of applying the aforesaid Clause 1, Article 6. Clause 4, Article 6 also provides that where necessary, depending on the specific characteristics

of each industry and assigned mandate, the head of ministerial agencies may decide on the age of the equipment be lower than the threshold specified in Clause 1, Article 6.

For import clearance procedures, businesses can present certificate(s) of investment registration and attach the list of machinery and equipment to customs, which will proceed with clearance and check later under the post-clearance audit mechanism. To date, the MoST has developed and promulgated a system of technical standards and specifications for safety, energy efficiency and environmental protection. Some 45% of these standards and specifications are in alignment with international practices.

An inspection of machinery and equipment will be performed at businesses' discretion and by an inspection agency nominated by businesses. So far, the MoST has published 28 qualified inspecting agencies, three of which are foreign ones. However, if a nomination is not one of the 28 organizations, it must send information to the MoST for appraising, qualifying and publishing.

### **Response from the Ministry of Finance (MoF) - Mr. Tran Xuan Ha, Deputy Minister**

The MoF notes KoCham's comments on the mechanism for import duties of machinery and equipment used in financial leasing. Currently, this area includes two aspects: VAT on imports and import duties. For VAT on imports, MoF has issued guiding documents. For import tariffs, MoF will collaborate with KoCham for guidance.

### **Japan Business Association in Vietnam (JBAV) – Mr. Taiji Yanai, Chairman**

The JBAV has four key issues to address.

Firstly, with regard to a range of labor issues the minimum wage must keep pace with economic indices or Vietnam's economic competitiveness will be affected. Regarding overtime regulations, flexibility is needed based on each industry.

Secondly, in respect to the automotive industry aggressive policies for post-2018 are eagerly awaited. At this point, clarification of production incentives and removal of duties on imported parts are requested. Also, electric vehicles and bikes must be regulated for traffic safety, environmental and industrial property protection.

Thirdly, Japanese companies can contribute to development through high technology traceability systems to ensure food safety and highly developed agricultural fertilizers and chemicals.

Fourthly, with rising electricity demands and government debt, Public-Private Partnership (PPP) and Build-operate-transfer (BOT) models are required for power sector development. The JBAV proposes early completion of negotiations for thermal power projects, such as Nghi Son 2, Vung Ang 2 and Van Phong 1, all strongly supported by the Japanese Government.

Vietnam must keep its commitment to comprehensive and regional trade policies, including TPP, as JBAV believes global market participation will create clear competitive advantages for Vietnam.

### **Response from the Ministry of Transport (MoT) - Mr. Nguyen Ngoc Dong, Deputy Minister**

Regarding promulgation of decrees revising regulations on management of motorcycles and electric bicycles to ensure traffic safety, environmental protection and industrial property, the

Law on Road Traffic currently regulates the circulation of such vehicles. The MoT manages national specifications in relation to motorcycles, electric cars, electric bicycles, which are currently under review. The MoT acknowledges comments concerning the decrees on ensuring environmental protection and industrial property and will work with other relevant ministries and agencies for solutions. Besides, the MoT is expediting the Long Thanh airport project as instructed by the Government and enacted by the National Assembly.

### **British Business Group Vietnam (BBGV) – Mr. Ken Atkinson, Chairman**

The BBGV would like to highlight five issues.

Firstly, taxation remains overly time consuming for businesses with inspections years after relevant fiscal years and different interpretations of regulations. It is recommended tax inspections be carried out annually to avoid penalties and high interest charges for genuine errors or a method to calculate them that reflects the inability of tax offices to conduct annual inspections and not to penalize businesses.

Secondly, education is the backbone of a country and its development. Strong linkages between the business community and colleges/universities are needed so business needs are reflected in relevant curricula, especially in learning foreign languages.

Thirdly, IT and high-tech sectors are high on the Government's development agenda, yet demand exceeds supply of IT resources. Education is key to developing a larger pool of qualified people and BBGV members are keen to learn more about the Government's plan to develop IT resources in major cities.

Fourthly, the BBGV is increasingly concerned at increases in air and noise pollution, traffic congestion and flooding. The Government must limit traffic in major cities as soon as new public transport systems are operational. There is also a wealth of experience in dealing with these issues and the UK and BBGV have an Urban Development Working Group happy to meet Government departments to develop appropriate solutions.

Lastly, the BBGV believes visa facilitation must be expedited as a major driver of foreign investment. As such, bold increases in visa exempt countries will increase trade, investment and tourism.

### **Response from the Ministry of Finance (MoF) - Mr. Tran Xuan Ha, Deputy Minister**

The MoF notes BBGV inputs on matters related to annual and periodic tax checks and inspections as well as appropriate calculation of fines, penalty interest. In this regard, tax administration has defined regulations on tax inspection. It will issue uniform periodic checks and inspections, and delegate to the tax inspection agency, as the specialized State agency for implementation. The MoF will continue to apply IT in the management of records to minimize procedures during inspections. It will provide specific guidelines on fines and penalty handling discovered during inspections.



## SESSION 2 – IMPROVING DOMESTIC AND FDI LINKAGE FOR ALL BUSINESSES AND SECTORS

### **Moderator for the theme - Mr. Colin Blackwell, Human Resources Sub-Working Group, Head**

Theme introduction: FDI companies, but also domestic ones, in Vietnam have caught up and exceeded international standards. Top FDI firms consistently follow a formula for success and it is in FDI and domestic sectors' interest this knowledge is shared. Domestic SMEs make up the largest part of Vietnam's economy and their enhancement would improve the whole economy. To achieve this, three groups need to work together in a “*kieng ba chan*” tripod for strength and stability. Next, Fred Burke explores how the Government can help domestic and foreign businesses.

### **Investment and Trade Working Group - Mr. Fred Burke, Head**

IFC this year reported that just 21% of Vietnamese enterprises participated in global supply chains. Yet, the Investment and Trade Working Group (ITWG) sees numerous opportunities for improvement. Only a reduction in barriers to efficient cooperation between local, foreign-invested and foreign companies will allow Vietnam to become a key global supply chain player. Recent setbacks in international trade agreements, especially the TPP, make domestic administrative reforms essential to realize the potential of Vietnamese domestic enterprises. Key issues are as follows:

Regarding trade facilitation, the new WTO agreement could save 20% of transaction cost for Vietnamese traders. Vietnam has already established a national trade facilitation committee to remove obstacles for Vietnamese and international companies to work together. However, the flow of new license and permit requirements clog up the supply chain in Vietnam. Vietnamese enterprises need help to comply with tax rules, rather than be trapped by rule changes, so they comply with international partner requirements.

Restrictions on cross-border loans for residential housing have knock-on effects through the supply industry and asset allocation for Vietnamese investors who accumulate capital on export sales. The last version of the Housing Law has dropped the allowance for cross-border loans for residential housing, but is permitted for commercial housing, hotels and resorts. This could limit capital for an important component of the economy. Proposed Competition Law changes are encouraging, but stakeholders' consultation to adopt changes to this important law is vital to keep Vietnam internationally competitive.

