

Legal news

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Foreign Investment

Investment in Chu Lai Open Economic Zone

According to Decision 823/2003/QĐ-BKH dated October 21, 2003, the Ministry of Planning and Investment authorizes the Board of Management of Chu Lai Open Economic Zone in Quang Nam province to shape projects; receive and appraise project dossiers, grant, amend, withdraw investment licences and manage the activities of foreign investment projects in Industrial Parks, Export Processing Zones in Chu Lai Open Economic Zone.

Vietnam – Japan Agreement on liberalization, promotion and protection of investment

On November 14, 2003, the Minister of Planning and Investment of Vietnam and the Minister of Foreign Affairs of Japan executed the Vietnam – Japan Agreement on Investment Protection, Promotion and Liberalization. Japan is one of the leading countries investing in Vietnam via direct investment and ODA funding. It is much hoped the Agreement would help to urge more investment flows into Vietnam in the forthcoming decades. *We will provide you with more detailed introduction of this Agreement in the next Legal news.*

Trade

New legal provisions to govern economic contracts

[Article published in the Vietnam Investment Review, the Legal Column page 8, Issue 15 September 2003]

Legal regulations governing the determination of invalid economic contracts and their application by judges tend to encourage businesses to be cautious in the formulation and signing of contracts.

Experience can be drawn from many disputed cases such as the Dung Tien-Vidamco case in 2000 – 2001: the sale contract in question was signed by the deputy director of the company and has already been implemented by the time the dispute was brought to court, but the tribunal ruled the contract was invalid on grounds that the signatory was not authorised, despite the fact that the director was aware of the signing and had received bonuses from the contract.

In response to a number of enquiries from both analysts and businesses, on May 27, 2003, the Judges' Council of the Supreme People's Court issued the Resolution 04/2003/NQ-HĐTP detailing the application of a number of legal provisions for the settlement of economic cases. It is hoped the Resolution will bring the current confusion to the end.

In accordance with Article 8 of the Ordinance on Economic Contracts dated September 25, 1989, an economic contract will be deemed null and void if (i) the purpose of the contract violates any legal prohibitions; (ii) either of the parties do not have proper

business registration as prescribed by the laws governing the performance of the tasks agreed upon in the contract; or (iii) signatories do not have the competence to execute the contract in question.

Resolution 04 was issued instruct judges and tribunals on how to correctly apply the above provisions of the Ordinance. Under Resolution 04, when applying the provision for business registration, judges must distinguish between two separate circumstances. First, whether upon signing the contract, either of the involved parties had not yet obtained proper business registration and if not, whether by the time the disputes arose, the party without proper business registration had failed to obtain proper business registration for the performance of the agreed upon tasks as specified in the contract. If not, economic contracts are to be considered fully invalid ab initio.

Second, if by the time disputes arise, the party without business registration has already obtained business registration for the performance of the agreed upon tasks as specified in the contract, such an economic contract would be viable and valid.

Regarding signatory competence in the execution of an economic contract, Resolution 04 in line with Article 154 of the Civil Code states that an economic contract signed by an unauthorized person shall not be considered invalid if, in the course of performance, the contract is subsequently agreed to by authorized persons.

Moreover, the authorized person is deemed to have agreed to the contract agreed if she or he was aware of the signing and voiced no objection. The following methods are to be used to determine if the authorized person is aware of the signing:

After the economic contract was signed, there is evidence proving the signatory had reported to the authorized person on the signed economic contract (such a report may be reflected in the minutes of meeting with the board of directors, board of members, board of management, or can be proved by a common declaration by many persons on the existence of the report).

The authorized person is shown through receipts or accounting figures to have been aware of the signed contract which is being implemented (he or she possesses signed invoices, inventory receipts, or payment or collection receipts derived from signed contract).

Lastly, the authorized person has documents proving the performance of obligations arising from the signed contract (has signed applications for extensions of payment time, committed to implement the obligations under the signed contract, signed documents approving collection payment, received a balance sheet in connection with the performance of the signed contract etc.).

Resolution 04 refers to economic contracts in which the involved parties have agreed on prices and payment in foreign currencies.

