

**DIALOGUE BETWEEN MINISTRY OF PUBLIC SECURITY/
RELEVANT AGENCIES AND VBF**

14:00, Thursday, 13th September 2018

Main Hall, 3rd Fl, Building F,

Premises of Ministry of Planning and Investment, 6B Hoang Dieu, Hanoi

SUMMARY

DEFINITIONS

For the purposes of these minutes, the key terms are defined below:

VBF	:	The Vietnam Business Forum
MPI	:	The Ministry of Planning and Investment
SBV	:	The State Bank of Vietnam
MPS	:	The Ministry of Public Security
Law	:	The Cybersecurity Law, passed by the National Assembly on 12 June 2018.

1. ATTENDEES

Government Representatives

Ministry of Public Security

- Colonel Mr. Do Anh Tuan, Deputy Director of the Cybersecurity Department (C05)

Ministry of Planning and Investment

- Mr. Vu Van Chung, Deputy Director of Foreign Investment Agency

State Bank of Vietnam

- Mr. Pham Tien Dung, Director of the Payment Department;
- Mr. Nguyen Quang Hung, Deputy Director of the Information Technology Department.

And representatives from other relevant Departments.

VBF Representatives

- Mr. Fred Burke, Head of VBF Investment & Trade Working Group, and Managing Partner, Baker & McKenzie Vietnam;
- Mr. Dang Thanh Son, Partner, Baker & McKenzie Vietnam;

And around 50 other representatives of VBF members.

2. KEY DISCUSSION POINTS

2.1 Introduction of attendees and agenda of the meeting

- Mr. Vu Van Chung introduced attendees from government authorities;
- Mr. Fred Burke introduced VBF and its members in attendance.

2.2 VBF's concerns and recommendations presented

- Mr. Dang Thanh Son presented VBF's concerns and comments on the Law. Detailed VBF's comments had been sent to the MPI, MPS and SBV before the meeting. Mr. Dang Thanh Son's comments focused on main concerns that have caused confusion among VBF's members and gave recommendations accordingly.
- Mr. Jake Jennings, Head of Global Trade Policy at AT&T, delivered a presentation about cybersecurity issues and experiences of other jurisdictions.

2.3 The MPS delivered brief comments about the current status of decrees and circulars drafting process

- The MPS is conducting research and in the process of drafting decrees and circulars implementing the Law. The MPS's objectives are to create an environment and legal framework for enterprises to conduct business activities, however, at the same time, those enterprises must ensure compliance with Vietnamese laws. In the drafting process, the MPS has referred to foreign laws, considered current situations of crimes committed on the Internet and high-tech crimes.
- The MPS takes the implementing decrees and circulars very seriously. The MPS has also organized many internal meetings and discussions during which many different arguments have been raised.
- The MPS will be organizing many workshops to discuss the Law and its implementing regulations, for which the MPS wishes to receive recommendations from associations and enterprises. The MPS will conduct detailed research to draft the implementing regulations to avoid any vagueness or having impractical requirements that enterprises cannot comply with and the authorities cannot enforce.
- The decrees and the circulars will be released for public consultation soon. The decrees will not limit the rights of international organizations, offshore entities doing business in Vietnam.

2.4 Responses from the MPS to three (3) most notable issues under the Law

- **Issue 1:** The term “enterprises providing services on telecommunication networks, the internet, value added services on cyberspace” in Articles 2.5(a), 2.5(b), 16.8, 19.3, 21.2(b), 26.2, 26.3, 29.2, 38.3, and 41.2.

MPS's responses: In the draft decree implementing the Law, the MPS intends to define the terms “enterprises providing services on telecommunication networks, the internet, value added services on cyberspace” so that it will include:

- telecommunication service providers;
- enterprises providing services on the Internet as set out under Decree No. 72/2013/ND-CP;
- enterprise providing telecommunication value-added services.

- **Issue 2:** Please kindly help to confirm our understanding regarding Information systems critical to national security.

