



# ClientAlert

## Introduction

Dear Reader,

This month saw a handful of new regulations that affect business in Vietnam. We've briefed them and outlined the most important changes from each new regulation. They cover numerous topics including international trade, control of construction projects, environmental protection, concerning investment and trade competition rules, investment in insurance and lotteries, in education, and social security issues.

As always we hope you find this month's Client Alert helpful and wish you prosperity as we move into the harvest season. We look forward to working with you.

Kind regards,  
Indochine Counsel

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## Measures for developing foreign trade

On 1 March 2018, the Government issued Decree No. 28/2018/ND-CP (“**Decree 28**”) providing detailed regulations on the 2017 Law on Foreign Trade Management, specifically measures for developing foreign trade.

The most remarkable content of Decree 28 is a provision on the National Trade Promotion Program (the “**National TP Program**”). In particular, the National TP Program will be conducted in accordance with 7 criteria as follows:

1. To promote trade in products and commodities with export potential from economic regions and the entire country, and to develop export markets;
2. To raise the efficiency of imports, and to serve the development of domestic production and of exports;
3. To be in compliance with the socio-economic developmental strategy and the foreign trade strategy in each period;
4. The National TP Program is to be issued by the Prime Minister in coordination with ministries and line ministries, with Ministry of Industry and Trade to act as the focal agency;
5. To promote import and export trade which is linked as between ministries and industries, and linked as between commodity sectors and as between localities;
6. To implement the National TP Program via national plans on trade promotion as decided by the competent agencies prescribed in article 10 below and funded by the State budget; and
7. Units in charge of such projects must be reputable organizations which are representative and have organizational ability.

Simultaneously, the National TP Program must: (i) be in line with the practical needs of the business community; (ii) be compatible with the strategic orientation of import and export and with the industry developmental strategies approved by the competent authorities; (iii) comply with the strategies and market planning for development of economic regions and localities; (iv) comply with the provisions of funding sources, principles for assisting, and the regulation on activities which may be funded by the National TP Program of this Decree; and (v) ensure the feasibility of the method for implementing the plan, the duration and schedule for implementation, and human and financial resources. For plans with an implementation duration of more than one year, the presiding agencies must formulate contents and funding and conduct accounting finalization each year.

It is worth noting that Decree 28 clearly provides for funding sources, principles for assisting and the level of funding support for plans to implement the National TP Program. According to this provision,

the State shall provide a part of the funding to implement any plan for participation in the National TP Program and the maximum level of assistance shall be one hundred percent (100%) of the cost for implementing specific contents of a plan which may be funded by the National TP Program as prescribed in Article 15.

In addition to the above, Decree 28 also regulates the activities for development of foreign trade which are:

1. Activities of trade linking and participating in distribution systems both overseas and in Vietnam;
2. Support for the development and operation of commercial infrastructure and of logistics serving foreign trade activities;
3. Support for research and upgrading the quality of products and goods;
4. Training and technical upgrading for trade promotion and market development; and
5. Other trade promotion activities for the development of foreign trade as stipulated by law.

Decree 28 took effect on 1 March 2018.

## Management of industrial zones and economic zones

Decree No. 82/2018/ND-CP on the management of industrial zones and economic zones was passed by the Government on 22 May 2018 (“**Decree 82**”). Decree 82 provides for planning, establishment, operation, policies and state management of industrial zones (“**IZs**”) and economic zones (“**EZs**”). It applies to state management agencies, organizations and individuals related to investment, production and business activities in these zones.

Decree 82 contains regulations on (i) the master plan, investment, establishment IZs and EZs; (ii) policies toward IZs and EZs; (iii) some types of IZs; (iv) state management of IZs and EZs; and (v) functions, tasks, powers and organizational structures of management boards of IZs, export processing zone and EZs.

IZs are zones that have specified geographical boundaries, specialize in the production of industrial goods and provision of services for industrial production, which are established under the conditions, procedures and processes prescribed in Decree 82. There are different types of the IZs as follows: export processing zones, auxiliary industrial areas and eco-industrial parks.