According to the Ministry of Trade's Dispatch No. 2848 TM/XNK dated August 14, 2003, enterprises trading in oil and gas must have a minimum amount of working capital. The State should hold monopoly in import and export of oil and gas. Private enterprises must be permitted by the Prime Minister if they wish to do business in oil and gas

import, export. Above are some of the Ministry of Trade's opinions contributing to the draft Regulations on conditions for trading in oil and gas.

The State Bank of Vietnam issued Circular 10/2003/TT-NHNN on September 16, 2003, providing guidelines on implementation Government's Decision 174/1999/ND-CP dated December 12, 1999, on gold trading management and Decision 64/2003/ND-CP dated June 11, 2003 on amendment of and supplementation to Decision 174/1999/ND-CP.

Investment incentives behind new hi-tech zone regulations

[Article published in the Vietnam Investment Review, the Legal Column page 8, issue 22 September 2003]

Around mid-2002, under pressure to revive investment in the Hoa Lac HTZ, concerned state agencies submitted a draft decree to the government featuring incentives applicable to high-tech projects in the Hoa Lac HTZ.

Because of the inefficient operations of the HTZ, the Government released new regulations for HTZs in conjunction with Decree 99/2003/ND-CP on 28 August 2003 to replace the old regulations under Decree 36/CP. The new regulations are considered much more comprehensive and create a clearer legal framework for hi-tech investment.

Under Article 2.3, HTZs are defined as multi-functional technical-economic zones established by the Prime Minister. Investment activities can be more diversified under the new regulations which aim to attract different kinds of hi-tech enterprises, organizations and institutes to invest in HTZs. Investment activities allowed in HTZs are clarified under Article 5 and include: construction and trading of technical infrastructure facilities, manufacturing and trading of hi-tech products, scientific research and the development of technology, training, promotion of trade and the supply of services.

Investment in the following high-tech fields shall be encouraged: information and communication, software technology; bio-technology and aquaculture, medicine, micro-electronics, precise engineering, auto-electronics, nano technology, environmental technology, alternative energy and other special technologies.

In accordance with the new regulations, four kinds of enterprises can operate in HTZs including: infrastructure development enterprises; hi-tech enterprises; hi-tech services suppliers; HTZ development companies and services suppliers. HTZ development companies shall be state-owned enterprises and subordinate to the Management Board of HTZs. Infrastructure development enterprises can be wholly foreign owned (formerly, only joint ventures were permitted to construct and operate infrastructure in HTZs).

HTZ enterprises, including foreign-invested enterprises, are also entitled to transfer the value of land-use rights and properties attached during the term of lease in accordance with existing laws. Recipients shall be obliged to fulfil the obligations set forth in the agreement between those making the transfer and the infrastructure development enterprise or HTZs development company, except as otherwise agreed.

Previous regulations restricting the duration of operation of HTZ enterprises have been removed. Under the old set of rules, the duration of operation of HTZ enterprises could not exceed fifty years. The new regulation does not specify a specific duration,

transferring authority to applicable laws governing the establishment and operation of HTZ enterprises.

The new regulations sets out two new financial investment forms for HTZs. They are a high-risk investment fund and a incubator programme for hi-tech enterprises. The investment fund was established in accordance with laws to mobilize and manage legitimate investment capital of foreign and domestic individuals and organizations to encourage investment in the activities of newly-established hi-tech enterprises. The incubation programme for hi-tech enterprises was established by the Management Board of HTZs and shall be responsible for organizing and giving support to individuals and organizations engaged in the development of new technology.

Gathering together for a common purpose

[Article published in the Vietnam Investment Review, the Legal Column page 8, issue 13 October 2003]

The right of Vietnamese citizens to establish associations was recognized in the country's first constitution of 1946, drafted soon after its independence. Gathering together to pursue a common purpose is regarded as one of the most significant constitutional rights possessed by Vietnamese citizens.

Many associations have been established in the last 57 years, including confederations, unions, and clubs. They are governed by a legal framework that is built around the law issued with State Decree No. 102/SL-L004 dated May 20, 1957, and Decree No. 258/TTg dated June 14, 1957 on the right to establish associations.

Several decades witnessed very little change to the way associations and organizations operated. The legal framework that governed them remained essentially unchanged for over half-a-century despite the rapid alteration of legal instruments in other fields. In fact the Law of 1957 remained in effect without having been amended or supplemented until 30 July 2003, when Decree No. 258 was replaced by governmental Decree No. 88/2003/ND-CP.

