ANNUAL VIETNAM BUSINESS FORUM 2017
Hanoi, 12/12/2017

VBF – 20 YEARS CONTRIBUTION AND TOWARDS SOCIO-ECONOMIC DEVELOPMENT GOALS BY 2020

SUMMARY

OPENING REMARKS

Government of Vietnam – Mr. Nguyen Chi Dung, Minister of Planning and Investment

Two decades after the launch of the Vietnam Business Forum (VBF) initiative at the 1997 donor consultation meeting in Tokyo, the VBF has presented itself as a regular and effective platform for policy dialogue between the government and the domestic and foreign business community to create a conducive business climate, engage private sector investment and promote sustainable development in Vietnam. It has become a venue for trading, sharing and listening to ideas, perspectives and inputs from the business community, drawing from real-life experiences and the government's agenda and vision. VBF working groups and legal experts from sectors and lines of expertise have made important contributions to support Vietnam to improve its legal system in alignment with international practices, increase transparency, predictability and equality as well as simplify multiple administrative procedures and support business efforts to expand investment and operations. With strong efforts from both sides – the government and business community – the local investment climate has been increasingly enhanced.

Within two decades of achievements, VBF has made impressive progress in the public-private dialogue arena, helping consolidate confidence among the business and investment community. The Vietnamese Government is eagerly listening and engaging in open and straightforward dialogues on key business community concerns. The VBF has become a good practice model for other countries at similar stages of development.

With the emergence of the fast-changing 4th Industrial Revolution against the backdrop of increasingly far-reaching international integration and with large-scale free trade agreements (FTA) including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP) and EU-Vietnam FTA, Vietnam faces many new opportunities and challenges. Expanding markets through FTAs and benefitting from the Industrial Revolution 4.0 will help create a platform and effective tool to allow Vietnam to seize the opportunity to integrate efficiently in global value chains and accelerate national industrialization and modernization.

In response to a changing context, the government has relied on a transformational approach, where the roles of citizens and private sector in consultation and policy-making are enhanced. The Ministry of Planning and Investment (MPI) has advised the government on its release of important legislation, such as Resolution 1 on strategies to regulate socio-economic issues, Resolution 35 on supporting business development, Resolution 19 on improving the business climate and upgrading national competitiveness and most recently Resolution 98 on the government's plan of action for the Resolution of the 5th National Convention (Term 12) on launching the private sector as a key driver of the socialist-oriented market economy. The MPI will continue counseling and proposing removal of unjustified rules, lifting as many barriers as possible, mitigating risks and eliminating discrimination in businesses' investment and operations.

Ministries, ministerial-level agencies, governmental bodies, People's Committees of provinces and centrally-controlled cities as well as relevant agencies will also continue reviewing and rescinding at least one-third to a half of existing eligibility criteria and administrative procedures applied to businesses, which impede or encumber investment and business activities.

On the other hand, businesses must be proactive and dynamic in governance and management reforms. Furthermore, they must increase connectivity and integration into local, regional and global value chains, build brands and reputations within the business arena, take care of human resources development, research and development, fulfillment of financial obligations to the government and comply with the law, protect workers' legitimate interests, environmental protection and sustainable development.

This year Forum is titled "VBF – 20 years contribution and towards socio-economic development goals by 2020", to encourage the business community to not only reflect on issues of interest, but take an in-depth evaluation of the socio-economic environment and business climate in Vietnam, impacts of government macro-economic interventions and reform efforts and the business community's role in achieving Vietnam's socio-economic development goals by 2020.

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

Reflecting on the past two decades, VBF has made remarkable progress with numerous positive impacts on businesses, the economy and people of Vietnam. In doing so it has gained the tremendous respect of the business community and Vietnamese Government in making tangible improvements to people's lives in Vietnam. Since the *Doi Moi* reforms were ushered in three decades ago, Vietnam has made great strides in implementing a socialist market-oriented economy and responding to numerous development challenges. Today, however, Vietnam faces new complex challenges that also offer opportunities to be discussed at this Forum.

Firstly, new challenges have emerged with regards to FDI, a major driver of Vietnam's economic development during the past three decades. To ensure FDI does not decline in the face of global trends such as Industry 4.0, Vietnam must enhance productivity and the value-added of its goods to stay competitive and deliver higher quality jobs. *Secondly*, Industry 4.0 demands an enhanced businesses environment for the full range of firms, irrespective of size or whether they are foreign or domestic. To address policy needs, digital online services must also be leveraged. *Thirdly,* to maximize finance for development, private financing should be facilitated to improve fiscal conditions to support the Vietnamese Government. This approach has been addressed by the World Bank Group's president in the shape of "Maximizing finance for development". While public sector resources increasingly face fiscal constraints in many nations, the private sector has matured and can provide much needed support. Maximizing finance for development entails the private sector leading on projects, providing support with regards to policies, resources and funding.

Vietnam Business Forum Consortium – Mr. Hirohide Sagara, Co-Chair

Vietnam has experienced two pivotal turning points in the past 20 years, with WTO accession in 2007 having spurred FDI and per capita income, while formation of the ASEAN Economic Community in 2015 helped strengthen Vietnam's connectivity with the global economy and attract cross-border investment.

In preparation for today's Forum, the 16 VBF working groups were encouraged to match previously raised issues against the following benchmarks - "solved or in progress" or "not solved or virtually unimproved much yet". Encouragingly, 56% of answers were "solved or in progress". Furthermore, comprehensive amendments to the Investment Law and Enterprise Law in 2014 were highly appreciated, with previously expressed concerns "solved or improved". Additionally, efforts related to human resources were also viewed as positive.

However, negative views still persist regarding decrees with direct impacts on the business climate. Therefore, this Forum is encouraged to focus on three key agenda items – productivity improvements (Decree 116), facilitation of private funds (decrees on PPP, Securities Law and state-owned enterprise (SOE)-related laws) and administrative procedure reforms (transparency and effectiveness) to address business and investment issues in Vietnam. As the Vietnamese Government's five-year socio-economic development plan sets quantitative goals, they will be difficult to achieve unless the government sets in motion aggressive policies relating to these three key themes of today's Forum.

PRESENTATIONS BY 5 CHAMBERS

Vietnam Chamber of Commerce and Industry - Mr. Vu Tien Loc, President

This Forum has special significance, as it takes place amid a backdrop of Vietnam having successfully hosted the APEC summit week celebrated 30 years of foreign investment and the VBF's 20th anniversary. After two decades and nearly 40 forums, thousands of petitions from the domestic and foreign business sectors have been recognized, embraced and followed. Various resulting Prime Ministerial and governmental agency commitments, policy directions and suggestions have given businesses more confidence in the policy and business climate in Vietnam.

This year has witnessed major leaps forward within the local business arena, with numerous resolutions from the Party, National Assembly and government, including Resolutions 19 and 35. The government has also set forth important objectives and reforms, including avoidance of overlapping audits, non-criminalization of civil economic relationships, initiation of e-government, cutting business administrative procedures by up to 50%, launching Vietnam as one of the three top ASEAN economies in terms of regulatory quality and an enabling business climate. These positive policy impacts have seen more than 120,000 new start-ups registered and lifted Vietnam in the current World Bank Group, World Economic Forum and World Intellectual Property Organization rankings.