EZs are zones that have specified geographical boundaries, include functional areas, which are established to serve the purpose of calling for investments, promoting socio-economic development

and maintaining national defence and security. The EZs include coastal economic zones and border-gate economic zones.

Investment incentives for the IZs and EZs include the following:

- IZs are deemed as an area given investment preferences or incentive policies which are applied to those present in the List of areas facing socio-economic difficulties as per laws on investment.
- EZs are deemed as an area given investment preferences or incentive policies which are applied to those present in the List of areas facing extreme socio-economic difficulties as per laws on investment.
- Beneficiaries, principles and procedures for grant of advantages to investment projects located within the IZs or EZs shall be subject to laws on investment.
- The expenses for investment in construction, operation or renting of condominium apartments and social infrastructure for workers in the IZs or EZs shall be deductible expenses for calculation of the taxable income of an enterprise with investment projects implemented within these IZs or EZs.
- Investment projects on the construction of dwelling houses, cultural and sport works and social infrastructure serving the needs of workers in IZs or EZs shall enjoy preferences according to law provisions on building of social housing and relevant legislation.
- Investors and enterprises having investment projects in IZs or EZs shall be assisted by competent authorities in carrying out administrative procedures for investment, enterprises, land, construction, environment, labor and trade under the "single-window or one-stop-shop" mechanism, and supporting labor recruitment and other related issues during the process of executing the project.

Further, Decree 82 provides that inhabitants shall be prohibited from residing within the IZs and the export processing zones. Only investors, persons working in export processing zones, export processing enterprises and those who do business with agencies, organizations or enterprises located within export processing zones or export processing enterprises may enter or exit these export processing zones or export processing enterprises.

Decree 82 took effect on 10 July 2018.

## The law on management of foreign trade

On 15 May 2018, the Government issued Decree No. 69/2018/ND-CP ("**Decree 69**") providing detailed regulations on the Law on Management of Foreign Trade. Accordingly, Decree 69 mainly

focus on activities of import and export, the temporary import for re-export, temporary export for re-import and processing of goods involving foreigners.

Firstly, regarding import and export activities, Decree 69 provides that Vietnamese business entities not being economic organizations with foreign invested capital (the “**FOC**”) shall have the right to freely conduct the business of import, export and other related activities not dependent on business line registration, except for goods which are prohibited to import or export pursuant to this Decree or other laws; and except for goods which are suspended or temporarily suspended to import or export.

Economic organizations with FOC and branches of foreign business entities shall conduct the import or export activities within the governing scope of Decree 69 and must comply with Vietnam's commitments as stated in international treaties and with the Lists of goods and roadmap published by Ministry of Industry and Trade (the “**MOIT**”).

Decree 69 also provides the List of goods which are prohibited to import or export; List of goods imported or exported via appointment of an import or export business entity; and List of goods which is subject to issuance of a permit and conditions in Appendix I, II and III respectively.

With respect to the temporary import for re-export, temporary export for re-import activities, Decree 69 provides the List of goods for which temporary import for re-export and/or transshipment is prohibited. For conducting business in temporary import for re-export, Vietnamese business entities shall have the right to freely conduct business in temporary import for re-export of goods not dependent on business line registration in accordance with conditions as prescribed in Decree 69 (i.e. if business in the temporary import for re-export of the goods which is subject to conditions, the business entity must satisfy such conditions in accordance with Decree 69, etc.).

By contrast, economic organizations with FOC are not permitted to conduct business in temporary import of goods for re-export and it is only permitted to temporarily import for re-export the goods.

According to Decree 69, Vietnamese business entities are permitted to process lawful goods for foreign business entities, except for goods the import or export of which is prohibited or suspended. However, in the case of goods stipulated in the list of goods in conditional investment or business, only business entities satisfying the conditions prescribed by regulations on production and trading of such goods are permitted to process export goods for foreigners.

In the case of goods which are subject to issuance of a permit to import or export, the business entity may only enter into a contract to process the goods for a foreign party after it obtains a permit from the MOIT. Decree 69 also provides the required minimum contents of processing contract.