Decree 88 regulates associations that are voluntarily formed bodies of Vietnamese citizens that have the same area of work interest, are of the same circle, pursuing the same purpose of unity, and operating in a regular manner. Religious associations and those that play an important role in the political system of the country such as the Vietnam Fatherland Front and the Vietnam Veterans' Association are not governed by the Decree.

Associations under the Decree 88 have legal status and can use their own stamp and open bank accounts. They are entitled to select the names and logos in compliance with the laws. Associations must satisfy certain conditions for establishment including being formed for purposes not contrary to the law; having names and operational domains not identical to those of other legally operating organisations; their own charter and premises, and a sufficient number of participating members.

To establish an association, prospective founders must first set up a preparatory mobilization committee which must be recognized by relevant State authorities. After receiving recognition, the committee shall prepare an application dossier that includes a draft charter, plan of operations, list of members of the preparatory mobilization

committee, certified CV of the president, and documents showing the headquarters and assets of the association.

The dossier must be sent to Minister of Home Affairs or Chairman of Provincial People's Committee depending on whether the association is to operate nationwide or in a single province. These agencies must issue receipts and give a response to the preparatory mobilization committee within 60 days as of the date they receive the dossier. Should state authorities refuse to grant establishment, they must explicitly state the grounds for their refusal in writing.

One point that draws criticism is the fact that only Vietnamese citizens and organizations can join associations which organized and operating under Decree 88. The Decree stipulates that foreign joint ventures and wholly-owned enterprises established by the laws on foreign investment in Vietnam cannot become full members of associations.

With regards to organization and structure of associations, the highest body of an association is the plenum meeting which must meet at least every 5 years to make the most important decisions on the association's operations. Such decisions can only be passed by a majority vote of the attending members.

Associations are to represent and protect members' interests; arrange and co-ordinate the operation of members; provide education and training to members; consult and respond the queries of others etc.

Decree 88 also outlines policies for division, separation, merger, consolidation and dissolution of associations.

There are two ways an association can dissolve: on their own initiative or by a decision of the State upon the appearance of any of the following - they fail to operate for 12 months in a row or congress adopts a resolution to dissolve the association but the leadership declines to obey. Associations that are in serious violation of the law must also be dissolved.

It is unclear under Decree 88 whether all associations are required to obtain a licence, or if so-called associations without licence are required to halt their operation in order to apply.

Other documents

- On October 13, 2003, the Ministry of Trade issued Dispatch 4720/TM-QLCT on criteria for selection of consultant companies.
- On October 22, 2003, the Minister of Trade issued Decision 1335/2003/QD-BTM on issuing the List of key commodities and markets for national trading promotion in 2004.
- On November 17, 2003 the Minister of Trade issued Decision 1505/2003/QD-BTM, promulgating the regulations on the petrol and oil agents.

Labour

Expatriate workers have regulations added to Labour Code

[Article published in the Vietnam Investment Review, the Legal Column, Issue 6 October 2003]

The Labor Code was amended on April 2, 2002, to include a number of provisions relating to foreigners working in Vietnam. Decree 105/2003/ND-CP, dated September 17, 2003, replaces Decree 58/CP dated October 3, 1996 and amended Decree 169/1999/ND-CP dated December 3, 1999. Decree 105 includes regulations governing the recruitment and management of foreign employees working in Vietnam.

According to Decree 105, companies operating under the Law on State Enterprises, the Enterprises Law and the Law on Foreign Investment in Vietnam are allowed to recruit foreign employees to a limit of 3 per cent of the company's total workforce. In no case is the number of foreign employees to exceed 50 persons.

The above limitation does not apply to the recruitment of foreign employees by foreign contractors and sub-contractors; business organizations belonging to State administrative agencies, armed forces, socio-political organizations; representative offices, branch offices of foreign enterprises; representative offices of the economic, commercial, financial, banking, insurance, cultural and sports organizations in Vietnam; branch offices of foreign law firms in Vietnam; and cooperatives. However, those entities and organizations must obtain approval from the Chairman of the relevant provincial or municipal People's Committee to recruit foreign employees.

