

Investment in vietnam



GUIDEBOOK ON BUSINESS AND INVESTMENT IN VIETNAM BERLIN, 2011

FOREWORD Over the past two decades, Viet Nam's economy has been developing rapidly owing to its " Doi moi" (Renovation) policy and activeness to integrate itself into the global economy. With its enormous efforts and determination, and effective cooperation with international partners and friends worldwide, Viet Nam is taking firm steps towards industrialization and modernization.

With a stable political environment and great economic potentials, Viet Nam is an attractive destination for doing business and investment. The Government of Viet Nam has been ceaselessly endeavoring to improve the investment climate with the aim at creating an increasingly business-friendly environment in Viet Nam. Germany is the biggest economic partner of Viet Nam in Europe. The economic cooperation between the two countries has been fruitfully burgeoning.

In an effort to further strengthen the economic cooperation between Viet Nam and Germany, the Embassy of the Socialist Republic of Viet Nam in coordination with the relevant ministries of Viet Nam to publish the Guidebook on Business and Investment of Viet Nam, which is expected to provide German businesses with an overview of the Viet Nam's economy and its business and investment climate.

We are confident that German businesses can find helpful information and guidelines on investment and doing business in Viet Nam from the Guidebook, and thereby have a deeper understanding of the Viet Nam's economy, a dynamically emerging and reliable destination for international

investment flows. We deeply thank the Ministry of Foreign Affairs and the Ministry of Planning and Investment of Viet Nam for their kind support and assistance. We would like to express our sincere thanks to Dr.

Andreas Stoffers, Board Member of German Business Association Vietnam and Member Executive Committee Euroean Chamber of Commerce Vietman for reviewing this book. We also heartedly thank Marktforschung und Kommunikation GmbH for her great cooperation and excellent coordination in publishing the Guidebook. Dr. Do Hoa Binh Extraordinary and

Plenipotentiary Ambassador of the S. R. Viet Nam to the Federal Republic of Germany

2 ABBREVIATION ASEAN BCC BOM BOT BT BTO CEPT CIT CPC
DOLISA DPI EIAR EL EPC EPZ EU EZ FIC FOB GDP HTZ IL IZ JVC LTT LUR LURC
MFN MOIT MOLISA MONRE MOST MPI NOIP ODA PCT PIT PPP RO SBV TTC USD
VAT VCAD VND

W TO Association of Southeast Asian Nations Business co-operation contract

Board of Management of IZs, EPZs, HTZs and EZs Build-operate-transfer

(including its derivative forms, BTO and BT) Build-transfer Build-transfer-

operate Common Effective Preferential Tariff Scheme Corporate income tax

Civil Proceedings Code Provincial Department of Labour, War Invalids and

Social Affairs Provincial Department of Planning and Investment

Environmental impact assessment report Enterprise Law Environment

protection commitment Export processing zone European Union Economic

zone Foreign-invested company Free on board Gross Domestic Product

High-tech zone Investment Law Industrial zone Joint venture company Law

on Technology Transfer Land use rights Certificate of land use rights Most

Favoured Nation Ministry of Industry and Trade Ministry of Labour, War
 Invalids and Social Affairs Ministry of Natural Resources and Environment
 Ministry of Science and Technology Ministry of Planning and Investment
 National Office of Intellectual Property Official development assistance
 Patent Cooperation Treaty Personal income tax Public Private Partnership
 Representative Office State Bank of Vietnam Technology transfer contract
 United States of America dollar

Value-added tax Vietnam Competition Administration Department

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GLANCE I: KEY FACTS ? Official name: The Socialist Republic of Vietnam.

Capital: Hanoi. ? Largest city: Ho Chi Minh City. ? Administrative subdivisions:

58 provinces and 5 municipalities (Hanoi, Hai Phong, Da Nang, Ho Chi Minh

and Can Tho). ? Official language: Vietnamese. ? Location: In the center of

Southeast Asia, neighboring on China to the north, Laos and Cambodia to the

west, and the East Sea and Pacific Ocean to the East and South. ? Area: 331,

690 km². ? Coast line: 3, 260 km. ? Climate: tropical in south; monsoonal in

north with hot, rainy season (mid May to mid-September) and warm, dry

season (mid-October to mid-March). Population (2010): 86. 9 million, by area

(urban: 30% and rural: 70%) and by age (less than 15 years old: 24. 7%, 15 -

64 years old: 68. 5% and more than 65 years old: 6. 8%). ? Population

density: 262 people/km². ? Literacy: 93. 7%. ? Natural resource: Energy

resources (oil, gas, coal, hydropower and wind power); minerals (bauxite,

iron ore, lead, gold, precious stones, tin, chromate, anthracite, construction

materials, granite, marble, clay, white sand and graphite); sea and tropical

forestry resources and agricultural potential. ?