Decree 69 took effect on 15 May 2018 and repeals Decree No. 187/2013/ND-CP of the Government, dated 20 November 2013; Articles 2, 3, 4, 5, 6 and 7 of Decree No. 77 of the Government, dated 1 July 2016; and Decision No. 10/2010/QĐ-TTg of the Prime Minister, dated 10 February 2010.

# Environmental protection and report in field of construction

On 6 February 2018, the Ministry of Construction promulgated Circular No. 2/2018/TT-BXD on providing for environmental protection in construction and report in the field of construction (“**Circular 2**”) which replaced Decision No. 29/1999/QĐ-BXD issued by the Minister of Ministry of Construction promulgating the regulations of environmental protection dated 22 October 1999 (“**Decision 29**”).

Some highlights of Circular 2 are as follows:

## Clarification of the responsibility of environmental protection during the execution of construction works

Circular 2 provides the responsibilities of the project owners, who are executing construction works, particularly these are (i) to formulate the environmental protection and management plan; (ii) to arrange environmental staff as prescribed by the law on environmental protection to inspect the contractor’s implementation of the environmental protection and management plan, and regulations on environmental protection during the execution of construction works; (iii) to allocate enough funding for implementing the environmental protection and management plan during the execution of construction works; (iv) to inspect the contractor’s compliance with regulations on environmental protection during the execution of construction works; (v) to suspend the execution works and request the contractor to take corrective actions to ensure the satisfaction of environmental protection requirements when detecting any serious violations against regulations on environmental protection in construction or risks of serious environmental emergencies; (vi) to cooperate with the contractor to handle and remedy any environmental pollution events or emergencies; promptly report and cooperate with competent authority to respond to environmental pollution events, environmental emergencies and other problems.

## New reporting mechanism of environmental protection

For the purpose of managing environmental protection activities, Circular 2 provides for new procedures of report for environmental protection applied to (i) manufacturers in the construction field; (ii) provincial Departments of Construction; and (iii) consulting contractors and supervision contractors.

In particular, manufacturers in the construction field, including manufacturers of building materials, facilities exploiting minerals used as building materials and manufacturers of building mechanical products, and provincial Departments of Construction shall have to (i) prepare annual reports on environmental protection using the forms, respectively, stated in the Appendix 1 and Appendix 2 of Circular 2; and (ii) update and keep data of reports on environmental protection in the software for online management of construction environmental data at <http://dulieumoitruong.xaydung.gov.vn/>. Meanwhile, consulting contractors and supervision contractors shall have to (i) promptly inform the

project owner and relevant contractors of any risks or problems that may adversely affect the environmental protection works during the execution of construction works so as to take appropriate preventive or corrective actions; and (ii) submit periodic or unexpected reports to the project owner on the satisfaction of environmental protection requirements in construction by contractors under terms and provisions of the consulting service agreements.

Circular 2 took effect on 1 April 2018.

## New law on competition

On 12 June 2018, the National Assembly promulgated Law on Competition No. 23/2018/QH14 (the “**2018 Law on Competition**”). The 2018 Law on Competition will take effect on 1 July 2019 and replace Law No. 27/2004/QH11. Various provisions incorporated in the newly issued 2018 Law on Competition have been updated to meet the requirements of the rapid development of the market economy, the significance of which are to be clarified below.

### Static limit for determination of economic concentration acts removed

The 2018 Law on Competition no longer sets out a static limit to identify the acts of economic concentration prohibited under the laws of Vietnam. To clarify, combined market share of the enterprises participating in the economic concentration used to be the key factor to recognize whether an act of economic concentration complied with the laws. However, the 2018 Law on Competition states that the legality of an economic concentration act shall only be recognized based on its negative impact or its possibility to create negative impact on the market.

