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TOP NEWS

The TPP: A Win for Vietnam's Workers

“The Trans-Pacific Partnership (TPP) is the first trade agreement to subject Vietnam to enforceable labor commitments.”

By Oliver Massmann for The Diplomat

April 20, 2016

In the last decade, free trade agreements (FTAs) have expanded to cover more than traditional commercial matters like tariff reductions. Recent FTAs have increasingly included labor requirements to protect workers, especially in countries where companies pursue low-cost production through depressed wages, poor working conditions, and other subpar labor standards. This has dramatic effects on countries like Vietnam, where I have practiced law for 20 years. But even though FTAs regulating labor matters have increased dramatically in recent years, from four agreements in 1995 to 72 by 2015, Vietnam has refused to commit to labor requirements in FTAs — until now.

The Trans-Pacific Partnership (TPP) is the first trade agreement to subject Vietnam to enforceable labor commitments like freedom of association, collective bargaining, and minimum work conditions. Additionally, Vietnam signed a labor implementation plan with the United States that identifies specific actions needed to comply with TPP and which are subject to an additional layer of enforcement. It is clear TPP lives up to its name as a “21st century agreement,” enacting the strongest labor provisions of any trade deal, giving the opportunity to improve living standards and the quality of work for Vietnam’s people. These advances range across a number of different areas:

Freedom of Association

The most far-reaching change to Vietnam’s labor landscape is on freedom of association. Currently, Vietnam only recognizes a limited right to organize. Vietnam’s Trade Union Law

states that a trade union is a “socio-political organization of the working class and laborers... part of the political system of the Vietnamese society, placed under the leadership of the Communist Party of Vietnam.” As such, Vietnam does not have a pluralistic union regime. In other words, workers are not allowed to establish more than one trade union focused on protecting their interests regarding their employment. Instead, the only option is to join the one trade union available, Vietnam’s General Confederation of Labor (VGCL), under the direction of the Communist Party.

The VGCL has poorly represented and protected the rights and legitimate interests of its members and workers. In my time here, we have barely seen the presence of VGCL in demonstrations and strikes for social insurance or payment of backwages to hundred of workers when enterprises close down. This inaction is due to the lack of independence and representation in trade union leadership. Essentially, members of VGCL from the district level all the way to the top are government officials instead of workers. This will change with the TPP.

Article 19.3 requires all TPP parties to adopt and maintain regulations that comply with the International Labor Organization’s Declaration on Fundamental Principles and Rights at Work, including freedom of association. This broad requirement is detailed in the U.S.-Vietnam Plan for the Enhancement of Trade and Labor Relations, which lays out the statutes and language for Vietnam to come into compliance with the TPP. Key reforms include provisions that ensure all workers be permitted to “form a grassroots labor union of their own choosing ... without prior authorization” and with the right to “autonomously elect its representatives.” This means that workers can finally organize unions independent from the VGCL that are run by workers. This is significant because it empowers employees to protect their own interest — particularly when it comes to collective bargaining.

Collective Bargaining

Collective bargaining is the negotiation between the representatives of the labor collective and the employer to establish working conditions formalized in a collective labor agreement (CLA). As a result, a CLA between employees and employer will define working conditions, labor usage, and obligations of each party in their employment relationship. The CLA serves as the basic document detailing legal requirements in each enterprise and grants workers the chance to negotiate with their employer for labor terms better than statutorily required. As such, a CLA is critical in an employment relationship.

Given their importance, many enterprises in Vietnam have prepared and implemented CLAs. However, many enterprises often use CLAs to temporarily deal with pressure from authorities and include terms contrary to or less favorable than statutorily required. The reason for such low-quality CLAs range from a lack of awareness of procedure to government influence on self-selected union leaders. Given the wide range of issues preventing high-quality CLAs in Vietnam, the TPP makes a number of important reforms.

Article 19.3 requires all TPP parties to adopt and maintain regulations for the “effective recognition of the right to collective bargaining.” Moreover, the TPP supports better negotiating outcomes by ensuring unions can consult “international worker organizations” regarding labor union activities like collective bargaining and securing autonomy of grassroots labor unions from upper-level unions. Combined with the protection for independent association, the TPP gets to the heart of the system plaguing collective bargaining from adequately serving worker’s interests in Vietnam—setting the regulatory framework for improved labor conditions.

Enforcement

Vietnam is held accountable to these labor commitments through TPP’s enforcement mechanism. Like all TPP partners, Vietnam is subject to dispute settlement with the weight of trade sanctions if it systematically fails to uphold its commitments under the Labor Chapter. More significantly, the details in the implementation plan must be completed before any benefits of the trade agreement can flow to Vietnam. Therefore, there are two layers of enforcement specifically for labor obligations: one to facilitate rapid regulatory reform, and another to maintain compliance.

