

LegalNews

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New Party Leadership

Afternoon April 22, 2001, the IXth Congress of Vietnam Communist Party successfully closed after four days meeting gravely and responsibly. The Congress had discussed and approved important Party's documents including political reports, social and economic development strategies for 2001-2010 period, social and economic development plans for 2001-2005 period and amended and supplemented Party Statutes. The Congress also elected the IXth Central Party Leadership, the Politburo, the Committee for supervising the IXth Central Party. Especially, the Party Secretarial Board has been restored after a long time disappearance and the Board of Party Senior Advisors which includes retired Vietnam State leaders shall not be in existence - these would bring a new fresh atmosphere and mark a new development of the Vietnam Communist Party.

The election of Nong Duc Manh, Chairman of the Xth National Assembly, as a General Secretary of the IXth Communist Party of Vietnam with all 150 votes is also a considerable important event and is likely could help bring further reform for Vietnamese legislative system, bureaucracy and foreign investment spur. Domestic and foreign businessman are hoping and trusting in the new leadership and Secretary as well for more changes made to the process of administrative reform, foreign investment policies, legislative system, industrialization, modernization and socio-economic development of Vietnam.

Nine members of the the IXth Party Secretarial Board include:

(i).	Mr. Nong Duc Manh	National Assembly Chairman;
(ii).	Mr. Le Hong Anh	Deputy Director of Committee for supervising central Party;
(iii).	Mr. Nguyen Van An	Chief of Committee for organizing central Party;
(iv).	Mr. Tran Dinh Hoan	Chief of Central Party Secretariat;
(v).	Mr. Le Van Dung	Lieutenant-general, National Defence Vice Minister ;
(vi).	Mr. Nguyen Khoa Diem	Culture - Information Minister;
(vii).	Ms. Tong Thi Phong	Son La provincial Secretary;
(viii).	Mr. Truong Vinh Trong	Dong Thap provincial Secretary;
(ix).	Mr. Vu Khoan.	Trade Minister.

Members of the IXth Party Leadership Politburo are cut down 7 peoples among 18 of previous term and 4 new members are added (*), 15 members of the Politburo are as follows :

(i).	Mr. Nong Duc Manh	National Assembly Chairman;
(ii).	Mr. Tran Duc Luong	President;
(iii).	Mr. Phan Van Khai	Prime Minister;
(iv).	Mr. Nguyen Minh Triet	Ho Chi Minh City Secretary;
(v).	Mr. Nguyen Tan Dung	Deputy Premier;
(vi).	Mr. Le Minh Huong	General, Public Security Minister;
vii).	Mr. Nguyen Phu Trong	Ha Noi City Secretary;
(viii).	Mr. Phan Dien	Da Nang City Secretary;
(ix).	Mr. Le Hong Anh*	Deputy Director of Committee for supervising central Party;
(x).	Mr. Truong Tan Sang	Central economics Committee Director;
(xi).	Mr. Pham Van Tra	General, National Defence Minister;
(xii).	Mr. Nguyen Van An	Chief of Committee for organizing central Party;
(xiii).	Mr. Truong Quang Duoc*	Director of Central Propaganda Committee;
(xiv).	Mr. Tran Dinh Hoan*	Chief of Central Party Secretariat;
(xv).	Mr. Nguyen Khoa Diem*.	Culture - Information Minister.

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Vietnam long term economic development targets reported in the above mentioned plans reveal positive ambitions of the Party to develop Vietnam economy, such as doubling the present GDP in 2010 and maintaining the growth rate of 7.5% per year as currently until 2005. Foreign and Vietnamese economists and financial commentators said that such targets are not impossible, however, how it will come to effect depending on how the key matters as proposed below to be dealt with: to struggle against sluggish foreign investment; to clear out any obstacles against domestic productions and business; to create more convenient, fair and equal business environment to continue developing non-state sectors' efficiencies and contribution to the national growth etc.