Foreigners wishing to work in Vietnam must meet several prior conditions including being at least 18 years of age, having technical qualifications and professional experience; not having been sentenced or punished for offences against the State security or for other criminal offenses as outlined in the Criminal Code, not being wanted or having served sentences for serious offences in other countries, and having obtained a work permit from the competent authority of Vietnam should the working term exceed three months.

Article 6.1 of Decree 105 states that foreigners are not required to obtain work permits if they intend to work in Vietnam for less than three months; are invited to Vietnam to assist local companies and organizations with technical problems that Vietnamese experts or foreign experts currently in Vietnam are unable to address; members of boards of management, general directors, deputy general directors, directors or deputy directors of companies established under Vietnamese laws, heads of representative offices or branch offices in Vietnam, and foreign lawyers who are granted permission to practise in Vietnam by the Ministry of Justice.

Decree 105 also regulates procedures for the recruitment of foreigners. Accordingly, employers must post recruitment notices in at least three consecutive issues of a recognised national newspaper. Notices must include job requirements and details of the type and duration of the position available. Employers must also submit an application dossier for the recruitment of foreigners to the relevant provincial or municipal labour authority in which a training schedule and plan for a Vietnamese worker to replace the foreign worker must be included. The provincial or municipal labour authority shall issue

a work permit within fifteen days of receipt of the proper documents or in case of refusal, inform the applicant in writing the reason for the refusal.

The term of the work permit shall be based on the term of the labour contract signed between the employer and foreign employee or of the decision issued by the foreign company to assign the position to a expatriate living in Vietnam. In no case can the term exceed 36 months. After the term expires, and if a Vietnamese person cannot be found to replace the foreign employee, employers can request an extension not exceeding 36 months. After the first extension expires, and if a Vietnamese person cannot be found to replace the foreign employee, the employer can request a second extension from the chairman of the relevant provincial or municipal People's Committee.

The responsibilities of the employer relating to the employment of foreign workers are clearly outlined in the Decree. The employer must obtain a work permit for each foreign worker hired and report the contract to the labour management authority. For positions not requiring a work permit, employers must submit personal information on the successful applicant and provide details of the work term to the provincial or municipal labour management authority.

Foreigners who have been previously worker or are working for Vietnamese companies and organizations without a work permit must complete procedures to obtain a work permit. After six months from the effective date of Decree 105, any foreigners working in Vietnam without proper work permits can be expelled from the country.

Other documents

- The Ministry of Labour, War Invalids and Social Affairs (MOLISA) issued Dispatch 2941/LDTBXH-LDVL on August 27, 2003, explaining policies for employees, *which include guidance for payment of retrenchment allowance in the case that employers terminate labor contracts or employees unilaterally terminate, and for calculation of social insurance contribution period of employees being subject to fire discipline.*
- Circular 21/2003/TT-BLDTBXH dated September 22, 2003 of the MOLISA guiding for the implementation of a number of articles of the Government's Decree 44/2003/ND-CP dated May 9, 2003 on labor contracts. *The addendum was firstly issued with this Circular includes: Labor contract form; Form of addendum of labor contract; And retrenchment allowance payment form.*
- Circular 20/2003/TT-BLDTBXH dated September 22, 2003 of the MOLISA guiding the implementation of a number of articles of the Government's Decree 39/2003/ND-CP dated April 18, 2003 on labor recruitment.
- Circular 19/2003/TT-BLDTBXH dated September 22, 2003 of the MOLISA guiding the implementation of a number of articles of the Government's Decree 41/CP dated July 6, 1995 guiding for the implementation of a number of articles of the Labor Code on labor disciplines and material responsibility as amended and supplemented by the Government's Decree 33/2003/ND-CP dated April 2, 2003.
- The MOLISA issued Decision 1152/2003/QD-BLDTBXH on September 18, 2003 issuing provisional list of hard, poisonous, dangerous works and professions and special hard, poisonous and dangerous works and professions. The MOLISA issued Circular 22/2003/TT-BLDTBXH on October 13, 2003, guiding the implementation of several sections of Government's Decree 81/2003/ND-CP dated July 17, 2003 providing guidelines on the implementation of the Labor Code with regard to Vietnamese employees working overseas.