Business climate reforms in Vietnam, however, also face challenges. Nearly 60% of local businesses run without a profit and 65,000 businesses were shut down or put in to a moratorium in the first 11 months of 2017, with large gaps in the regulatory and business climate between

Vietnam and the top three ASEAN economies. Business expenses remain high, while barriers to doing business, audit procedures and import-export administrative procedures are complex. The local private sector remains lightweight relative to SOEs and FDI firms, with limited access to land and credit. The minimum wage has increased faster than productivity growth, creating a burden of social and health coverage contributions, Union dues payable and other mandatory fees. Despite being a major exporter, logistics costs in Vietnam remain high.

In response, the government and ministries must fast-track reforms, downsize and make administrative procedures more transparent. The government is encouraged to align the FDI and domestic private sectors in areas as workforce quality, technology transfers, supporting industry development, formation of value chains and create momentum to develop and internationalize the micro, small and medium-sized business sector to be highly dynamic owners of the digital economy. We suggest the government ensures the minimum wage does not increase faster than future productivity growth. This will help businesses cut costs, increase capital-raising for investment and provide employment. This is essential as small and medium-sized enterprises lack capital and access to land, bank credit and reasonable interest rates.

Korea Chamber of Commerce – Mr. Ryu Hang Ha, Chairman

With Industry 4.0 translating into global productivity improvements through innovation, the Vietnamese Government must set innovation-driven growth as its core economic strategy and provide State-level support. Productivity improvements through SME and service industry innovation are critical and to achieve this, laws and budgets must be revamped to reboot industry in Vietnam. In particular, dedicated budgets should focus on R&D in relation to SMEs and start-ups. For industrial innovation, large firms should take aggressive steps to explore new industries, channel R&D investment into new technology and support SMEs.

Going forward, the Vietnamese Government is recommended to:

- Provide clarity on social insurance benefits: With mandatory social insurance for foreign laborers to be enforced from 1 January 2018, FDI companies are concerned at soaring costs, available benefits and whether payers returning to home countries after social insurance payments are eligible for such benefits. As foreign workers will make large social insurance payments, benefits should still be available.

- Establish minimum capital for FDI firms: Excluding some business fields (finance, real estate, travel and education), there is no provision to address the legal minimum capital required for establishment of FDI firms. However in reality, minimum capital must be specified during the investment application process per region and business field. Clear guidelines are needed to provide a level playing field for investors entering Vietnam.

- Adopt national qualification verification system for technology field: FDI and Vietnamese manufacturers have difficulties hiring technical professionals due an absence of certification verification to prove applicants' abilities. Establishment of a national qualification verification system for the technology field is needed to ensure Vietnam's tech-focussed hiring market is competitive.

Response by the Ministry of Planning and Investment – Mr. Do Nhat Hoang, Director General of the Foreign Investment Agency

Proposal from Korean Chamber of Commerce relating to minimum capital requirements: The MPI reconfirms there is effectively no minimum capital requirements, as only a few business lines (real estate, insurance and banking) have minimum capital requirements under specialized laws and others have no such restrictions. Interested businesses may send documents on specific cases to the MPI to discuss with related municipalities for solutions in line with existing laws.

Response by the Ministry of Labor, Invalids and Social Affairs – Mr. Le Quan, Vice Minister

Social insurance for non-national workers: The Prime Minister has given directive comments, while the government has solicited contributions. The MoLISA has submitted its agenda and will work with the National Assembly and Social Affairs Committee to seek unanimous passing of the decree on social insurance for non-national workers. Vietnam is moving towards participation in bilateral agreements with nations having significant investments in Vietnam. Accordingly, workers who have paid social insurance contributions in home countries will not have to pay such expenses in Vietnam. By 2020 non-national workers may enroll in several insurance schemes in Vietnam, including immediate term, pregnancy, accident and sickness insurance. The maximum contribution level will be more than 20 times the base salary, or an equivalent of about VND26 million a month. The MoLISA guarantees workers will not be subject to double taxation, only workers with permanent employment in Vietnam (more than one year contracts) will be affected, and reasonable coverage and benefits for non-national workers in Vietnam will be targeted.

American Chamber of Commerce (AmCham) – Mrs. Natasha Ansell, Chairwoman

AmCham congratulates Vietnam on its successful hosting of APEC and is confident US-Vietnam trade and investment relations will become dynamically stronger. Focussing on "Facilitation of private funding to improve fiscal conditions", today we aim to address areas where private funding and markets can improve economic development and the fiscal environment. AmCham recognizes many US companies operating in Vietnam have showed commitment to help it become more productive, efficient, safer and cleaner with many opportunities having emerged since President Trump's visit to Vietnam.

Conversely, challenges remain in dealing with corruption, licensing and the regulatory environment, with some sectors not open to the private sector, particularly:

- Energy: There is a clear need to attract private funding to address growing electricity shortfalls. AmCham believes the "Made in Vietnam" energy plan is sustainable from financial, environmental and supply chain perspectives, with a focus on efficiencies, renewables and gas if the government builds a workable regulator framework and market-driven power pricing roadmap for the next five years underlined by risk mitigation, underserved populations and upgrading transmission lines. With a private sector focus on power generation and efficiency, Vietnam can capture significant private investment it needs.

- Transport: This sector must urgently be modernized and digitized to help Vietnam to catch up with Industry 4.0. The Vietnamese Government is encouraged to view new technology on its merits and ability to address development problems through advance technology.

The import sector also requires attention, as products entering Vietnam remain overly costly. Numerous non-tariff technical barriers are mostly encountered at the border and so-called “behind the border barriers”, which restrict companies and hamper US exports into Vietnam. Recent changes in policies and regulations are not consistent with international best practices. Examples include provisions in the Law on Food Safety, Decree 54 guiding implementation of the Pharmacy Law, Circulars 19, 23 and 32 on bank accounts and the proposal for foreign workers to pay social insurance. These issues are obstacles to increased productivity and highlight risks in doing business in Vietnam.

European Chamber of Commerce – Mr. Tomaso Andreatta, Vice Chairman

While many European companies have actively grown their businesses, some investors have exited in recent times. European companies’ way of doing business respects the environment, employees, societies and how high-value goods are manufactured, yet they need knowledgeable employees, foreign language speakers and reassurances intellectual property rights are protected.

The Vietnamese Government has started a positive campaign to reduce the cost of doing business for local companies through reduced costs to make local products more competitive. To achieve these goals, three major challenges to be addressed are:

- Corruption: The government is reducing opportunities for corruption and legal loopholes. At a lower level, the main levers are adequate salaries, pride of belonging to an administration and people’s mobility. At a higher level they are lack of transparency, reliance on permissions/certifications and arbitrary decision-making.

- Protectionism: Local companies and administrations must pay more to access higher quality, safer and reliable goods. Regarding services, the same applies to top-level training or education.

- Lack of coordination in legislation and regulations: Duplication and inconsistent requirements, bureaucracy in many public administration costs and employees’ resources. For example in food safety certification, despite new regulations the criteria for obtaining the certificate is still open to interpretation. Our solution would be notification on the part of producers to authorities for new products to comply with all local rules.