Recently, an important activity line for monitoring commercial contracts of representative offices was removed from the law (Decree No.07/2016/ND-CP). This could hurt local counterparties, who need accessible contact points in such offices to unlock foreign markets. Regarding the automobile industry, there are numerous opportunities for more local sourcing, yet some firms are suspending investment due to Circular 23, which must be more practical. Cyber security is a pressing issue and Decrees 58 and 108 have imposed import licensing requirements that should be streamlined and clarified for balance between digital economy security and its accessibility to SMEs.

Finally, a supportive regulatory environment is critical for Vietnamese enterprises' success, as they will not access international supply chains due to non-compliance with strict international codes of conduct nor financing from international lenders. As such, Vietnamese accounting standards must be more closely aligned to international financial reporting ones.

## **Response from the Ministry of Construction (MoC) - Mr. Tran Quoc Khanh, Deputy Minister**

The Law on Housing and Real Estate Business does not restrict participation of organizations and individuals in Vietnam, including foreign ones. Regarding capital, the Law on Housing and Decree 99 provides for capital as follows: investor's own funds, capital contributed or raised through cooperation/business/joint venture/associate contracts made between organizations, individuals and households, rent and purchase proceeds, prepaid rent from customers and loans from credit institutions in Vietnam. Concerning recommendations on foreign capital and that from foreign credit institutions not having a presence in Vietnam, this is not encouraged given capital transparency and anti-money laundering issues. The MoC will further study the forum's comments and recommendations.

Concerning recommendations on differences in treating foreign-invested and domestic real estate businesses and recommendations on Article 10, Article 11 and Article 37 of the Law on Real Estate Business: In essence, the Law on Real Estate Business in 2014 has introduced many new and improved regulations compared to the previous Law in 2006, allowing more room for real estate business conducted by foreign organizations and individuals in Vietnam. Specifically from 2005 to 2015, only 1100 foreigners could buy houses in Vietnam, but by 2014 (when the new Housing Law was adopted), around 600 foreign nations owned houses in Vietnam. In the Housing Law 2014, foreign investors may construct buildings on land allocated, sold or leased by the State or take ownership of land leased or purchased for real estate projects to construct, sell, rent and lease. However, the Law on Real Estate Business 2014 does not allow this given its interdependence on the Land Law. The Land Law 2013 does not allow foreign investors to receive land use rights separate from the commercial properties built on it. The MoC will further study for better alignment with international practices.

Regarding recommendations to remove constraints on foreign investors' buying real estate in Vietnam, under the Housing Law and Law on Real Estate Business, Vietnam only allows foreign investors to buy houses in Vietnam. Nonetheless, the MoC will further study this issue.

## **Response from the Ministry of Finance (MoF) - Mr. Tran Xuan Ha, Deputy Minister**

In the field of taxation, under direct Prime Minister authority, the MoF has achieved notable progress and improvements in tax policy mechanisms and tax law. The tax rate has decreased and eligible entities for tax incentives and levels for tax incentives have increased, providing protection for domestic production and businesses and upholding international commitments. In particular, the MoF focused on administrative reform of tax and customs, reducing tax times from 420 hours/year to 117 hours/year and reducing custom clearance times from 21-14 days for export and 13 days for imports. These reforms will contribute to further strengthening and improvement of business environment.

In the future, the MoF will implement Resolutions 19 and 35, striving to improve financial markets by the end of 2017, whereby the level readiness and availability of financial services will be among top 50 countries and by 2020, the business environment and competitiveness will be on par with the average of the ASEAN + 4 countries. Time spent to paying taxes, insurance and social insurance will be under 155 hours/year and clearance times for exports and imports are under 41 and 48 hours, respectively.

On accounting and auditing regimes, the MoF noted the need to revise Vietnam's accounting standards and financial report standards to conform to international accounting standards.

## **Moderator for the theme - Mr. Colin Blackwell, HR Sub-Working Group, Head**

The importance of functioning capital markets to fund domestic sector improvements are presented by Mr. Dominic Scriven and Mr. Terence Mahony, Head and Co-Head of the Capital Markets Working Group.

### **Capital Markets Working Group - Mr. Dominic Scriven, Head**

The Capital Markets Group recommends the Government concentrate on three groups of issues, to develop market deeply, strongly and safely.

Firstly, domestic institutional investors are urgently needed and this requires measures and providers of professional investment products in Vietnam. The lack of institutional investors will cause listed companies difficulties in finding funding sources. The development of institutional investors will utilize idle funds in society. Even though the application for tax incentives is sensitive, the group proposes the MoF consider raising deduction rates for pension funds from VND1-3 million/person/month.

Secondly, in an emerging market like Vietnam, price manipulation, lack of transparency, conflicts of interest and fraud are unavoidable. Therefore, the value of listed companies in Vietnam is lower than other regional countries. After 20 years, the country only has 1.5 million securities trading accounts. The group recommends the Government consider increasing State Securities Commission power in the inspection, investigation and handling of violations and consider an inter-ministerial group to handle such issues.

Thirdly, Vietnam faces significant environmental challenges. The environmental incident in the Central this year, problems related to the Mekong River, droughts, floods, climate change, health, the negative impact on national image and the role of Vietnam in wildlife trade are problems observed by the world. To underscore this, the group has informed that the largest investor in Dragon Capital had decided to withdraw from Vietnam due to the lack of policies and convincing actions regarding environmental protection.

### **Capital Markets Working Group - Mr. Terence Mahony, Co-Head**

FDI has grown at a healthy 15% plus rate over the last few years. Unfortunately, equity issuance has been non-existent, which explains the ongoing lack of liquidity on both exchanges and the unlikelihood Vietnam can join the MSCI EM Index. Equity issuances remain outweighed by FDI, as reflected in the poor state of capital markets.

Foreign equity ownership is low compared to other Asian peers. Many foreign institutions want to invest in Vietnam, but cannot access meaningful amounts of stock. IPOs in private companies and SOEs will increase market size and liquidity. The best way to achieve this is by issuing shares through book building, rather than an auction process. Investors prefer a fixed amount of shares set at a negotiated price. For a successful issuance, a prospectus with accounts audited to international standards is essential. It is encouraging to see interest in Novoland by 18 different institutional investors (70% are from overseas) and VietJet's IPO.

The Government is encouraged to take advantage of the current investment climate, but the process must be implemented along international standards and not be sidetracked by concerns about accountability and vested interests. The equity market's broadening through equitization is beneficial on many fronts, domestically (wealth creation through savings and pension funds) and internationally (inward flows of funds alleviate budget deficits). The Government must learn from experienced international financiers who have the country's best interests at heart.

## **Response from the Ministry of Finance (MoF) - Mr. Tran Xuan Ha, Deputy Minister**

Regarding capital market development, the MoF is encouraged by its results. Market capitalization has reached 42% of GDP, with VND348 trillion in government bonds as well as corporate bonds and shares. Foreign portfolio in Vietnam has reached \$17.3 billion, up VND2.6 billion compared to the beginning of 2015. In the future, the MoF will continue to provide solutions to promote the capital market, such as stepping up equitization of State-owned enterprises and State divestiture of businesses to make room for foreign investors and apply corporate governance under the new decree on corporate governance for public companies submitted to the Government. The MoF will open a derivative market, firstly for bond futures and a bond index. The market could be open by mid next year.

