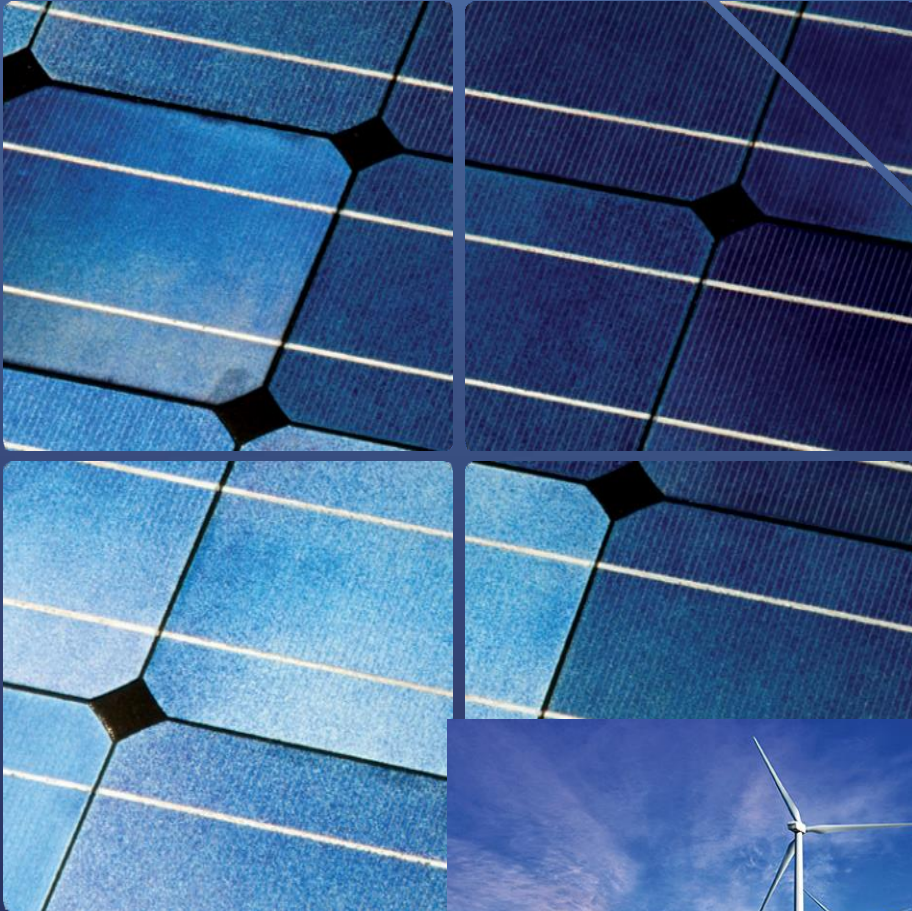


Legal Update Renewable Energy In Vietnam 2020

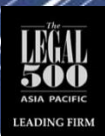
Investment Protection Treaties & ISDS as **SOLUTION FOR PPA & BANKABILITY RISKS**



Tuan A. PHUNG, Esq.

Managing Partner | **VCI LEGAL**

Secretary General Vice-Chairman | **VAFI Vietnam**



Copyright ©2013 Tuan Phung/VCI Legal. All rights reserved. This presentation and its contents are copyrighted under applicable Vietnamese laws and international laws. The content of the presentation in whole or in part shall not be used without authorization in writing of the Author. Any unauthorized used is subject to be penalized under applicable laws and regulations.

VCI LEGAL INTRODUCTION

- Business Law Firm providing “*In-house Counsel Service*”, specialized legal services for business and some **Key Practice Areas**
 - Corporations, M&A & Securities
 - Investment and restructuring
 - Banking, Finance & Capital Markets
 - Insurance
 - Real Estate & Construction
 - Petroleum, Mining & Energy
 - Infrastructure, Transport & Logistics
 - Trade Policy & Competition
 - Tax & Transfer Pricing
 - Labor, HR Management & Compliance
 - Alternative Dispute Resolution: Mediation, Arbitration



LOCAL INSIGHTS MEET INTERNATIONAL EXPERTISE

- A full service law firm with a seasoned team of multi-disciplinary professionals.
- in-depth understanding of the legal system, business environment, and cultural background in Vietnam.
- Offices: Hanoi & Ho Chi Minh City
- Professional staffs: 25
- Languages: *Vietnamese, English, Japanese, French, Chinese, Korean.*



INTERNATIONAL AWARDS



- **Legal500, Chambers & Partners, IFLR 1000, Asialaw Profiles** and Legalese's **Tax Director Handbook** (global legal directories & ranking agencies) and international professional magazines list VCI Legal among the top law firms in Vietnam for: *M&A, competition law, banking and corporate, insurance, taxation, intellectual property, investment,*
- **Acquisition International Magazine:**
 - *Vietnam Corporate Law Firm of the Year 2012-2014,*
 - *M&A Vietnam Law Firm of the Year 2013,*
 - *Real Estate Law Firm of the year 2012-2013*
- **ACQ Global Magazine:**
 - Vietnam Banking & Finance Law Firm of the Year 2012-2013
 - Vietnam Capital Markets Law Firm of the Year 2012-2013
 - Vietnam Corporate Law Firm of the Year 2012-2013
 - Vietnam M&A Law Firm of the Year 2012-2013
- **Finance Monthly – Law Firm of the Year 2011-2013**
- **Corporate LiveWire – M&A Vietnam Law Firm of the Year 2012-2013**
- **Asialaw- Highly Recommended Firm for the Year 2014**



Copyright ©2016– 2017 VCI Legal All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese and international laws. Contents of this Presentation, in whole or in part, could not be used without the authorization of the author in writing. Any unauthorized use is subject to be penalized under applicable laws and regulations

VIETNAM CORPORATE LAW FIRM OF THE YEAR

Awards

recommended as Vietnam Law Firm Of The Year for:

M&A Corporation, Competition, Banking and Finance, Insurance, Taxation, Intellectual Property, Dispute Resolution, Real Estate, Infrastructure, Energy & Mining, Insurance, Deal Making & Capital Markets by:

- Chambers & Partners,
- Legal 500
- IFLR 1000
- Asialaw
- Corporate INTL
- Acquisition International
- Deal Makers 2014
- Lawyer's World
- ICFM Leading Lawyers
- Financial Monthly
- Corporate LiveWire
- ACG Global
- International Fund Award
- Lawyer Monthly
- Legal Comprehensive



Copyright ©2016– 2017 VCI Legal All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese and international laws. Contents of this Presentation, in whole or in part, could not be used without the authorization of the author in writing. Any unauthorized use is subject to be penalized under applicable laws and regulations

SERVICES OVERVIEW | 1

■ Corporate, Finance, Tax and Litigation on the “In-house Counsel Services”[®] platform:

- Legal and Financial Advisory Services
- Project and Contract Negotiation
- Drafting & Translation
- Due Diligence
- Registration procedures
- State & Local Government Relations
- Regulatory Compliance
- In-house training & workshops
- Project Planning and Management
- Daily Operations



SERVICES OVERVIEW



- **Full-service business law firm:** firm with specialized business-oriented service packages:
 - Finance, Legal & Stock Market Engineering Service™;
 - Investment Structuring & Placement®;
 - Legal, Compliance & Risk Management Service®;
 - Intellectual Properties Strategic Management Service®;
 - IP Enforcement Service®.

LEGAL FRAMEWORKS

Wind energy:

- **Decision No.39/2018/QD-TTg** dated Sep 10, 2018, amending **Decision 37/2011/QD-TTg** dated June 29, 2011.
- MOIT Circular 02/2019 dated Jan 15, 2019 (“**Cir 02/2019**”)

Solar power:

- PM Dec 11/2017 amended by Dec 02/2019 encouraging solar power;
- Official Dispatch 5087/BCT-TCLN dated June 9, 2017 MOIT, guiding Decision No. 11/2017/QD-TTg;
- **Decision No. 13/2020/QD-TTg** Apr 06 2020 - encourage solar power development (“**Dec No.13**”);
- MOIT **Circular 18/2020/TT-BCT** (July 17, 2020) on project development and sample of Power Purchase Agreement of solar power projects.

Feed-in tariff (“FiT”) in Vietnam

■ FiT for WIND:

- PM Decision 37/2011, amended by Dec 39/2018
- Cir 02/2019 attached with standard PPA.

■ FiT for SOLAR:

- **Dec 13 2020** - newest regulation on FiT rates for each type of **grid-connected solar power projects** (*rooftop, floating, ground-mounted*)
- **Cir 18 Aug 2020**, replacing Circular 16/2017 & Cir 05/2019: guidance on grid-connected solar power projects: purchasing price, basic design documentation, area of land use & water surface. PPA's samples and regulates the responsibility of PPA parties
- **FiT** for renewable electricity regulated by the State is not determined according to the market mechanism – competition.

→ not accurately reflect the expectations of investors & not updated in reduced time - technology and cost of renewable energy.

FiT in Vietnam: **THE FACTS**

- **for Wind:** Dec 39/2018 FIT end by 10/2021

- On shore \$8,5 cent/kWh;
- Offshore \$9,8 cent/kWh for project with COD before 1/11/2021.

Due to the difficulties in wind power development investment, The MOIT proposed to extend the time to apply FiT to the end of 2023.

- **for SOLAR:** grid-connected solar project with COD from July 1, 2019 to Dec 31, 2020 were accepted with rates of **Dec 13/2020**

- VND1,943/kWh (**\$8.38** cents/kWh) for rooftop solar;
- VND1,783/kWh (**\$7.69** cents/kWh) for floating solar; and
- VND1,644/kWh (~**\$7.09** cents/kWh) ground-mounted solar.

FiT in Vietnam: THE FACTS

- There are 35 projects can meet Dec 13 terms, other asking for extension for grid congestion still exist
- Comments & supports from industrial associations, international consultative workshops
- EuroCham/GGSC/EREA/MOPI/VBF has offered 40 suggestions in 5 groups of solution to improve renewable energy policy, including:
 1. Licensing Issues;
 2. Financing issues;
 3. Pre-operation issues;
 4. PPA terms and issues; and
 5. Technology selection & investment cost.

However, only **SOME SUGGESTIONS HAVE BEEN APPLIED** so far

LEGAL FRAMEWORKS

- **RENEWABLE ENERGY DEVELOPMENT STRATEGY:**
 - **Decision 2068/QD-TTg 2015** on Vietnam's **renewable energy development strategy** by 2030 vision to 2050;
 - **Decision 1264/QD-TTg 2019** national power development master plan for 2021-2030 with vision towards 2045 lay down structures and vision of Master Plan 8.
- **WIND:**
 - PM Dec 37/2011 & amended by **Dec 39/2018** on **supporting regime for the development of wind power**;
 - MOIT **Cir 02/2019** regulations on development of wind power & sample PPA for wind power projects.

Current Obstacles for Solar & Wind

1. **Grid overload & congestion:** had been dealt with private & public investment (10% production cut vs 34% last year) but still exist: Ninh Thuan, Binh Thuan, Chau Doc etc
2. **Land & Licensing:** planning, clearance and resettlement, project implementation time is long and expensive → risks for investors
3. **Legal frameworks** for renewable energy is rather sketchy → investors & lender concerns
4. **Standard PPA:** doesn't change much from Decision 11 and Circular 16
5. **Direct PPA:** still doesn't apply
6. **FIT regime:** fixed rate for all technologies doesn't incentivize innovation.
7. **Offshore Wind development:** 2 challenges
 - **Marine Spatial Planning** not yet developed
 - **Offshore transmitting grid & storage system**



OVERLOAD GRID ISSUE

- Overload system due to lack of transmission:
 - investment in lines, transformer stations and national grid cannot be fast
 - Many transmission lines are not yet available they since need to go thru investment procedures and additional steps including planning - project planning - approval and deployed with a lot of time.
- Practical problem projection when overloading:
 - 1 IPP of 200 MW with 100 MW mobilized: 200MW - 50% capacity reduction = 100 MW
 - 10 IPPs with net capacity of 1,000 MW - 2,000 MW: with 100 MW mobilized ALL have to reduce capacity by 90% **each only has 10 MW left!**
 - 110 farms with installed capacity 5.482 MW (9,5%) BUT production only 4,3% total national capacity