Investment to Foreign Country

Vietnam Trading Center in Laos

The first trading center of Vietnam in Vientiane (Laos) is going to be built to follow up the economic, culture, technology and sciences cooperative Agreement signed between Vietnamese and Laotian Government. According to **Dispatch No.1259/TM-CATBD** of the Ministry of Trade addressed to Prime Minister on April 6, 2001, this project is a joint venture form under Laotian Foreign Investment Law and Decree No.22/1999/ND-CP of Vietnamese Government regarding the investment of Vietnamese enterprises to foreign countries. Parties to the project are CENTRIMEX of Vietnam and LADECO of Laos with total investment of around \$8 millions. The center shall be developed in Vientiane capital with total area of 20 -25 Ha to carry out operations of goods trading, promoting, offices and houses leasing and entertainment services.

Investment Incentives

Amending Circular 146 of the Ministry of Finance

On April 3, 2001, the Ministry of Finance issued **Circular No.22/2001/TT-BTC** amending Circular No.146/1999/TT-BTC dated December 17, 1999 guiding the implementation of taxes exemption, reduction for subjects enjoying investment incentives under Decree No.51/1999/ND-CP of the Government detailing the implementation of the Law on Encouraging Domestic Investment (amended).

Below are remarkable amendments compared to Circular 146:

- ✓ Subjects enjoying taxes incentives are added to the governing scope, including: (i) State owned enterprises which were transformed into stock companies under Decree No.44/1998/ND-CP dated June 29, 1998 of the Government; (ii) State owned enterprises which were handed over to laborers, sold out to individuals or other corporations in accordance with Decree No.103/1999/ND-CP dated September 10, 1999 of the Government; (iii) business households which were registered under Decree No.02/2000/ND-CP dated February 3, 2000 on business registration.
- ✓ According to regulations of the Law on Encouraging Domestic Investment, under guidelines in Decree 51 and Circular 169, the above mentioned subjects are not recently set forth as subjects enjoying taxes incentives. These unclearness and insufficiency have resulted in encountering difficulties for taxation and financing bodies to grant investment incentives licences, in fact, they have not been allowed enjoying taxes incentives despite some of those are consistent with "new investment forms" subjects under Decree 51. Circular 22 has made positive amendments but it really needs to adjust Decree 51 to the effect that adding the above mentioned subjects to the governing scope;
- ✓ The guidelines on paper-works and procedures for taxes reduction and exemption provided repeatedly in Circular 146 has been more sensibly amended and gathered to a separate section. Furthermore, provisions on levels and cases of taxes incentives have been guided in details as to each kind of tax.

"State owned enterprises which had been equitised, handed over or sold out and business households are now permitted enjoying taxes incentives under the Law on Encouraging Domestic Investment"

Development Investment Credit Capital in 2001 Planned

On March 26, 2001, by **Decision No. 41/2001/QD-TTg**, Prime Minister approved plans for development investment credit capital of the State in 2001 which were submitted by the Ministry of Planning and Investment. Under which, total development investment credit capital of the State in 2001 is VND25,000 billions, in which the mobilization in domestic is VND15,200 billions and VND9,800 billions is the lending amount from ODA. The domestic mobilizing capital shall be allocated as follows:

- | | |
|-------------------------------------|------|
| ✓ Industry and construction | 60%; |
| ✓ Agriculture, Forestry and Fishery | 15%; |
| ✓ Transportation | 14%; |
| ✓ Other industries | 11%. |

New ODA Decree Drafted

Draft amended and supplemented Decree on using and managing official development assistance (ODA) prepared by the Ministry of Planning and Investment was submitted to the Government and it is going to be promulgated in the forthcoming time. The implementing ODA projects in Vietnam are encountering many difficulties and obstacles due to unclear and insufficient provisions of Decree No.87/ND-CP adopted since April 1997. The major changes made to draft Decree include: empowering greater decision-making rights for ministerial and provincial authorities. Accordingly, provincial people's committees may have right to approve none-refundable ODA projects having total investment of up to \$1 million. The other provisions on monitoring, assessing ODA projects and provisions relating to formalities as well shall be provided more consistently with factual requirements and the changes shall be made to the effect that giving more convenient conditions for capital mobilization and projects implementation. It is hope that the Decree shall be adopted in May this year.