With this comprehensive approach, I am optimistic the TPP will bring positive changes to the labor environment in Vietnam over the next five years. When labor unions finally speak with the voices of workers, there will be improvement in living standards and individual rights. This is exactly what the TPP promises. As such, both the United States and Vietnam must urgently take action to pass the TPP and seize the opportunity for a better civil society in Vietnam.

Please do not hesitate to contact Oliver Massmann under omassmann@duanemorris.com if you have any questions on the above. Oliver Massmann is the General Director of Duane Morris Vietnam LLC.

FINANCE

Increase in overseas forex trading normal

Bizhub

A surge of \$5.9 billion in overseas foreign currency deposits by local commercial banks in the third quarter of last year was normal, said director of the State Bank of Vietnam's Forecast and Statistics Department, To Huy Vu.

The move was made after the Vietnam Institute for Economic and Policy Research (VEPR) said that Vietnamese deposits overseas, which were previously negligible, surged abnormally by \$7.3 billion in Q3 2015. The change was mainly because of a \$5.9 billion surge from local banks' deposits while the remaining was deposited by other organisations and individuals and was steady.

VEPR said the abnormal rise required close monitoring as it could be related to some side effects of the central bank's foreign exchange policies of dropping the US dollar deposit interest rate to zero per cent and limiting the objects of lending in foreign currency.

Confirming that commercial banks deposited an addition of \$5.9 billion in the period, however, Vu said that the surge was normal and not because of the central bank's policies.

Vu attributed the surge to rising forex hoarding in the domestic market following the strong devaluations of the Chinese yuan and the expectation of the Fed's interest rate hikes in Q3 2015.

When foreign currency deposits at local banks spiked amid the reduction of foreign currency credit, it was ordinary banking activity for the banks to deposit foreign currency abroad, he said.

"Banks are financial intermediate institutions. It's totally normal that they increase deposits abroad when their needs at home decrease," Vu stressed.

He said that banks kept just a part of foreign currencies in cash to serve residents' demand, the rest they could invest if meeting the regulations in law on forex management. Overseas deposits aimed to ensure liability and meet payment demands of businesses and residents, he said.

Vu said after the SBV reacted swiftly via exchange rate policies, which again stabilised the market and increased the confidence of residents and businesses, the banks' overseas deposits increased only \$369 million in the next quarter.

Truong Van Phuoc, deputy director of the National Financial Supervisory Committee, told Thoi Bao Kinh Te (Economic Times) said that inflows and outflows of foreign currencies to Vietnam had been considered a normal activity for the past 40 years and that the \$7.3 billion outflow in Q3 last year was normal also.

Online newspaper VietnamNet quoted Nguyen Tu Anh, director of the Macroeconomic Policy Department under the Central Institute for Economic Management (CIEM), as saying that in the context of weak corporate demands for forex, when banks experience a surplus of forex liquidity while the interest rate on forex deposits has been lowered to zero, domestic banks can optimise their forex holdings by depositing them abroad for profit.

“This fact is not worrying at all,” Anh said.

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Bad debts settlement not only the bank’s duty

DTCK

Overall, despite the fact that NPLs has taken back to the temporarily-accepted safe ratio, the concerns over this trouble still exist...

Bad debts: A constant and regular story...

On April 13, 2016, the SBV Governor issued Document No. 2588/ NHNN-TTGSNH addressed to credit institutions, foreign bank branches (CIs) on strengthening credit quality control and bad debts settlement. Accordingly, in order to make sure the NPL ratio of the CIs system be safe and stable (less than 3 percent of total loans), the SBV requires CIs to strengthen credit quality control and NPLs settlement.

Specifically, CIs are required by the SBV to carry out NPLs settlements solutions as directed under the SBV’s Directive No. 02/ CT-NHNN dated 23/Feb/2016, simultaneously focus on NPLs settlement enhance by making risk provisions, selling NPLs to VAMC, urging debt collection and handling of security property, suing the borrowers, co-coordinating with the enforcement agencies in implementing the judgment in effect and applying other solutions, controlling credit quality and bad debts, overdue debts. Also, under the SBV’s direction, CIs is obligatory to devise NPLs settlement plan bad debts in 2016 (as per regulatory form) and send the same to SBV before April 28, 2016.