8,700 MW of wind power has been approved and additional planning

Wind PPA & FIT

- As of 9/2020:
 - Out of 11,600 MW of wind power approved in the power development plan;
 - Nearly 470 MW of wind power has been put into operation;
 - 2,905 MW have signed a PPA;
 - 8,700MW of wind power has been approved but it may not be in operation before **1/11/2021** - the FiT deadline in accordance with Decision No. 39/2018/QD-TTg.
- It takes 18 – 24 months for wind farm constructions => **There is only 1 years left!**

CONNECTING GRID – OVERLOAD: solar rush → currently Ninh Thuan & Binh Thuan represent 250% national capacity

- LAND CLEARANCE: take very long with high cost & unclear timeline

OVERLOAD REASONS

- Large-scale solar projects are **far from load centers** → difficult to make the most of the local grid & increase **investment cost of connection**
- maximum number of hours of use is low, only 1/3 traditional electricity.
- → Solar connection essentially increases cost of transmission & distribution
- Masterplan 7 was approved in 2011 & adjusted in 2020 with the aim of reducing the portfolio of coal-sourced energy and increase the rate of renewables towards sustainable development → Still **rely heavily on traditional power sources** (hydro, thermal and gas).
- **MOIT has submitted the Master Plan 8 to the Prime Minister for approval. Plan of the renewable energy era: 55% coal - 30% hydropower & only 15% renewable & others by 2030.**

OVERLOAD REASONS 1

- After Cir 16 IPPs rushed to register for solar license → hundreds of projects registered: up to **17GW - \$20 billion**.
- Ninh Thuan & Binh Thuan Province currently have 38 solar & wind farms with 2.027 MW installed capacity → Dec 2020 will be **4.240 MW or 250% national renewable capacity or 8 times of solar** masterplan VII; but
 - National Grid in invested Areas still behind
 - Large-scale solar projects are often **far from load centers** → difficult to make the most of the local grid & increase **investment cost of connection**
 - maximum number of hours of use is low, only one-third of the traditional electricity.
- → Solar connection essentially increases cost of transmission & distribution

RECENT DEVELOPMENTS

- SOLAR & WIND PROJECTS commercially operational as of Sep 2020:
 - **92 Solar (~4.464 MW) & 10 wind** projects totaling ~ **6,000MW**
- **TRANSMISSION LINES**
 - PM approved 15 transmission line for 500-220kV lines, which may release 2,000MW BUT will complete in **2023-2024 only**.
 - Ninh Thuan and Binh Thuan:
 - most of the transmission line started from Q1 2019, others waiting for bidding or making feasible study. With 220kV and 500kV lines, most projects are scheduled to **operate in 2021-2025 period**.
 - Ninh Thuan DPI **calling for private investment in transmission line for 500kV and 220kV** (Trungnam 17km 500/200Kv line from Ninh Thuan to Binh Thuan)

RECENT TREND IN WIND POWER: GOING OFFSHORE

Thang Long project near Ke Ga Islet in Binh Thuan: UK Enterprize Energy Group plans to develop

- offshore wind power project of **3,400 MW - US\$12 bil** investment
- May become the **world's largest offshore wind power project**
- **average wind speed 9.5 m per second**
- contribute to increase the share of renewable energy to 15-20% by 2030
- proposes to invest **6 billion USD** into the transmission network to release capacity for this project

PNE of Germany wish to invest \$1.5bil offshore wind power park in Binh Dinh

Pacifico Energy propose several wind projects of 50 MW each & Hường Hóa solar in Quang Tri.

HBRE Hà Tĩnh plan to invest VND 4200 bil for 120MW wind project in Ky Anh

Chu Prong Gia Lai Wind co to develep Moutainous Wind Development & Tây Nguyên Processing Wind 50 MW each totalling VND 3600 bil.



The “UNBANKABILITY” & Other Issues of the PPA template for wind & solar

Major hurdle with the first draft MOIT circular on
PPA & private sector recommendations

MAJOR FUNDING CHALLENGES

- Government reached debt limit & unlikely provide guarantee on debt finance
- Local banks unfamiliar with renewable power sector & long term fund is limited
- Climate bond is unknown & untested with domestic capital market
- Domestic interest rate is high 8-10%

OBSTACLES FROM POLICY - PPA & FiT

- Unbankable PPA top concerns:
 - **legal risks:** local disputes settlement mechanism with MOIT - DoERE: No clear reference to international arbitration;
 - Lack of PPA key terms "**take or pay**" while 50%-90% capacity of projects subject to be cut due to overload.
 - EVN can almost **avoid the obligation to buy** electricity at will with only **low penalty**
 - Private investors are subject to **interest rate risk** if the project is delayed
- Potential **violation of investment protection treaties & Trade Agreement** Vietnam participated