- Circular 25/2003/TT-BLDTBXH dated November 10, 2003 of the MOLISA guiding for the calculation of quantum of regular laborers and making of the plan of using laborers in reorganized enterprises in accordance with Decree 27/2003/ND-CP.

Intellectual Property

WTO ambitions driving trade reform

[Article published in the Vietnam Investment Review, the Legal Column, Issue 8 September 2003]

In its determination to join the WTO in 2005, Vietnam has stepped up reforms of the business sector. Many moves have been welcomed by foreign investors, but there is still a long way to go. One area still in need of reform is industrial property (IP). Vision & Associates discusses the impact of WTO ambitions on IP reform.

Vietnam has a stated determination to integrate into the world economy, and has taken measures to achieve its target. Vietnam signed a Bilateral Trade Agreement (BTA) with the United States which came into force on December 10, 2001 and started applying for WTO membership in 1995.

The BTA commitments and WTO regulations require Vietnam to make a number of reforms that further encourage improvement in Vietnam's business environment, including streamlining and making transparent administrative procedures; removing the dual pricing system; to name a few.

In line with these requests Vietnam has implemented a wide-range of measures that are highly appreciated by the business community and have sparked significant economic growth.

Nevertheless, while many restrictions on trade and investment have been successfully removed in the recent past, others remain in effect. Industrial property (IP) matters still face some challenges.

Some examples where Vietnam should make changes to its laws and institutional capabilities to include elements required under the BTA and bring Vietnam more closely in line with the WTO's requirements follow.

Once implemented, the BTA required that Vietnam facilitate bilateral trade and investment relationships by providing non-discriminatory regimes in large fields of business activities.

In fact, reciprocity is a fundamental of every trade agreements, and the BTA is an example of this. In its main content and annexes, the BTA indicates reciprocity principles like the WTO requirements in many cases.

To some extent, the core of reciprocity principles are granting to each other MFN and NT. However, up to date, the establishment and maintenance of IP rights, as well as schedule of official State fees for conducting this work, are different for Vietnamese and foreign applicants.

The BTA and TRIPS Agreement also requested contracting countries provide adequate and effective protection and enforcement of IP rights.

Accordingly, parting countries, at a minimum, give effect to joining agreements and the substantive economic provision of other key International IP Conventions, such as the Paris Convention for the Protection of Industrial Property (1976); the Berne Convention for the Protection of Literary and Artistic Works (1971); the Convention for the Protection of Phonograms Against Unauthorized Duplication of their Phonograms (Geneva Convention) (1971); the Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite (Brussels Convention) (1974); the International Convention for the Protection of New Varieties of Plants (UPOV) (1978 or 1991).

Although our IP systems can be considered to be relatively compatible with those of the conventions, Vietnam is a member of only the Paris Convention. Continuing efforts to join other conventions has become a pressure.

In terms of IP protected objects, more objects should be provided with a legal regime or guided in detail for protection.

Vietnamese IP laws have no provisions which particularly stipulate the protection of well-known marks and appellation of champagne and wine. The regulations on geographical indications are being applied for all commodities including champagne and wine, which is far less detail than requirements of TRIPS.

The BTA and TRIPS both impel Vietnam to substantially enhance its legal framework and judicial procedures in order to improve the regime for IP right protection. Article 34 of the TRIPS Agreement states “if the subject matter of a patent is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process”.

However, the Ordinance on Procedures for Settlement of Civil Cases of Vietnam stipulated incompatibly that “Concerning parties are responsible for providing evidence to protect their own legitimate rights”.

Article 41.4 of TRIPS Agreement stipulated that “Parties to a proceeding shall have an opportunity for review by a judicial authority of final administrative decisions and, subject to jurisdictional provisions in a Member's law concerning the importance of a case, of at least the legal aspects of initial judicial decisions on the merits of a case”.

Article 11.4 of the BTA also stated “Each Party shall ensure that parties in a proceeding have an opportunity to have final administrative decisions reviewed by a judicial authority of that Party and, subject to jurisdictional provisions in its domestic laws concerning the importance of a case, to have reviewed at least the legal aspects of initial judicial decisions on the merits of a case”.