Europe has experience in addressing traffic challenges and prohibition of motorbikes is just part of solution as a public transportation network is also essential. Modern cities have wider roads, services centered at underground stations and key logistics hubs to make public transportation convenient. If car use is encouraged, then guaranteeing available parking spaces is fundamental. One positive solution is electric bicycles that are cheaper than motorcycles, can be taken inside, batteries can be recharged in the office or at home and their speeds are equivalent to traditional motorcycles. Traditional car production is a crowded marketplace and protectionism will not help Vietnam create a competitive national champion. However, this means there are huge opportunities to embrace new technology and become a leading producer of electric cars. This would put Vietnam at the cutting edge of technology and have invaluable spillovers into battery technology for houses and cities.

Japan Chamber of Commerce and Industry – Mr. Hiroshi Karashima, Chairman

Japan Chamber of Commerce and Industry (JCCI) highly appreciates Vietnamese Government efforts to streamline the administrative procedure system. However, communication issues between ministries and uncertainty in interpreting legislation result in many foreign enterprises incurring excessive time and cost burdens during administrative procedures. The government is encouraged to take swift action to address such issues.

Two JCCI recommendations introduced at the Midterm VBF 2017 were:

1. "Establish a new organization across ministries which has an authorized power to strongly proceed to solve any problem caused by this uncertainty". The Prime Minister is recommended to chair this "Committee", while ministers are brought onboard to quickly make counterplan(s) in relation to private sector complaints in consultation with a "Professional team" embedded within the Government Office.
2. "Enhance the current "official letter" scheme to let foreign corporations easily access relevant ministries and government organizations to check the legality of certain business actions".

At today's Forum, JCCI is eager to receive feedback from the Prime Minister on these two proposals.

JCCI also highly appreciates Advisory Council for Administrative Procedure Reform (ACAPR) efforts in recent years relating to administrative procedure reforms. Particularly, dialogue among Prime Minister Nguyen Xuan Phuc, Government Office head Mai Tien Dung and ACAPR members on August 16 was very supportive, while discussions between related ministries and JCCI regarding a review of regulations and administrative procedures were helpful.

Moreover, given ACAPR's recent strong efforts, a new organizational mechanism is proposed as follows:

1. Establish a "Professional team" comprised of the private sector and foreign enterprises under ACAPR
2. Each Chamber of Commerce and Industry puts forward its highest priority request to the "Professional team"
3. The "Professional team" will make a concrete counterplan within a few months reported to the Prime Minister by ACAPR
4. The Prime Minister discusses with ministers and makes decisions with full respect to these counterplans.

Vietnamese Government feedback on this proposal is also appreciated to strengthen openness, transparency and administrative procedures.

Response by the Office of the Government – Mr. Mai Tien Dung, Minister

The government agrees with the Japanese Business Association in Vietnam that administrative procedure and business climate reforms have been key priorities and reform outcomes have helped enhance the business environment in 2016 and 2017.

Since 1 October 2016, a governmental website has been in place to improve public access to government information. Since 3 April 2017, an interactive government-citizen website has kept track of business trends and cases of citizens facing challenges in relation to investment and access to land and credit. The less-than-optimal enforcement of government regulatory frameworks, mechanisms and policies has also been addressed through recommended legislative amendments by ministries and line agencies. The Prime Minister has created a taskforce, led by the Government Office chairman and with relevant ministries and ministerial agencies as standing members. The taskforce will help the government and Prime Minister fast-track missions to tackle inconsistencies, gaps, differences and conflicts among ministries and line agencies in regulatory formulation and policy implementation. In the meantime, an Advisory Council for Administrative Procedure Reform has been created, connecting the business community and regulatory authorities to address challenges and concerns faced by businesses. Businesses' petitions have been acknowledged by government, leadership and Prime Minister and resolved through principles of transparency and respect for the rule of law.

A second issue is the advisory council recommendation, for administrative procedure reforms, regarding creation of a team of private sector and foreign business experts. Within the advisory council for administrative procedure reform, the private sector development team will consult the council and the team's recommendations will be submitted directly to the Prime Minister for approval.

Importantly, the government has focused on specialty audits for import-export goods. The revised Decree 38 will help save 7,700,000 workdays and nearly VND4,000 billion for businesses.

KEYNOTE ADDRESS – H.E. MR. NGUYEN XUAN PHUC, PRIME MINISTER

Over the last two decades, the VBF has been a close companion of the government, ministries, line agencies and business community to improve the local business climate, enhance competitiveness, tackle obstacles and challenges as well as promote innovation, business start-ups and development. Through annual VBFs and comments by VCCI and participants from Korean, Japanese, American and European business associations, etc, the business community and stakeholders have provided meaningful recommendations and ideas at macro and micro levels.

On the 20th anniversary of the VBF, on behalf of the government, the invaluable contributions of the VBF and business community are warmly acknowledged in playing key roles in driving the Vietnamese economy on a path of fast and sustainable economic development as well as far-reaching integration into regional and global economies.

The government is confident that the local economy is firmly on track, with good all round outcomes, achieving and exceeding all 13 planned targets. A highlight was 6.7% GDP growth, the highest in nearly a decade. The macro-economic landscape remained stable, while inflation was under control, exports have grown sharply and manufacturing recovered substantially to become a vital driver for economic growth. “Stability” is also a key word in the political and social arenas. International cooperation and integration were strengthened to achieve positive outcomes and especially with the successful hosting of APEC 2017, Vietnam’s international status and reputation have improved.

The benefits of innovation and business start-ups are being felt throughout the society. Newly incorporated businesses this year will reach a record high of more than 120,000 with newly registered capital and top-up of more than VND3,000 trillion, not to mention the 25,000 plus businesses coming back to life. FDI businesses have an increasingly significant role to play in developing and improving shares of local added value, creating jobs and contributing to the State budget. Registered FDI capital is also at a record level of USD35 billion (30% growth), including USD17.5 billion disbursed, also the highest in the last decade.

Against the backdrop of the global economic recovery, Industrial Revolution 4.0 and inclusive international integration, it is important emerging trends that influence new and future business methods and ideas in the Vietnamese business community be realized.

Firstly, **the Vietnamese middle class is rapidly expanding.** The Vietnam 2035 report by the World Bank revealed Vietnam’s middle class accounted for 10% of the population, while this figure is expected to reach 50% by 2035. A similar trend was also found in various studies conducted by well respected consulting institutions such as Boston Consulting Group (BCG) and Nielsen. This will shape how the consumption structure of the economy changes and will open up new opportunities for businesses if they stay dynamic and innovative.

Secondly, **technological innovations, social interests and globalization** have provided momentum for businesses development in the era of Industry 4.0, automation, artificial intelligence and underpin how governance can create a competitive business environment that inspires creativity. In Vietnam, there are nearly 52 million Internet users, equivalent to 54% of the population. This ranks Vietnam fifth behind China, India, Japan and Indonesia among countries with the highest proportions of population accessing the Internet in Asia-Pacific. Vietnam also has high rates of mobile connectivity, as 55% of its population use smart phones. Vietnam is forecast to join the regional top flight by 2020 when mobile phones are used by eight-in-10 people. This represents a significant foundation as well as an opportunity facilitating potential investors to connect a substantial and potential customer base in Vietnam to their products and services.

Thirdly, **new momentum for growth should originate from innovations and inventions**. In many developing countries, applications for patents and published studies have rapidly increased, while expenditure for research and development has also grown. Vietnam must be an active participant in this evolution.