MPS's response: The MPS will provide detailed guidance under the forthcoming implementing decree. In sum, the Information systems critical to national security will only include State information systems and is unlikely to include information systems of private enterprises.

- **Issue 3:** Data localization requirement under Article 26.

MPS's response: This is an important issue and under internal discussion. The MPS is deliberating over which information should be required to be stored in Vietnam. Requiring all information to be stored in Vietnam would require massive infrastructure. The MPS is considering to require only information that the Government need for verification of investigation (e.g., to investigate crime case) to be stored in Vietnam. The MPS is reviewing law of Germany and would like to refer to such law. One of the main issues that still remains is what information should be required to store in Vietnam.

2.5 Questions and Answers between VBF members and the MPS

- **Question 1 (from Mr. Pham Quang Hung - HSBC and Ms. Vinh Dang - Allens):** As stated in the detailed comments, for the enterprises subject to data localization requirement under Article 26, it is unclear from this provision whether the relevant enterprises are required to:

- Store a copy of the relevant data in Vietnam for a period of time (i.e., data can be stored in foreign countries, as long as a copy of such data is stored within Vietnam. Entities subject to this requirement can delete information stored in Vietnam after the statutory storage period); OR
- Such enterprise must exclusively store the data in Vietnam for a period of time (i.e., storage of such data in foreign countries during the statutory storage period is prohibited).

MPS's response:

- The Law was drafted referencing other Vietnamese legislations. As stated above, this is a key issue which is still being discussed internally within the MPS.

- The MPS hopes that enterprises, business associations can combine their recommendations and send to the MPS for consolidation and for reference purposes. The MPS cares about the practices of other jurisdictions. The MPS hopes that recommendations submitted will be clear and with solutions.
- The MPS will **not** prohibit the free flow of data. If companies need to share information to do business, the MPS and Government will never prohibit that. As stated earlier, only certain information will need to be stored in Vietnam, and detailed guidance will be provided in the implementing decrees. Vietnam will comply with international standards and practices.
- **Question 2** (from Mr. Seck Yee Chung - Baker & McKenzie): Handling of illegal content. Vietnam has many laws and regulations on content regulations such as Decree No. 72 and its implementing Circular No. 38.
 - It seems that the Law has broaden type of information considered illegal. Can the MPS clarify definition of those illegal contents and mentioned under the Law?
 - Can the MPS clarify the process and procedures to reach companies to inform what information is stopped, what information will be taken down?

MPS responses:

- Definition and procedures for dealing with illegal content have been clarified and provided under the Criminal Code.
3. *Mr. Vu Van Chung and Mr. Fred Burke delivered closing remarks for the meeting.*

Annex: List of Government attendees

No.	Name	Organisations
1.	Mr. Vu Van Chung	Deputy Director of Foreign Investment Agency, MPI
2.	Colonel Do Anh Tuan	Deputy Director of A05 Department, MPS
3.	Mr. Pham Tien Dung	Director of Payment Department, SBV
4.	Mr. Nguyen Quang Hung	Deputy Director of Information Technology Dept., SBV
5.	Mr. Tran Viet Cuong	Officer, A05 Department, MPS
6.	Mr. Dao Duc Trieu	Officer, A05 Dept., MPS
7.	Mr. Hoang Minh Tien	Officer, Information Technology Dept., SBV
8.	Mr. Vu Minh Chau	Officer, International Cooperation Dept., SBV
9.	Mr. Nguyen Thanh Trong	Officer, International Cooperation Dept., SBV
10.	Mr. Nguyen Quang Minh	Officer, International Cooperation Dept., SBV
11.	Mr. Nguyen Duc Cang	Officer, Payment Dept., SBV
12.	Ms. Dang Thi Thanh	Officer, Payment Dept., SBV
13.	Mr. Nguyen Quang Thang	Officer, Information Security Dept., Ministry of Information & Communications
14.	Mr. Vu Xuan Huong	Officer, Foreign Investment Agency, MPI