Firstly, regarding development and business facilitation of institutional investors, the MOF has implemented measures to facilitate securities organizations' market participation. Recently, the Prime Minister signed a decree on voluntary pension fund to strengthen the social security system and create resources for the stock market. For provisions where employers contributing into the fund can deduct up to VND1 million/month/person and the increase of up to VND3 million is to be reported to authorities based on coordination between MoF and other agencies, noting that participation in the voluntary pension fund requires businesses to pay 100% of social insurance as prescribed by law. Secondly on the issue of administrative sanctions, the MoF proposed the Prime Minister issue Decree 145 on increasing administrative penalties. The ministry will coordinate authorities to place numerous offenses under the Criminal Code and formulate a joint circular between MOF and the Public Security Agency to handle administrative sanctions versus criminal sanction acts as defined.

Issuing shares under the book-building method is appropriate and the MoF will work to improve the mechanism and pilot implementation soon. On issuing bonds for projects, which has received much attention from the Government relating to resource mobilization for developers and investors, public issuances must comply with applicable regulations.

## **Human Resource Sub-Working Group – Mr. Colin Blackwell, Head**

Regarding work permits, clarifications are needed regarding which applicants apply as managers or specialists, work experience plus qualifications or qualifications and definitions of police clearance certificates.

Secondly, there have been improvements in legally defining illegal strikers, yet there are concerns from domestic and foreign businesses if people's committees can help at a local level when strikes occur.

Thirdly, there has been a modest rise in minimum wages and hopefully there will be guidance on future modest increases to help domestic and foreign companies to manage costs, margins and competitiveness. It is also important for foreign investment in manufacturing and exports to control inflation. Future minimum wage increases should take into consideration other employment costs such as social security and others according to labor regulations.

Lastly, regarding overtime the Japanese offer of technical advice on finding a voluntary solution without changing the law would be used.

## **Response from the Ministry of Labor, Invalids and Social Affairs (MoLISA) - Mr. Dao Ngoc Dung, Minister**

Regarding amendments to the Labor Code, MoLISA and the Government will make amendments during the 4th meeting of the 14th National Assembly Session (April and October 2017). Key issues directly related to the code will be referenced and considered for amendment at this meeting, particularly points related to the retirement age, minimum wage, strikes and overtime. MoLISA is eager to receive opinions on these matters.

On the issue of regional minimum wages, MoLISA has calculated it on the basis of minimum living needs of employees, followed by socio-economic conditions and general wage and living standards of employees. Recently, the National Assembly decided to increase regional salaries by 7.3% and MoLISA through surveys and business association exchanges has worked to ensure business growth and workers' minimum living standards.

Regarding strikes, regulations are explicit in the Labor Code. However, the line between legal and illegal strikes remains unclear. An illegal strike must be declared by the court and these issues will be further defined in upcoming Labor Code amendments.

Other content such as training and overtime will be amended. Currently, overtime in Vietnam is prescribed up to a maximum of 200 hours and special cases decided by the Prime Minister not exceeding 300 hours. MoLISA has conducted research and consultations to discover the overtime policy should increase in some sectors, but still take into account the health, living conditions and income of employees.

## **Banking Working Group – Mr. Pham Hong Hai, Head**

To build on the Vietnam's many advantages, the Government is encouraged to continue on its reform path. In particular, the Banking Working Group recommends the Government remains focused on developing a stable and solid domestic economy, boosting the production value chain and promoting investment in technology and education as well as local firms' participation in foreign businesses' production value chain. Banks will play a key role in promoting this process.

The SBV closely cooperated with the Working Group to resolve numerous issues in 2015 and 2016. Coordination mechanisms employed by two parties have strongly improved, solving more than 55% of problems raised in the last two years. The Group proposes three recommendations to the SBV.

It is proposed the SBV continues to build mechanisms and legal ground to offer sufficient derivative products to help businesses with risk management. Developing this derivative facility requires the market to have a market benchmark, particularly for short-term interest rates for dong.

The second proposal is simplification of administrative procedures under Prime Ministerial guidelines for an enabling government supporting business development.

Regarding development of cash management products, the Group recommends the State consider creating mechanisms to allow banks to provide cash flow management products for businesses.

SMEs in Vietnam have faced major difficulties and barriers in recent times such as inaccessibility to FDI's value chain, while FDI consider different factors such as labor safety,

environment, and anti-corruption. Overall, SMEs must understand rules relating to FDI businesses to enable supply chain participation.

Regarding proposals for FDI businesses and banks, the group can help connect SMEs in Vietnam with FDI based on relationships and knowledge. The sustainable financial management of businesses is an important criterion for businesses to access bank loans. There must be new methods such as application of digital technology for more effective risk evaluation of SMEs or in credit scoring.

The Group encourages the Government to step-up in the area of providing guarantees for SMEs, with State support in providing guarantees for SMEs to create more confidence for banks. Updated information on macroeconomic trends for SMEs, a clear legal framework and a level playing field are also important. Finally, the development strategy for SMEs should be harmonized with the national development strategy to ensure sustainable development.

### **Response from the State Bank of Vietnam (SBV) - Mrs. Nguyen Thi Hong, Deputy Governor**

On the recommendation to develop a legal framework for risk prevention, including derivative products and formation of a short-term yield curve, SBV legal documents provide for interest rate derivatives and the SBV will soon complete a guiding circular on commodity price derivatives. The SBV will continue to research risk management products in the market. With regard to a short-term yield curve, the SBV is assessing the currency market to determine representative interest rates to build a short-term yield curve.

Overall, the currency market has shown significant improvements. Previously, credit institutions had short maturities, which caused liquidity management and SBV monetary policy difficulties. Currently, short-term interest rates have formed a yield curve and the credit institution system has raised funds with longer terms, creating favorable conditions for SBV to control liquidity and manage monetary policy.

Regarding foreign exchange procedures, legislative documents have strictly regulated transactions by organizations and individuals to prove their legality. For proposals to develop cash flow management products, the SBV in principle supports the development of a financial market with high-quality products complying with current legal provisions. Regarding trust activities, the SBV issued Circular No.30 with specified regulations. However, the concept of businesses and corporate lending for profit is dependent upon the Enterprise Law's concept of business. The SBV will continue working with the group to coordinate with ministries, including the MPI and Ministry of Justice.

### **Infrastructure Working Group – Mr. Tony Foster, Head**

There is significant scope for FDI firms and Government to make infrastructure more attractive, with PPP offering rich potential. PPP is designed to bring local developers together to navigate through the local regulatory landscape together with foreign money. But the question of who bears risk is slowing PPP momentum in Vietnam. Therefore, risk allocation in each sector where PPP is relevant must be addressed.

With respect to power, foreign exchange convertibility and law change issues have been discussed for more than 11 years. As foreign traditional financing sources are drying up in light of the Paris Agreement on climate, new opportunities will arise for Vietnam in environment

improvements through use of ultra super critical technology and replacement of foreign financing through local options, particularly the bond market.

Roading is an area where FDI can supplement local knowledge to provide insight into planning to help foreign interests identify returns, land acquisition and site clearance costs. There is no system for protecting against political *force majeure* early termination payments.

Like roads, FDI can play a big role in airport development by bringing in foreign capital and expertise, but the legal framework must be improved. The tariff regulation should be brought more into line with market principles and land allocation should be consistent with private financing so projects like Long Thanh can use private money.