Import-Export

Import - Export Directing Policies for 2001-2005 Period

Prime Minister issued **Decision No.46/2001/QD-TTg** on April 4, 2001 on directing import - export in 2001-2005 period [its draft prepared by the Ministry of Trade was reported in our previous issue], effective from 1st May and replaces (i) Decision No.242/1999/QD-TTg dated December 30, 1999 of the Ministry of Trade on directing import - export in 2000; (ii) Decision No.237/1999/QD-TTg dated December 24, 1999 of Prime Minister on rice export and fertilizers import in 2000; and (iii) Decision No.65/1998/QD-TTg dated March 24, 1998 of Prime Minister on exporting wooden, agricultural products, importing wooden materials and forestry products.

Below are some remarkable changes made to the new import - export directing policies:

- ✓ Bringing into effect some new controlling measures applicable to import - export commodities such as: taxation quotas, absolute taxes, dumping opposed taxes, environment fees and measures opposing transform of price etc. to protect domestic productions, environment and to ensure equality to doing business in Vietnam.
- ✓ Adding some items to the list of commodities prohibited to import and export, issued in conjunction with Decision 46, such as "specialized coding machines and secret codes software programs in used for protecting State secrets". Children's toys which could negatively impact on Vietnamese education, personality and social peace are also added to the prohibition list of import commodities;

"Some new controlling measures applicable to import - export commodities shall be brought into effect to protect domestic production, environment and to ensure equalities to doing business in Vietnam ..."

- ✓ Adjusting the directing policies to some specific import - export items, such as: abolishing the quota allocating regime with respect to exporting rice, importing fertilizers and withdrawing provisions on clue enterprises trading in these items; revoking provisions on approval and allocation of quantity limitation to production of export wooden products; pushing ahead the process of quota cancellation for textile and garment items; spare parts to assemble motors and two-wheel motor-bikes shall be allowed importing through regular routes only. Domestic enterprises will import these items under the localization program which had been registered. Temporary ceasing the allowance of localization rate registration for new motor/motor-bike trademark in the forthcoming time etc.

Trade

Conditions for Doing Business in Fields of Cultivation and Breeding

On March 30, 2001, the Ministry of Agriculture and Rural Development issued **Decision No.34/2001/QD-BNN-VP** providing conditions for doing business in fields of cultivation and breeding, effective from April 14, 2001.

Issued in conjunction with Decision 34 are the following:

- ✓ Conditions for trading in plants races, animals races, breeding foods;
- ✓ Conditions for trading in animal medicines; conditions for trading in services of slaughtering cattles and poultries; and
- ✓ Conditions for trading, producing, processing, pouring, packing and importing plant protecting poisons.

Taxation

Preferential Import Duty Tariff

- ✓ *Heading 2710*

Import duty rate of some items under heading 2710 of the preferential import duty tariff were adjusted on February 27, 2001 under the Decision No.09/2001/QD-BTC of Finance Minister [read our last month LegalNews]. On March 29, 2001, Finance Minister issued **Decision No.23/2001/QD/BTC** increasing preferential import duty rate of "Condensate and similar products" item from 0% to 10%. The Decision applies from April 1, 2001.

- ✓ *Other headings*

Import duty rates of some items of the preferential import duty tariff under heading 2208, 2523, 4801, 4802, and 4823 has been amended and added under **Decision No.34/2001/QD/BTC** dated April 18, 2001 of the Ministry of Finance. This Decision came into validity from May 1, 2001 and replaces the following document of the Ministry of Trade: (i) Decision No.38/1999/QD/BTC dated April 3, 1999; (ii) Decision No.139/1999/QD/BTC dated November 11, 1999; (iii) Decision No.91/2000/QD/BTC dated June 2, 2000; (iv) Decision No.193/2000/BTC dated December 5, 2000.