Fourthly, **digitalized management and delivery of public services**. As the quality of public services remains poor and is exacerbated by cumbersome bureaucracy and limited infrastructure, the government is motivated to digitalize public services. Countries can achieve this goal at a low cost using digital technologies and open source platforms to serve as a new momentum for growth.

Fifthly, **infrastructure and technological advancements are key to integration and inclusive welfare.** Industrial revolution 4.0 with its new technologies will help connect and unleash potentials of economies in an unconventional manner beyond people's imagination two decades ago, with inventions in biotechnology, artificial intelligence and robots. They represent new momentum for growth as well as challenges, such as economic security risks and technology crimes.

To support business community development in the near future, the government will focus on the following issues:

First*, the government will prioritize infrastructure development investment to create "smart" and efficient connections to save transaction costs, improve competitiveness of businesses, investors and the economy.* Particularly, the government will encourage further investment in education, science and technology and identify human resources and science and technology capabilities as drivers of growth in coming decades.

Second*, the government will maintain macroeconomic, political and social stability***,** a competitive advantage given uncertain, volatile and unpredictable global settings. The government will further address non-performing loans, control budget deficits and public debt and reform the tax system to remove financial burdens on businesses, improve welfare and social security. For the foreseeable future, the government will continue to flexibly employ fiscal and monetary instruments to balance the economy, promote employment and improve incomes.

Third*,* the government is focused on *improvements to the regulatory framework, policies and laws* to enhance transparency, positivity and efficiency as well as promote the rule of law, strengthen governance and macro-economic management capacity to maintain growth, sustain social advancements and enable the transition to middle and upper-middle income groups. Social advancements have key roles to play in helping mutually reinforcing circle of an expanding middle class and economic growth. The business community can drive momentum and enable the government to realize its visions and aspirations. The government always encourages fair competition among all businesses, expects them to operate professionally, efficiently and encourages utilization of modern management technology and gradual introduction of OECD standards.

While the government treasures and welcomes investors and businesses in Vietnam, fraudulent acts are not tolerated. The government is determined to strictly handle businesses that cause pollution or disrupt the sustainability of the natural environment, exert negative impacts on traditional cultural and social values. Moreover, illegal and child labor, discrimination, violations of workers' rights, production of counterfeit and poor quality goods detrimental to public health, tax evasion, trafficking and trade fraud will not be tolerated.

The business community will determine how the Vietnamese economy is shaped in the next decade. The community also functions as a crucial driving force in realizing Vietnamese people's aspirations for prosperity and in this process the Government of Vietnam is a development creator. The VBF will continue to be a vital and effective policy dialogue vehicle between the business community and government in the successful pursuit of socio-economic growth and sustainable development.

SESSION 1. PRODUCTIVITY IMPROVEMENT AND OTHER FACTORS TO STRENGTHEN INDUSTRIES

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

Workers' performance levels must increase and companies are responsible to help achieve this. Promoting skills development is one part of the solution, while the other is motivating employees. Nevertheless fair wages, working hours and maternity protection are inherent to labor laws.

Clear regulations on the following points will assist in achieving these goals:

- Communicate Labor Law revisions to avoid misunderstandings between management and workers
- Facilitate foreign management to work in Vietnam with clearer work permit rules and avoiding double payments on social security
- Better support from local authorities in resolving wildcat strikes
- Recognize tax deductability of employee benefits, enhance assistance with local registration and access to local services for migrant workers and families
- Clearer mechanisms for future national minimum wage increases
- Raise national labor productivity
- Chambers of Commerce should communicate best human resources practices to member companies and provide recognition to those that promote workers' well being
- Continue close collaboration between the government and VBF on proposed Labor Law changes to lead to more effective changes.

Response by the Ministry of Labor, Invalids and Social Affairs – Mr. Le Quan, Vice Minister

Minimum wage: The Ministry of Labor, Invalids and Social Affairs **(**MoLISA) set a minimum wage growth rate target of 6.5% for 2017, in line with International Labor Organization guidelines. The negotiation process is a tripartite mechanism involving the worker, regulatory authority and employer. Vietnam will rely on productivity, economic growth and inflation rates in its minimum wage adjustment efforts. Vietnam will also harmonize stakeholders' interests and suggest investors pay attention to recruiting trained workers and productivity improvements.

Social insurance salary base concerns: As the salary base for social insurance will be salary plus salary-based allowances and predetermined fixed income from Jan 1, 2018, the MoLISA will take phased adjustments as the current income base for determination of workers' social insurance contributions now account for just 50-60% of real income. However, there a need to harmonize employer and employee interests to ensure policies retain a safety net for the population.

Concerns about workforce quality: The MoLISA recently released incentives to encourage the private sector and businesses to invest in vocational education and training. In its Master Plan for Development by 2030, the government targeted 40% of vocational education institutions to be private sector run. Thus, the MoLISA suggests businesses focus on investing in vocational education and training. Secondly, the MoLISA approved a circular allowing all vocational schools to enter into partnerships with industry for workforce training purposes (businesses may now have ownership of up to 40% of the curriculum).

Any business investing in Vietnam in need of workforce vocational training can contact a Department of Labor, Invalids and Social Affairs (DoLISA) for support, recommendations of qualified training institutions and apply for budgetary support through the employment promotion and unemployment funds as well as vocational training ones for rural workers.

Automotive Working Group - Mr. Toru Kinoshita, Head

To develop an effective policy to support the automotive industry, a comprehensive approach should be taken with three pillars:

- Policies to maintain steady market growth, including counter-measures to minimize negative impacts on market growth. Those policies should provide transparency, fair treatment and sufficient time for industry site preparation.
- Policies to narrow production cost gaps between local and imported parts as well as CKD and CBU vehicles. This also involves transparent treatment of all makers and suppliers in compliance with Vietnam's international commitments.
- Practical policies and schemes to enhance the supplier base.

The Vietnamese Government should invite key suppliers to join an automotive task force with frequent meetings and reporting to the Prime Minister. The government should promote foreign suppliers entering Vietnam and encourage local enterprises to expand investment in auto-part manufacturing. Tier 2 and 3 local suppliers should not aim to become Tier 1 suppliers in the short term, but instead ensure QCD requirements are met. Suppliers should take part in an auto-part database, business matching programs and create attractive business profiles. Auto-makers will continue to provide guidance how to recruit suppliers and develop criteria, with a list of all parts expected to be localized. Auto-makers could help potential suppliers to increase QCD capacities and know-how via supplier enhancement programs.

Response by the Ministry of Transport – Mr. Le Dinh Tho, Vice Minister

Development strategy for Vietnam's automotive industry: The government has approved the strategy and master plan for development of Vietnam's automotive industry, coupled with supporting industry development.

Decree 116 on eligible criteria for the manufacture, assembly, importation and commercial vehicle maintenance services: The Ministry of Transport (MoT) is putting together a circular on quality control, technical safety and environmental protection for imported motored vehicles subject to Decree 116, specifically:

- *National type approval procedure, indicating where a product type is created and recognized:* As per Decree 116 [issued by a competent foreign authority and not necessarily issued by a competent authority of the exporting country]. In the making of the implementing circular, the MoT is moving along a pathway where the authority is granting vehicle quality and type certificates in accordance with foreign laws (which may be accepted), authorities and organizations affiliated to foreign governments in charge of motor vehicles and other agencies authorized by a governmental body or organization to recognize in line with signed international agreementss, i.e. MOT wants an open-minded approach on this.