Besides the view that this Directive is merely a matter of procedure, because that the NPLs disposal is a regular and constant issue, the concerns over the NPLs situation and the upcoming developments still exist. Indeed, in many recent reports of macroeconomic, it is widely-recognised by the foreign financial institutions that the NPLs of the whole banking sector reduces by 3 percent, mainly thank to the growth in credit and NPLs transference to VAMC.

Although the banks are required to gradually make risk provisions for assets transferred to VAMC, credits and credit -related risks is forecasted to cause harm to the banks' owner capital.

The NPLs concerns still remain. In 2015, many banks had no choice but to make the provision of thousands billion VND, e.g. in VP Bank, the total provision expense of this bank sharply increased in order to settle NPLs, and as a result, 2015 NPL reserves was VND 3.278 trillion an increase of VND 2.298 trillion the previous year. Similarly, in OCB, despite the NPLs recovery of VND 1.3 trillion in 2015, and the NPLs of VND 600 billion sold to VAMC, the bank's 2015 profit was only equal to 70 percent of the given target, and one of the reasons for that was imputed to the high risk provision.

Besides, the risk of NPLs' bouncing back is also possible in the wake that in 2016, the SBV set a target of credit growth of 18-20 percent system wide. In particular, it is notable that according to a survey report on business trends as for CIs in Vietnam in Q2/2016 by the Department of Forecasting and Statistics (SBV) just announced, the 2016 growth of outstanding credit in the banking system are expected by CIs to be 20.09 percent, significantly higher than that in the recent 5 years.

The market also just received further information from the 2016 AGM of Vietcombank last week. As shared by Nghiem Xuan Thanh – the bank's chair, the Q1/2016 business results show that NPLs fell by 1.76 percent compared to 1.84 percent by the end of 2015, but a slight increase in absolute numbers due to outstanding loan increase of 6.5 percent.

NPLs: Effort and ability...

In an interview with Stock Investment, Nguyen Quoc Hung – Chair of the VAMC Board of Members said that in 2016, VAMC will closely coordinate with the CIs in finish the NPLs bought, buy NPLs by issuing special bonds for eligible NPLs and being allowed to acquire. At the same time, VAMC will plans to issue about VND 40 trillion of special bonds to buy NPLs, reduced by a half compared with last year.

Also this year, VAMC will accelerate debt purchase at market prices, based on the CIs' needs to sell debts, with the estimated total loans of VND 11.280 trillion. Besides, it will make use of its capital of VND 2 trillion to buy about VND 5 trillion of NPLs balance and will strive for a positive pilot result in 2016.

“As set in the 2016 plan, the total recovery of debts and liabilities and collateral assets sale is about VND 30 -35 trillion, almost twice as much as that in 2015 (VND 17 trillion). In particular, the earlier orientation of debt-for-equity swap, debt restructuring has been decided, but could not be implemented due to the lack of time and sufficient personnel. In 2016, VAMC will make proper investment into this activity”, said Hung.

Although the plan is in pipeline, Hung expressed many concerns over the legal framework VAMC required for debt settlement. Another one in the judiciary circle, Nguyen Hong Hai, deputy director of Economic-Civil Legislation under the Ministry of Justice, said that the State should be consistent, more aggressive in implementing solutions, driving to push NPLs settlement.

Specifically, it is necessary to build Asset Registration Law in order to establish information system, transparent and open procedures on the legal status of properties, property registration, transaction registration in order to set up, assign the rights, create countervailing effects to third parties, protect bona-fide third party and the responsibilities of the competent agencies and individuals in property registration.

Also, according to Hai, the law relating to obligation security, NPLs settlement should be reviewed, amended and supplemented, or replaced promptly, to make sure the legislative consistency in collaterals, to clarify further the actual and title transfer of collaterals to CIs as bona-fide third party, to develop a legal framework for quick, smooth, lawful execution of property recourse right, preventing the continuance of NPLs incurred risk, protect the eligible owner of property...

At the same time, the law on the sale of bad loans according to the market mechanism also needs building and improving; the provisions of the Civil Code on licensing requirements, delivering obligations in relation to bad debts should be concretised by decree, circular. The settlement of bad debts through VAMC institutions is well appreciated, but also need to build a market economy in bad debts to create more flexible debt trading channel, according to Hai.

“In particular, it is necessary to specific instructions on the application of summary procedure in handling bad debts on loans secured by measures that have been registered

at the competent authority or at credit institutions who are directly held, seized security assets with clear debt relationship; the borrower or the guarantor has assumed obligations; documents and evidences are sufficient to ensure adequate basis for resolving the case and the Court does not have to collect documents and evidences as well.” Hai said.