VAT of Power Plant Projects Using ODA Capital

To perform pledges of Vietnamese Government with OECF (now JBIC), on April 11, 2001, the Government permitted to exempt Pha Lai 2, Phu My - Ba Ria and Ham Thuan Da My power plant building projects of EVN, the owner, from value added tax, found in **Dispatch No.281/CP/KTTH**.

Imported Goods VAT

From December 29, 2000, the application of VAT regulations are uniformly followed Decree No.79/2000/ND-CP of the Government and Circular No.122/2000/TT-BTC of the Ministry of Finance. In order to provide guidelines for the implementation of number of provisions relating to VAT imposed upon imported goods, on April 3, 2001, the General Department of Customs issued **Dispatch No.1266/TCHQ-KTTH** dealing with this matter.

According to the Dispatch, VAT shall not impose upon the following imported machines and equipment: machinery equipment, specialized transport means being parts of technology lines which can not be produced in domestic or necessarily imported for fixed assets creation; airplanes, oil-rigs and ships leasing from foreign country; equipment, machines, spare parts, specialized transport means and materials needed importing to exploring and developing oils; presses, magazines, specialized news bulletins, political books, textbooks, lecturing books, pictures, propaganda posters, cash etc.

Unifying Taxes Regulations Making

According to **Directive No.07/CT-TTg** of Prime Minister, from April 24, 2001, Ministries and Ministerial equivalent bodies (except the Ministry of Finance) shall not be allowed to make provisions on taxes in its legal documents. In case there are unclearness in these documents, they must apply petitions to the Ministry of Finance for guiding or submit the same to authorized bodies to decide. Prime Minister also requires the Ministry of Finance holding and co-ordinating with other Ministries, Ministerial equivalent bodies to inspect and find out any inconsistencies and/or inadequacies in taxes regulations for amending immediately in order to ensure the unifying and effectiveness of issued documents.

Banking

Borrowing on Guarantee by Valuable Papers

On March 30, 2001, the State Bank of Vietnam issued Regulation on borrowing on guarantee by short-term valuable papers of the State Bank of Vietnam to other banks, as a conjunction with **Decision No.251/2001/QD-NHNN**.

With 3 chapters, 19 articles, the Regulation includes provisions on borrowing amount limitation, borrowing interest, borrowing principles, conditions and formalities. Subjects to be re-financed from the State Bank of Vietnam under the Regulation include: commercial banks; development banks; investment banks; policy banks; co-operative banks; joint venture banks; branches of foreign banks; and other forms of banks established and operating under the Law on Credit Institutions.

Decision 251 took effect from April 14, 2001 and replaces provisions on re-financing under the form of treasury securities mortgage in the Regulation on re-financing of the State Bank of Vietnam to credit institutions issued in conjunction with Decision No.285/QD-NHNN14 dated November 10, 1994 and Decision No.431/1997/QD-NHNN14 dated December 24, 1997 supplementing Decision 285 of the Governor of the State Bank of Vietnam.

Issuance of Treasury Bond under New Form

Vietnam stock market has now a new item which shall be firstly listed, treasury bonds in the form of discount.

According to **Decision No.20/2001/QD-BTC** of the Ministry of Finance issued on March 28, 2001 regarding the issuance of treasury bond in the form of discount, this kind of bond shall be issued in Hanoi and Hochiminh by 6 price levels, VND1,000,000, VND2,000,000, VND5,000,000,

"A new kind of bond are firstly listed, treasury bond in form of discount, Vietnam stock market has now more goods for exchange..."

VND10,000,000, VND20,000,000 and VND50,000,000, with duration of 5 years and interest of 7.2% per year. Vietnamese residing in domestic and foreign countries as well, foreigners which are legally residing and working in Vietnam, social institutions, socio-political institutions, profession-social institutions and voluntary social funds shall be permitted to buy such bonds.

This issuance of new bond would help bringing more goods for Vietnam stock market which are lacking of effervescency since it was born until now.