Currency: Vietnamese Dong (VND). ? Exchange rate (April 2011): 1 USD =

20, 725 VND. ? GDP (2010): 104. 7 billion USD. ? GDP per capita (2010): 1,

204 USD. ? GDP real growth rate (2010): 6. 78%. ? GDP by sector (2010):

Agriculture (20. 6%), Industry (41. 1%) and Service (38. 3%). ? Exports:

Crude oil, garments, shoes, marine products, electronic products and

components, furnitures, rice, coffee, rubber, tea, pepper. ? Major export

markets: USA, Japan, China, Australia, Singapore, Germany, South Korea, Malaysia, the Philippines, Netherland. ?

Imports: Machinery & equipment, petroleum products, pharmaceuticals, fertilizer, steel products, metal, textile, garment and shoe inputs, vehicles.

5 ? II: Major import markets: China, Japan, South Korea, Taiwan, Singapore, Thailand, USA, Malaysia, India, Germany. POLITICAL SYSTEM The current Constitution was adopted in 1992 and amended in 2001. It clearly indicates that the State is “ of the people, by the people and for the people”. The people access the State power through the National Assembly and People’s Councils, which are composed of elected representatives who represent the people’s will and aspirations.

The Constitution endows all citizens, men and women alike, with equal rights in all political, economic, cultural and social spheres as well as in family affairs, the right to and freedom of belief and religion and the right to choose and practice a religion, the right to and freedom of movement and residence in Vietnam, and the right to go abroad and return home as stipulated by laws. The National Assembly is the highest representative body of the people, endowed with the highest State power of the Socialist Republic of Vietnam.

It governs constitutional and legislative rights, decides fundamental domestic and foreign policies, socioeconomic tasks, and national defence and security issues, etc. It exercises the right to supreme supervision of all activities of the State. The State President is the Head of State, elected by the National Assembly from among its deputies to represent the Socialist

Republic of Vietnam in domestic and foreign affairs. The term of office of the President is the same as that of the Chairman of the National Assembly.

The Government is the executive body of the Socialist Republic of Vietnam. It has the same term of office as the National Assembly and administers the implementation of State affairs in the fields of politics, economics, culture, society, national defence and security and foreign relations. The government is headed by the Prime Minister and comprises Deputy Prime Ministers, Ministers and other government members. The Supreme People's Court is the judicial body of the Socialist Republic of Vietnam.

It supervises and directs the judicial work of local People's Courts, Military Tribunals, Special Tribunals and other tribunals, unless otherwise prescribed by the National Assembly at the establishment of such Tribunals. The Supreme People's Procuracy oversees the enforcement of the law and exercises the right to prosecution, and ensures serious and uniform implementation of the law. III: ECONOMY Since the Doi moi (reforms) were introduced in the mid-1980s, Vietnamese economy has changed rapidly.

Replacing the old centrally-planned economy, Vietnam has shifted to a new economic structure namely a socialist-oriented market economy, and has gained significant success. Today the aim of Vietnam is to become a basically industrialized country by 2020. 6 Overall achievements Vietnam embarked on Doi moi in 1986 and the country has seen many dramatic changes since. Over the last decade it has recorded an average GDP growth rate of 7.3 percent per annum, ranking it second in the region after China.

Its economy suffered from the 2008-09 economic crisis but recovered rapidly, with GDP growth rate of 6.78 percent in 2010.

ADB forecasts that the economy of Vietnam will increase by 6.1 and 6.7 percent in 2011 and 2012 respectively. Vietnam already became a lower middle income country with its GDP per capita of 1,204 USD in 2010. To a large extent, Vietnam has successfully transformed from a centrally-planned economy with heavy bureaucracy and subsidies to a socialist-oriented market economy characterized by strong dynamism and rapidly growing entrepreneurship. The country's economy has integrated deeply into the global and regional economies, bringing about a sharp rise in trade volumes as well as an influx of foreign investment.