But according to the Law on Complaint and Denunciation, Decree 63/CP on industrial property and its amended Decree 06/2001/ND-CP, the MOST's decision on settlement of dispute cases shall be final and is not to be brought to any administrative court.

Vietnam also has no specific provisions guiding judicial procedures on the settlement of administrative cases regarding establishment, maintenance, revocation or cancellation trademarks in particular and in all IP objects in general.

Not only paying attention to IP owners, the BTA and TRIPS Agreement also give adequate and effective protection to victims of an abuse of enforcement procedures. Article 48.1 of TRIPS Agreement stated that “The judicial authorities shall have the authority to order a party at whose request measures were taken and who has abused enforcement procedures to provide to a party wrongfully enjoined or restrained adequate compensation for the injury suffered because of such abuse. The judicial authorities shall also have the authority to order the applicant to pay the defendant expenses, which may include appropriate attorney's fees”.

To date, Vietnam's national laws do not have compatible regulations. Another issue is that some commercial practices are not obligated to parties but become “common spirit”.

The “spirit” requires parties to spontaneously be more closely conformed with international trade norms and standards, and the “applicable rules of customary international law” in many realms of commercial relations.

Without the obedience of the common spirit, parties may not violate bilateral agreements or international laws, however close conformity is completely necessary when a party wants to express willingness to integrate to the world economy.

A keystone in this area is the transparency of laws, streamlining of administrative procedures and business facilitation.

Those terms seem to be too difficult to understand and even more complicated to clarify for every aspect of matters. But to some extent, the requests simply mean the availability of information resources.

All relevant information on required documents and procedures, pending applications and registrations should be published and any third party can be allowed to access it and record it.

A unified database and effective search engine to meet the needs of checking filed or registered IP objects must be available.

Communication between IP management with applicants/IP agents should be enhanced. Emails and other online transactions may be considered as official correspondence. An online filing system should be experimented with and then implemented. It is clearly in line with shortening time-consuming procedures as well as streamlining needed actions for businesses.

Those improvements at a glance are quite further demanding in terms of the commitments Vietnam has agreed to make.

However, as a latecomer to international trade negotiations, Vietnam has been required to meet standards that are higher than were demanded of other developing countries in the past.

Renovation may impose an adjustment burden on our systems but will also encourage improvement and prepare Vietnam for accession to the WTO.

The effective and timely implementation of the BTA by the Vietnamese Government will require a continuing and dedicated efforts, especially over the next few years, when Vietnam is trying its best to accede to the WTO.

These efforts will need to be focused not just on making changes in laws, regulations and administrative procedures, but also on improving the capacity to enforce and implement the new laws, which will require important and sustained institutional and human resource development in the judicial system, in the national and local state authorities, in the business sectors, and among key professions such as lawyers and economic experts.

Other documents

- On November 5, 2003, the Ministry of Science and Technology issued Circular 29/2003/TT-BKHCN, guiding the procedures for establishment of industrial property rights with respect to industrial design, and Circular 30/2003/TT-BKHCN, guiding the procedures for establishment of industrial property rights with respect to patents/ utility solutions.

Other Sectors

Taxation

- Circular 84/2003/TT-BTC dated August 28, 2003 of the Ministry of Finance (MOF) guiding the implementation of Value Added Tax in accordance with the list of import commodities.
- The MOF issued Circular 85/2003/TT-BTC on August 29, 2003 guiding the classification of goods under the List of Imports, Exports and the Tariff of Preferential Import, Export Duties.
- On August 27, 2003, the General Department of Taxation issued Dispatch 3133TCT/NV6 on applying the tax rate of 0% on export commodities paid by the third-party.
- On August 27, 2003, the General Department of Taxation issued Dispatch 3135TCT/CS on procedures for writing off outstanding tax obligations for liquidating enterprises.
- According to Decision 140/2003/QD-BTC issued by the MOF, since September 01, 2003, the General Department of Customs is entrusted by the NOF with the task of making decisions on tax exemption, reduction and refund of tax, price differentials to export, import commodities.
- On September 23, 2003, the Prime Minister issued Decision 197/2003/QD-TTg on piloting the implementation of self-declaration and payment of taxes applicable to business enterprises. *Subjects to the piloting are the enterprises paying VAT under deduction method and complying with accounting regime. Some enterprises in Hochiminh City and Quang Ninh shall be selected to the piloting from 1 January 2004, and the piloting shall be expanded in 2005.*

