

POSITION PAPER OF MINING WORKING GROUP

RESOLVING THE ADMINISTRATIVE SHORTCOMINGS IN TAXATION AND CUSTOMS DEPARTMENTS' PROCEDURES THAT ADVERSELY AFFECT THE MINING INDUSTRY IN VIETNAM

IN ORDER TO

ENCOURAGE FOREIGN DIRECT INVESTMENT (FDI) THAT CAN BRING MODERN INTERNATIONAL TECHNOLOGY AND BEST PRACTICES TO TRANSFORM VIETNAM'S AILING MINING INDUSTRY INTO A VITAL PART OF VIETNAM'S ECONOMIC GROWTH

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1. INTRODUCTION

Discovery and mining of Vietnam's valuable, untapped mineral resources, if carried out with FDI using modern technologies and international best practices in an efficient, environmentally responsible and safe manner, would make a vital difference to Vietnam's economic growth and reduction of national debt.

Responsible mining using modern technology, which is usually conducted in the more remote, undeveloped parts of a country, has long been recognized to be one of the most effective drivers of infrastructure improvement around the world. The areas where mineral deposits are found tend to also be the more mountainous, and therefore usually the poorest socio-economic parts of a country and this certainly apply to Vietnam. Modern mining cannot operate efficiently without good infrastructure and communications, and therefore responsible mining companies have a strong incentive to be a contributor to, or provider of, such infrastructure development. The other obvious benefit of responsible mining is the contribution it can make to help alleviate poverty in the remote areas it operates in by creating strong employment opportunities and orders for local goods and services.

Mining has historically been one of the key drivers of economic growth and infrastructure development in many countries around the world. This can be so in Vietnam too, as the country is rich in untapped mineral resources. It is estimated that less than 10% of its base-metal and precious-metal resources have been discovered to date because the country has never been systematically explored using modern technologies and methods to find more deeply buried, large or richer deposits. The Vietnamese mining industry, through the state-owned and private local companies that dominate the industry, has primarily focused to date on easily found outcropping or near-surface energy minerals such as coal, and bulk commodities such as iron ore, bauxite, sand and limestone.

However, Vinacomin, Vietnam's largest state-owned enterprise, is the first to acknowledge that the challenges it, and nearly all Vietnamese mining companies currently face, include dealing with "outdated technology and low levels of mechanization, poor infrastructure, a large but low productivity workforce, excessive energy use, high safety risks and unacceptable environmental pollution".

2. THE CHALLENGE

Therefore, although it is a technological challenge to modernize Vietnam's mining industry, the greater challenge before this can happen is to change the attitude of, and educate, the Taxation and Customs Departments and other agencies in Vietnam at both central and provincial level to understand the complexities of fluctuating world commodity prices and other mining issues that adversely affect profitability and viability of mining on a cyclical basis. The uncompromising approach of these departments has resulted in foreign-invested and local operations having to close down, even though they would now be profitable with improving metal prices, and as a consequence have deprived the Vietnamese Government and the people involved in the mining operations of valuable income and provision of services.

The Government of Vietnam more than ever recognizes the importance of FDI together with science and technology reform and innovation in Vietnam's economic development. Unfortunately, modern technologies, technological innovation and world best practices will only come to Vietnam through FDI when and if the Government provides incentives to encourage such investment, not penalize it.

3. THE SOLUTION

There appears to be conflicting interpretation of royalty, export tariffs, customs duties, environmental protection fees and related mining fee issues between central and provincial level authorities, and between Ministries such as MONRE, MOIT and MOF. There is an urgent need for Government assistance in guidance for the mining industry and inter-governmental department coordination, so that providers of FDI and strong local investors are more confident with Vietnam's mining legislation.

The Mining Working group again respectfully urges the Prime Minister's Office and Government Office, with the input of MPI and VCCI to:

- Re-examine existing mining legislation and introduce a more investor-friendly, competitive regime which includes an equitable tax system that is fair to both the Government and the investor, legislation that provides for consistent policies for long-term commitment, and better understanding of such agencies as the Taxation and Customs Departments in administering their responsibilities;
- Seek better coordination between Ministries and Departments of MONRE, MOIT and MOF at central and provincial level to encourage more consistent interpretation of Vietnam's mining legislation and to understand the benefits of FDI in the mining industry, not discourage it;
- Accelerate Vietnam's commitment to opening its mining investment regime, prohibit the introduction of new export taxes, and eliminate existing export taxes, as agreed in the recently ratified Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).