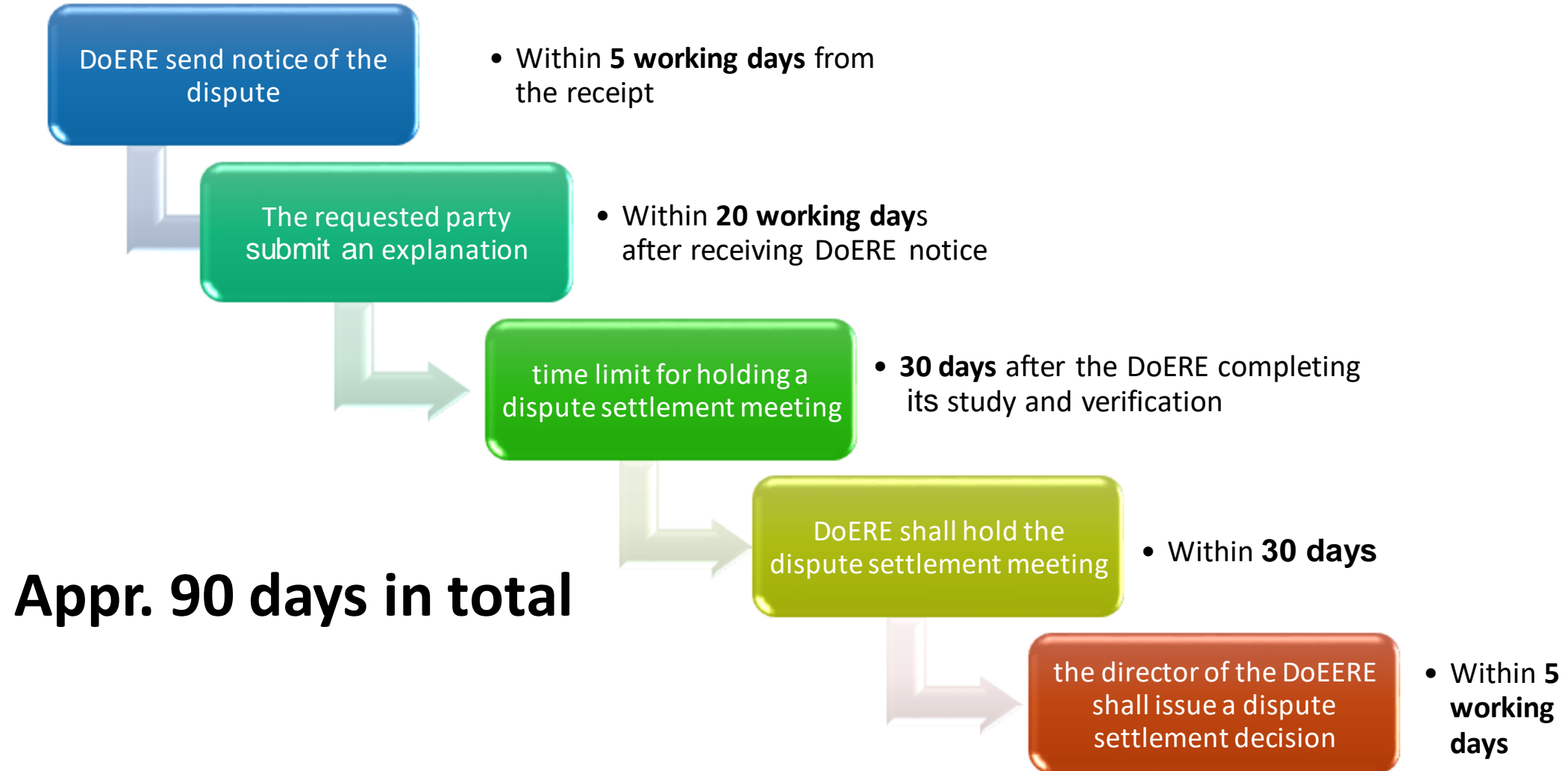
Dispute Settlement v Investment Protection

- DOERE General Directorate to settle disputes in Electricity
- Disputes settlement between PPA parties:
 - the PPA parties: must notify the other in writing
 - parties will negotiate dispute resolution in 60 days
 - payment disputes will be settled within 15 days from notice
- DOERE Dispute settlement: when it is impossible to reach agreement the PPA parties may request DoERE to settle the dispute.

DoERE dispute settlement procedures

- Within **5** working days after valid dossier submitted, DoERE shall send notice of the dispute;
- Within **20** working days after receiving DoERE notice, the requested party shall submit written explanation;
- The time limit for holding a dispute settlement meeting is **30 days** after the DoERE completing its study and verification.
- Within **30 days** DoERE shall hold the dispute settlement meeting with involved parties
- Within **5 working days** after a dispute settlement meeting, the director of the DoEERE shall issue a dispute settlement decision

DoERE dispute settlement procedures



Limits on EVN obligations in PPA template

With current PPA, if EVN doesn't purchase electricity → IPP ends up

- bearing the **risk of transmission or distribution interruptions**,
- which are beyond its control with **no time cap for interruptions**

Compensation:

- no clear provision for any **deemed commissioning or dispatch payments** or other payment if there is interruption
- Limitation of **termination compensation**: compensation for EVN's breach limits by the **value of Seller's actual power output** in the year before termination

Force Majeure – Dispute Settlement | PPA template - 1

1. No distinction between **political v natural force majeure**
→ Sellers have to bear **the risk of political force majeure**, events under State control (including changes in laws);
2. no **termination payment obligation** following a termination for prolonged force majeure events
3. **Inadequate dispute resolution mechanism**: does not provide for international arbitration

RECOMMENDED SOLUTIONS

FIT | PPA | DISPUTE SETTLEMENT & RISK MANAGEMENT



voted “Vietnam Corporate Law Firm of The Year” by



Copyright ©2016– 2017 VCI Legal All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese and international laws. Contents of this Presentation, in whole or in part, could not be used without the authorization of the author in writing. Any unauthorized use is subject to be penalized under applicable laws and regulations

4 GROUP OF SUGGESTIONS

1. Licensed Projects and Implementation
2. Key practical issues:
 - Licensing Issues
 - Financing issues
 - Pre-operation issues
 - PPA terms and issues
 - Technology selection & investment cost
3. Risk for Financing
4. M&A and Foreign Participation

Other problems with PPA format

Essential absences that harm the bankability:

- clear **escalation & indexation clause** of the FiT, e.g. reference to *CPI* or *exchange rate* USD/VND.
- **government guarantees** to the performance of EVN's contractual obligations
- clause addressing the issues of **change in law and/or tax regime**
- Un-bankable PPA & non-market price create difficulties for **Wind** projects:
 - licensed projects totalled 6 - 7 GW in capacity
 - only a handful (~400 MW) has negotiated PPA → End of 2019: 31-licensed wind farms with signed PPA but only 9 have commercial operations.

For Lender

Change in Law or Change in Tax

- PPA should explicitly state which party takes the **risk of the law or tax regime changing** after the PPA signed & diminish the economic returns of the transaction for such party (e.g. increase in taxes on power producers reducing the producer's returns).
- In order for PPAs to be bankable, most lenders require the **off-taker to take this risk**

SUGGESTION 1

Circular 18/2020 (Art. 6.3)

“the Buyer and Seller may supplement details of sample of PPA to clarify responsibilities and rights of parties. Supplemented details must be mutually agreed upon and not contradicting details of sample of PPA attached to this Circular.”