- On September 24, 2003, the MOF issued Decision 157/2003/QD-BTC adjusting duty tariff of some commodities belong to the group 2709 and 2710 of the Tariff of Preferential Import Duties.
- Interministerial Circular 94/2003/TTLT-BTC-BTM-BCA was jointly issued on October 8, 2003 by the MOF, the Ministry of Trade, and the Ministry of Public Security guiding the regime on use of vouchers, invoices of goods in circulation in the market.
- On October 9, 2003, the General Department of Taxation issued Dispatch 3617TCT/CS regulating preferential tax applicable to law offices and law partnership companies.
- On October 23, 2003, the Ministry of Finance issued Circular 99/2003/TT-BTC guiding the amendment of and supplementation to Circular 120/2002/TT-BTC dated December 30, 2002 on the printing, issuance, using and management of invoices. *The Deputy Head of the General Department of Taxation has issued the direction to the Heads of tax authorities to sort out in order to issue the invoices for all kind of enterprises such as: SOEs, FIEs, non-state enterprises operating in manufacturing or the enterprises having been in operation for a long time which always comply with tax regulations and the regulations on use and management of invoices.*
- The General Department of Taxation issued Dispatch 3854 TCT/AC on October 24, 2003 guiding for settlement of violations in use and management of invoices.

Banking

- *Residents in Vietnam are allowed to borrow foreign currencies of credit institutions. This permission is given under the State Bank of Vietnam's Decision 966/2003/QD-NHNN dated August 22, 2003.*
- On September 16, 2003, the Governor of the State Bank of Vietnam issued Decision 1085/2003/QD-NHNN amending and supplementing the Regulations on open market professional qualification issued with Decision 85/2000/QD-NHNN dated March 9, 2000 and Article 4.1 of Decision 1439/2001/QD-NHNN dated November 20, 2001.
- Under the Regulations on implementation of the rotation of interest rate issued by the Governor of the State Bank of Vietnam which was issued in conjunction with Decision 1133/2003/QD-NHNN dated September 30, 2003, since November 1, 2003, *the rotation of interest rate is allowed to be conducted in the following cases: (i) between banks and banks' borrowing enterprises, and (ii) between banks and credit institutions' borrowing enterprises.*
- The Governor of the State Bank of Vietnam issued Decision 1127/2003/QD-NHNN on September 29, 2003, on basic interest rate in Vietnam dong. Commencing from October 1, 2003, *the basic interest rate in Vietnam dong is 0.625% per month (7.50% per year).*
- On October 9, 2003, the Governor of the State Bank of Vietnam issued Decision 1216/2003/QD-NHNN promulgating the Regulations on operation of foreign currencies conversion booths. *This Decision replaces Decision 258/2000/QD-NHNN dated August 14, 2000 of the Governor of the State Bank of Vietnam.*

Import - Export

- The MOF issued Decision 145/2003/QD-BTC on September 12, 2003, on amendment of and supplementation to the Regulations on customs procedure on

export, import and changed border gate commodities issued together with Decision 53/2003/QD-BTC on April 16, 2003 of the Minister of Finance.

- The MOF issued Circular 91/2003/TT-BTC on September 25, 2003 guiding for stamping on imports.
- On October 8, 2003, the Ministry of Trade and the Ministry of Industry issued Interministerial Circular 07/2003/TTLT-BTM-BCN guiding the delivery and implementation of quota for textiles and garments exported to the US market in 2004.
- The MOF issued Circular 96/2003/TT-BTC on October 10, 2003 guiding the implementation of Government's Decree 102/2001/ND-CP dated September 31, 2001 detailing post-customs-clearance inspection towards imports and exports.
- The Ministry of Trade issued Dispatch 5042/TM-XNK on November 4, 2003 on notification of quota apportion for textiles and garments exported to the US market in 2004.
- Interministerial Circular 08/2003/TTLT-BTM-BCN dated October 28, 2003 was jointly issued by the Ministry of Trade and the Ministry of Industry guiding for the delivery and the implementation of the quota for textiles and garments exported to the EU, Canada and Turkey markets in 2004.
- Dispatch 5946/TCHQ-GSQL dated November 20, 2003, of the General Department of Customs guiding the customs procedures for import foodstuff.