- *For testing purposes, car importers need to provide regulatory authorities with these documents/valid statements showing assessment results for quality assurance of foreign car manufacturers and assemblers for manufacturing facilities and types of imported vehicles, issued by a competent foreign authority or organization prior to Jan. 1, 2018. VBF suggests the government accept car importers may choose to have the Vietnam Register grant the quality assurance qualification certificate:* Under provisions of Decree 116, as Vietnam Register's agencies are not foreign authorities, they should not undertake this role.

- *Testing requirements for each imported batch:* This was established in Decree 116 and the MoT circular will provide implementing guidance in line with the decree.

- *Cars imported prior to Decree 116's release*: The decree includes a sunset clause. Specific industry concerns will be documented by the MoT and reported in detail to the government for responses.

VBF's recommendations on private 4- and 2-wheeler growth: As an advisory agency to government, the MoT confirms Vietnamese law does not forbid ownership growth of private transportation, including 4- and 2-wheelers, meaning manufacturing is still permitted to meet consumer demands.

Regarding the recommendation on restricting private transportation relating to traffic organization in Vietnam: Depending on the specific contexts of localities, local governments or central government will place restrictions on private transportation to ensure traffic safety.

Transport and logistics sector investment and business climate in Vietnam: The government allows wholly foreign-owned enterprises to invest in construction and development (direct investment, development of seaport systems and operating ports).

- *Services and operations:* Under current laws and international treaties Vietnam is a signatory to, businesses in transport and logistics services may own equity of up to 49%.

- *International freight:* Under Vietnamese law, foreign investors are allowed to create wholly foreign-owned enterprises to operate in the international freight industry. The MoT is counseling the Vietnamese government to negotiate terms and conditions for integration in a more open approach to further enable foreign investment in the logistics and seaport sectors in Vietnam.

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

Since the EU-Vietnam FTA is an important opportunity for Vietnam to expand its export market and support domestic reforms, the Investment and Trade Working Group underlines the importance of preparing the legislative groundwork for the European Parliament's consideration of the EUFTA. Regarding public questioning of trade liberalization benefits, the working group expects European Parliament members to question recent regulations adopted by the Vietnamese Government, particularly in the pharmaceuticals and wine/spirits sectors, sustainable development and implementation of the Paris Agreement as well as human and labor rights.

There are fears recent domestic fiscal measures could result in a reduction in Vietnamese imports from the EU with EUFTA not to be in force yet. The government is encouraged to maintain its commitments on a number of points, such as internal taxation in anticipation of a reduction in import taxes or opening up markets to imports. In addition to the EUFTA, the Investment and Trade Working Group strongly supports participation in the proposed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The CPTPP is a landmark agreement that will create jobs, growth and sustainable economic and social development throughout the region.

Further issues that require attention include trading lines and HS code requirements, inability of representative offices to open bank accounts and a lack of legal support for cross-border financing and the housing market, introduction of social insurance requirements for foreign workers in Vietnam without proper implementation legislation.

Vietnam Business Forum Consortium - Mr. Tetsu Fuyanama, Alternate Co-chair

The key drivers for manufacturing to promote the concept of "smart factories" are underpinned by two elements – "business model innovation" and "cutting labor costs". These drivers will emerge in discussions on how to "enhance industrial competitiveness through higher productivity" and "improve earnings in foreign currency" as well as a next goal of "promoting economic activities".

When a "smart factory" is set in motion, there is no need for local human labor to do simple jobs, thus the labor cost element is removed from production strategies. As a result, the principle of "production close to points of consumer demand" will work on many levels and from a global perspective, nations and regions with strong consumer demands such as the United States, China and Europe will again lead in manufacturing in lieu of developing countries where manufacturing facilities are gathered. Existing advantages that underpin the ability to attract FDI for Vietnam, including "good quality, but cost-competitive human resources" or "geopolitical advantages" may no longer exist in the future.

To enhance Vietnam's attractiveness as a destination for Industry 4.0 manufacturing in the future, the following two elements are suggested: *i) increase the nation's attractiveness as a destination for manufacturing and consumption rather than simply manufacturing* and *ii) strengthen self-sufficiency in raw materials by utilizing local natural resources to unlock potentials for supporting industries.*

The Japanese Business Association in Vietnam encourages the Government on Vietnam to outline its thoughts on IT human resources training to meet smart manufacturing needs and nurture talent with a "Silicon valley" ethos in mind.

SESSION 2. FACILITATION OF PRIVATE FUNDING TO IMPROVE FISCAL CONDITION

Power & Energy Sub-Working Group - Mr. Tomaso Andreatta, Representative

As per repeated requests from major power consumers, the Ministry of Industry and Trade (MoIT) is encouraged to adopt greater transparency on future electricity power tariffs to 2020 and beyond. The Power & Energy Sub-Working Group refers to previous submissions in 2016 and the 'Made in Vietnam' Energy Plan recommending a retail power pricing roadmap to be published for commercial and industrial consumers. Benefits include stimulation of power consumers to invest in energy efficiency and off-grid power generation. Positive discussions with the MPI on how to source international climate finance to support private sector energy efficiency and renewable energy investment should also be noted.

In response to a MoIT request to comment on the Draft Solar Power Purchase Agreement, the sub-working group made a detailed submission that provided reasonable protection for foreign banks. Such a recommendation was not adopted in the final PPA agreement. The MoIT Minister is requested to confirm whether third party solar operators using factory rooftops in Vietnam have legal capacity to sell power using power purchase agreements with factory owners from solar systems of less than 1 megawatt capacity without an operating license.

The sub-working group's lessons learnt in Thailand underlined the need to select national energy master plan projects that have developers able to provide tangible evidence of investing equity and raising finance to execute projects as well as successfully delivering infrastructure investment. To close, the sub-working group notes the positive meeting with the MoIT on September 15, from which parties can build towards progress in mobilizing commercial finance and private solutions for infrastructure.

Response by the Ministry of Industry and Trade – Mr. Do Thang Hai, Vice Minister

Regarding direct power purchase agreements (DPPAs), the VBF recommended providing specific information on the piloting stage, implementing steps and the most recent power purchase agreements.

In principle, the MoIT supports development and implementation of mechanisms enabling enforcement of direct power purchase agreements in Vietnam for financial incentives to promote development of alternative energy and facilitate business access to and purchase of power from clean energy sources. The MoIT has appointed the Electricity Regulatory Authority of Vietnam, in cooperation with the United States Agency for International Development (USAID), to take on a technical assistance project for research and recommendation of mechanisms for direct power purchases applied to renewable energy sources in Vietnam. The MoIT looks forward to industry cooperation, especially from operators and investors in this sector. The project goals are to learn from international experiences, commonly-applied DPPA schemes and scan existing legal framework(s) to recommend approaches commensurate and workable considering the local energy sector's status and current regulatory system in Vietnam. Within 2018 or no later than its fourth quarter, the USAID-recommended pilot mechanism will be rolled out.

There is a suggested need to disclose the pathway for retail electricity price increases to encourage consumers' investment in energy efficiency and use of off-grid power, to relieve electricity price increase pressures and help EVN reduce power transmission and distribution system pressures during daily peak hours.

