



Perception of the Business Environment January 2020

AmCham members have contributed significantly to the transformation and growth of Vietnam's economy for more than 25 years. As we begin this new decade, AmCham remains committed to working in partnership with the government to help improve business conditions that strengthen the private sector, ensure sustainable economic and social development, and promote prosperity here.

AmCham members have brought high-quality products and state-of-the-art technologies, services, and business practices to Vietnam. We have partnered with Vietnam to develop high-tech, innovative industries. We are committed to upholding Vietnam's labor and environment laws, and to being good corporate citizens. Our companies are leaders in promoting sustainability and innovation in Vietnam through global business practices that ensure responsible supply chains and combat climate change. We want to partner to develop infrastructure that ensures energy security and facilitates sustainable growth. We share an interest in developing a globally competitive workforce, creating quality jobs, and investing in the professional development of our Vietnamese team members. We will help find solutions to emerging concerns - such as air quality - in order to ensure a healthier, safer, cleaner and greener Vietnam.

Vietnam continues to be one of the fastest growing export markets for the United States and the United States remains the largest export market for Vietnam. With a growing trade imbalance, it is critical that our members encounter a level playing field in Vietnam and that barriers to trade and investment are eliminated.

DEVELOPING AN ENABLING REGULATORY ECOSYSTEM

Promoting a fair, transparent, predictable, and streamlined regulatory ecosystem that values innovation will help Vietnam continue to attract, retain and grow high-quality trade and investment, including by AmCham member companies.

Fair and Predictable Tax Policies: AmCham seeks fair, predictable tax policies aligned to global standards to attract and retain investment. Changes in tax policy, including retroactive applications, are among the biggest concerns of our member companies. We urge adoption of OECD guidelines on transfer pricing, as well as enabling advance pricing agreements to facilitate business planning. We also seek improvements in efficiency to reduce the compliance burden, include adherence to the 15-day period for simple audits. We request reforms of these and other policies on a national level to improve investor confidence and stimulate trade and investment.

Customs Modernization: We appreciate the efforts and progress of the General Department of Vietnam Customs and some local customs departments in initiatives to modernize customs and improve transparency and efficiency for Vietnam's importers and exporters. We encourage further progress to increase streamlining and transparency in customs clearance processes, including the flexibility to provide express delivery services. We welcome the U.S.-Vietnam Customs Mutual Assistance Agreement and look forward to its implementation. We encourage adoption of a more focused approach to target reviews of high-risk importers, rather than legitimate traders. AmCham also seeks to reduce uncertainty and misalignment during customs audits by greater implementation of advanced rulings. We believe greater efficiencies and compliance will be achieved if more companies know which items qualify for an advanced ruling; for example, classification, valuation and origin, and the procedure for doing so. Equally, AmCham appreciates the government's new initiative to make border gate customs officers the focal point for specialized inspections. However, we are concerned that the short time allowed for development of draft regulations could compromise the effectiveness and sustainability of the new scheme. The ongoing collaboration between the General Department of Vietnam Customs and USAID's Trade Facilitation program offers a means of addressing this and many of the business community's other outstanding customs issues.

Elimination of Technical Barriers to Trade: U.S. agricultural exports provide key inputs to Vietnam's growing apparel and furniture business, as well as supplying animal feed and safe, high-quality food and beverage products for Vietnamese consumers. Agricultural trade also helps balance the bilateral trade relationship. However, technical barriers to trade have created uncertainty and negatively impacted U.S. agricultural exports. We continue to urge Vietnam to eliminate technical barriers to trade through science-based standards consistent with international norms. Recent regulations on some agricultural imports - including grains imported from the United States - imposed a zero-tolerance policy, causing confusion and uncertainty, deterring companies from shipping to Vietnam, and negatively impacting the Vietnamese food-processing industry. AmCham recommends the establishment of a regular consultation process to address policies related to plant health concerns. Through this platform, Vietnam can identify best practices with industry assistance and apply science-based, internationally accepted industry protocols that will enable Vietnam to continue importing US wheat, soybeans, and corn.

Transparent and Timely Land Use Permitting: Our members' reduced ability to develop real estate impacts a broad range of stakeholders across all segments of the economy. Conflicting regulations on zoning, land use, and construction codes, as well as bureaucratic caution resulting from ongoing investigations, have brought many projects to a stand-still. This has deterred investors from developing high-quality projects that would bring innovation and generate economic growth opportunities to many parts of Vietnam.

UNLOCKING INNOVATION AND THE FULL POTENTIAL OF THE DIGITAL ECONOMY

Entrepreneurs have long been a major part of Vietnam's growth and development. It is the innovative spirit and foresight for change that has driven the growth and development of Vietnam's economy since relations renewed with the United States. The inventive spirit continues today, and is further amplified by the readiness for further innovation. Consider Vietnam's large, youthful population ready for new technologies; the high number of Internet users and smartphone apps usage - in both urban and rural areas; and the increase in software production and technology manufacturing. Vietnam and its people are poised to embrace the fourth industrial revolution (Industry 4.0).