Legal Practice

- On October 28, 2003, the Ministry of Justice issued Circular 04/2003/TT-BTP detailing the Government's Decree 65/2003/ND-CP dated June 11, 2003 on organization and operation of legal consulting services.
- On October 29, 2003, the Ministry of Justice issued Circular 06/2003/TT-BTP detailing the Government's Decree 87/2003/ND-CP dated July 22, 2003 on legal practice by foreign lawyer organizations and foreign lawyers in Vietnam.

Transportation

- On October 29, 2003, the Government issued Decree 125/2003/ND-CP on International multi-modal transportation. *This Decree regulates the operation of International multi-modal transportation of Vietnamese organizations, individuals, foreign organizations investing in Vietnam and foreign enterprises registering International multi-modal transportation business in accordance with Vietnamese Law.*
- The Prime Minister issued Decision 1195/2003/QD-TTg on November 4, 2003 approving the master plan for development of sea-transportation of Vietnam to 2010 and the orientation thereof to the year 2020.

Finance

- On September 15, 2003, the MOF issued Circular 87/2003/QD-BTC guiding the preferential policies on financial regime applicable to enterprises manufacturing passenger-cars having more than 25 seats.
- The MOF issued Circular 110/2003/TT-BTC on November 17, 2003, regulating the collection, payment and usage of botanical protection and quarantine fees and the management fees of insecticides.

Fee & Charges

- The Government issued Decree 160/2003/ND-CP on September 23, 2003 dealing with administrative violations in fee and charge sector.
- Circular 97/2003/TT-BTC dated October 13, 2003, of the MOF on amendment of and supplementation to Circular 03/2003/TT-BTC dated January 10, 2003 regulating the collection, payment and using management of appraisal/assessment fees and licensing fees for satisfaction of quality technical safety for machineries, equipments, materials and substances subject to restrict regulations on safety.

Insurance

- Decision 175/2003/QD-TTg issued by the Prime Minister on August 29, 2003 on approval of the strategy for the development of Vietnam insurance market from 2003 to 2010.
- On September 22, 2003, the MOF issued Decision 153/2003/QD-BTC issuing the system of criteria for supervising the operations of insurance enterprises.
- On October 13, 2003, the Government issued Decree 118/2003/ND-CP on sanctions against administrative violations in the sector of insurance business.

Foodstuff

- The State President Tran Duc Luong announced on August 19, 2003 the issuance of the Ordinance on Sanitary and Safety of Foods. *The Ordinance provides for responsibilities of organizations, business households, individuals and State organs in production, trading import and export of foodstuffs; conditions for foodstuff business; use of foodstuff additives etc.*

Environment

- The Ministry of National Resources and Environment issued Decision 04/2000/QD-BTNMT on August 21, 2003 promulgating the Regulations on organization and operation of appraisal council of environment impact assessment reports.

Electricity

- On September 03, 2003, the Government issued Decree 102/2003/ND-CP on effective and economic use of power. *In order to effectively deal with the wastage in power utilization, the fine of from 1 million to 10 million may be applicable, subject to the seriousness of violations.*

Health care

- The Government issued Decree 103/2003/ND-CP dated September 12, 2003 providing guidelines for the implementation of the Ordinance on Practising of Private Health Care and Medicine.
- The Ministry of Health issued Decision 5090/2003/QD-BYT on issuing the form of Certificate for circulation of chemicals, anti-virus and anti-insect insecticides used in household appliance and medical sector.

Post & Telecom

- According to Decision 217/2003/QD-TTg dated October 27, 2003 of the Prime Minister on the management of post & telecom service charges, *telecom enterprises must post the service charge tariff applicable to the users at the places of transaction or service. The announcement must be clear, accurate, sufficient and convenient for the accession of service users.*
- On October 30, 2003, the Ministry of Post & Telecommunications issued Decision 173/2003/QD-BBCVT on reduction of charges for inner city post-paid wireless telephone service.

Publication

- The Ministry of Cultural and Information issued Decision 53/2003/QD-BVHTT dated September 04, 2003 promulgating the Regulations on News-letter publishing.

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