Regarding railways, a breakthrough is in sight with the new law on railways and further investment collaboration between FDI and local businesses is needed.

Finally the ports sector, where Cai Mep illustrates FDI, local businesses and Government must all work together for success. The Ports Sub-Group recommends dredging for arrival of large vessels into Vietnam to benefit exporters and importers.

#### **Response from the Ministry of Planning and Investment (MPI) - Mr. Nguyen Dang Truong, Director of Procurement Management Department**

In response to issues raised by the Infrastructure Group on State capital contributions to the Vietnam Growth Fund (VGF), project development fund (PDF) and attraction of PPP models, overlapping issues with licensing, capital and land mobilization, foreign exchange guarantees. All concern the legal framework, institutions and implementation bodies. The Prime Minister has responded with re-establishment of the State Steering Committee on PPP as well as assigning the MPI to research amendment of the Decree on PPP. For VGF issues, the MPI has worked with donors such as ADB and JICA to arrange for ODA contributions to the VGF. For the PDF, the MPI is actively coordinating with the MOF and submitting 68 PPP projects to the Prime Minister, including 18 priority road transport ones.

Other matters such as the overlapping licensing and amending Decree 15, the MPI will take necessary steps to simplify investment certificate granting procedures. The MPI understands implementation of PPP should be according to market mechanisms, especially with regards to interest for investors, such as revenue and foreign exchange guarantees.

#### **Response from the Ministry of Transport (MoT) - Mr. Nguyen Ngoc Dong, Deputy Minister**

The MoT has been working closely with the World Bank and Australian Agency for International Development to develop pilot PPP projects. Besides completing preparation of investment projects, the MOT has developed mechanisms on guarantees, site clearance and risk sharing submitted to the Government for consideration.

Regarding aviation, the MOT has actively expedited the equitization of Vietnam Airlines, bringing strategic investors from Japan and France to the Airports Corporation of Vietnam. The MOT is considering to engage private sector investment in some sub-components of the Long Thanh airport development project.

With respect to seaports, Cai Mep-Thi Vai is one of the ports built with support from JICA, Japan. The MoT is implementing a plan to improve the port's efficiency with a variety of

solutions and has noted the recommendation to develop a domestic and international transportation center through a pricing and charging mechanism and a freight transportation regulation for ports located in Group 5 areas and Ho Chi Minh City.

Regarding fairways, the MoT is maintaining 14m fairway for vessels with capacity mounting up to 100,000 tons. In 2017 - 2018, the Ministry will increase it to 15.5m so larger vessels can enter.

### **Tourism Working Group – Mr. Colin Pine, Head**

Tourism continues to grow and remains an important contributor to Vietnam's economy and development. Importantly, there has been significant Government support with continued application of the visa waiver for six European countries. The working group's first recommendation is current irregularly applied visa waivers should be made permanent. Secondly, there should be a clear path for expanding the number of countries applicable for visa waivers. Regarding e-visa planning, the process must be clear on all relevant ministry websites and to tourism and destination marketing companies. Importantly, the payment mechanism should include secure online credit card payments to facilitate seamless application of e-visas. We advocate short-term visas be available for tourism purposes. As tourism, destination marketing and MICE companies make plans a year in advance, any policy that affects visa requirements must be flagged well in advance.

Effective marketing of Vietnam as a tourism destination would provide significant returns. A good example of public and private sector cooperation is the Tourism Advisory Board set up under a EU-funded project. The board works directly with the Vietnam National Administration of Tourism (VNAT) and State-owned firms. It will continue as a social enterprise and support the VNAT in policy, marketing and human resource issues. The board should also be involved in the tourism development assistance fund, along with tourism and provincial tourism associations. Marketing and capacity building at provincial level in terms of integrating regional approaches to build tourism plans, public services and public education on responsible tourism are essential.

The EU project has created a set of tourism occupational skill standards, but it is unclear who is responsible inside the Government to apply and certificate them. The Ministry of Sport, Culture and Tourism is recommended to take on the role. Concern remains about tourism's impact on the environment. Two specific responses would be new or recommended standards for operation of certain tourism activities, such as boat tours in Halong Bay and creation of public service messages and education with respect to international and domestic visitors.

### **Ministry of Culture, Sports and Tourism (MoCST) - Mr. Huynh Vinh Ai, Deputy Minister**

Vietnam's tourism has seen rapid growth in recent years. By the end of November this year, the country has received over nine million international visitors, representing an increase of 25.42%. In November 2016, the National Assembly instructed a revision of the Law on Tourism and the Communist Party of Vietnam is expected to issue a resolution on the development of tourism as a key economic sector within December 2016. The MoCST will issue legal documents and policies to come. It is envisaged tourism will become a key economic sector with 17 million international visitors by 2020 and 30 million international visitors by 2030. The MoCST is finalizing proposals for submission to the Prime Minister and competent authorities on policies such as infrastructure development.

Regarding investment attraction, the MoCST has proposed the Government issue a decision on national tourism zones. Within these national tourism zones, operators with financial hardship



will be entitled to land rent discounts or exemptions, deferred payments, subsidized utility prices throughout three-year periods and community-based tourism development, in particular a preferential loan of VND10-20 million will be extended to households participating in community-based tourism.

In the area of financial and banking support, tax policies and land rent of tourism projects with minimal construction land use will be adjusted, a 50% land rent discount for accommodation investment projects within national tourism zones will be applied and corporate income tax within national tourism zones will be exempted for three-five years in cases of financial hardship. Accommodation projects occupying more than 2 hectares with a construction ratio not exceeding 25% shall be entitled to rent discounts. VAT on tourist business will be lowered from 10% to 5%, import tax for tourist vehicles with 24 seats or more will be exempted and import tariffs for special equipment for hotels which cannot be alternatively produced domestically will be exempted. The Government will widen VAT refund coverage and expand duty free shops for tourists. In particular, the MoCST is proposing the Government drive power prices down to equal the marginal cost of generation.

The MoCST is establishing tourism promotion offices in key partner countries and providing incentives to encourage tourism businesses and associations to join tourism promotion. MoCST is working with MoF on technical issues. Regarding support policies for tourists, the Government recently offered unilateral visa waiver to Nordic countries, the UK, France, Spain, Germany, Italy, Russia, South Korea, Japan and others. The Prime Minister has decided to adopt electronic visas, restricting direct contact between applicants and visa agencies as of early 2017.

Regarding State management, the MoCST will strengthen the national steering committee for tourism development and promote tourism associations at local level. The most critical and challenging issue for Vietnam's tourism resides in inter-linkages and the MoCST is developing a coordination committee to ensure such interlinkages. It recently summoned a meeting in Dak Lak on establishing the coordination committee for tourism development in five Central Highland provinces before rolling over to other regions.

#### **Moderator for the theme - Mr. Colin Blackwell, HR Sub-Working Group, Head**

The next theme is people development. Vietnam's workforce has rich potential and already numerous foreign and local companies in Vietnam are getting better productivity from their staff than anyone else in the world. The way the best companies in Vietnam get top results is consistent and can be replicated across the economy for high GDP per capita rates and more inclusive prosperity.