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ECONOMY

FTAs can keep economy on track

VIR

Although the World Bank has lowered Vietnam’s growth forecast for 2016, it remains optimistic about the country’s economic prospects resulting from free trade agreements later this year.

Last week, the World Bank issued its East Asia and Pacific Economic Update, in which it reduced its projection for Vietnam’s growth rate in 2016. The January estimate of 6.6 per cent was reduced to 6.2 per cent.

“The moderate growth rate of 6.2 per cent is due to slower private consumption and investment growth, natural disasters, and slower exports,” said Sudhir Shetty, chief economist of the World Bank’s East Asia and Pacific region.

“Local consumption remains weak, while the government is tightening public spending, which is one of the keys to growth,” he said. “Notably, Vietnam’s agriculture has also been seriously affected, stunting growth.”

The Ministry of Agriculture and Rural Development stated that about 10 per cent of 1.5 million hectares of rice planted in the winter-spring crop (February-June) in Mekong Delta was affected by drought. Meanwhile, saline intrusion has damaged about one million tonnes of rice.

According to the World Bank, Vietnam's agricultural sector is expected to grow just 1 per cent this year, down from 2.4 per cent last year. The industrial sector is projected to climb 9 per cent this year, down from 9.6 per cent last year.

In addition, since early last year, Vietnam's exports have been dropping in volume. Export growth moderated to 8 per cent in 2015, down from 13.8 per cent in 2014. In this year's first quarter, the growth rate is 4.1 per cent, compared to a rise of 6.9 per cent for the same period last year.

Despite these tapering figures, the World Bank remains upbeat about Vietnam's economic prospects, saying that the predicted 6.2 per cent would still be far higher than the average of 4.8 per cent in many developing nations in the East Asia and Pacific region.

"Among the large developing Southeast Asian economies, the Philippines and Vietnam have the strongest growth prospects," Shetty said. "Vietnam will see continued strong growth in domestic demand and manufacturing exports. The baseline outlook for 2016 is positive on balance."

Sandeep Mahajan, a lead economist from the World Bank in Vietnam, said that the free trade agreements – including the Trans-Pacific Partnership (TPP) – would bring about huge trade and investment opportunities for Vietnam and its partners.

The World Bank's preliminary estimates suggest that the TPP could add about 8 per cent to Vietnam's GDP, 17 per cent to its real exports, and 12 per cent to its capital stock, for the 2015-2035 period.

The estimates indicate that the largest area of benefit from the TPP in relation to GDP comes from the impact of tariff reductions (52 per cent in 2035), followed by the reform of non-tariff measure impacts (32 per cent), and finally, liberalisation of services restrictions (16 per cent). Manufacturing exports, comprising 58.1 per cent of Vietnam's 2015 real exports, are expected to increase 30 per cent during 2015 – 2035.

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Public debt increasing rapidly, Vietnam under repayment pressure

Dat Viet

If Vietnam becomes insolvent, this will have serious implications for the national economy, not just for several years, but for a few decades, economists have warned.

The additional report on the 2015 socio-economic situation submitted by the government at the latest session of the 13th National Assembly showed that Vietnam's public debt has been increasing rapidly, putting Vietnam under pressure for repayment. The government's debt has exceeded the allowed level.

According to the Ministry of Finance, in 2015, the government's direct debt payment accounted for 16.1 percent of the total budget revenue. In 2016, the accounts payable are estimated to account for 14.7 percent of the budget revenue. If including all obligations, such as the debt swap, the figure would be 24 percent.

Also according to the ministry, the repayment pressure would intensify in 2022-2025, when major ODA loans mature.

Dinh Trong Thinh, a lecturer of the Finance Academy, warned that the government's debt has reached the "dangerous level", especially foreign debt.

"Some people may think that Vietnam should borrow as much as possible to develop the economy. However, the problem is that Vietnam has borrowed too much in recent years," Thinh said.

"Vietnam's foreign debts have exceeded the threshold recommended by international institutions. Meanwhile, the repayment capability is uncertain," he commented.

In the past, Vietnam did not have to reserve much money for repayment because 70-80 percent of its loans are from ODA (official development assistance) with preferential interest rates, and the ODA loans were still in a grace period.

However, commercial loans have increased in recent years, while the grace periods of ODA loans are nearly finishing.

Thinh urged to renovate the administrative procedures and tighten the budget spending, or it would become insolvent.

“If this happens, the consequences will be very heavy which will last not only for several years, but for several decades,” he said.

“If Vietnam declares insolvency, Vietnam will not be able to continue borrowing money, while inflation and other problems will arise,” he said.

International donors have warned that they would stop granting ODA to Vietnam in several years as Vietnam is becoming an average income economy.