To promote sustainable power development, meet corporate and household electricity user demands, maintain a healthy competitive environment, attract FDI and enhance energy sector cost-effectiveness, current electricity prices as suggested by VBF must reflect electricity cost generation prices and sales, while making sure electricity providers gain viable profit margins and achieve sound financial indicators to meet financing institution requirements, guide investment for development and encourage other stakeholders to invest in the energy sector. The Prime Minister has in place regulations on the mean retail power tariff, made public with required disclosure and transparency. On 25 July 2017, the Prime Minister released Decision 34 on the mean retail power tariff for 2016-2020.

Power tariff transparency for electricity users, especially major power ones: For power tariff increase decision-making purposes, the MoIT created a taskforce comprising the MoIT, Ministry of Finance (MoF), MPI and other relevant ministries and line agencies as well as various associations and organizations, including VCCI and Vietnam Consumer Protection Association. Power tariff review findings will be audited by international external audit firms. For example, the external audit firm Deloitte was recently part of auditing efforts to review power tariffs before the MoIT reports to relevant authorities and Prime Minister for decision-making. The MoIT's view is this issue required cooperation and collaboration from all businesses in Vietnam as well as foreign-invested firms.

Capital Markets Working Group – Mr. Dominic Scriven, Head

Capital markets are comprised of bond and equities markets, which have grown substantially in recent years. The gross capitalization of these markets has exceeded 100% of GDP and the government-set number for the 2020 plan. In terms of raised capital for 2017, these markets successfully mobilized VND200,000 billion to benefit the State and businesses, with daily trading amounting to VND10,000 billion and more than two million participating investors. To build on this success, the working group would like to touch on five points as follows:

Firstly, regarding the bond market, a proposal was made for public offerings of bonds to be conducted more safely by holding brokerage firms more accountable for the release(s). In response to the call for a review of Decree 90, private placements can be allowed in a more comprehensive way, especially when it comes to introduction of the professional institutional investor concept.

Secondly, in relation to the role of foreign investors, the government is encouraged to consider permitting businesses to automatically raise capital from foreign investors, except for banned or conditional lines of business.

Thirdly, for expansion of institutional investor network purposes, the creation of member open-ended funds would be helpful.

Fourthly, the State Bank is recommended to continue improving and reviewing Circular 32 and allowing commercial banks to distribute similar financial products as managed funds.

Fifthly, the new Securities Law needs revision as per the government and Ministry of Finance agenda and the working group is willing to take this on once the draft is released.

Finally, the government is encouraged to pay attention to the negative impacts on Vietnam's national reputation with regards to the illegal trade in wildlife.

Response by the State Securities Commission – Mr. Pham Hong Son, Vice Chairman

*Bond issuance*s: The State Securities Commission (SSC) largely agrees with the VBF. The MoF is leading efforts to revise Decree No.90, in the hope that by early 2018 the government may release the legislation, with amendments encompassing accountability of brokerage firms, private bond placements, details pertaining to purposes of releasing financial statements, financial health, issuing products and the need for transparent statements. The SSC has also defined the accountability of brokerage firms in consulting as well as disclosure of issuing institutions' information obligations.

Regarding the role of foreign investors: The MPI is the lead agency providing the list of foreign investors qualified to engage in investment activities. In respect to allowing businesses to raise capital automatically from foreign investors, the SSC believes foreign investors' ownership varies by sectors, for example, the banking industry has a different ownership plan than the beer, liquor and beverage sectors. Firstly, businesses must remove non-core business lines for better alignment with business licenses and facilitate foreign investors who want to purchase equity in such businesses. Going forward, the SSC in collaboration with the MPI will continue supporting foreign investors to be more proactive in taking shares in Vietnamese businesses.

Setting up open-ended and private equity funds: The SSC is examining how to best revise the rules.

Changes to Securities Law: The SSC has submitted proposed amendments to the government to solicit comments from the National Assembly Standing Committee and after screening clearance to revise the Securities Law is received, the SSC will engage in consultations on the amendments.

Response by the Ministry of Planning and Investment – Mr. Do Nhat Hoang, Director General of the Foreign Investment Agency

Proposed removal of the list of investment and business eligibility criteria in the Investment Law: In 2014, the Investment Law introduced a list of 267 business lines and the 2016 revised Law No.03 shortened this list to 243 business lines. The MPI feels these business lines should be further recalculated. The MPI, in collaboration with ministries and line agencies, is revisiting investment and business eligibility criteria and will provide updates in the next amendment of the law.

Unreasonable charter capital pay-in within 90 days rule of the Enterprise Law: This rule may only fit domestic firms or small-sized foreign businesses. For medium- and larger-sized enterprises, this rule seems unreasonable. The MPI duly takes note of the matter and will follow it up in the next amendment of the law.

Banking Working Group – Mrs. Natasha Ansell, Head

The Banking Working Group (BWG) congratulated the government on another successful year notable for successful monetary and credit policies, stable foreign exchange rates and non-performing loan (NPL) resolution efforts. Government, National Assembly and State Bank of Vietnam (SBV) work to address NPLs are particularly noted.

Reflecting on the overarching theme for the APEC CEO Summit, digitalization embraces every sector and the BWG is encouraged this a government agenda priority in the same manner Industry 4.0 and renovation are core elements to expedite administrative reforms and financial inclusion and to further take Vietnam to the top of the ASEAN 4 competitiveness level.

Three key areas of BWG work are:

Advance account solutions for multinational companies: FDI continues to drive Vietnam's economic growth, yet initiatives common in other countries are not found in Vietnam. The SBV is an active partner in these objectives and other sections of government are encouraged to offer support.

Banking documentation simplification: This is applicable to numerous areas, including foreign exchange management. It affects management regulations and gives banks discretion to decide on supporting documents checked against foreign exchange transactions. However, there have been different interpretations by the enforcement agency and the BWG recommends relevant agencies, including the Supreme Court, provide consistent and coordinated interpretations and guidance to help implement this rule.

Bank accounts of entities not legal persons under the new Civil Code: It is imperative this issue, which impacts on the banking sector and has been highlighted by many chambers, is resolved as soon as possible.

Response by the State Bank of Vietnam ("SBV") – Mrs. Nguyen Thi Hong, Vice Governor

In recent months, the SBV has engaged in technical and leadership meetings with the BWG to discuss and address issues. As a result, the SBV found solutions to seven questions in 2017, with another five questions needing further consideration and efforts to improve the legal framework. The three questions requiring cooperation from other agencies are as follows:

Firstly, concerns about developing cash management products and cash pooling of multinationals in Vietnam: Recently, the SBV and BWG jointly put together roundtables on the nature, content, forms and international experiences on liquidity management products and cash pooling within multinationals. From the experiences of several countries, cash pooling is often regulated by the enterprise law, civil code, accounting law and others. These laws make clear the power and responsibilities of regulatory authorities in their regulation of these undertakings. Looking ahead, the BWG is invited to further screen related Vietnamese laws and regulations, and international practices to recommend specific steps with relevant ministries and line agencies to ensure effective public sector management of these activities.

Secondly, concern about simplifying foreign exchange statements: Existing rules on verifying foreign exchange claim documents are available in the Foreign Exchange Ordinance as well as Decree 70-CP, to provide ownership for financial institutions in providing foreign exchange services to customers and to ensure such claim documents match actual transactions. Reports by the BWG, however, indicate challenges and gaps still persist due to inconsistent interpretations by the BWG and enforcement agencies regarding supporting document control. The SBV has well noted valuable BWG inputs and suggests it works closely with the SBV and relevant agencies to align concepts and interpretations related to this matter, ensuring harmony with existing foreign exchange rules and facilitating financial institution operations.