Suggested amendment *Parties*

- ***must purchase all solar power generated by the power seller***
- ***Apply a bankable international PPA template according to the power sellers on a project-by-project basis.”***
- ***Parties can amend/ supplement other provisions of the PPA template if they are requested by the power seller's lenders for the purpose of financing the project"***

AMENDING PPA & FiT

- The new applied PPA with more specific regulations & lower price for purchasing electricity opened a wider road for many solar power projects in Vietnam.
- Government should enact a renewable energy law, including FiT, to create mechanisms and playgrounds to accelerate investment
- Currently, many developers, draft EPC investment application, without clearly-defined legal framework and mechanism
- PPA standard should be adjusted.
- The Government only needs to improve the legal framework, FDI, international banks and private domestic capital will handle funding

AMENDING PPA & FiT

- National Grid is planned to upgrade to meet all capacity under masterplan 8:
 - Increase the electricity to 80,000MW, compared to the current of 60,000MW
 - Coal, gas and LNG electricity: increase by 30,000 MW
 - Wind + solar power: increase by 30,000 MW
 - Develop the power transmission grid (from the North to the South of Vietnam & vice versa)
 - Distribution by region, for example: 2020-2030 South and South Central region balance 80 GW, Central Highlands 18 GW
 - Rebalance the power source

RECENT TREND ON INVESTMENT IN SOLAR

- As of May 2020, there are 92 licensed solar projects and 260 projects pending approval.
- Vietnam's solar capacity could reach **8.9GW** in 2020, **10x** government target of 850MW by 2020.
- New solar tariffs **10-24% lower than the previous flat tariff** (US\$9.35c/kWh for all projects) & still uniform across the country (except for Ninh Thuan: \$0.935/kWh).
- Lower tariffs may attract more investment in the southern provinces, yet further pressure can be put on the overloaded grid.

Amending PPA & FIT modifications

- FIT to be set by project **size**; **technological sophistication** for turbine and **efficiency** in storage and grid adjustment
- Minimum FIT price combined with public bidding for supplying price between sellers & distributor **on weekly or daily basis**
- **Cost reduction** with turbine localization
- Cut down subsidization & increase environmental cost for fossil electricity

Find the 'market price' solution

1. It is likely that MoIT will accept D.PPA for large IPs, as these IPs are currently experiencing a shortage of power, and some IPs have to provide power to investors.
2. If D.PPA is approved for solar energy by the end of 2017, then 2019 can be piloted with Rooftop Solar system at around 10-30MW, then at 1.7.2019, it will begin to buy solar energy 100MW ++
3. MoIT encourages ESCo and RE, so it can accept ESCo for buy-sale Solar Energy
4. EVN approves the ESCo to participate in buy- sale solar energy for industrial zones at noon, due to EVN being overloaded and selling price to industry is lower than average price


Investment Protection & ISDS mechanism



Paradigm Change for Investor & Lenders

What's ISDS rules?

- ❑ EVFTA, CPTPP & other 65+ Trade & IPAs
- ❑ Investor State Dispute Settlement (ISDS) → Protect investors:
 - ✓ Freedom from **discrimination**;
 - ✓ Protection against **uncompensated expropriation** of property;
 - ✓ Protection against **denial of justice**;
 - ✓ Right to **transfer capital**.
- ❑ Economic sanctions:
 - “Danger” to the government/local law system?



ISDS terms can not make Governments of countries to change their laws but only to bear financial responsibilities

The awards may be appealed (under institutional arrangements)

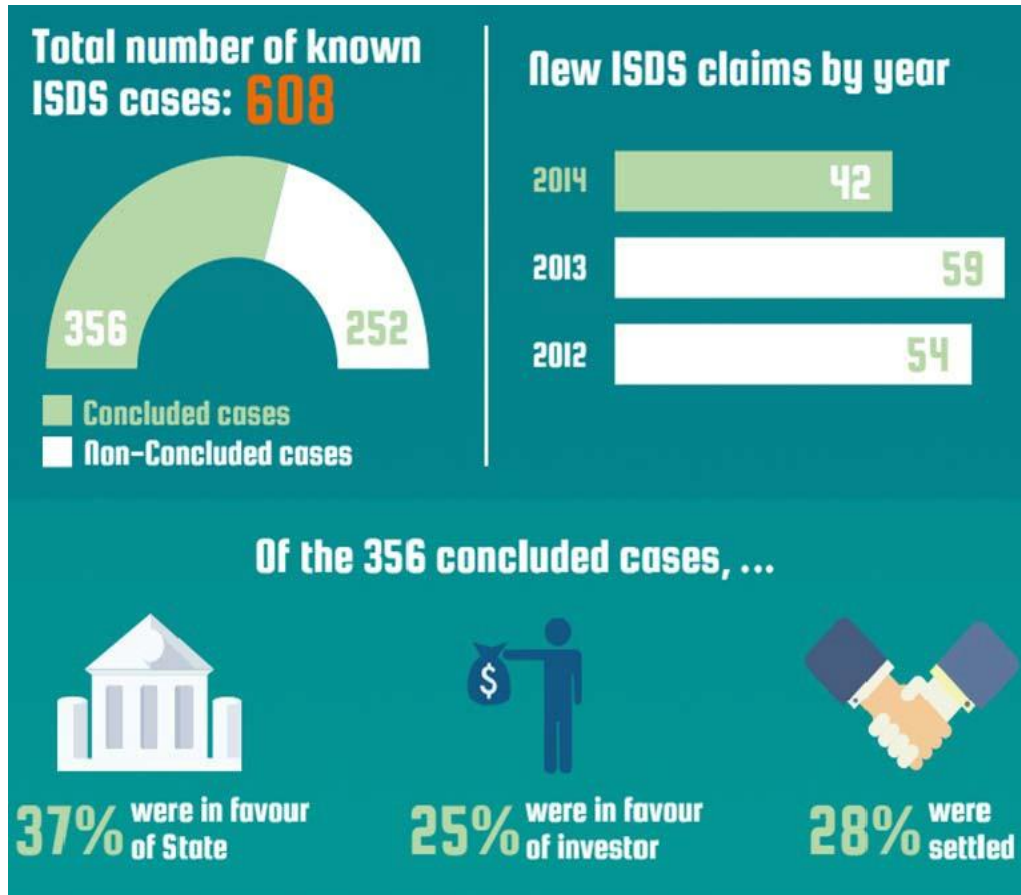
No arbitration proceedings initiated by a Government against a foreign investor or by a local investor against its Government under ISDS terms

In case of failure to abide by/comply with the awards by any party, a panel shall be established to determine such failure(s) to the TPP and the awards.