#### **Education and Training Working Group – Mrs. Phan Thi Hoang Hoa, Co-Head**

It is regrettable Vietnam faces major challenges despite its great potential, with labor productivity and workers' skills remaining uncompetitive regionally. Unemployment of university graduates is high and companies must often retrain new graduates, while the education migration phenomenon is increasingly substantial. Previously children studied abroad at university level, but now there is a wave of high school and even elementary level students. This requires structural and strategic changes with involvement from sectors under government leadership. The Education and Training Working Group proposes the following solutions:

- To apply the "tripod model" to manage human resources and develop vocational training for increased labor productivity, a Vietnam National Academy of Human Resources should be developed.

- Apply a national standard framework to facilitate access and promote sound development in education, training and career orientation.
- Orientation and a strategy for vocational training and industry standards are required to develop education with focus on “outcomes” instead of “achievements” to maximize each individual’s potential and strengths.
- Higher education and vocational training should fully prepare graduates to work and compete with the international labor force.
- Amend Decree 73 to encourage foreign investment in education and conduct quality management rather than process management.

The Group believes Decree 73 will have positive future impacts.

### **Response from Ministry of Education & Training (MoET) - Mr. Bui Van Ga, Deputy Minister**

At the VBF 2015, the Education and Training Working Group submitted a petition to amend Decree 73, stating difficulties encountered by foreign investors. The MoET has organized stocktaking workshops to review and evaluate the implementation of Decree 73 in Ho Chi Minh City and Hanoi, in addition to reviewing reports from local authorities and training institutions nationwide. It has also worked with education and training foreign investors, particularly meetings with the working group for comments and feedback. By now, the Ministry is finalizing the draft decree amending Decree 73 prior to submission to the Government. Revision is in accordance with the Law on Higher Education, Vocational Education Law, Investment Law, Enterprise Law and their respective guiding documents. In parallel, the MOET has also reviewed and streamlined administrative procedures, expedited processes and procedures. Most recommendations via the VBF 2015 have been incorporated in the revised draft decree. Specifically:

- Regarding the scope of governing, short-term training units established under foreign governmental organizations and agencies operating in Vietnam should be covered.
- Further requirements are added on the qualifications of lecturers and teachers delivering joint training programs with foreign institutions in Vietnam.
- More requirements are added on foreign language proficiency of students attending joint training programs with foreign institutions in Vietnam to ensure quality.
- Heads of training institutions are further empowered to approve certificates and cumulative credits to degree awards to avoid training institutions granting degrees to students on a misleading basis.
- Remove provisions on registering degree templates with the MoET, given that degree templates and relevant content have already been included in dossiers for establishment of training institutions.
- Revise regulations on admission of Vietnamese students so foreign-invested training institutions can decide on the proportion of Vietnamese students in foreign training programs provided that core Vietnamese subjects are included in the curriculum.
- Procedures to establish foreign-invested training institutions have been simplified. Accordingly, a two-step process will be applied to short-term training institutions: application for investment certificates and operating licenses in education and training. A three-step process will be applied to pre-school, general education and higher education establishments: application for investment certificate, establishment approval and operating licenses in the field of education and training. Application of investment certificates of foreign-invested training institutions will be made in accordance with the Investment Law.

- Approval of the mandate for establishing university campuses has been delegated from the Prime Minister to the Minister of Education and Training.
- Revisions have been proposed to allow more stable facility renting tenures for foreign-invested training institutions, whereas the previous decree required these facilities to be built.
- The doctoral degree requirement for faculty teaching special disciplines such as art, fashion, music and cuisine has been revised.

Besides, the MoET will also consider a number of proposals from the Education & Training Working Group, including:

- Foreign investors to contribute capital and buy shares in established local training institutions.
- Foreign language requirement for joint training programs in Vietnam will be removed.
- Retroactive terms applied for institutions established before Decree 73 took effect. The Working Group also suggested foreign-invested training institutions and campuses whose investment certificates/business license/educational operation licenses have been granted before this decree took effect shall not be reviewed. Rather, they only need to apply for a business license, enclosing a report for the last three years instead of going through cumbersome procedures specified in Decree 73.

#### **Human Resources Sub-Working Group - Mr. Colin Blackwell, Head**

The private sector cannot drive forward Vietnam's relatively low labor productivity alone. The Government could help by forming a National HR Institute that follows the same model as other regional nations that is non-State controlled, but an accredited private non-profit institution. This would include professionalizing HR management and development and nationally promoting "diversity" initiatives, such as quality job opportunities for minority, disabled and disadvantaged people.

A proposed specific action plan is:

- The Government convenes a discussion of private HR associations to merge into a single national institute that is privately-run and non-profit, but Government-accredited to drive national human resources development.
- The institute initially draws up vocational training standards that meet international ones, using FDI expertise to benefit domestic SMEs.
- The institute designs vocational training standards in coordination with other sectors such as banking, tourism and manufacturing.
- The institute is not a training body, instead it sets private sector-required standards.
- The training and education sectors remain competitive and independent, but are encouraged to align with the new institute-recognized standards.
- The World Bank has expressed an early interest in offering convening support in the formation of the institute.

The potential results would be a more professional HR management and development sector, better government/private sector alignment to national interests, improved labor productivity especially in the domestic sector, better national human resource standards to enhance public administration, a more innovative workforce and economy, improved graduate employability and employment as well as GDP growth and higher living standards.

## **Moderator for the theme - Mr. Colin Blackwell, Head of Human Resources Sub-Working Group**

Theme conclusion: The Government, foreign investors and domestic sector can support each other in a “*kieng ba chan*” tripod for strength and stability. The FDI community can assist domestic sector development by:

- Helping establish a Human Resources Institute.
- The VBF can coordinate FDIs to prepare and share practical advice and international standards in a practical way understood by SMEs.
- This advice and materials can be distributed through the many excellent government SME initiatives.
- Where an opportunity exists to improve communication of government regulations (such as tax or customs), FDI companies can make suggestions to benefit foreign and domestic businesses.
- When FDIs see an opportunity to work with a domestic company that is lacking information, the FDI one can recommend Government-organized initiatives and HR Institute as appropriate.
- As this is long-term collaboration, the Government recommends contact officials for VBF and FDIs for these projects.
- The Government must consider a national program (such as tax incentives, government funds to provide guarantees to SMEs to access bank loans) to support good SMEs in sectors strategic to Vietnam such as agriculture, tourism and ICT.
- The Government must reduce regulations that are time-consuming and provide avenues for corruption. Increased non-cash payment and e-receipts, reduced face-to-face transactions, less Government discretion to pick winners and losers, and adoption of a greater degree of transparency and neutrality will benefit all.

This is a real opportunity to measurably improve the productivity, efficiency and success of the FDI and domestic companies. FDIs have greatly achieved in Vietnam using its full natural and human potential. If the domestic sector met international standards it could be hugely successful and the FDI private sector is willing to help achieve this goal. The Government is encouraged to accept the offer of assistance and recommendations on how it can enhance its coordinating role.

## **Response from the Ministry of Industry and Trade (MoIT) - Mr. Tran Quoc Khanh, Deputy Minister**

The MoIT understands the importance of connecting Vietnamese with foreign-invested enterprises and development of environmentally-friendly industries. To achieve this, the MoIT works to bring foreign-invested businesses and production chains to Vietnam to connect with major markets as well as through a system of free trade agreements. The MoIT is committed to creating a favorable environment for connectivity within its scope and authority.

