

Our Asia Counsel Insights provide an overview of the key trending legal and business issues in Vietnam and how they may impact your business. Please enjoy your read.

About Asia Counsel

Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. We are committed to helping clients achieve their business strategies and providing outstanding legal services.



Banking Wrap

More Room to use Foreign Currency

In general, all transactions in Vietnam must be conducted in Vietnam Dong. There are a few exceptions including SBV approval. Circular 16/2015/TT-NHNN of the SBV dated 19 October 2015 sets out the process for the SBV to approve the use of foreign currency in Vietnam in exceptional circumstances. An application must be filed with the SBV with the following documents:

- An application form explaining the need to use foreign currency.
- A copy of the establishment license such as the enterprise registration certificate.
- Other documents evidencing the need to use foreign currency.

The SBV is required to respond to the application within 45 days of submission. This approval is given for defence purposes or in the oil and gas sector or for other special purposes.

Enterprise Law

Decree 96 Implementing Enterprise Law

The Government issued Decree 96/2015/ND-CP on 19 October 2015, detailing certain provisions of the Law on Enterprises. The key changes are below.

- Companies may now hold more than one, but identical seals. Companies established before 1 July 2015 may continue to use their existing seal without seal re-registration.
- Subsidiaries with the same parent company of which 65% capital is owned by the State must not together own 51% or more capital of other companies.
- Decree 96 sets out registration and reporting requirements for social enterprises. In particular, the social enterprise must register its commitment with the local authority in respect its social or environmental causes in Vietnam.

Environment

Decree on Environment Police

Decree 105/2015/ND-CP was issued by the Government on 20 October 2015 to guide the Ordinance on the Environment Police which constitutes a new police force that targets offences in relation to the contravention of environment and food safety laws. The environment police has investigations and prevention powers and powers to issue infringement notices for environment and food safety laws. The environment police may collaborate and exchange information between governmental authorities in order to execute its powers.

The environment police operates under the Ministry of Public Security and Decree 105 will take effect on 5 December 2015.

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If you have any questions on any of the items discussed above, please do not hesitate to contact us.

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Business

Decree 85 on Female Employees

The Government adopted Decree 85/2015/ND-CP on 1 Oct 2015 implementing the Labour Code policies applicable to female employees. The Decree takes effect from 15 November 2015.

- A female employee is entitled to a 30 minutes break each day during her menstruation for a minimum of three days per month and a 60 minutes break each day in order to feed her baby and store milk during the period her child is less than 12 months.
- A pregnant employee has the right to unilaterally terminate or postpone performance of her labour contract.
- Employers must define plans on providing support for construction of a nursery or kindergarden or paying part of the expenses incurred by female employees for sending their children to nurseries or kindergardens.
- Employers must establish a room for extracting and storing breast milk for female employees, subject to work conditions.

Financial Markets

New Restriction on Investments of State-Owned Enterprises

The Government passed Decree 91/2015/ND-CP dated 13 October 2015 to regulate the investment of the State's capital and the management and use of the State's assets and capital in companies. Decree 91 bans State-owned enterprises from:

- Contributing capital or investing in real estate business unless the SOE has that business as a main business line.
- Contributing capital or purchasing shares of banks, insurance companies, securities companies, venture capital funds, securities investment funds or securities investment companies unless the Prime Minister consents in special cases.

If the SOE has already made investments in the above sectors without the consent of the PM, the SOE must restructure and transfer all such investment to another legal entity.

Consumer

The Government to boost E-commerce Development

The Ministry of Industry and Trade has introduced the draft Decision on the plan to develop e-commerce. According to the draft, some of the goals to be accomplished by 2020 are:

- 30% of the population engage in online shopping with a value of USD350 per individual.
- Turnover of e-commerce B2C shall reach USD10 billion.
- Promoting the development of e-commerce related to cross-border transactions and import-export.

Grab Taxi Vietnam

The Ministry of Transportation has chosen Grab Taxi as the first company in Vietnam to operate an application that connects passengers to private car drivers. This is a part of the GrabCar project, which has already been approved by the Prime Minister.

Vietnam Fact Box

According to BP:

- Vietnam produces 365,000 barrels of petroleum per day in 2014.
- Vietnam has 150 million tons of coal reserves at the end of 2014.
- Vietnam consumes 12,300,000 tons oil equivalent of hydroelectricity in 2014.
- Vietnam consumes 100,000 tons oil equivalent of renewable energy in 2014.
- Vietnam has 4,400,000,000 barrels of oil in proven reserves at the end of 2014.
- Vietnam has 0.6 trillion cubic metres of natural gas in proven reserves at the end of 2014.

Infrastructure

New Regulation on Efficient Petroleum Production

The Government issued Decree 95/2015/ND-CP on 16 October 2015 implementing the Law on Petroleum, encouraging efficient petroleum production. Effective as of 1 December 2015, subject to Prime Ministerial approval a contractor may expand its petroleum production area, if commercial potential of petroleum reserves is discovered beyond the contractor's production area as set out in the contract with Vietnam Petroleum Group. Contractual petroleum fields may be merged together by mutual agreement between the contractors in order to achieve a better petroleum discovery. The same applies to low commercial efficiency petroleum fields and adjacent petroleum fields.

