MINISTRY OF PLANNING AND INVESTMENT
FOREIGN INVESTMENT AGENCY

OUTWARD DIRECT INVESTMENT OF VIETNAM

Workshop ““Sustainable Agricultural Investment of Vietnamese Businesses in the Mekong Sub-region”

Hanoi, February 17, 2017

[Please note that this is an unofficial translation and provided for reference only. Vietnamese presentation is an official version]
Legal basis for outward direct investment

- Law on Investment 2014 (Chapter V- Outward Investment);
- Law on Management and Utilization of State Capital invested in the Enterprise’s manufacturing and business activities (sectors related to outward investment);
- Decree No. 83/2015/ND-CP dated September 25th 2015 issued by Government regulating on outward investment;
- Decree No. 84/2015/ND-CP dated September 30th 2015 issued by Government on supervision and assessment of investment;
- Decree No. 91/2015/ND-CP dated October 13rd 2015 on state capital investment in enterprises, use and management of capital and assets in enterprises
- Decree on outward investment in oil and gas (drafted by Ministry of Industry and Trade and on process of review/evaluation by Ministry of Justice)
- Decree No. 135/2015/ND-CP dated 31st December 2015 issued by Government regulating the outward portfolio investments;
Legal basis for outward direct investment

- Circular No. 09/2015/TT-BKHDT dated October 23, 2015 issued by Ministry of Planning and Investment (MPI) promulgating forms on outward investment;
- Circular No. 12/2016/TT-NHNN dated June 29, 2016 issued by The State Bank of Vietnam guiding foreign exchange management for outward investment
Some new policies on outward investment

Law on Investment 2014 and Decree 83/2015/NĐ-CP dated 25/9/2015 of the Government on outward investment have important reforms in the publicity, transparency and simplification of administrative procedures related to outward investment, creating favorable conditions for businesses and investors:

1. Demonstrating freedom rights of investment and trading for businesses and investors:

   Law on Invetsment 2014 specifies the banned business lines (Article 6 of the Law on Investment). Besides, Article 59 of the Investment Law also specifies a number of some conditional business lines (banking, securities, insurance, science and technology). Additionally, enterprises have rights to trade and invest in areas which are not prohibited by law.

2. Authority to make decision on offshore investment policy

   The National Assembly (NA) shall make the decision on the outward investment policy in respect of the projects with outward investment capital of 20,000 billion VND or more; Projects which require application of a special mechanism or policy which should be decided by the National Assembly.

   The Prime Minister (PM) shall make the decision on the outward investment policy in respect of the projects in the banking, insurance, securities, press, broadcasting, television or telecommunications sector having outward investment capital of 400 billion VND or more (150 billion VND or more formerly); Investment projects not covered by above sectors and having outward investment capital of 800 billion VND or more (300 billion VND or more formerly).
Some new policies on outward investment

3. Abolish the verification procedures for certificate of foreign investment:
   According to previous regulations, the projects with outward capital investment of 15 billion VND or more have to carry out the verification procedures for certificate of foreign investment. But pursuant to the Investment Law 2014 and Decree 83/2015/ND-CP, this procedure only apply for projects which decided by The National Assembly and The Prime Minister by consulting with related ministries to report to NA and PM. For projects which invested under 800 billion VND and in non-conditional business lines shall not apply the verification procedure by consult with related Ministries, ministerial-level agencies and local authorities for certificate of foreign investment.

4. Expand the registration procedure and simplify administrative procedures:
   For projects which invested under 800 billion VND and in non-conditional business lines shall apply the registration procedure and in within a time-limit of fifteen (15) days.