The economy is well on the way to being a multi-sector model operating according to market mechanisms. The private sector has enjoyed very favourable conditions created by the Enterprise Law of 2000, which institutionalizes the freedom of all individuals to conduct business in areas not prohibited by law and removes a large number of administrative obstacles that hampered enterprises. With a view to raising the efficiency of the state-owned sector, the government has adopted assertive policy measures to reorganize the sector through equitization.

As a result, more than 3,970 state-owned enterprises were equitized by the end of 2010. GDP of Vietnam, 2000-2010

Year	GDP (billion USD)	GDP growth rate (%)
2000	120.9	8.0
2001	127.0	5.0
2002	134.0	5.5
2003	141.0	5.2
2004	148.0	5.0
2005	155.0	4.7
2006	162.0	4.5
2007	169.0	4.3
2008	176.0	4.1
2009	183.0	3.9
2010	190.0	3.8

Source: General Statistics Office

As Vietnam's GDP continuously increases the country's economic structure has also seen notable changes. From 1990 to 2010 the share of the agriculture sector reduced from 38.7 percent to 20. percent, while that of industry and construction increased from 22.7 percent in 1990 to 41.1 percent in 2010. The service sector remained relatively constant: 38.6 percent in 1990 and 38.3 percent in 2010. Agriculture still plays a critical role in Vietnam's socio-economic life since it generates about 57 percent of total employment and makes important contribution to the expansion of the country's foreign trade. Vietnam are among the leading countries in terms of agricultural exports such as rice, coffee, cashew nuts and aqua-products, etc.

Industry continues to grow rapidly in terms of gross output, at an average rate of 10-15 percent per annum. Besides state enterprises, foreign-invested and the private enterprises play an increasingly important role in industrial development and exports. Services are growing at an average rate of 7-8 percent. In 2010 the value added of service sector grew 7.52 percent with good performances being recorded in the trade, finance, and hotels and restaurant sub-sectors as consumption and tourism remained buoyant. Industry and services continue to increase their share in the economy.

This reflects market oriented reforms, a gradual reduction in barriers to competition and to private sector development, and improvements in physical infrastructure. Greater diversification in industrial production and services lays the foundation for further sustained growth in output and employment. VA growth rate by sector of Vietnam, 2000-2010

Year	2000	2001	2002	2003	2004	2005	2006	2007
12.0	10.0	8.0	6.0	4.0	2.0	0.0	0.0	0.0

2008 2009 2010 Year Agriculture Industry Source: General Statistics Office 8
Service International economic integration

Vietnam has made major steps forward in its commitments to regional and international economic integration. Following the introduction of Doi moi it signed an economic and trade cooperation agreement with the EU in 1995, joined ASEAN in 1995, adhered to CEPT/AFTA in 1996 and became an APEC member in 1998. The Bilateral Trade Agreement (BTA) with the United States was signed in 2000, which resulted in a dramatic increase in the trade volume between the two countries. Vietnam became the 150th member of the World Trade Organization on January 11, 2007.

Vietnam's commitments in the WTO increase market access for exports of goods and services of WTO's members and establish greater transparency in regulatory trade practices as well as a more level playing field between Vietnamese and foreign companies. Vietnam undertook commitments on goods (tariffs, quotas and ceilings on agricultural subsidies) and services (provisions of access to foreign service providers and related conditions), and to implement agreements on intellectual property (TRIPS), investment measures (TRIMS), customs valuation, technical barriers to trade, sanitary and phytosanitary measures, import licensing provisions, anti-dumping and countervailing measures, and rules of origin. At present, Viet Nam has established diplomatic relations with 172 countries and signed 55 bilateral investment agreements and 58 double taxation agreements with countries and territories including Germany. It has economic and trading relations with about 165 countries and territories. Vietnam holds membership in 63 international organizations and over 650 non-governmental organizations.

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The policy of “ multi-lateralization and diversification” in international relations has helped Vietnam to integrate more deeply into the global and regional economies and increase trade and investment ties with nations all over the world. More importantly, Vietnam has improved its enable business friendly environment over time. World Bank recognized that Vietnam is one of the 10 most-improved economies in ease of doing business in 2010.