Thirdly, parties setting up transactional accounts in accordance with the Civil Code: In respect of parties' status in civil transactions and contractual arrangements in setting up and using transactional accounts, the SBV has taken note of emerging concerns and is walking banks through a designated pathway. Moreover, the SBV has worked closely with other ministries and line agencies to provide consistent answers to questions relating to parties' status in civil transactions.

For other recommendations, the SBV will continue working with interested partners and relevant ministries/line agencies and take further steps in the immediate future.

Response by the Ministry of Justice – Mr. Phan Chi Hieu, Vice Minister

Regarding BWG concerns about on the Civil Code establishing that parties without judicial status do not have the right to engage in civil relationships and as reference to this rule, the SBV has released several circulars requiring institutions without judicial status to close corporate accounts and use personal accounts instead. The Ministry of Justice (MoJ) had a session with the SBV's Payment Department, before participants entered into discussions with the BWG at MPI headquarters. In both meetings, the MoJ made clear its view that the current Civil Code never forbids organizations without judicial status to participate in civil relationships. Thus, setting up an account or not doing so has nothing to do with the prohibition rules of the Civil Code. A rather rigid understanding of Article 101.1, Civil Code, is apparent. Even excerpts from today BWG speech shows some misinterpretations. Article 101.1, Civil Code, has been very clear on how households, cooperative teams and other organizations without a judicial status can engage in civil relationships, meaning it recognizes the right of all organizations without judicial status to be part of a civil relationship.

Going forward, the MoJ will work with SBV leadership to reach positive solutions and closure on this issue as the former sees no barriers within the Civil Code regarding organizations without judicial status setting up accounts.

SESSION 3. ENHANCING BUSINESS ENVIRONMENT FOR PRIVATE BUSINESSES' BREAKTHROUGHS

Customs & Tax Working Groups – Mr. Mark Gillin, Co-head

Concerns remain on differences between policy and resulting implementation and interpretations by central and local authorities. These differences undermine trust and confidence of investors and businesses, including:

First, businesses need confidence that government will keep its promises: There are numerous cases of tax authorities refusing to apply incentives to investors and instead demanding additional taxes and even applying penalties with interest. Such incidents undermine inverstors' confidence as authorities fail to respect principal investment protection, which damages enterprises.

Second, adhering to tax principles when collecting tax: Tax policies and regulations frequently change with opaque rationale. In some cases, local tax authorities make use of unclear wording or formalities to forcefully and confidently apply interpretations that benefit the tax collectors. This may be due to revenue pressure or self-interest. Examples include:

- **VAT refunds:** The General Department of Taxation (GDT) relies on enterprises using incorrect VAT import declaration forms. Even though enterprises amend the declaration with guidance from local tax departments, enterprises face a lengthy process to explain their right to a refund and even obtain confirmation from the MoIT that products are eligible for refunds. This process can exceed six months.
- **HS codes:** Post Customs clearance audit results in HS classification of a single product differ from those applied by Customs at the time of import. In this case, Customs applies the new higher duty HS reclassification retroactively, forcing enterprises to pay tax for previous years despite relying on the tax authority for the first post clearance audit. Enterprises are not only unfairly burdened by Customs mistakes, but also doubt future reclassifications.

- **Dutiable value:** Importers can be imposed with higher dutiable values by Customs, based on the administrative errors such as not filing appropriate items in Customs declarations. While such decisions can be repealed, there are no refunds from Customs.

- **PIT:** Many enterprises have encountered problems related to the formula to convert after-tax to before-tax income. Previously many enterprises applied a formula as guided by Ho Chi Minh City's tax department. However, during tax audits the GDT provides different guidance and requests retroactive application, which again results in not only additional PIT, but also penalties and interest.

In all of these cases, businesses must suffer consequences of errors by authorities. Current law holds the State responsible for paying compensation for damage to enterprises by unlawful State agency acts, yet in practice this does not always occur. We applaud initiatives to reform administrative procedures, such as the tax management system. This system automatically calculates tax and late payment interest based on company tax returns. However, sometimes statements require further clarification from tax authorities which is often time-consuming.

In response, the working group recommends:

- Tax authorities strictly comply with commitments to investors and respect the law.
- Tax authorities base reassessments on the nature of underlying transactions and not blindly apply measures that defy the intent of the law.
- Clear sanctions for tax and Customs officers are needed for incorrect implementation of the law and unlawful issuance of documents, so officers are truly accountable for their actions/decisions.
- A hotline should receive feedback and provide guidance to businesses, with respondents knowledgeable about tax law.
- The appeal process must be sincere and effective within an appeal body distinctly separate from individuals responsible for the original ruling.

Response by the Ministry of Finance – Mrs. Vu Thi Mai, Vice Minister

Changing excise tax and taxing sweetened beverages The MoF is putting together an amendment for six different tax laws (Value Added, Excise, Corporate Income, Personal Income, Import-Export Duty and Natural Resources Royalty). The MoF has looked at experiences from other countries and found many impose excise taxes on sweetened drinks. The MoF acknowledges it has pooled inputs to engage relevant authorities to review current legislation.

Public administration and Customs duty reform in relation to businesses: The MoF takes note of the concern and confirms its continued commitment to businesses and business associations to reform administrative procedures as well as modernize and digitalize tax and Customs procedures. The MoF recently announced it would follow automated Customs management at seaports to cut costs and time needed for businesses and related parties (shippers, logistics companies, port businesses and shipping lines). Implementation is expected to take place at targeted marine terminals in 2018, first in Ho Chi Minh City during the first quarter and other seaports, with expansion to airports and roads.

Specialty audits and non-tariff barriers: The MoF has been selected as the lead agency in the "national single window, ASEAN single window and trade facilitation" mechanism. The MoF is developing a decree on specialty audits to legalize all reforms the Prime Minister and government have requested with a view to lowering non-tariff barriers to enforce the Trade Facilitation Agreement that Vietnam is a party to. The MoF thanks the World Bank for cooperating and providing consulting expertise on this matter to help set the Trade Facilitation Agreement in motion and accelerate development of the decree to be submitted to government. The MoF hopes to receive business contributions to the legislation.

Regarding specific concerns on taxation and Customs, given the time constraints the MoF duly notes the issues and will refer them to the General Department of Taxation and General Department of Customs for review, decision-making and responses. Other recommendations relating to policies and procedures are duly noted for review and potential policy adjustments will take place.

European Chamber of Commerce in Vietnam ("EuroCham") – Mr. Bradley Allen Silcox, Representative

There is an opportunity to attract investment and develop a self-sustaining innovative pharmaceutical sector in Vietnam, including technical transfers, manufacturing and clinical trial capabilities. To make this happen, an outward looking legal framework and strong commitment to FDI are essential. The new Pharmaceutical Law (2016) creates that solid base and it is applauded, yet there is uncertainty created by recent legal and financing developments.

Decree 54, effective 1 July 2017, expanded the definition of distribution to include warehousing and transportation services, neither in line with WTO nor in the sphere of EUFTA. It is essentially taking away the rights of licensed foreign investors to provide these services. While the EU trade delegation noted this and is a prerequisite for ratification of EUFTA agreement in the name of protecting investors' rights, Decree 54 does allow foreign pharmaceutical companies to come onshore and as viable FIE import entities, it is unclear whether they can import, sell to local wholesalers, distributors and provide basic drug introduction and information activities. The ability of these entities to partner local companies to invest and meet global commercial quality safety and compliance requirements is essential.