The second strategy lies within the scope of its authority and the MoIT will build capacity for Vietnamese businesses, especially SMEs, to capture free trade agreement incentives and connect to the external production chain.

The third option proposed to the Government by the MoIT asks for policies to enhance supporting industry development. In this sense, the MoIT welcomes all comments from foreign business associations to improve policies to connect local businesses with foreign ones.

On sustainable industry, the MOIT has two main priorities. First, it will pay more attention to renewable energy towards increasing the proportion of renewable energy in total national energy capacity. Accordingly, many policies have been issued to attract investment in wind, solar and biomass power. Secondly, the MOIT will not sacrifice the environment for industrial development and this is also the view of the Government and Prime Minister by adopting high environmental standards, especially with the new generation of free trade agreements.

### **SESSION 3 – BUSINESS SECTOR SUPPORTING GREEN AND CLIMATE SENSITIVE DEVELOPMENT**

#### **Power and Energy Sub-Working Group – Mr. John Rockhold, Head**

The private sector stands ready to work in partnership with the Government to achieve the shared goals of energy security and access to clean energy for power consumers, sustainable economic growth and implementation of actions needed to meet Vietnam's climate change obligations. The Government deserves credit for Power Development Plan #7, the implementation plan for the Paris Agreement on climate change and the Renewable Energy Development Strategy. The VBF has worked on energy and climate change solutions for cleaner indigenous power resources, quick solutions and technological know-how for domestic development. Green and climate sensitive development, especially in the Mekong region, strong Vietnamese environmental regulations and effective enforcement are needed.

**Made in Vietnam Energy Plan (MVEP)** recommends the following key measures be implemented:

1. The use of direct power purchase agreements (DPPAs) between power producers and large power consumers should be allowed, as they have been effective in kick-starting clean energy in other developing countries like Vietnam. The VBF recommends the Government approve DPPAs for 1,000MW green energy projects to add that amount to the grid by 2020, costing the Government nothing in capital costs and guarantees, but earning \$10 million.
2. A Power Purchase Roadmap using Market Based Pricing to 2020 with a vision to 2025, including definition of variable pricing between the three main tariff groups – residential, commercial and industrial. The provision of actual information on increasing power prices will encourage investment in energy efficiency. Currently, consumers believe power prices remain low and subsidized by the Government.
3. Enhance EVN's creditworthiness. Increasingly international donors are expected to support EVN for renewable and cleaner energy development and procedures and assist it to cover guarantee costs.
4. Encourage the Government to work faster with the private sector to develop offshore gas.
5. Regarding environmental protection, economic growth does not need to result in risks to the environment and citizens' well-being.

The VBF supports the Government's implementation plan for the Paris Agreement on climate change, especially in cleaner technology and cleaner transportation.

#### **Power and Energy Sub-Working Group – Mr. Gavin Smith, Representative**

A key question is which financial sources should be used to secure Vietnam's energy in the future and how to link local investment with foreign companies that have skills and expertise to offer Vietnam. A presented pyramid diagram (referring to forum handout) describes the financial resources available to solve Vietnam's energy security challenge.

- *Official Development Assistance (ODA)* has been an important funding source for infrastructure development, but less so in the future.
- *“Blended finance”* is at an intermediate stage with a mixture of concessional support and commercial financial resources. It has been extremely successful in other developing countries in bridging the gap between ODA and pure private commercial finance. However, it has had little success in Vietnam. Two important additional benefits are it provides incentives that reward efficient energy production and overcomes existing critical risk barriers.
- *“Private sector capital”* has had little impact on Vietnam’s energy market and this must change if the Power Development Plan #7 is to be successfully implemented. Four major benefits include:
  - (1) Private capital is unlimited regarding amount and scale, extremely important for non-financial markets to support full development of renewable energy and energy efficiency in Vietnam.
  - (2) Speed of delivery: Energy security is an urgent issue to be addressed. Renewable solutions, with support of available financial mechanisms, can be executed in short-time scales.
  - (3) More efficient capital and more Kwh/USD invested.
  - (4) Transfer of capital burden from State to private sector: Private capital, made available through Vietnamese SMEs and FDI, will help diversify the energy market.

#### **Agri-Business Working Group – Mrs. Marieke Van der Pijl, Head**

Climate change mitigation and environmental protection regulations remain challenges. In particular, regarding exports, some FTAs, such as the EU-Vietnam FTA, open more opportunities for exporters, but there will be more food safety regulations. Climate change impacts on the Mekong Delta (drought, flood, salination) remain problematic, while Government policy on third crop means building more dykes and sluices, causing ground water impacts and loss of fertile sediment in agricultural areas. Regarding development of coal-fired power plants and polluting industries in the Mekong Delta, the VBF suggests the Government reconsiders this issue to prevent pollution and waste of water. Coffee production also uses a lot of limited water sources, but some PPP coffee production projects have achieved better and higher yields using less water.

Government-focused recommendations include a centralized independent food safety administration in one ministry, more risk-based assessments, efficient enforcement of existing legislation, a greater role in communicating on food safety criteria to consumers and encouraging farmers to use correct crop protection/development products (pesticides, fertilizers, hormones). Encouragingly, the recent Circular has brought about positive effects in use of antibiotics in animal feed. For local and FDI companies, work on production and supply chains and use of high technology in production are needed.

#### **Response from the Ministry of Industry and Trade (MoIT) - Mr. Tran Quoc Khanh, Deputy Minister**

- Vietnam has good potential to develop renewable energy and the Government has formulated numerous policies to promote renewable energy development. The objectives are by 2020, electricity production from renewable energy will hit 17 billion kWh, accounting for 6.5% of national electricity production and 28 billion kWh by 2025 and 61 billion kWh by 2030.

Wind energy and solar biomass will be the main sources. The Government has also issued several mechanisms to support power projects utilizing wind, biomass and solid waste. In November 2016, as proposed by the VBF, MoIT submitted mechanisms to the Prime Minister for promulgation to support development of solar projects.

- One of the biggest difficulties to develop renewable energy power resides in the Government's purchasing price for renewable energy. To date, GIZ and UNDP have made important proposals in this regard. The Ministry will study and propose an optimal pricing mechanism for power projects utilizing wind, solar and other renewable energy.
- Direct power purchase agreements between end users and power generation units from renewable energy sources are a new mechanism for Vietnam. As per VBF's proposals, MoIT has assigned units to work with USAID to review existing regulations and international experience. Based on the review's findings, the MoIT will conduct a pilot and if it is positive, the Ministry will propose the Prime Minister to roll over the direct power purchase mechanism.
- Due to time constraints, the Ministry would like to acknowledge other recommendations from VBF's Power and Energy Working Group for further internal discussions within MoIT.

**Response from Ministry of Natural Resources and Environment (MoNRE) – Mrs. Nguyen Thi Phuong Hoa, Deputy Minister**

Environment Protection:

- The Law on Environment Protection was revised in 2005 and 2014. MoNRE has captured the recommendations for air, noise pollution, pollution of earth and water environment and environment protection rooting for sustainable development from the British Business Group Vietnam, will investigate, and expect to receive further advice from VBF to finalize the institution for these issues.
- Instruction No.25 issued by the Prime Minister emphasizes that environment protection is the guiding responsibility of the Government, community and businesses. The Prime Minister has assigned the MoNRE to coordinate with the Ministry of Justice and other relevant agencies to further study and propose revisions to a number of laws to ensure synchronized coordination in environment protection. This assignment will be completed by the end of 2017.