Currently, its ranking is 78 and even higher than other Asia countries such as Indonesia, Philippines, China, India. Vietnam’s rankings according to various indices

Index	2011-2010 rank	2010-2009 rank
World Bank’s Ease of doing business	78/183	88/183
World Economic Forum’s Global competitiveness index	59/139	75/133
ATKEARNEY’ FDI confidence index	Note (*)	data for 2007 9

World Bank’s Ease of doing business 78/183 88/183 World Economic Forum’s

Global competitiveness index 59/139 75/133 12/top 20 12/top 25 (*)

ATKEARNEY’ FDI confidence index Note (*) data for 2007 9 International

trade Total export volume of Vietnam increased by 18 percent per year on average in the last decade and its import volume also did so by 19. 2 percent per year. In 2010 its total trade volume reached \$155. 6 billion (\$71. 6 billion of export and \$84 billion of import), equal to 149 percent of its GDP. Both the composition and quality of exports have improved significantly. The proportion of industrial products has risen considerably.

The five biggest export items include oil, textiles, footwear, seafood and wood products. Vietnam is in the early stage of the industrialisation and modernisation process and receives a large inflow of FDI therefore it relies largely on the imp orted equipment and materials. Trade relations with foreign countries, especially other countries in the region, have expanded over time. The biggest trading partners of Viet Nam include China, America, ASEAN, EU, Japan and South Korea. International trade of Vietnam, 2000-

2010 160 70 140 60 120 50 100 40 80 30 60 20 40 10 20 0 0 2000 2001
2002 2003 2004 2005 2006 2007 2008 2009 2010

Year Export Import Trade in goods as % GDP Source: General Statistics Office

10 Trade in goods as % GDP (percent) 180 80 Trade (billion US\$) 90 Top 10
export and import items of Vietnam, 2010 Garment Machinery & equipment
Footwear Steel products Seafood Petroleum products Crude oil Fabric
Electronic products Electronic products Furniture Vehicles Rice Plastics
Machinery & equipment Garment and shoe inputs Precious stone & metals
Metals Rubber Animal feed 0. 0 5. 0 10. 0 15. 0 0. 0 5. 0 10. 0 15. 0 Import
volume (billion USD) Export volume (billion USD) Export item Import item
Source: General Statistics Office

Foreign direct investment Since the introduction of the Law on Foreign
Investment in 1987, by the end of 2010, 12, 236 foreign investment projects
were licensed with total registered capital of \$193. 4 billion and total
disbursed capital of over \$61 billion. The investors from 92 countries and
territories have committed investments in Viet Nam. Most of them are from
Asia, Europe and America. Taiwan, Republic of Korea, Singapore, Japan and
Malaysia and are the top five countries and territories investing in Vietnam.
The next five countries and territories are British Virgin Islands, America,
Hongkong, Cayman Islands and Thailand.

These “ top ten” countries and territories account for over three quarters of
the total licensed projects and foreign registered capital in Viet Nam. Since
1996 there has been a tendency towards investment in producing goods for
export, infrastructure construction, producing import substitutes and in

labour intensive industries. There are more than 8, 327 projects in the manufacturing and processing, real estate and construction industries with a total capital of about US\$153, 5 billion, accounting for nearly 80% of the registered capital.

While there are foreign invested projects in all provinces and cities in Viet Nam, most investment has been in the key economic areas in the South including Ho Chi Minh City, Dong Nai, Binh Duong, Ba Ria, Vung Tau, and in the North including Hanoi, Hai Duong, Hai Phong and Quang Ninh. The foreign invested sector has increased rapidly, gradually asserting itself as a dynamic component of the economy, and has made an important contribution to enhancing the competitiveness and efficiency of the economy. In 20 10, the foreign invested sector has accounted for 21. 5% of the country's total investment, contributed 18. percent to GDP, 54. 2 percent to export volume (crude oil included), 44. 4 percent to industrial gross output and employed 1. 6 million persons. 11 FDI Inflow of Vietnam, 2000-2010

Project number	Registered capital	Service	10. 7% Telecom. & transportation	4. 1% Service	19. 2% Processing & manufacturing	48. 7% Agriculture	1. 6% Processing & manufacturing	59. 8% Agriculture	3. 9% Telecom. & transportation	7. 7% Real estate & construction	30. 8% Power, water, gas	2. 5% Mining	1. 5% Real estate & construction	8. 4% Power, water, gas	0. 5% Mining	0. 6%
2000	600	60	1400	1200	50	1000	40	800	30	600	20	400	10	200	0	0
2001																
2002																
2003																
2004																
2005																
2006																
2007																
2008																
2009																
2010																
Year																

Disbursement Total investment Note: Accumulated inflow of FDI by the end of 2010 Source: Ministry of Planning and Investment 12 No. of project 1800