Furthermore, enterprises conducting acts of economic concentration are required to notify the competent authority if such act falls under the economic concentration limit. Economic concentration limit in such case is clarified on one of the following basis:

- Total asset of the enterprise participating in economic concentration in the Vietnam market.
- Total revenue of the enterprise participating in economic concentration in the Vietnam market.
- Value of the economic concentration transaction.
- Combined market share on relevant market of enterprises participating in economic concentration.

### Maximum administrative penalty for particular acts fixed

The maximum amount of administrative penalties to be imposed on particular acts breaching the rules on competition have been clearly provided in the 2018 Law on Competition as follows:

- Breach of regulations on economic concentration shall be subject to an administrative penalty

- of 5% total revenue of the enterprise on the relevant market.
- Breach of regulations on unfair competitive practices shall be subject to a maximum administrative penalty of VND2,000,000,000.
  - Breach of other conduct regulated by the 2018 Law on Competition shall be subject to a maximum administrative penalty of VND200,000,000.

The aforementioned administrative penalties are applied to organizations only. Breaches caused by individuals shall be subject to a maximum administrative penalty that is half of that applied to organizations.

## New policy on leniency

The policy on leniency has been incorporated into a single provision and added to the 2018 Law on Competition with the ultimate purpose to encourage the willful declaration of prohibited acts in relation to agreements in restraint of competition of related enterprises. Upon the satisfaction of each and every condition set out in detail by the 2018 Law on Competition, the first three enterprises to willingly declare its breach shall enjoy the policy on leniency. The reduction rate of administrative penalties shall be subject to the below order:

- First enterprise to declare its breach shall be free of administrative penalty payment obligation.
- Second enterprise to declare its breach shall enjoy the reduction of 60% of applicable administrative penalty.
- Third enterprise to declare its breach shall enjoy the reduction of 40% of applicable administrative penalty.

## Time-limit for investigation of a breach of the laws on competition

Time-limit for investigation of a breach of the laws on competition used to be separated into (i) the time-limit for preliminary investigation, and (ii) the time-limit for official investigation. However, as of the effective date of the 2018 Law on Competition, such separation is removed and only a single time-limit for investigation applicable to each kind of breach is clarified as follows:

- Time-limit for investigation of restraint of competition acts is 9 months and may be subject to no more than a one-time only three month extension.
- Time-limit for investigation of economic concentration acts is 90 days and may be subject to no more than a one-time only 60 day extension.
- Time-limit for investigation of unfair competitive practice acts is 60 days and may be subject to no more than a one-time only 45 day extension.

## Competent authority in charge of competition management

The National Competition Committee, an authority under the Ministry of Industry and Trade, has

become the authority implementing competition legal proceedings, supervising the economic concentration, deciding on exemption for prohibited agreements in restraint of competition, settling claims with regards to decision dealing with competition case and other duties prescribed by the 2018 Law on Competition or any other relevant laws.

## Administrative offences in insurance and lottery businesses

On 21 March 2018, the Government promulgated Decree No. 48/2018/ND-CP amending a number of articles of Decree No. 98/2018/ND-CP on penalties for administrative offences in the insurance business and lottery business (“**Decree 48**”).

Under Decree 48, organizations subject to penalties for administrative violations in insurance business and lottery business prescribed in Decree 48 include: life insurers, non-life insurers, health insurers, reinsurers, insurance brokerages, branches of foreign non-life insurers, representative offices of foreign insurers, representative offices of foreign reinsurers, representative offices of insurance brokerages, insurance agencies which are lottery business firms, lottery agencies and other relevant organizations as prescribed in Decree 48.

The significant amendment of this Decree 48 is providing a monetary fine of VND40,000,000 to VND50,000,000 for using any methods to force organizations or individuals to buy life insurance or health insurance. This amount of the fine is applied to individuals and will be doubled for organizations, especially acts of offering life insurance and health insurance products previously approved by the Ministry of Finance will be subject to much higher penalties, ranging from VND60,000,000 to VND70,000,000, instead of only VND10,000,000 to VND20,000,000 as before.