   For the projects which required the decision on the outward investment policy by NA/PM, MPI shall grant the certificate of foreign investment within 3 days from the date of receipt of approval from NA/PM.
Some new policies on outward investment

5. **Simplify the procedures and formalize the dossiers**

The foreign investment registration application dossier has been simplified and clarified. Especially, Circular No. 09/2015/TT-BKHĐT dated October 23, 2015 issued by MPI promulgating forms on outward investment has detailed instructions for recording of the capital contribution schedule, project implementation schedule, certification on fulfillment of tax obligations by tax authorities,…

Besides, in order to accelerate the process of e-government as well as to create favorable conditions for investors in the process of implementing administrative procedures, the MPI has implemented national information system on foreign investment for internet-based investment registration actively and application process tracking transparently.
Some new policies on outward investment

6. Strengthen the autonomy and self-responsibility of the investor:
To strengthen the autonomy and self-responsibility of investors, the new Law on Investment (2014) stipulates investors are responsible for their efficient investment, the accuracy and truthfulness of the application for the certificate of foreign investment. Therefore, this regulations have enhanced the autonomy and self-responsibility of investors in the project’s implementation, especially, in the projects which use the state capital, thereby contributing to risk reducing by loss, waste or inefficient investment from state resources.

Conclusion, in comparison with previous regulations, the foreign investment has been simplified the procedure, narrowed down the scope of the projects which require the outward investment policy approval from PM and verification and consultation with related Ministries, ministerial-level agencies and local authorities for certificate of foreign investment.
VIETNAM OUTWARD INVESTMENT FACTS  
(CUMULATIVE TO JAN 2017)

- 1.188 projects invested in 70 countries and territories with registered capital investment of 21,395 billion USD.

- Majority destination markets are Laos (270 projects; 5,12 billion USD); Cambodia (191 projects; 2,89 billion USD), Russia, African countries, …

- Investment sectors: agro-forestry; communication, mining, medical service … There are strengths sectors of Vietnam for cooperation with Laos and Cambodia….

- Rubber plantation is majority proportion in agro-forestry investment in Laos and Cambodia. Up to now, Vietnam has had 72 projects in rubber plantation with 2,175 billion USD in total registered capital by Vietnamese investor. In general, these projects have good reviews from Laos and Cambodia Governments for high economic efficiency, labor and income creating for local people, infrastructure improvement and contribution for to economic growth and social security in the host country.
VIETNAM OUTWARD INVESTMENT FACTS

- The Vietnam Rubber Group (VRG) has invested 23 projects in Laos and Cambodia with a total registered area of 139,450 ha, of which 114,816 ha in Cambodia and 24,634 hectares in Laos. VRG has planted around 116,837 hectares rubber with implemented capital investment of 15.992 billion VND. There are around 12,876 ha rubber in exploitation period. In Cambodia, VRG has invested completely 02 rubber processing plants in Mang Yang Rubber Joint Stock Company - Ratanakiri and Tan Bien Rubber Company - Kampong Thom with a total capacity of 8,000 tons/year. In Laos, VRG has invested 01 rubber processing plant in Viet - Lao Rubber Joint Stock Company with a processing capacity of 13,000 tons/year which is in operation since 2013.

- In addition, some non-state enterprises have been invested in rubber plantation in Laos and Cambodia. Hoang Anh Gia Lai Group currently has 04 projects in Laos and Cambodia, with a registered area of 38,758 hectare, of which planted rubber area has reached 31,229 ha. Total area of planted rubber in Laos and Cambodia is 34,746 hectares (20,889 ha Laos, Cambodia 13,857 ha); Oil palm also was planted in area of 25,403 ha (7055 ha Laos, Cambodia 18,348 ha).

- In general, rubber plantation projects have good reviews from Laos and Cambodia Governments for high economic efficiency, labor and income creating for local people, infrastructure improvement and contribution for to economic growth and social security in the host country.
- **Economy:**
  
  + Record the growth of Vietnamese businesses in particular and Vietnam's economy in general.
  + Expand overseas markets, avoiding trade protectionism barriers
  + Promote foreign investment activities into Vietnam
  + Expand international economic cooperation, promote the Vietnam integration process into the world’s economy
  + Learn the management experience, access to science and technology in aboard.
Priorities areas:
- Maintaining the traditional markets: Laos, Cambodia, Russia ...
- Expansion into new markets: Latin America, Eastern Europe, Africa, ... and the market which is potential for promoting the exports and consumption of goods and services from Vietnam.