However, Thinh commented that this might not be a bad thing for Vietnam. “Once the government and businesses have to borrow money at higher interest rates, they will have to think carefully before borrowing and try every possible means to use the loans in the most effective way,” he said.

Vuong Dinh Hue, during his term as minister of Finance, asked enterprises to save 10 percent of expenses when implementing projects.

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INVESTMENT

Vietnam opens its doors to venture capital

Vietnamnet

The Ministry of Planning and Investment (MPI) is drafting a legal document on allowing Vietnam to receive the venture capital flow, which is hoped to turn Vietnam into a country with startup movement.

The legal document will guide the establishment, organization and management of venture funds which facilitate startups in Vietnam.

Under the draft document, the procedures for the fund establishment would be simple: it

would take three days to set up a fund in Vietnam.

Venture funds are formed from capital to be contributed by members which will pour capital into startups. The funds will not be covered by laws which regulate the operation of securities investment funds.

The legal document, once it comes out, is believed to put the capital flow into Vietnamese startups with simple procedures. A lot of startups have successfully called for foreign capital, but the majority of startups are still meeting big difficulties in capital arrangement.

An analyst commented that startups in Vietnam mostly call for capital from angel investors, who inject capital into businesses when the businesses begin developing ideas and still cannot make profit.

MPI has found from a survey that angel investors now can contribute capital to fund startups in accordance with the Securities Law.

However, the requirements on investors to set up a fund under the law are too high, which cannot be met by small investors.

The law, for example, stipulates that there must be at least 100 investors for a fund and the minimum value of a fund is VND50 billion.

Meanwhile, for startups, angel investors would only need to contribute \$5,000-50,000 to develop a business idea into a product with high development growth.

Therefore, it would be better to lay down a specific legal framework for the establishment of the funds for startups.

The number of investment funds supporting startups in Vietnam remains very modest. CyberAgent, 500 Startups and Golden Gate Ventures only have representative offices in Vietnam.

Some investment funds belonging to banks and large corporations, such as Vietcombank, BIDV, VPBank, VietA bank and PetroVietnam, also have injected money into businesses.

But none of them poured capital into businesses at their early development stage. In

general, they don't make small investments, but only make deals worth hundreds of thousands of dollars, and buy shares and bonds which have high capitalization value.

FPT Venture is the only domestic fund that focuses on investments in startups.

It is estimated that about 10 Vietnamese startups can receive investment capital from the funds every year. Many Vietnamese startups have decided to register their business overseas to more easily seek capital.

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Vietnam among Asia's top 10 investment hotspots: report

ThanhNienNews

US economic analyst IHS Inc. has ranked Vietnam among the top 10 hotspots of foreign direct investment in Asia Pacific, saying the country's economy will continue to expand at a fast pace.

The country is one of the six foreign investment hubs in Southeast Asia, besides Indonesia, the Philippines, Myanmar, Malaysia and Thailand, the company said on Thursday. Others are Bangladesh, China, India and Sri Lanka.

Southeast Asia will be a key factor that will help Asia Pacific achieve an economic growth of 4.5 percent a year over the next decade, it said.

As frontier markets, Vietnam, Myanmar, Cambodia and Laos are forecast to continue to grow rapidly with Vietnam's pace to be around 6.5 percent annually over the next 15 years.

There will be strong growth in the sectors of electronics and garment, as their exports will increase rapidly thanks to Vietnam's newly-signed free trade agreement with the EU, and the Trans-Pacific Partnership between Vietnam and 11 other countries, including Japan and the US, according to the company.

IHS also expected Indonesia, Malaysia, the Philippines and Thailand to see their gross domestic product exceed US\$1 trillion by 2030.

Vietnam's foreign direct investment inflows topped US\$4.02 billion in the first three months, more than twice the figure for the same period last year, according to the Foreign Investment Agency.

Manufacturing and processing continued to attract the largest amount, \$2.9 billion, followed by property with \$240 million.

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REAL ESTATE

\$250 million US-invested hotel project in Binh Dinh revoked

VIR

Nine years after being licensed the \$250 million Vinh Hoi Hotel and Resort project in the central province of Binh Dinh has had its investment certificate revoked.

The management authority of Nhon Hoi Economic Zone in Binh Dinh recently said that it had just stopped the operation of and ended the land lease contract for the Vinh Hoi project. The reason is that no significant progress has been made since licensing despite many warnings by the authority.