In addition, there are some notable amendments according to Decree 48:

- a fine of VND20,000,000 to VND30,000,000 shall be imposed for violations on designating actuaries of life insurers, health insurers and actuaries in charge of professional reserve and solvency of non-life insurers, re-insurers and foreign branches, who concurrently hold the position of General Director (Director) and chief accountant;
- a fine of VND60,000,000 to VND70,000,000 for violations against regulations on capital investment such as (i) investing more than 30% investment capital sources in companies in the one group of companies with a relationship with each other as defined by law; and (ii) investing from equity sources contrary to provisions of law;
- a fine of between VND90 million and VND100 million shall be applied to any act of fraud on insurance business with an appropriated amount of less than VND20,000,000 or causes loss and damage below VND50,000,000, under the level of criminal responsibility, and specifically the following acts: (i) collusion with the insurance beneficiary in order to illegally resolve

payment of insurance monies; (ii) forging data or deliberately falsifying information to refuse a claim for indemnity on occurrence of an insured event; (iii) forging data or deliberately falsifying information in an application file claiming indemnity; and (iv) deliberately causing loss or damage to assets or property or harming one's own health in order to receive insurance monies, except where the law has some other provision.

Decree 48 took effect on 10 May 2018.

## Changes in commercial promotions

On 22 May 2018, the Government promulgated Decree No. 81/2018/ND-CP guiding the Commercial Law with respect to commercial enhancement activities ("**Decree 81**"), which supersedes Decree No. 37/2006/ND-CP ("**Decree 37**").

In comparison with Decree 37, Decree 81 has remarkable changes which may facilitate the business entities in conducting promotions for the purpose of enhancement of their business activities.

Decree 81 specifies that a business entity can conduct promotions for itself or through its distributors (i.e. wholesalers, retailers, agents, franchisees and other legal distributors), however, the business entity shall have the obligation to register or notify the promotion program as required with the competent authorities, regardless of such promotion programs conducted by the business entity or its distributor.

Regarding promotions in the form of price reduction, Decree 81 retains the provision of Decree 37 that the maximum price reduction of promoted goods or services shall not exceed 50 per cent of the price of such promoted goods or services prior to the date of the promotion. Decree 81 provides certain circumstances where the maximum price reduction of promoted goods or services of 100% may be applied, comprising promotional programs, activities as decided by the Prime Minister and concentrated promotional programs, i.e. promotional programs organized by the State agencies at central level or provincial level and promotional programs held in the holidays of Vietnam according to the prevailing Labor Code. In addition, the maximum price reduction of 100% is also permitted in cases of goods and services which are subject to the State's price stabilization policy; fresh food and goods and services sold by enterprises being bankrupted, liquidated, changed of business location, or changed of business lines.

The time limit for promotions under Decree 81 is not as strict as the one provided in Decree 37. Namely, the permitted total time for conducting promotion(s) in the form of price deduction in respect of a trademark is 120 days in a year, exclusive of time of concentrated promotional programs, and of promotional programs and activities decided by the Prime Minister. This permitted total time is longer than the one provided in Decree 37, i.e. 90 days. In addition, the time limit of 45 days for each promotional program in form of price reduction as provided in Decree 37 has been removed from Decree 81. Meanwhile, the time limit of 180 days in a year for a trademark as provided in Decree 37

for a promotion in form of lucky draw program is also no longer provided in Decree 81, i.e. no time limit is applied for such programs.

Decree 81 simplifies the notification procedure for promotional programs. Accordingly, notification procedures of promotional programs are exempted for cases of (i) total value of prizes and gifts equal less than VND100 million in a province or city under central control; and (ii) sale of goods and services that is conducted through e-commerce trading floors, and the promotion is conducted online through promotion websites, provided that the contents of such program shall comply with the prevailing regulations.

In case where the notification procedure applied, notification dossiers for a promotional program shall be submitted at least three working days (instead of seven working days as provided in the Decree 37) prior to the commencement date of the promotion. The time limit for the competent authority to examine the registration dossier and issue the result in cases where the registration procedure applied is five working days from the filling date of proper dossier without any further notification to the local Department of Industry and Trade (if any) (instead of 14 working days as provided in Decree 37).