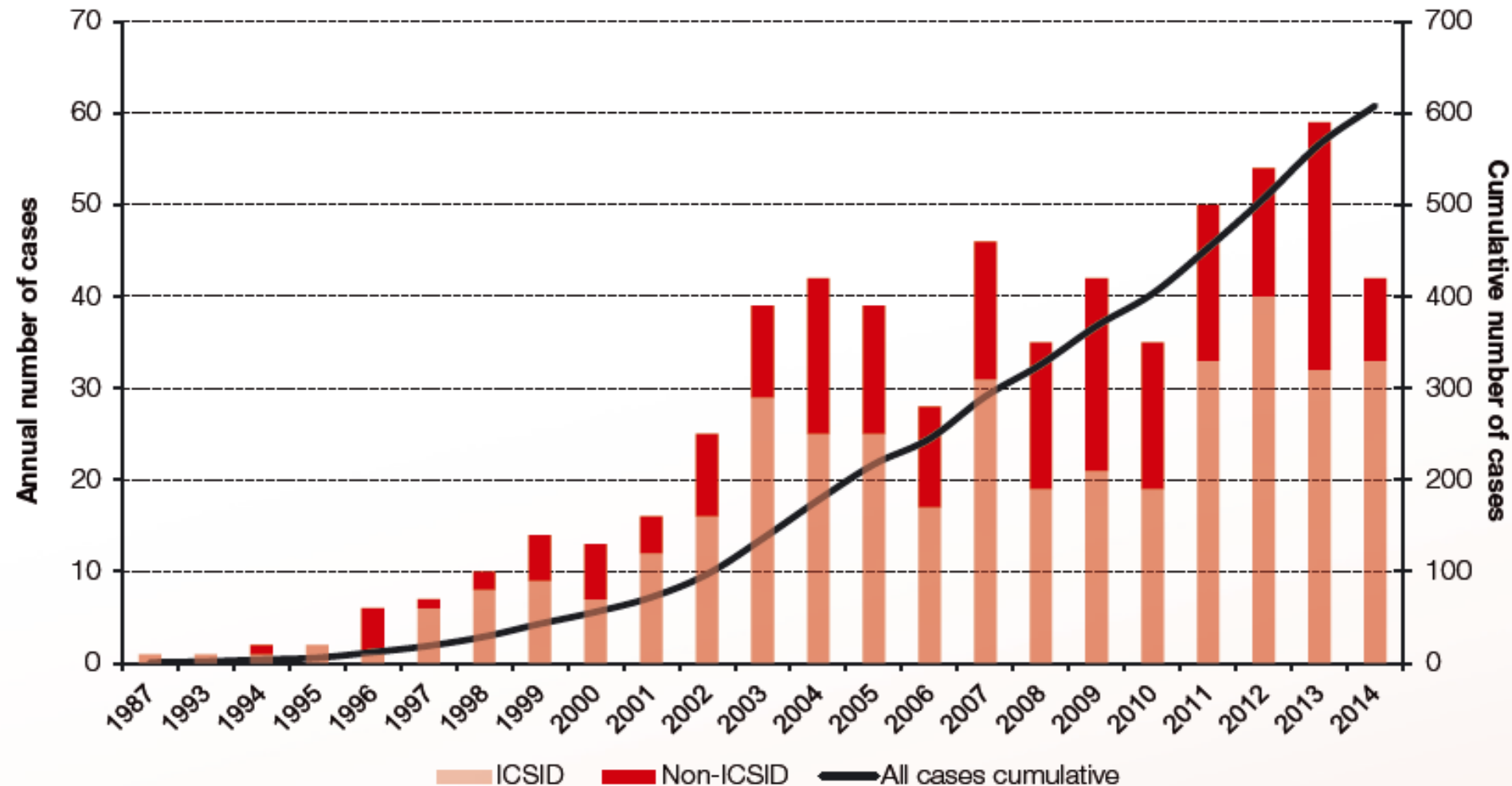
With ISDS terms, even in case it has not invested into a country, a foreign investor may initiate proceedings against relevant Government if it has incurred losses upon violations by such

KEYS ISDS TERMS

ISDS FACTS¹



- ? > 3,000 investment agreements over the world include ISDS provisions;
- ? An “**expensive**” mechanism: \$25.000 for each request for arbitration, \$10.000 for awards interpretation, revision/annulment;²
- ? 80% of ISDS claims come from **developed countries**: USA, Netherlands, UK, Germany, France, Canada, Italy, Spain, Switzerland, Turkey, etc.

Figure 1. Known ISDS cases, annual and cumulative (1987–2014)


Source: UNCTAD, ISDS database

Copyright ©2016– 2017 VCI Legal All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese and international laws. Contents of this Presentation, in whole or in part, could not be used without the authorization of the author in writing. Any unauthorized use is subject to be penalized under applicable laws and regulations

Copyright ©2014 | VCI Legal. All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese

VIEW OF SOME COUNTRIES

IN FAVOR:

- Attractive environment → foreign investment
- Push developing countries to higher levels of economic development