Priorities sectors:
- Energy, power generation, mining and mineral processing, industrial crops, agriculture and other strengths.
- The projects which fulfill the domestic demand on raw materials for production, exports of goods and services.
SOME BENEFITS AND CHALLENGES IN LAOS AND CAMBODIA INVESTMENT

1. Benefits:
- The traditional friendship and cooperation between the two countries has always been maintained and developed. The government of Laos, Cambodia spends priorities and create favorable conditions for Vietnam enterprises.
- The close geography among Vietnam, Laos and Cambodia is advantages for economic exchanges as well as transportation, import and export of goods, labor.
- Laos, Cambodia has a lot of potential of mining exploration, mineral processing, industrial crops, manufacturing, agro - forestry products which Vietnam enterprise can cooperate and invest.
- Some leading investment such as aviation, banking, telecommunications ... has operational efficiency, create favorable conditions for other projects.
SOME BENEFITS AND CHALLENGES IN LAOS AND CAMBODIA INVESTMENT

2. Challenges:

- The legal system relating to the investment in Laos, Cambodia is in the process of modification and improvement so there are many changes, inconsistent and difficult access (Bien Hoa Sugar Company).

- Policy enforcement effects by out-of-sync cooperation between the state bodies.

- Recently, the Cambodian Government has the sudden changes on economic land concession (ELCs) policy such as stop ELCs granting for investment projects in agriculture, forestry or change the time limit of the land allocation from 70 years, 90 years to 50 years for all projects, including already allocated projects (retrospective apply for the term of allocation or land lease). These changes challenge and affect the rights and legitimate interests of investors.

- The mining investment in Cambodia is high risk cause of concentration largely in the survey and exploration, while natural and social conditions in project’s areas are not favorable, the figures and data are incomplete, transportation infrastructure, electricity and water are not guaranteed.
2. Challenges:
- ELCs for Vietnamese enterprises is lower than Cambodian Government’s agreement.
- Land disputes with local residents in some cases;
- Local labor force are poor both in quantity and quality while Cambodian law limits the foreign/ Vietnamese labor quota within 10% (projects: 6,310 hectare plantation project Dau Tieng Rubber JSC – Kratie, Dak Lak Rubber Ltd; Phu An Real Estate Co., Ltd)
2. Challenges:
In general, enterprises are quite favorable at the initial investment stage but difficult in implementation stage with administrative procedures, land planning, lack of consistency in the applying of the policies between State and local authorities.

Joint action programs and policies on promoting the investment, trade and tourism are slow and non specific activities, so results are limited. The signed commitments and agreements have not been fostered by practical implementations. Preferential policies for foreign investment are still limited.
SOME RECOMMENDATIONS

1. Foster the cooperation on information exchange, relevant policies and institutions improvement, utilization of resources to form of stable and transparent investment and trade environment.

2. Suggest that the new Cambodian policies shall not apply the retrospective effect to granted projects for foreign investors, including Vietnam investors. These are severe impacts for investors’ rights and legitimate interests and be a subject for international litigations.

3. Joint build and implement the programs and plans on investment, trade and tourism. Specifically, sign the Protocal 2012 on revision and modification of Promotion and Protection of Investment Agreement and inform to Vietnam Ministry of Foreign Affairs for taking effect.
SOME RECOMMENDATIONS

4. Closer coordination in solving the difficulties and problems of enterprises; adopt the preferential and incentives policies to encourage investment in the socio-economic disadvantage and extremely disadvantage areas.

5. Accelerate the negotiation and conclusion and effective implementation of the Agreements, bilateral and multilateral agreements, and soon construct the new cooperation agreements to ensure the investment and business activities, and free the obstructions and difficulties for enterprises.

6. Simplify the procedures of cross border goods transports, agricultural products preservation, quality testing .... To contribute for reducing the costs of labor, transportation ...

7. Consider the Visa exemption for foreign workers who work for Vietnamese investment projects in Cambodia.
Thank you