In addition to the force majeure cases where a business entity is permitted to early terminate a notified/registered promotional program as provided in Decree 37, Decree 81 allows such business entity to do so in case where all goods and services used for promotion or proofs of winning prize as announced have been delivered, provided that any and all benefits of customers participating in such program shall be ensured. In such circumstances, a notification of termination shall be submitted to the competent authority before the proposed effective termination date.

The Decree 81 took effect on 15 July 2018.

## Retirement pension, social insurance and monthly allowance

On 15 June 2018, the Government issued Decree No 88/2018/ND-CP on adjustments of retirement pension, social insurance allowance and monthly allowance (“**Decree 88**”). From 1 July 2018 the amount of pension, social insurance allowance and monthly allowance increases 6.92% compared to June 2018. This new amount applies to the following entities:

- Public officials, public employees, workers, soldiers, people’s police, cipher officers who are on monthly retirement pensions;
- Officers of communes, wards and commune-level towns prescribed in Decree No. 92/2009/ND-CP of the Government, dated 22 October 2009, Decree No. 121/2003/ND-CP of the Government, dated 21 October 2003, and Decree No. 9/1998/ND-CP of the Government, dated 23 January 1998, who are on monthly retirement pension and allowance;

- Those who are on monthly work-capacity loss allowance as regulated by law; those who are on monthly allowance as prescribed in Decision No. 91/2000/QD-TTg of the Prime Minister, dated 4 August 2000, Decision No. 613/QD-TTg of the Prime Minister, dated 6 May 2010; rubber workers who are on monthly allowance;
- Officers of communes, wards, commune-level towns who are on monthly allowance as prescribed in Decision No. 130/CP of the Government Council, dated 20 June 1975, and Decision No. 111-HDBT of the Council of Ministers, dated 13 October 1981;
- Soldiers who are on monthly allowance as prescribed in Decision No. 142/2008/QD-TTg of the Prime Minister, dated 27 October 2008; Decision No. 38/2010/QD-TTg of the Prime Minister, dated 6 May 2010;
- People's police who are on monthly allowance as prescribed in Decision No. 53/2010/QD-TTg of the Prime Minister, dated 20 August 2010;
- Soldiers, people's police, cipher officers on payroll similarly as soldiers, people's police on monthly allowances as prescribed in Decision No. 62/2011/QD-TTg of the Prime Minister, dated 9 November 2011; and
- Those who are on monthly occupational accident and disease benefits.

Funding amount for adjustment of pension, social insurance allowance and monthly allowance for entities prescribed above shall be paid by (i) State Budget for beneficiaries of social insurance before 1 October 1995; or Social Insurance Fund for beneficiaries of social insurance from 1 October 1995.

This Decree took effect as of 1 July 2018.

## Foreign cooperation and investment in the education sector

Foreign Investors in Vietnam treat education as an attractive sector for investment. Seeing the need for a more effective regulatory legal framework in this field to attract more foreign investment, the Government promulgated Decree No. 86/2018/ND-CP, dated 6 June 2018 ("**Decree 86**"), which took effect on 1 August 2018. Decree 86 regulates foreign cooperation and investment in the education sector comprising: education and training in cooperation with foreign parties; educational institutions with foreign invested capital; and foreign educational representative offices in Vietnam.

Decree 86 repeals Decree No. 73/2012/ND-CP, dated 26 September 2012 ("**Decree 73**"). In comparison with Decree 73, Decree 86 gives more facilities for foreign investment through major amendments. Below are some key changes from Decree 86:

## Conditions, procedures and forms of foreign investment

Regarding foreign short-term training institutions the sequence for obtaining permission for establishment is simplified. In particular, a decision on approval of establishment will no longer be required. What is required instead is the issuance of (i) the investment registration certificate and (ii) the decision permitting the educational operation and announcement of such decision on the website of the licensing agency.