With the digital revolution affecting every industry, several key factors will foster the innovation necessary to accelerate growth of Vietnam's digital economy. One of the more significant factors is market access by U.S. and other foreign enterprises that bring skills and technology to Vietnam. There are, however, several critical areas that currently create barriers to this potential growth engine and threaten to limit Vietnam's transition to Industry 4.0.

Free and Open Digital Economy: The digital economy is a major component of the digital revolution happening in Vietnam. Maintaining a free and open digital economy is key to maintaining Vietnam's competitiveness and promoting innovation. The digital economy significantly reduces costs, provides products and services to a broader range of consumers, and increases access to newer and bigger markets. And a big part of Vietnam's dynamism is the innovation that takes place on social media platforms.

We look forward to working with Vietnam's leadership as it pursues its digital economy goals and our companies stand ready to provide expertise as Vietnam develops rules on emerging technologies like e-payments, digital content services, artificial intelligence, and smart cities. Setting good policies that enable the use of mobile wallets and other electronic payment systems can help discourage the use of cash, facilitate more productive e-commerce, and reduce opportunities for corruption and fraud. Increasing digital literacy will also help all Vietnamese people, including many in the labor pool, to approach and accept innovations that allow them to adapt to changes in skills and the types of jobs necessary to support new ways of living and working.

Cybersecurity: The integrity of network cybersecurity is of critical importance to our members. The lack of digital standards, norms and certification, coupled with the risks of cyber threats, may stifle robust development of the corporate infrastructure necessary to accelerate the implementation of technologies necessary to support innovation and economic growth. Vietnam can achieve an open, innovative, and secure online environment that fosters commerce. Requirements under current law for data localization and local offices impose unnecessary burdens to service providers without corresponding benefits. AmCham seeks implementing guidance to reduce confusion and ease uncertainty.

Financial Services and Fintech: Growth in the financial services and fintech sectors will depend on implementation of a legal, regulatory and policy framework that facilitates investment and enables these sectors to continue contributing to Vietnam's financial inclusion and prosperity. For example, non-cash payments are critical to innovation, smart cities, and Industry 4.0. Those services and the supporting technology come from major foreign fintech companies currently operating and investing in Vietnam.

The introduction of foreign ownership limits to the fast-growing payments and fintech sector will significantly restrict the ability of Vietnamese fintech startups to raise institutional capital from foreign investors, which in turn would limit their ability to attract talent and render them less competitive versus their peers in the region. The current draft decree amending Decree 101 that imposes a foreign-ownership cap may drive out current innovation and prevent others from coming. Fintech services rely on the use of artificial intelligence and big data analytics - where foreign companies have led in the development of these technologies. Overall, such limits would make it very challenging for the sector to grow and we hope that the government will enable fintech services to contribute to technology, innovation, and financial inclusion in Vietnam.

DEVELOPING PHYSICAL INFRASTRUCTURE TO PROMOTE SUSTAINABLE GROWTH

AmCham members are eager to partner with Vietnam to develop infrastructure that integrates the country and promotes inclusive, sustainable growth. Currently, infrastructure is one of the key constraints limiting Vietnam's economic growth. Mobilizing the capital needed for infrastructure requires private sector participation which in turn requires market-based risk adjusted returns for investors. Our member companies need the government to establish a Public Private Partnership (PPP) that enables private investment in infrastructure projects. Sustainable growth in Vietnam depends on investments in port infrastructure, airport facilities, roads, and public transportation to support increased movement of people and goods in Vietnam

Clean, Reliable Energy: Energy security is essential to support and accelerate the process of sustainable industrialization and modernization of Vietnam. Today, the risk of power shortages is real and immediate, especially under extreme weather conditions and projections for predicted energy demands for socio-economic development in the next one to five years. AmCham members are eager to partner to provide the energy infrastructure Vietnam needs to provide energy security and promote clean energy and sustainable economic growth. The *Made in Vietnam Energy Plan 2.0* highlights these opportunities. Renewable energy sources, LNG developments and imports, a regulatory and permitting environment to attract private sector investments, as well as SME and off-grid investments, are among some of the key initiatives our members have raised to ensure that Vietnam's energy development meets the environmental, health, economic and geopolitical security goals of the country. Yet, with no backup plan and delayed electricity projects, the risk of energy shortages remains high. Renewable energy solutions are not only sustainable in Vietnam, but are also inexhaustible and non-polluting. Other opportunities, such imported LNG and domestic power plant developments by U.S. enterprises, are other ways to avoid imminent energy shortages to support continued growth and innovation.

Transportation and Logistics Infrastructure: Another key constraint on Vietnam's development is its transportation infrastructure. AmCham members welcome a more balanced approach to transportation infrastructure development that supports investment and economic growth throughout the country. Port and airport facilities should be convenient to population areas but not so close that they contribute to the growing traffic congestion challenges caused by urbanization trends. We encourage efforts to promote port decongestion and more efficient use of deep-water ports. AmCham members and other U.S. companies offer high-quality aviation technologies and services and are eager to participate in aviation infrastructure development, supported by the US-ASEAN Aviation Cooperation Partnership.