It is critical for government and industry to work together on innovative financing solutions and government procurement to provide a sustainable path for new medicines to enter Vietnam's market. Only 6% of new medicines made in the world entered Vietnam over the last three years, the lowest in ASEAN while medical tourism has accelerated. Through a combination of faster access to these new medicines on the market and price negotiations for innovative products, Vietnam will ensure patients access high-quality innovative medicines while meeting government financing requirements and laying a foundation for technical transfers of these products to Vietnam. Progressive dialogues with the MoH are encouraging and a multi-stakeholder approach may be the best option to create a win-win for patients, government and industry to unlock opportunities.

Governance & Integrity Working Group – Mr. Giles Cooper, Co-Head

Lack of transparency and integrity is a serious concern for foreign businesses in Vietnam and it has a significant cost on society and the economy. The government is working proactively to improve the status quo and recently approved the amended Penal Code to include, for the first time, terms criminalizing private bribery. The law now needs careful oversight and appropriate enforcement to be effective.

The working group is following the review and update of the Law on Anti-Corruption and notes the draft proposed terms of this law concerning responsibilities of private enterprise to play a role in combating corruption. The working group looks forward to commenting on the next draft and how best to frame those responsibilities.

It is also actively looking at international standards and codes for promotion in Vietnam to further engage the private sector in combating corruption and promoting business integrity. The ISO 37001 anti-bribery management system and its formal incorporation into Vietnam's standards system is of particular interest. Meanwhile, a number of issues raised and suggestions made by the working group in the past remain to be addressed. For example, the working group:

- Commented on the insufficiency of penalties for breach of corporate governance rules by public company managers.
- Recommended increasing such amounts to act as a better deterrent and punishment.
- Noted that only private foreign-invested companies, not private domestic ones, are subject to mandatory financial audits.
- Recommended that rules on mandatory audits of private companies be based on the size, age and/or turnover of the company and not nationality of the owner.
- Noted that although there are laws limiting State agencies and companies from using cash to make transactions, there are no restrictions on receiving cash.
- Applauded the Prime Minister's actions to reduce the use of cash, but systems are not being put into place fast enough.

The working group is ready to work directly with the government on these issues. At heart, it shares the government's goal to create an inclusive economy and harness the power of Vietnam's entrepreneurial spirit.

CLOSING

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

As we celebrate two decades of partnership, the VBF has truly become an effective mechanism for active dialogue. It's not only about the government responding to concerns by the businesses and enterprises, it is also about how the business community contributes to Vietnam's development agenda. We can see productive businesses contributing to a productive economy. The quest for productivity growth is a question of efficiency, in which businesses play a critical role. Our discussion today points to important areas the government may want to focus, as follows:

A business-enabling environment: We are encouraged that concerns raised by the business community have been addressed effectively. But longstanding and new issues need further government attention, such as a workable regulatory framework and simplification of administrative procedures. This is also an opportunity to reflect on our own achievements and look to new strategies to attract FDI. VBF working groups will continue working with ministries and agencies to address these issues effectively on the basis of mutual benefits and understanding.

Innovation and investment: This is a key step, especially in the age of Industry 4.0. Government is committed to innovation and start-ups should not be measured by how much they invest or spend on time-technology, it is also about creating the right incentives in an enabling framework that allows ideas to be turned into successful businesses. A transparent and efficient market for technology transfers is critical to support the new drivers for growth.

Quality of infrastructure: This is critical to improve business and economic productivity. Strategic investment, transport networks and energy are high priorities for Vietnam. Given the current significant fiscal circumstances and high public debt, leveraging private and commercial financing is critical. In addition to effective sectoral policies, business looks forward to a new comprehensive law on PPP that will address many current challenges and bottlenecks to this important agenda.

Governance: The business community appreciates government efforts to improve governance across sectors, ministries and sub-national levels. It must continue this positive momentum towards improving transparency and integrity to enhance business confidence and to nurture a level playing field for all economic actors.

Vietnam Business Forum Consortium – Mr. Vu Tien Loc, Co-chair

The business community still appears uncertain about multiple regulatory reform issues and it is hoped greater coherence is found through formalization into law as well as a narrowing of gaps between lawsand enforcement. This law-enforcement gap is still large in various sectors, which is a major concern for the business community.

The VBF is confident regulatory reforms with an innovative government and increased anti-corruption awareness will unleash the entrepreneurship spirit in Vietnam.

The VCCI will report to Vice Prime Minister Truong Hoa Binh regarding the anti-corruption project and building integrity in the business community project to help create a government of integrity. The VCCI anticipates receiving government support to achieve a business sector of integrity aligned with a government of integrity.

Ministry of Planning and Investment – Mr. Nguyen Chi Dung, Minister

The working groups have made their cases in a thoughtful and compelling manner, with valuable inputs and recommendations to relevant governmental bodies, including:

- Cutting business eligibility requirements, enhancing administrative procedure reforms and building a business climate with more transparency and certainty
- Issues on specialty audits, cutting costs and minimum capital requirements for businesses
- Potential impacts of Industry 4.0 and employment issues with an emphasis on increasing productivity, overtime hours, improved social benefits for workers, work permits and more clarity on social insurance coverage and benefits for non-national workers
- Addressing automotive competitiveness issues, with recommendations to sustain steady market growth, narrow production cost gaps between domestic-made and imported vehicles as well as promoting supplier development
- Enhancing financial access for the domestic private sector through a proposal to allow 100% ownership for stock brokerage firms unless local laws or international treaties rule otherwise
- Selecting strategies to promote banking sector growth, address concerns in setting up transactional accounts simplifying bank transaction paperwork
- Issues relating to infrastructure development, perfecting mechanisms and policies to attract investment through public-private partnerships (PPP), diversifying renewable and clean energy
- Concerns in the enforcement of tax and Customs policies, recommendations to tax authorities on compliance with current commitments, disciplinary action to address tax officials’ wrongdoings and fast-tracking administrative procedure reforms to reduce tax compliance hours

- Uncertainty with Decree No.54 providing guidance on the Pharmaceautical Law, including issues related to pharmaceutical product distribution by foreign-invested firms, recommending viable foreign-invested business models and a clearly defined legal framework for such firms to operate efficiently
- Concerns related to trade facilitation, intellectual property rights protection, education quality, standardizing local accounting standards, administrative procedure reforms, governance and integrity, among others.

Through discussions, participants from different ministries and agencies have made specific and detailed comments to further shed light on topics of mutual interest and call for stronger coordination between the government and business community, domestic and foreign, to address current challenges.

We have also agreed that while the investment and business climate in Vietnam has made positive progress, it must maintain momentum and even stronger reforms are needed going forward. Policies and laws must be revised in ways that ensure enforcement, equity, consistency, transparency, clarity, integrity and alignment with international treaties Vietnam is a party to. The government warmly encourages the business community to further engage in the local law and policy-making process.

Today’s discussions and comments will be documented and shared among relevant ministries, line agencies and business associations, as close coordination is expected between all parties to deliver effective and achievable solutions for the Prime Minister to review and decide on.