150\$
PLATFORM

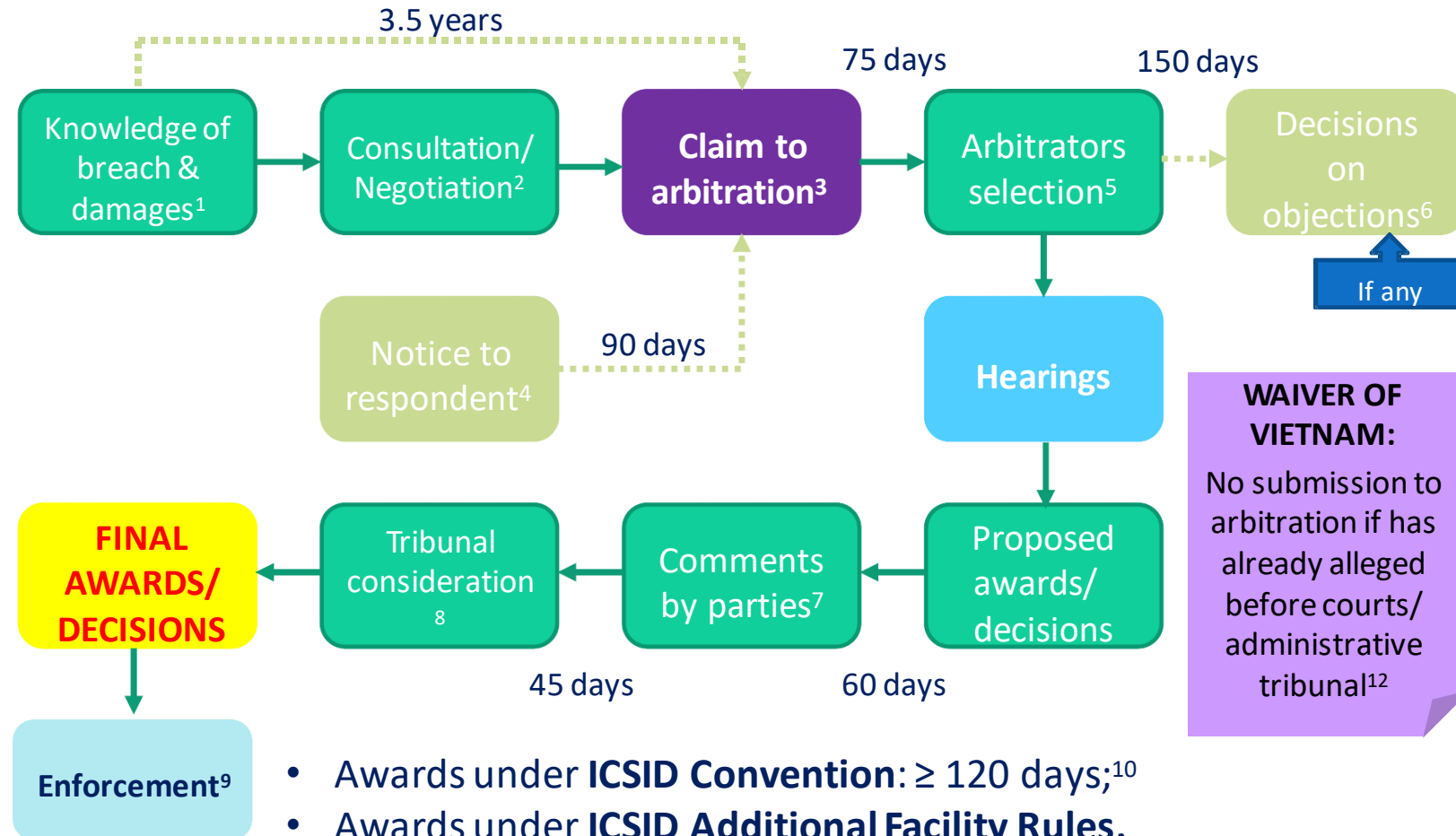
VIETNAM:

- mechanism to attract foreign investment & transparency
- But still “optimistic” since it’s a fact of life with trade agreement

OBJECTION:

- Lack of transparency (no courts)!
- Not yet appellate allowed → State jurisdiction set aside?
- Private interests stronger than public interests???

ISDS Procedures under CPTPP



WAIVER OF VIETNAM:
 No submission to arbitration if has already alleged before courts/ administrative tribunal¹²

- Awards under **ICSID Convention**: ≥ 120 days;¹⁰
- Awards under **ICSID Additional Facility Rules**,
- **UNCITRAL Arbitration Rules** or other as mutually agreed ≥ 90 days.¹¹

Copyright ©2016– 2017 VCI Legal All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese and international laws. Contents of this Presentation, in whole or in part, could not be used without the authorization of the author in writing. Any unauthorized use is subject to be penalized under applicable laws and regulations

ISDS as Ultimate Solution

- No clear dispute settlement mechanism applicable for energy projects with “foreign factor” BUT
- there is **always ISDS mechanism** under Trade & International Protection Treaties which Vietnam is a member
- Before the case is referred to arbitration/court there is an Dispute settlement process: **ISDS consultation & negotiation**
- **ISDS arbitration** are last and powerful tools that precedes local dispute settlement mechanism &

ISDS as Legal Guarantee

- The whole process of ISDS *consultation, mediation & arbitration* involve the **Central Government** not only the local agencies/ministries → settlement is more professional & expedient
- ISDS may helps to RETAIN foreign investment & build goodwill – reputation for Vietnam as a friendly destination of foreign investment
- ISDS should also consider a **legal gurantee replacing government & private guarantee** that IPP & lenders had been seeking and most of time can't get it Vietnam.

Dispute Resolution Works & Experience



SOME SELECTED MATTERS & CLIENTS

DISPUTE RESOLUTION PRACTICE

Clients & Experience*



VCI Legal Track of records in Investment Dispute

- VCI Legal is a premier firm with leading experience in Investment dispute settlement:
- so far Vietnam had 5 investment disputes (slide 38) while
- VCI Legal currently representing & advising 3 clients on investment disputes (US, Malaysia and European
- We're working with a potential client from S. Korea about another ISDS matter

VCI Legal Track of records in Investment Dispute

- Type of disputes handling by VCI Legal team
- Importation & distribution rights
- Custom tariffs & Taxation
- Investment license
- Real Estate & Land allocation matters
- Smuggling & criminal liabilities for legal entities
- Diplomatic relation in trade & investment disputes

Contentious Advisory Experience

□ Advise clients on:

- **product liabilities matter** of a major tobacco products manufacturer .
- in defending an electronics products company against **allegations of tax evasion** by the customs authorities.
- in a dispute over a multi-million US dollar hotel **management contract** between a world leading Hospitality Company with a local company.
- the MOIT's Drafting Team of the **Law on Consumer Protection** of Vietnam, funded by Star Vietnam (USAID)
- **Tax disputes** between foreign telecom contractors and Gen. Tax Department
- Anti-trust and anti dumping dispute on the export of local products

Litigation experiences

- ❑ Representing leading local and international corporations
 - in defending against allegations of the **abuse of market dominance** in the premium beer market Vietnam.
 - in the settlement of a **labor dispute, administrative case** before the Hanoi Court, before the Ministry's Inspection Department in a **copyright and related IPRs** matter.
 - recover successfully a large amount of money in a **fraud transferring** to a commercial bank in Vietnam.
 - dispute over a Share Purchase Agreement, involving a multi-million US dollar share purchase agreement
 - numerous labor disputes in Hung Yen, Hanoi, Binh Duong, Dong Nai and Ho Chi Minh City;
 - numerous shareholders disputes on the nation-wide market.