Smart Cities Infrastructure: Vietnam's major cities are rapidly urbanizing; smart and creative cities development approaches can help Vietnam leapfrog its development of modern sustainable cities. AmCham members are eager to support Vietnam develop its major urban areas into smart, creative cities and welcome more information about plans, including traffic management, flood and water resource management, and efforts to minimize air pollution. U.S. companies are global leaders in smart cities solutions, including intelligent transportation, emergency response, energy, e-government, cybersecurity, healthcare, education, and financial services.

Healthcare Infrastructure: AmCham members are global leaders in healthcare, pharmaceuticals, devices, and services. We want to partner with Vietnam to promote healthcare innovation to enable Vietnam to serve the healthcare needs of its citizens and attract medical tourism. We are concerned about new draft decrees that would severely restrict the ability of foreign medical practitioners to

provide medical services in Vietnam. We are hopeful Vietnam can continue to allow innovation and access to top medical care by participation of both domestic and foreign medical professionals. We also seek responsible, secure digital systems as Vietnam mandates the creation of a digital portal of pharmaceutical sales, including sensitive business data of hospitals, drug manufacturers, pharmacies and operators, as well as private patient data on medical conditions/diagnoses and drug treatment protocols used. AmCham urges the Ministry of Health and the Drug Administration of Vietnam to consider modifications to Directive 23 & Decision 540, to ensure rigorous privacy and security policies to protect the use and access of this sensitive and private data as part of the proposed Vietnam Pharmaceutical Portal (VPP). We also recommend that patient consent is obtained prior to the collection and use of the patient's medical records in the VPP, which under current law is entitled to high protection as a state secret. As Vietnam pursues digital collection and use of data, it is imperative that its use and storage have security and privacy measures in place to protect against improper and damaging uses.

Promoting Sustainability Through Corporate Practices: AmCham members prioritize sustainability through their business practices as well as their corporate social responsibility activities. Many of our member companies are investing in renewable energy to meet global commitments to combat climate change. Another example of industry-led sustainability initiatives includes the recent launch of a nationwide recycling program created and funded by beverage and packaging MNCs in Vietnam. These members of AmCham and other chambers have created and funded a comprehensive plan to reduce waste in Vietnam and create education and other tangible benefits for the people of Vietnam. This is just one example of the business community working for a sustainable future.

DEVELOPING A GLOBALLY COMPETITIVE WORKFORCE

Labor Laws Aligned with Regional and Global Standards: Labor laws represent one of the most influential factors in determining growth in productivity and wages, which has a direct impact on maintaining sustainable economic growth. AmCham welcomed the adoption of the revised Labor Code which contains significant changes and improvements, consistent with Vietnam's global trade commitments. There are, however, a number of areas of concern that the revised Labor Code failed to address. We call for the Government's support to clarify these issues in the implementing decrees. First, we suggest that the implementing decrees clearly provide the special situations for 300 hours annual overtime cap and confirm that enterprises will only need to notify, not to obtain approval from, the labor authority to have employees work for 300 overtime hours per year. Second, we suggest that the implementing decrees provide a streamlined new work permit application process for those foreign employees who have been working in Vietnam and have been granted work permits in Vietnam, even after the first renewal.

Talent Development and Increased Productivity through Education and Training: The expansion of the population and workforce in Vietnam over the past 25 years has been a major factor in stimulating economic growth and attracting investment to Vietnam. The foundation for improving the operational efficiency and competitiveness of Vietnamese-based businesses is workforce productivity. Numerous studies show that educational curricula in Vietnam are outdated, teachers overwhelmed and underpaid, and graduates lack the job-ready skills sought by the private sector. To continue attracting investment and to upgrade the skills of its workforce, the government should take further action to modernize and upgrade its national education system, particularly at the vocational and university levels. Modernizing education will ensure that Vietnam has a skilled workforce of managers, engineers, and manufacturing and construction technicians that can move

up the value chain as the economy grows. In addition, companies that are considering shifting production to Vietnam are looking closely to see if the workforce has the skills required for their business. Some of our member companies are educational organizations directly involved in academic reform efforts. Other member companies are active contributors to education and workforce development here in Vietnam, and continue to invest in their own employees' professional development.

INVESTING IN THE FUTURE

AmCham members together represent billions of dollars in foreign investment, tens of thousands of direct employees, hundreds of thousands of indirect employees, and a significant share of Vietnam's exports and tax revenues. We are committed to partnering with Vietnamese authorities to develop the regulatory ecosystem, physical infrastructure, and talent to promote sustainable economic growth and innovation, and to ensure that Vietnam is a leader in the digital economy.

As major investors here, American companies have an interest in Vietnam's continued success. AmCham will continue to work on lowering barriers to trade, to help the Vietnamese government make it easier to do business, and to create a high-standard, transparent, and stable business environment to ensure that our companies and investors have fair access to that opportunity.

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