70 FDI inflow (billion US\$) 80 Top 10 destinations and investors of Vietnam,
 2010 Top 10 FDI receiving provinces Top 10 investing countries and
 territories Ho Chi Minh City Chinese Taipei Ba Ria – Vung Tau Korea Republic
 Ha Noi Singapore Dong Nai Japan Binh Duong Malaysia Ha Tinh British Virgin
 Islands Phu Yen America Thanh Hoa Hong Kong Hai Phong Cayman Islands

Quang Nam Thailand 0. 0 10. 0 20. 0 30. 0 Total registered investment

(billion USD) 0. 0 5. 0 10. 0 15. 0 20. 0 25. 0 Total registered investment

(billion USD) Note: Accumulated inflow of FDI by the end of 2010 Source:

Ministry of Planning and Investment IV: INFRASTRUCTURE ? Road network:

- ? 171, 392 km country-wide. 2 North-South pivot routes: (i) the 1A National

Highway of 2, 260km in length from Lang Son to Ca Mau and (ii) the Ho Chi

Minh Highway of 3, 167km in length from Cao Bang to Ca Mau. Railway

network: - ? Total length of 2, 632 km. 278 stations country-wide. Hanoi – Ho

Chi Minh City line: 1, 726 km (it takes 29. hours for express train). – Linked to

China railways in two directions, one from Lao Cai province to Yunnan

province and one from Lang Son province to Kwangsi province of China. –

Planned to construct the railway lines connecting with Laos and Cambodia.

Inland waterway: – More than 2, 300 rivers and canals with total length of

198, 000 km. – Inland waterway system of 35, 386 km. 13 ? Sea ports: – – ?

Vietnam has 3, 260km coastline, a strategic position close to international

shipping routes and favored natural conditions of foundation, sea depth,

current, tidal, sedimentation and channels for developing seaport business. 7

national level sea ports, 23 provincial level sea ports and 9 offshore oil and

gas sea ports. Current major important ports include Cai Lan and Hai Phong

in the North, Da Nang and Quy Nhon in the Centre and Sai Gon and Cai Mep

in the South. Airports: – ? 8 international airports: Cam Ranh (Nha Trang), Cat Bi (Hai Phong), Da Nang (Da Nang), Lien Khuong (Lam Dong), Noi Bai (Ha Noi), Phu Bai (Hue), Tra Noc (Can Tho), Tan Son Nhat (Ho Chi Minh City). In 2010, Tan Son Nhat Airport received 15. 5 million passergers and Noi Bai airport did 9. 5 million passengers. 14 domestic airports: Buon Ma Thuot (Dac Lac), Ca Mau (Ca Mau), Chu Lai (Quang Nam), Co Ong (Ba Ria – Vung Tau), Dien Bien Phu (Dien Bien Phu), Dong Tac (Phu Yen), Dong Hoi (Quang Binh), Gia Lam (Ha Noi), Na San (Son La), Pleiku (Gia Lai), Phu Cat (Binh Dinh), Phu Quoc (Kien Giang), Rach Gia (Kien Giang), Vinh (Nghe An). Business development zones: – ? 3 high-tech zones (Hoa Lac, Da Nang and Ho Chi Minh City) with total area of 3, 509 ha of land. ? 260 industrial zones and export processing zones with total area of 71, 394 ha of land. 15 economic zones located along sea coast with total area of 638, 633 ha of land.

Energy: – Electricity output reached 92. 7 billion kWh. – Crude oil and gas exploited 23 million ton. – Coal exploited 44 million ton. Telecommunication: – 26. 8 million Internet users. – 153. 7 million mobile subscriptions. – 16. 4 million fixed phone subscriptions. 14 15 Vietnam rail network 16 National seaports of Vietnam No. Seaport Province Current capacity of ship (DWT) 1 Cam Pha Quang Ninh 50, 000 2 Hon Gai Quang Ninh 40, 000 3 Hai Phong Hai Phong 20, 000 4 Nghi Son Thanh Hoa 20, 000 5 Cua Lo Nghe An 10, 000 6 Vung Ang Ha Tinh 30, 000 7 Chan May Thua Thien Hue 30, 000 8 Da Nang Da Nang 30, 000 9 Dung Quat Quang Ngai 0, 000 10 Quy Nhon Binh Dinh 30, 000 11 Van Phong Khanh Hoa 50, 000 12 Nha Trang Khanh Hoa 20, 000 13 Ba Ngoi Khanh Hoa 30, 000 14 Ho Chi Minh City Ho Chi Minh City 30, 000 15