The project by Vietnamese-American Hotel and Resort Co. Ltd. – a wholly owned subsidiary of US investment firm ITC Spectrum LLC, was licensed in 2007. It was planned to be built on a 235 hectare area in Nhon Hoi, and include a 5-star hotel and resort, a conference centre, an 18-hole golf course, and villas. Construction was planned to start in 2011 and operation in 2014. In October 2011 the company signed contracts with hotel management companies Ritz-Carlton, JW Marriott and Outrigger to manage the three resort areas in the project.

Binh Dinh has just revoked the license of the \$1 billion Bus Centre complex by Russian company also due to its delay in construction. In February, the authority revoked the investment certificate of another foreign-invested project – the Nhon Hoi wind farm

project, invested in by Germany's Vietterracon Investment and Management Co., Ltd and Switzerland's Green Venture Invest AG for the same reason.

See more details on VIR print to be published on April 18

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M&As popular in VN's real estate market

VNA

Vietnam has seen a series of mergers and acquisitions (M&As) in its property market in 2016, a trend expected to continue throughout the year.

Notable M&As in the first quarter included TNR Holdings' purchase of TNR Tower in Hanoi from Vingroup for 110 million USD.

Keppel Land spent 93.9 million USD to buy part of the Empire City project in District 2 (Ho Chi Minh City) from Empire City Ltd, while Hyatt and Thagroup bought a hotel in Hanoi for 165 million USD.

JLL Vietnam, a real estate services firm, said many projects are attracting investors such as A&B Tower in HCM City's District 1, the Nam Hai Resort in Quang Nam province and the Six Senses Con Dao resort in Ba Ria-Vung Tau province.

The company also saw great interest from investors from the Republic of Korean, Japanese and Singaporean in Vietnamese real estate. It forecasts more M&As this year thanks to improvements in the market and growth slowdowns in some regional countries.

Marc Townsend, Managing Director at CBRE Vietnam, expects the market to be bustling with M&As and new investors.

In HCM City, the municipal People's Committee approved the acquisition of 23 property projects in 2015, more than twice the amount of the previous year. Five projects asked for acquisition approval in Q1 of 2016, according to Chairman of the city's real estate association Le Hoang Chau.

He noted that the 137 suspended projects in the city are also a potential source of M&As if favourable policies are provided.

ENERGY-OIL&GAS

IMPESA's project gone with the wind

VIR

The Ninh Thuan People's Committee has recently rendered invalid the plan of Argentinean wind power company IMPESA to invest in a wind power project in the two districts Ninh Phuoc and Thuan Nam of the central province.

The reason is that IMPESA did not finish the administrative procedures to start investment within six months as promised back in 2011 when the people's committee agreed in principle with the project. In a recent document signed by Deputy Chairman of the committee Pham Van Thuan, the committee asked the provincial Department of Planning and Investment to look for new investors to invest in this location – location no. 5 on Ninh Thuan's wind power map.

IMPESA earlier proposed to the province a wind power project as well as a plant to produce parts of wind turbines with the total investment of between \$2 billion and \$3 billion. At end-2011, IMPESA asked to raise the area of the project to 1,000 hectares from the initially planned 600, and was allowed. Since then the company has made no more moves.

Earlier, in 2009 IMPESA also went to Binh Thuan to propose a \$1.2 billion power plant and an part production factory worth \$171 million. It also hasn't done anything.

Argentinean company IMPESA provides comprehensive integrated hydro and wind solutions focused on Latin America, particularly on Brazil. IMPESA's website hasn't been updated since 2014. As of November 2015, according to windpowermonthly.com, IMPESA was in the process of negotiating with creditors to have \$1 billion debts swapped into equity.

Ninh Thuan is considered very suitable for wind power development. As of now in the province there are 12 wind power projects in the master plan for wind power, but all of them are behind schedule. The Phuoc Nam –Enfinity renewable power project by Belgian company Enfinity, the Mui Dinh wind power project, South Korean company LandVille

Energy's wind power project and Malaysian wind power company Timur's project, worth the total investment capital of \$800 million, are examples.

Vietnam has incentives for wind power projects in terms of taxes and land use fees. But the feed-in tariff of 7.8 US cent per kWh guaranteed by the government, though higher than the price of electricity currently paid by users, is considered economically unfeasible. The Ministry of Industry and Trade once proposed a 10 US cent/kWh feed in tariff but the proposal has gone nowhere.

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JX Nippon Oil invests in Nam Van Phong

VIR

Japan's JX Nippon Oil and Energy Corporation last week officially agreed to purchase an 8 per cent stake in state-run Petrolimex, which holds 55 per cent of the local petroleum retail market share.