It is also worth noting that while Decree 73 regulates foreign direct investment only, by way of setting up either a 100% foreign owned company or a joint venture company, the indirect investment form of purchasing shares or an equity acquisition by foreign investors in local companies (with domestic invested capital) which were already established in Vietnam will be allowed under Decree 86. Procedures for contributing capital and for purchasing shares or capital contribution portions are implemented in accordance with the Law on Investment.

Besides the above facilities, Decree 86 also provides a stricter regulation on investment capital. The minimum investment capital to set up a foreign-invested university will be VND1,000 billion (excluding land-use fees). The investor must prove its financial capacity in accordance with the Law on Investment and as at the time of evaluation to provide permission to establish the university, the investment capital amount must be above VND500 billion.

## New regulations on educational program for integration purpose

Integrated educational programs (curriculum) means a Vietnamese educational program which is integrated with a foreign educational program, ensuring the objectives of the Vietnamese educational program and without overlapping contents and knowledge.

An integrated educational program can be used if it satisfies the following requirements:

1. Such curriculum must be a program the educational quality of which has been verified in the foreign country or recognized by a competent educational agency or organization in such foreign country;
2. An integrated curriculum must ensure that it meets the objectives of the Vietnamese curriculum and also satisfies the requirements of the foreign curriculum;
3. Students must not be forced to study the same contents all over again, ensuring stability of all study levels and interconnection between such grades in the interests of the students;
4. Ensuring voluntary participation and not overloading the students;
5. Integrated curriculum must be approved by the competent agency, specific regulations on integration of Vietnamese curriculum with foreign curriculum will be provided by the Minister

of Education and Training; and

6. The size of classrooms and the material facilities must satisfy the requirements of the integrated curriculum and must not adversely affect the general teaching activities of the Vietnamese educational institutions participating in the educational curriculum.

## Enrolling Vietnamese students

Decree 73 provided that the number of Vietnamese pupils in an educational institution with foreign invested capital should not exceed 10% of the total number of pupils of such school for primary and secondary school levels. It is not to exceed 20% for high school levels. This regulation will no longer exist under Decree 86. This means that educational institutions with foreign invested capital will be allowed to decide the proportion of Vietnamese students.

Pursuant to the defunct Decree 73, a foreign investor was not allowed to set up an establishment in the preschool educational level to serve Vietnamese pupils but only to target foreign pupils and to follow foreign curriculum. Under Decree 86, educational institutions with foreign invested capital in a form of preschool will be able to serve Vietnamese pupils to study foreign educational programs.

Perhaps most difficult, the number of Vietnamese students studying a foreign curriculum in preschool, primary school, secondary school and high school must be less than 50% of the total number of students studying the foreign curriculum.

## Environment efforts improved

I take my text today from the area of environmental protection. The Paris Agreements which a few years set out the roadmap for environmental protection no longer include the United States. There are several issues as well which face problems because of the current administration in Washington, D.C. This issue of the Client Alert portrays some of Vietnam's efforts to act responsibly as far as trade and the environment are concerned.

This is something which can no longer be learned from the United States ... so it is important that other countries in the world step up to the position of leadership. Vietnam is one of those countries capable of showing the developing world an example of how to proceed with careful and purposeful environmental protection.

I remember that during one of my first jobs in Vietnam I did a presentation that criticized the current environmental protection regimes in place in the country. That was nearly ten years ago now, and the country has made giant strides in the area of law important to environmental protection.

From natural gas buses, to energy efficient lights, there are even buildings going up that have contractors who are concerned about the CO2 levels of their construction. Vietnam has made several

bold statements about what they intend to do in the future and the present to prevent sea level rising (a problem which will drastically impact Vietnam) air pollution and land/sea fill.

For those who are concerned about the environment, Vietnam has truly made strides in the area of law and execution. There are still disasters and certain things that Vietnam might find to improve its regime on the environment, but it is still much improved.

In the linked area of international trade, Vietnam is working to improve the effects of logistics on the environment and the careful and persistent improvement of mineral exploitation. It's a good place to be, but Vietnam can't do it on its own. It needs help from other nations to join the global effort for preventing environmental catastrophe.

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