Vung Tau Ba Ria – Vung Tau 50, 000 16 Dong Nai Dong Nai 20, 000 17 Can Tho Can Tho 10, 000 Source: Decision 2190/QD-TTg dated 24/12/2009 17

Number and size of IPs and EPZs in Vietnam 300 71, 394 70, 000 60, 000 40, 000 150 26, 971 260 100 183 11, 830 50 50, 000 43, 687 200 300 1 2, 370 12 30, 000 20, 000 130 10, 000 65 0 1991 1995 2000 2005 2007 Year

Number of IPs Size (ha) Source: Ministry of Planning and Investment 18 2010

Size of IPs (ha) Number of IPs 250

Economic zones of Vietnam 19 SWOT Analysis of Vietnam Strengths

Weaknesses ? One of fastest growing economies ? Few skilled professionals in Asia with average GDP growth of available; 7. 2% per year over the last decade; ? High bureaucratic barriers; ? Stable political and social security; ? Weak infrastructure (power, ? Abundance of human resources transportation); (labour force of 46. 2 million people; ? Underdeveloped supporting young, motivated and educated industries. workforce; 60% of population under 35 years old); ? Competitive business and production costs (cost labor, industrial land rent, energy cost, telephone cost, marine transportation, taxation); ? Available mineral and natural resources (coal, oil & gas, iron ore, bauxite, rare earth,..); ? Central location in South East Asia, long distance coast. Opportunities Threats ? Global integration (ASEAN, APEC, WTO membership); one of the world's most open economies; ? High inflation; ? High trade deficit; ? Devaluation of VND; ? Higher demand for consumer goods and capital goods with better ? Banking and finance sector in infant stage; quality because of being a lower middle income country, aiming at ? Low national reserves. an industrialized country and ncreasing urban population; ? Export oriented and labour intensive industries; ?

Infrastructure (road, railway, seaport, airport, power) projects funded by international donors or foreign investors. 20 V: VIETNAM- GERMANY ECONOMIC RELATIONSHIP Trade Germany is the biggest trade partner of Vietnam in Europe. In 2010, despite the global economic downturn, bilateral trade reached nearly USD 6 billion, a substantial increase over the previous year. Total export value of Vietnam to Germany reached nearly USD 4 billion, accounting for 19% of total Vietnam's export to the EU while its import value from German amounted to USD 2 billion.

Vietnam's main export items to Germany are garments, footwear, coffees, furnitures, sea foods, leather and leather apparel, office machinery, iron, metal products, articles of plastics, ceramic products, crude rubber.

Germany is the second-largest market worldwide for robusta coffee and black pepper of Vietnam. Main import items from Germany to Vietnam include: machines (in mining, construction and civil engineering, textile, food and beverage,...), aircraft, units for electricity generation and distribution, passenger cars, chemical products, pharmaceutical products, measurement, control and regulation technology products, industrial plants, plastics, lifting and handling equipment, medical equipment and orthopedic appliances, engines, iron, metal products, electronic components... After WTO accession, Vietnam is becoming an emerging and lucrative market in Asia. As Vietnam is accelerating its industrialization process to become an "industrialized country" by 2020, the trend towards sophisticated production facilities is evident and it is likely to result in increased demand for hi-tech machinery made in Germany.

Investment There have been over 230 German companies operating and investing in Vietnam, including many Germany's leading groups such as Siemens, Deutsche Bank, Mercedes, Metro, Bosch etc. By the end of April 2011, German companies have invested in 163 projects with registered capital of USD 825 million in Vietnam. Three fourths of total investment projects and two thirds of investment capital of Germany mainly concentrate in manufacturing, processing, technique services, information and communication technology, banking and finance services.

Although German investment projects have been located in 26 locations in Vietnam, most of them have been implemented in Ho Chi Minh City, Hanoi, Binh Duong and Dong Nai. In the upcoming time, the active implementation of mega infrastructure development and energy projects partially funded by German ODA such as the metro line No. 2 Ben Thanh – An Suong in Ho Chi Minh City (with length of 11 km and total investment capital of USD 1.25 billion), O Mon IV thermo power, Phu Lac wind power, Vietnamese Green Line,... will have positive impacts on promoting German investment flow into Vietnam.