Climate Change:

- This issue is regulated in several pieces of legislation, such as Law on Environment Protection and Law on Hydro-Meteorological, which stipulate environment protection must be harmonized with climate change and outlines responsibilities of State agencies, organizations and individuals in environment protection and climate change responses.
- The private sector's contribution to climate change is insignificant. To stimulate its participation to finalize regulations and legal corridors as well as invest financial and technological resources to respond to climate change, the MoNRE recommends:
  - Technology and facilities to convert saltwater into freshwater;
  - Smart technology in farming and fishery production and processing;

- Application and technology transfers of breeds adaptable to increasing drought and alkaline soil conditions;
- Technology and facilities to improve utilization of surface and underground water resources;
- Reduction in greenhouse gas emissions, development of renewable energy sources;
- Technology and facilities to consume energy efficiently in transport, industrial construction and waste treatment.

**ADDRESS OF THE GOVERNMENT OF VIETNAM – H.E. MR. NGUYEN XUAN PHUC, PRIME MINISTER**

I have listened to the reports, highly constructive inputs and practical recommendations and as Prime Minister, I have taken note of the major concerns presented with an open mind.

I would also like to acknowledge this year's theme, as evidence from the last three decades of reform, renovation and liberalization in Vietnam and current trends has proved compellingly that the private sector is a vital driver of the Vietnamese economy and has made important contributions in cementing the country's foothold in global value chains and manufacturing networks. Vietnam currently has 600,000 registered businesses, including a large number of private companies and shareholding corporations operating in local and international markets. The year 2016 was the first that Vietnam recorded more than 100,000 businesses registrations annually or 12 new businesses born every hour.

Furthermore, I also want to point your attention to the whopping 3.5 million home-based businesses nationwide. This is also a crucial economic force that may have immense impact on realizing the country's goal of having more than one million businesses by 2020. Tellingly, Vietnam now has more than 22,000 FDI active businesses, investing nearly \$300 billion. This is an economic sector with robust financial strength that has been involved in productive partnerships with other domestic sectors, including private firms. While this year was challenging, Vietnam was still able to crowd-in \$17 billion in FDI investment.

In the socio-economic development strategic plan for 2016-2020, the 12<sup>th</sup> Congress of the Vietnamese Communist Party stated: *“creating every opportunity to promote the strong growth of businesses in Vietnam, especially the private sector, to become the driving force for enhancement of competitiveness and autonomy of the economy”*. I want to emphasize here that *businesses in Vietnam* include registered and licensed FDI ones (as Vietnamese legal entities) and domestic firms. This is a major stated Government policy regarding formulation of a *Vietnamese business community* that can connect and coordinate effectively in a unified national economy.

I also want to remind you that the 2013 Constitution recognized FDI as an integral part of the Vietnamese economy. Vietnam has now has commercial relationships with more than 200 countries and territories, became a member of the ASEAN Community 2015, inked 12 free trade agreements and is negotiating four more, including the Regional Comprehensive Economic Partnership. They will help Vietnam to establish free trade relationships with 55 different partners, including G7 countries and 15 out of 20 G20 nations.

Today we have addressed seven core topics: (i) building capacity for SMEs, (ii) promoting supporting industries, (iii) building human resources and training needs, (iv) developing capital markets. (v) improving infrastructure and PPP, BOT, BOO, BT mechanisms, (vi) clean and renewable energy and (vii) climate change and environmental protection. These are expedient



topics in alignment with Vietnam's economic development strategy. I would like to herewith share some opinions as follows:

**First**, the Government is committed to further improve the local market economy system, policies and regulatory framework, reform the administrative environment, provide an enabling investment and business climate, enhance the national competitiveness and provide every opportunity for the private sector to prosper. We will strive to achieve Vietnam's prime indicators for the World Bank's *Doing Business* and World Economic Forum's *Global competitiveness index* and reach the ASEAN-4 mean level by 2020. Regarding the *Doing Business* 2017 scale, Vietnam ranked 82 out of 190 nations or fourth in ASEAN. In regards to the Global Competitiveness Index, Vietnam was sixth in ASEAN. This means there is still much ground for Vietnam to cover if it wants to further improve its investment and business climate, and competitiveness.

**Secondly**, we call on the business community in Vietnam to be more active and deeply involved in economic restructuring through diversifying investments, with a focus on PPP. We encourage the startup spirit, innovation, increased competitiveness and product and service quality, proactive engagement and suggestion of policy initiatives and efficient investment projects in step with green growth, sustainable development and comprehensive goals.

**Thirdly**, mutually beneficial cooperation and co-development between the domestic private and FDI sectors must be promoted. The FDI sector is an integral part of the Vietnamese economy and has made important contributions to the local economy. It is held in high regard by the Government and pledges to further provide better opportunities for strong FDI growth in Vietnam. Nevertheless, the Government also hopes FDI businesses, with strengths in technology, finance, and governance will make more substantial commitments and actions to tighten connections and promote local firms to co-develop on a balanced and mutually beneficial basis.

The Government particularly pays a premium for nurturing supporting industries for domestic businesses, especially SMEs, to play a greater market role and supply more parts, components and services that meet FDI businesses' needs. Ideally, stakeholders should work together to manufacture and introduce products made in Vietnam to regional and global distribution chains. On our part, the Government will continue working to nurture an enabling investment climate, protect ownership and intellectual property rights and more importantly, work hand-in-hand with businesses to accomplish this vital mission. As regards FDI firms, the Government hopes to see sustained partnership and investment, trust in on-going reforms, further transfer of advanced technologies, worker trainings, governance experience sharing, social responsibility and joint efforts with Vietnam in preserving natural resources, sustainable biodiversity and a healthy living environment for Vietnam. The Government reaffirms that Vietnam will not welcome investors who take it as a place for transfer pricing and evade environmental accountability. This not only compromises Vietnam's sustainable development interests, but also hurts the reputation of other investors and corrodes Vietnam's ability to draw potential investors.

**Fourthly**, while appreciating the FDI sector's role, if the Vietnamese economy wants sustainable development, it must have an efficient and strongly growing domestic private sector. There is nothing self-contradicting in this concept, but the two sectors may support each other and interact in the same direction, thus promoting healthy competition, creating vitality and the muscle to grow the entire economy. To that end, the Government provides every opportunity for the economic development Vietnamese citizens strive for and achieve the set target of having more than **one million** registered businesses by 2020.

The Government maintains a crosscutting position that every business, regardless domestic private sector or FDI, is equal before the law and encourages partnership, value chain connections and healthy competition. Currently, Vietnam is in a golden population period to the country's strategic advantage. Accordingly, the Government wants the business community to stay innovative in competition for development, further enhance workmanship, human resources quality and labor productivity.

*Fifth*, I propose relevant ministries and line agencies take into account reasonable comments and recommendations from today and translate them into meaningful changes and updates of policies and legislation.