The Japanese oil and gas giant signed a share subscription agreement to buy into Vietnam's largest distributor of petroleum products. This move will help JX Nippon secure business opportunities in Vietnam where the current demand for petroleum products is approximately 350,000 barrel/day and rising steadily.

The acquisition shifts JX Nippon one step closer to building its first overseas oil refinery in Vietnam, and may even position it in the petrol distribution business across the country.

"As part of our co-operation strategy, JX Nippon and Petrolimex have signed a memorandum of understanding to start a joint study for the construction of a refinery in Van Phong Economic Zone," said NOE president Tsutomu Sugimori in a recent speech.

The \$8-billion Nam Van Phong oil refinery project, which is expected to go online by mid-2020 at the earliest, will produce approximately five million tonnes of crude oil per year. The prime minister gave in-principle approval for the project, and assigned Petrolimex to begin the process of project planning, and selecting co-investing foreign partners with sufficient capability, experience, and commitment in providing crude oil.

Petrolimex's chairman Bui Ngoc Bao said the deal with JX Nippon had been under negotiation for nearly two years. It had planned to sell 20 per cent of its stake to JX Nippon at first, but the figure was reduced to 8 per cent due to existing difficulties in the market, which were raised at the shareholders' meeting late March.

According to Bao, if the deal is approved by the group's shareholders, a portion of the capital earned from the sale will be used to restructure the finances of Petrolimex Singapore Pte. Ltd, which is currently reeling under losses amounting to trillions of dong.

Petrolimex was recently found violating several capital and asset management regulations between December 26, 2013 and June 17, 2014. Following an inspection of the group during this period, the Government Inspectorate of Vietnam uncovered multiple violations in the use of assets and capital, in equitisation, in the management of its parent company and subsidiaries, as well as in construction and land use.

Petrolimex incurred significant losses through its financial investments into businesses far removed from its core operations.

The report pointed out that Petrolimex's investment of VND400 billion (\$18 million) in PG Bank, VND171 billion (\$7.7 million) in PG Insurance, and VND51 billion (\$2.3 million) in PetrolimexLand were all carried out without permission from the Ministry of Industry and Trade or the prime minister.

The Government Inspectorate of Vietnam has therefore proposed that the government fine Petrolimex VND1.2 trillion (\$54 million), as well as an additional \$310,000 for misuse of capital and funding between 2010 and mid-2013.

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LEGAL

New provisions of the revised Press Law

VLLF

Specific provisions on citizens' freedom of the press and freedom of speech in the press, association in press activities, responsibilities to provide information to the press and prohibited acts in press activities are among new contents of the revised Press Law (the Law), said Minister of Information and Communications Nguyen Bac Son.

Adopted this month by the Vietnamese National Assembly, the Law has six chapters and 61 articles, including 32 new and 29 amended ones. It will enter into force on January 1 next year and replace the 1989 Press Law and its 1999 amendments.

New contents of the Law

First, the Law devotes Chapter II with four articles to defining citizens' rights to freedom of the press and freedom of speech in the press. It states citizens are entitled to create press products, provide information to the press, give feedback on the press, access to press information, and join press agencies to create press products, and print and distribute newspapers. Citizens may also contribute to the press their opinions, criticisms, proposals, complaints and denunciations regarding Party organizations, state agencies, socio-political organizations and other organizations as well as their members.

Second, apart from entities eligible to establish press agencies under current law, the Law adds some entities eligible to establish science journals, including tertiary education institutions under the Law on Higher Education, scientific research institutions, academies and institutes under the Law on Science and Technology; and hospitals of provincial and higher levels. Furthermore, private and foreign-invested education institutions and scientific and technological organizations will be licensed to publish science journals.

Third, the Law adds provisions on joint press activities. Accordingly, press agencies may cooperate with one another or with other legal entities or individuals that have registered for doing business lines matching the fields and contents of cooperation defined in the Law. It specifies the maximum time volume for broadcasting contents produced under such cooperation projects on exclusive political and essential information radio and television channels, and the maximum time volume that radio and television agencies may cooperate to produce entire radio and television channels. Press agencies will not be required to ask for permission from press regulatory authorities for their cooperation activities.

Fourth, the Law contains new provisions on responsibilities of agencies, organizations and responsible persons to provide information to the press as well as types of information they may refuse to disclose to the press.

To protect information sources and journalists' professional activities, as compared with the current law, the Law states press agencies and journalists may only reveal information sources when so requested in writing by the procurator general of a people's procuracy or the chief justice of a court of the provincial or higher level for investigation and trial of very or especially serious criminal offenses. Meanwhile, the procurator general of the people's procuracy or the chief justice of the people's court of the provincial or higher level must

organize the protection of information sources once their names are revealed.