German foreign trade and investment promotion is well positioned in Vietnam. German companies and investors can access to supports and advices from AHK Vietnam, German Business Association (GBA), a correspondent of Germany Trade and Invest (GTAI) in Vietnam. 21 Development cooperation Vietnam is an important partner of Germany in development cooperation. As one of the biggest donors among the EU members, Germany has provided Vietnam with more than EUR 1 billion in ODA since 1990. During 2011 -

2012, Germany committed nearly EUR 300 million for Vietnam. This is a clear evidence for strong support by Germany to the development of Vietnam.

German-Vietnamese development cooperation focuses on the three priority areas: (i) Sustainable economic development and vocational training; (ii) Environmental policy, conservation and sustainable use of natural resources; (iii) Health. German development cooperation has been utilizing effectively and contributing positively to socio-economic development of Vietnam, especially in vocational training, human resource development, infrastructure, clean energy source. During the visit of German Chancellor Dr. Angela Merkel to Viet Nam in October 2011, Hanoi Declaration was signed by Prime Minister Nguyen Tan Dung and Chancellor Dr.

Angela Merkel. It is the start of the strategic partnership between Vietnam and Germany. Export and import between Vietnam and Germany, 2007-2010

Year	2007	2008	2009	2010
Export from Vietnam to Germany (USD million)	4000	3500	3000	2500
Import to Vietnam from Germany (USD million)	2000	1500	1000	500

Source: German Federal Statistical Office 22 German investment flow into Vietnam by sector, 2010 Registered capital Service, 10. 5 Agriculture, Telecom. & 5. 4 transportation 0. 4 Real estate & construction 1. 0 Project number Processing & manufacturing 53. 6 Processing & manufacturing 46. 7 Service, 34. 2 Agriculture 2. 0 Power, water & gas, 29. Telecom. & Mining, 0. 7 transportation Real estate & 10. 5 construction Power, water & gas, 2. 0 3. 9 Mining, 0. 0 Source: Ministry of Planning and Investment 23 LEGAL GUIDE FOR INVESTING AND DOING BUSINESS IN VIETNAM I: INVESTMENT REGULATIONS On 1 July 2006, the investment regime comprised of a unified Enterprise Law (“ EL”), which regulates <https://assignbuster.com/investment-in-vietnam/>

corporations, and a common Investment Law (“IL”), which regulates investment, came into effect. The promulgation of these two important legislations is considered a significant watershed for improvement of the legal environment on investment activities and corporate governance in Vietnam. . Overview To do business under the IL and EL, foreign investors are required to obtain investment certificates from an appropriate Licensing Authority. Under the IL, investors may invest in all sectors not prohibited by law. prohibited by law include: Areas ? Investment projects detrimental to national defence, security, and the public interest; ? Investment projects detrimental to historical and cultural traditions and the ethics or customs of Vietnam; ? Investment projects harming people’s health or destroying natural resources and the environment; and ?

Investment projects treating toxic waste imported to Vietnam and investment projects manufacturing toxic chemicals banned by international law. 2. Licensing Investors shall follow the licensing and registration steps depending on the size and the sector of the investment project. Investment Certification Process 24 Conditional sectors: Investment projects in conditional sectors shall satisfy certain conditions in order to be licensed. Conditional sectors include: ? Broadcasting and television; ? Production, publishing and distribution of cultural products; ?

Exploration and exploitation of minerals; ? Establishment of infrastructure for telecommunications network, transmission and provision of internet and telecommunications services; ? Establishment of public postal network and provision of postal services and express services; ? Construction and operation of river ports, sea ports, terminals and airports; ? Transportation of

goods and passengers by railway, airway, roadway and sea and inland waterways; ? Catching of aquaculture; ? Production of tobacco; ? Real estate business; ? Import, export and distribution business; Education and training; ? Hospitals and clinics; and ? Other investment sectors in international treaties of which Vietnam is a member and which restrict the opening of the market to foreign investors. Investment Registration: Foreign investment projects with a total invested capital of less than VND 300 billion (US\$ 15 million) and not falling in a conditional sector are subject to “ investment registration” and foreign investors of such projects shall carry out the procedures for investment registration in order to be granted an investment certificate.

The investment certificate also serves as the business registration of the corporate entity. Enterprises can subsequently register additional investment projects without the need to create a separate entity. The investor should submit application documents for investment registration to the Licensing Authority. The Licensing Authority shall check the documents and issue the investment certificate to the investors within 15 working days of receiving the valid application.