Frequent **COMMERCIAL DISPUTES**

- US\$ 25 mil. Shareholders dispute & real estate matter in Nha Trang;
- **Proxy investment, risk management, compliance and mal practice liabilities** for Securities firms in HCMC & Hanoi;
- **Contractual disputes in cross-border transactions** between Vietnam, Kazakhstan & India;
- **Carriers & customers disputes** in HCMC & Hanoi, etc.
- Disputes on P&I terms & compensation between carriers, insurer and customers

Trail-blazing Cases

- Successfully negotiate and settled amicably a **US\$ 100 mils. transactional dispute** between a top-5 bank & investment fund in Vietnam on **guarantee and payment liabilities**: first of its kind
- Represented developer in **US\$ 200 mils. repo transaction dispute** with a top financial corporation in a first-of-its-kind case;
- Acted a expert witness and advisor for a US law firm in a lawsuit involve **recognition of foreign court judgments in Vietnam and Vietnam court judgments in the US**;
- Advise and act on behalf of board members of top-5 bank in a unprecedented case involve in **proxy investment, crossholding equity ownership and foreign exchange control**;
- Advise & represent local banks and clients in **cross border frauds and US financial fraud charges**;
- Involve and advise in dispute of **US\$ 650 mil. investment protection lawsuit** Vietnamese Government vs. US/offshore entities
- **Foreclosure of Vietnam fishing ships** in by foreign court and authorities under international maritime regulations

Dispute Resolution Team



James Okuley J.D.
US attorney &
arbitrator



Tuan A. Phung Esq.
Managing Partner



Son Nguyen Esq.
*Director/ Banking &
Corporate*



Nga T. P. Nguyen
Senior Paralegal | Hanoi



Thien H. Le
Paralegal



Ngan T. H. Ho
Paralegal



Loi D. Truong
Senior Consultant

MANAGEMENT TEAM



Tuan A. Phung, Esq.

Managing Partner | *Corporate & Banking, DRP*



Kent Wong, Esq.

Partner | *Head of Banking & Capital Markets*



Le Trong Nhi

Managing Director | *Banking & Capital Markets*



Dung A. Pham

CFO | *Banking & Capital Markets*

MORE QUESTIONS?

LOCAL INSIGHTS MEET INTERNATIONAL EXPERTISE



Tuan A. PHUNG, *Esq.* *Managing Partner*

Website: www.vci-legal.com

Email: tuanphung@vci-legal.com

Cell: (84) 908 168 275

Tel.: (84) 38 8272 029 Fax: (84) 38 8 234 43

Ho Chi Minh City:

Suite 42OT06, 42F, Park 7, Vinhomes
Central Park, 720A Dien Bien Phu
St., Ward 22, Binh Thanh District,
Ho Chi Minh City, Vietnam

Hanoi:

Suite 501, North Asia Tower
9 Dao Duy Anh Street
Dong Da District, Hanoi, Vietnam



Copyright ©2016– 2017 VCI Legal All right reserved. This presentation and its contents are copyrighted under applicable Vietnamese and international laws. Contents of this Presentation, in whole or in part, could not be used without the authorization of the author in writing. Any unauthorized use is subject to be penalized under applicable laws and regulations

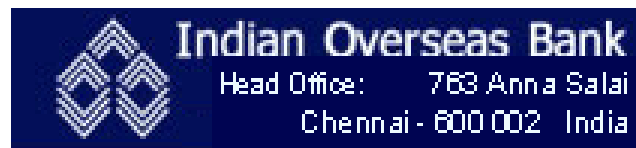
Typical Clients & Experience*

Renewable Energy



Typical Clients & Experience*

Financial Services



* The logo and trademarks belong to our clients and its legitimate owners, our listing them here is for information purpose only. These show the our lawyer's experience in working with these companies and yet provide **no endorsement** or implication on VCI Legal service. While VCI Legal is proud to report these reputable companies in its clientele, all goodwill associated with these logos and devices solely belong to their lawful owners

ietnamese and
1 writing. Any

Typical Clients & Experience*

Technology – Petroleum – Heavy Industry



* The logo and trademarks are belong to our clients and its legitimate owners, our listing them here is for information purpose only. These show the our lawyer's experience in working with these companies and yet provide **no endorsement** or implication on VCI Legal service. While VCI Legal is proud to report these reputable companies in its clientele, all goodwill associated with these logos and devices solely belong to their lawful owners

ietnamese and
1 writing. Any

RM OF THE YEAR

Healthcare & Nutritious Product



Typical Clients & Experience*

FMCG & Logistics



SONY



KENAS[®]
PACIFIC | FURNITURE



NEW WORLD HOTEL SAIGON
HO CHI MINH CITY



THAI THINH CAPITAL



Fun Characters International
Marketing Licensee of The Walt Disney Company



Typical Clients & Experience*

Real Estate & Construction



REAL ESTATE PRACTICE GROUP

* The logo and trademarks are belong to our clients and its legitimate owners, our listing them here is for information purpose only. These show the our lawyer's experience in working with these companies and yet provide **no endorsement** or implication on VCI Legal service. While VCI Legal is proud to report these reputable companies in its clientele, all goodwill associated with these logos and devices solely belong to their lawful owners

Vietnamese and
in writing. Any

THANK YOU!

Q&A