Fifth, to heighten the role and civic responsibilities of journalists, in addition to provisions on journalists' rights and obligations, the Law regulates issues related to professional ethics of journalists, saying that the Vietnam Journalists Association must issue and organize the implementation of regulations on professional ethics of journalists. It stipulates that journalists will have their press cards revoked if they violate their professional ethics leading to serious consequences.

Sixth, the Law makes more detailed provisions on business and service activities of press agencies. Income sources of press agencies and their affiliated units from business and service activities are clearly defined at Point c, Clause 2, Article 21.

Seventh, Article 9 of the Law adds prohibited acts in press activities, including publishing information to convict a person against whom there is not yet any court judgment, information affecting children's normal physical and spiritual development, and information on mysteries stirring up social anxiety, affecting social order and safety and public health.

Information banned from publication specified in Clauses 1 and 2 of Article 9 is consistent with that prohibited under the 2015 Penal Code and other prohibited acts are consistent with those specified in the Civil Code and other laws.

Eighth, in order to protect lawful rights and interests of agencies, organizations and individuals about whom the press published false information, the Law adds new provisions on correction. It requires online newspapers to remove untrue information apart from posting corrections and apologies. Press agencies and online news pages using and publishing other press agencies' information contents that must be corrected together with apologies must post the latter's corrections and apologies as well. Places for displaying corrections for each type of the press are defined in the Law.

The Law also makes new provisions on handling of violations. Under the Law, press activity licenses and licenses for publishing additional press publications, supplements, additional radio and television channels, specialized online news pages of press agencies as well as licenses for publishing special publications and news bulletins of agencies and organizations will be revoked if their information violates Article 9.

Finally, the Law includes many provisions of the current government decrees and adds news provisions on press activities. It regulates state policies on press development, the change of parent agencies of press agencies; the cooperation between Vietnamese and foreign press; press activities of foreign journalists, foreign representative offices and organizations in Vietnam; and the protection of contents of radio and television programs and online newspapers.

Answering local media's questions about the management of online information, Deputy Minister of Information and Communications Truong Minh Tuan said the Law was designed to manage information on press products and information products of journalistic nature. As explained in Article 3 of the Law, information products of journalistic nature are those expressed by different types of the press and published on bulletins and special publications or general information websites of agencies, organizations and enterprises.

As for activities of social networking sites, the Deputy Minister said, they were regulated by Government Decrees No. 72 of July 15, 2013, on management, provision and use of Internet services and online information, and No. 174 of November 13, 2013, on handling of administrative violations. In the coming time, the Ministry of Information and Communications would review the implementation of Decree No. 72 and report the results to the Government and the National Assembly. It was expected that another law would be worked out to manage online information in general and information on social networking sites in particular, Tuan said.

Asked about the planning of general information websites, the Deputy Minister said through the review the ministry would consider whether to plan these online pages as they just re-post press news sources together with names of writers and press agencies and the posting time of such information. All press activities must comply with the national master plan on press development and management up to 2025 which has been considered by the Political Bureau and discussed by the Party Central Committee, he said.

The Law was a legal foundation for implementing the contents of this master plan, he noted.

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Enterprise names identical to protected marks required to be changed

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From May 20, enterprises bearing names that are identical or similar to registered marks will have to change their names.

Joint Circular No. 05/2016/TTLT-BKHCH-BKHDT dated April 5, 2016, jointly issued by the Ministry of Science and Technology and the Ministry of Planning and Investment, detailing and guiding the handling of cases where enterprise names infringe upon industrial property rights, is expected to sweep out all possibilities of establishing new companies with names identical or similar to famous marks or brands to take advantage of their reputation. This trick has been widely employed by many Vietnamese enterprises, affecting the distinctiveness of goods, misleading consumers who usually lack information about authenticity of enterprises and their products and harming the country's investment environment and reputation of domestic enterprises.

Under the new regulation, agencies competent to handle infringements or persons competent to impose administrative sanctions in the field of industrial property may conclude or determine whether enterprise names infringe upon industrial property rights or not.

Accordingly, infringing enterprises will be forced to change their names or remove infringing elements from their names, otherwise will have their enterprise registration certificates revoked.

The Joint Circular also requests industrial property rights holders to provide adequate dossiers and documents relevant to infringements and closely work with competent agencies in the course of handling enterprise names infringing upon industrial property rights, while the business registration offices in localities where enterprises are headquartered have to change names of such enterprises at the request of the protected industrial property rights holders, and revoke enterprise registration certificates as requested by competent agencies.



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