Investment Evaluation: Any investment project with a total invested capital of VND 300 billion (US\$ 15 million) or more or investment projects falling in conditional sectors shall undergo “ an investment evaluation” by the Licensing Authority and other relevant authorities. There are two different types of evaluation: ? evaluation for investment projects regardless of total invested capital falling into conditional sectors; and ? evaluation for

investment projects with total invested capital of VND300 billion or more that do not fall into conditional sectors.

For the evaluation of investment projects with total invested capital of VND 300 billion or more, along with the application documents, the applicant must also submit an “ economic – technical explanation” of the investment project to the Licensing Authority. This covers the economic – technical explanatory statement, 25 objectives, scale, location, investment capital, implementation schedule, land use needs, and technological and environmental solutions of the investment project.

For the evaluation of investment projects falling in conditional sectors, in addition to the application documents, the investor shall also demonstrate compliance with requirements specific to that conditional sector. When assessing the application documents, the Licensing Authority may liaise with other relevant Ministries and authorities in evaluating the proposed investment project. Items to be evaluated shall comprise: ? compliance with master planning/zoning for technical infrastructure, master planning/zoning for land use, master planning for construction, master planning for utilization of minerals and other natural resources; land use requirements; ? project implementation schedule; ? environmental solutions. The time-limit for evaluation of investment shall not exceed thirty (30) days from the date of receipt of a complete and valid file. In necessary cases, the above time -limit may be extended, but not beyond forty five (45) days. Applying for Construction License Filing for Investment Certificate Applying for the approval of Report on environment effects evaluation Agreement on land/building/office renting Evaluating preliminary technical design

Environmental protection ommitment Land/building/office renting contract

26 Projects subject to Projects subject to environmental protection

construction license commitment Investment Certificate

Projects subject to Report on environmental effects evaluation To-Do List for

Investors 3. Licensing Authority Licensing Authority 3. 1 The Board of

Management (“ BOM”) of industrial zones (“ IZs”), export processing zones (“

EPZs”), high-tech zones (“ HTZs”), and economic zones (“ EZs”) are

responsible for licensing foreign investments within their zones. 3 . 2

National important BOT projects and PPP projects are licensed by the

Ministry of Planning and Investment (“ MPI”). Oil and gas projects, credit

institutions, insurance projects and law firms are licensed by Ministry of

Trade and Industry, State Bank of Vietnam, Ministry of Finance and Ministry

of Justice respectively. 3 . 3 The Provincial People’s Committee is the

authority responsible for all other foreign investments. Licensing applications

shall be submitted to these bodies, who will consult with other relevant

governmental authorities (where so required) before issuing final approval. .

4 The Prime Minister will approve the following investment projects (unless

they are not included in the approved master plan): (a) The following

investment projects, irrespective of the source of investment capital and

scale of investment: - construction and commercial operation of airports; air

transportation; - construction and commercial operation of national sea

ports; - exploration, mining and processing of petroleum; exploration and

mining of minerals; - radio and television broadcasting; - commercial

operation of casinos; - production of cigarettes; - stablishment of university

training establishments; and 27 - establishment of IZs, EPZs, HTZs and EZs.

(b) The following investment projects, irrespective of the source of investment capital but with a total invested capital of VND 1, 500 billion or more in the following sectors: – business in electricity, processing of minerals, metallurgy; – construction of railway, road and internal waterway infrastructure; and – production and business of alcohol, beer; (c) The following projects with foreign-invested capital in the following sectors: – commercial operation of sea transportation; – onstruction of networks for and supply of postal and delivery, telecommunications and internet services, construction of wave transmission networks; – printing and distributing newspapers and printed matter, publishing; and – establishment of independent scientific research establishments.

4. Forms of Investment and Enterprise Under the “ Law on Investment” and the “ Law on Enterprises”

foreign investors may choose the following forms of investment in Viet Nam:

Investment forms: – Invest in business development; – Establish economic organizations (100% capital of foreign investors or joint venture); Purchase shares or contribute capital to participate in management of investment activities; – Invest in contractual forms of BBC, BO, BTO, BT, PPP; and – M of enterprises. While foreign investors are allowed to buy shares in many domestic companies without limitation, there are ownership limitations for certain companies listed on the Vietnam stock exchange and financial sectors. Foreign ownership cannot exceed 49 percent of listed companies and 30 percent of listed companies in the financial sector. Forms of enterprises: – Limited liability company (with one member or more than one member);