I hereby task the MPI as a focal agency to follow up on the discussed issues, the first of which will be revising laws and addressing long-standing concerns. The idea is that local laws stay in harmony with international best practices and the market economy. The Government, its members and ministers have much to do if a sound investment climate is to be made available to the private sector and FDI community. In a nutshell, we must continue our reforms and broad-based renovation in different spheres to enable a laissez-faire business climate. The MPI will follow-up and keep track of how comments and recommendations are processed, periodically report the results to me and notify VBF when expected legislation amendments and updates have been achieved by the Government.

As discussed with MPI Minister Nguyen Chi Dung and other ministers and vice ministers today, we have listened and replied, but we need to take adequate and timely actions and not just listen for the sake of listening. The bottom line is what the nation stands to gain, what businesses get and what the people and workers have. These three-pronged questions are asked so we can have policy-making, the first step of which is to improve the investment climate in the near future.

To that extent, the Government will make every effort to ensure the business community connects together and grows for a stronger Vietnam.

## CLOSING REMARKS

### World Bank in Vietnam – Mr. Ousmane Dione, Country Director

The attendance of the Prime Minister and Government at this Forum reflects their strong and passionate commitment to support and strengthen the domestic public sector and linkages with the FDI in Vietnam. We believe fostering domestic private sector development is paramount and the Government is working hard towards the objective of one million enterprises by 2020 to play a key role as an engine of growth and a bigger role in infrastructure and services, jointly with FDIs. Following today's discussion, I would like to reflect on the "five Is" that are extremely important moving forward.

First is *Institution*. There has been much discussion on strengthening the regulatory framework, enacting laws and decrees to boost the private sector, enhance government productivity through transparency and simplification of procedures along with strengthened vocational education and planning to serve business.

Second is *Information*. We have heard much about the need to initiate and implement communication channels and advice for services to follow the Government, FDI and domestic companies.

Third is *Investment*, another key issue as we look to improve financial management, governance and credit enhancement for SMEs to increase access to finance, develop capital markets to facilitate capital mobilization of enterprises and how to operationalize the PPP regulatory framework in Vietnam.

Fourth is *Infrastructure*, with an emphasis on efficiency. With the transport sector, there is an important agenda related to sea ports, airports, roads and railways. Regarding energy, there is a need to enhance power market competitiveness including tariff reforms, EVN's strengthened financial capacity and governance. The private sector can also be encouraged to develop offshore gas and infrastructure, while diversifying financing sources for renewable energy investment.

Fifth is *Implementation*. It is critical to enforce regulations, including protection of the environment, apply international standards to raise domestic private sector competitiveness, foster connectivity between FDI and domestic SMEs and create innovative solutions. We also need implementation to have a monitoring action plan so recommendations can be followed up and implemented. From the World Bank's perspective, we stand ready to support the Government and work closely with the VBF.

### **Vietnam Business Forum Consortium – Mr. Vu Tien Loc, Co-Chairman**

The forum has focused on strengthening coordination between FDI and domestic enterprises, with the strong development of the domestic private sector a key factor to ensure the sustainable development of Vietnam.

In order for the domestic private sector to grow and stay connected to FDI enterprises, a trilateral coordination mechanism is needed. In such a coordination mechanism:

- The State acts as the facilitator, match-maker and supporter.
- FDI enterprises, especially multinational corporations, play the central role in the chain.
- Domestic SMEs are satellites.

To fulfill its role as the “**facilitator**”, the Government is actively implementing an ambitious action plan to improve the investment and business environment, promote private sector development and strengthen linkages between foreign enterprises and domestic SMEs.

To fulfill the role as the “**central actor**”, FDI enterprises are expected to value their social responsibility to engage with the local SME community. Business associations and VBF working groups all affirmed their readiness to share and connect with the local business community to build action plans for submission to the Prime Minister and coordination with ministries and agencies during implementation. A Vietnamese-FDI enterprise alliance under the chairmanship of VCCI and local business associations will soon be established.

To connect with FDI enterprises and fulfill the role as “**satellites**” in terms of technology and markets, domestic private enterprises need to improve alignment to global standards. Rather than merely endeavoring to lower production costs and improve the quality of products and services, enterprises must ensure production and business processes meet international standards in terms of transparency, integrity, environmental protection, labor rights, social responsibility, technology and governance. That is the only way to guarantee sustainable development. Enterprises in Vietnam, large or small, aiming for sustainable development must align with such essential standards.

Discussions with VBF members and large FDI enterprises in Vietnam have reached an agreement there will be specific activities in support of domestic SMEs to improve governance,

production and business processes and further interlink SMEs to FDI enterprises. Government agencies are expected to have support programs, especially in supporting industries and training, to improve the quality of human resources. These are the two prerequisites to enhance the local SME community's capacity to connect to the global value chain.

### **Government of Vietnam – H.E. Mr. Nguyen Chi Dung, Minister of Planning and Investment**

The Prime Minister has issued guidelines conveying the Government's strong interest, support and commitment to nurture the business community and link FDI and Vietnamese enterprises in green and sustainable development. Some particular issues in relation from association and working group presentations and recommendations are:

- Global integration, TPP and enhancing capacity of Vietnamese enterprises.
- Market development, particularly the capital and securities markets, with proposed measures to mobilize long-term investment capital, ensuring market soundness and security.
- Human resource development, particularly linkages between training institutions and enterprises in line with market demand and improve the local workforce's readiness in technology management and information technology.
- Environmental issues require more aggressive measures to manage and address violations.
- The trilateral partnership involving Government, FDI and Vietnamese enterprises (tripod model).
- The business community is interested in other issues such as trade facilitation, visa waivers to promote tourism, administrative reform especially in taxation and customs, access to credit and development of sectors.
- Clean and renewable energy development.

The Prime Minister's instructions have been well acknowledged and implemented in a coordinated manner.

The Minister also noted:

- Cooperative partnerships on global, regional and bilateral scales reflect a rapidly changing world, forming new production and supply chains with new structures, institutions and players. This comes with opportunities and challenges for investment and trade, for FDI and domestic enterprises.
- Vietnam's strategic direction for economic development will rely on the business sector as an important driving force, targeting to have one million enterprises by 2020.
- The Government is committed to further reforms and international integration, economic restructuring in a market-oriented direction, improved development quality, productivity and competitiveness.
- VBF's theme for 2016 forum is highly valued, with critical issues to promote sustainable private sector development and partnerships for integration and development.
- The forum also asserted the importance of FDI and Vietnamese enterprises, emphasizing FDI as a facilitating factor for national economic development.
- More radical reforms are needed to create a more facilitating and transparent environment to reduce costs.
- VBF highly appreciates the initiative to establish a trilateral Government, FDI and enterprises-domestic enterprises partnership.

- Climate change and environmental pollution are of critical urgency that have considerable impacts on sustainable development, living spaces and FDI attraction. The Government asserted not to pursue development at all costs or to the detriment of the environment.
- In the field of energy, the Government's priorities are to develop clean and renewable energy, with a strong emphasis on investment in innovation, technology and educations.

Opinions and recommendations will be circulated among ministries, agencies and business associations to ensure coordinated consultations with relevant parties and propose effective and practical recommendations to the Prime Minister for approval.