Banking Guaranty Regulation

The Regulation on banking guaranty issued in conjunction with Decision No.283/QD-NHNN14 dated August 25, 2000 of the State Bank of Vietnam is amended and supplemented according to **Decision No.386/QD-NHNN** dated April 11, 2001 of the State Bank of Vietnam. Accordingly, guaranty fee amount is defined under the parties' consent but shall not exceeds 2% per year of guaranty balance. Where a party to the guaranty agreement is foreigner, the parties can use a popular foreign language in their transaction documents and the ones addressing to State authorities must be translated into Vietnamese.

Other Documents

Circular No.02/2001/TT-BTC dated April 4, 2001 of the State Bank of Vietnam guiding to implement Decree No.70/2000/ND-CP dated November 21, 2000 of the Government on keeping secrets, providing and archiving information relating to deposits and deposited assets of customers;

Circular No.01/2001/TT-TCBD dated March 26, 2001 of the General Department of Posts amending and supplementing Circular No.04/1998/TT-TCBD dated September 29, 1998 guiding the implementation of Regulation on telecommunication networks and services stipulated in Decree No.109/1997/ND-CP of the Government;

Decision No.0314/2001/QD-BTM of the Ministry of Trade dated March 29, 2001 amending the list of consuming goods to serve the definition of import duty payment duration;

Decision No.31/2001/QD-BTC of the Ministry of Finance dated April 13, 2001 amending, supplementing Regime on managing and using vouchers;

Decision No.35/2001/QD-BTC of the Ministry of Finance dated April 18, 2001 stipulating the collection of rate difference with respect to some import items;

Decision No.30/2001/QD-BTC of the Ministry of Finance dated April 13, 2001 promulgating the Regime on printing, publishing, managing and using tax seal;

Decision No.51/2001/QD-TTg of Prime Minister on approval of Vietnam chemical industry development plans in 2001-2005 period;

Decision No.035/QD-BTM dated March 26, 2001 of the Ministry of Trade promulgating the Regulation on the transits of commodities of the P.R. China to the S.R. Vietnam's territory.

Dispatch No.242/CP-TCQT dated March 30, 2001 of the Government regarding the CEPT list 2001;

Dispatch No.1207/VPCP-TCQT dated March 26, 2001 of the Government's Office regarding Government's group for economic negotiation;

Dispatch No.1192/TCHQ-KTTH dated March 29, 2001 of the General Department of Customs regarding VAT of equipment imported to create fixed assets;

Dispatch No.0740/TM/XNK dated March 26, 2001 of the Ministry of Trade regarding some measures to assist enterprises finding rice export market;

Dispatch No.276/CP-QHQT dated April 11, 2001 of the Government regarding the approval of technical assistant project donated by UNICEF;

Dispatch No.277/CP-QHQT dated April 11, 2001 of the Government regarding the approval of technical assistant project of ADB;

Directive No.02/2001/CT-NHNN dated April 2, 2001 of the State Bank of Vietnam regulating debt settlements of banks to lenders;

Notification No.104/TB dated March 27, 2001 of Vietnam Posts and Telecommunication Corporation regarding the application of VND/USD rate to pay international posts and telecommunication charges;

Notification No.10/TB-QLNH dated March 30, 2001 of the State Bank of Vietnam regarding the crossed rate of Vietnamese Dong and some foreign currencies;

Please contact:

Hanoi Office

Pham Nghiem Xuan Bac

Managing Partner

Nguyen Anh Tuan

Partner, Legal

Pham Minh Hai

Partner, Consulting

Do Quang Hung

Partner, Intellectual Property

Unit 02, 1st Floor,
International Centre
17 Ngo Quyen St.,
Hanoi, Vietnam
Tel: 84 4 934-0629 / 824-1623
Fax: 84 4 934-0631
Email: vision@hn.vnn.vn

Ho Chi Minh City Office

Dang The Duc

Partner, Manager

Unit 4C1, 4th Floor,
Han Nam Office Building
65 Nguyen Du St., Dist. 1,
HCMC, Vietnam
Tel: 84 8 823-6495 / 823-5601
Fax: 84 8 823-6496
Email: hcmvision@hcm.vnn.vn

Http://www.vision-associates.com
