



November 30, 2012

Respectfully to: **Minister of Justice**

Copy to: Prime Minister
President
Chairman of the National Assembly
Minister of Planning & Investment
Minister of Industry and Trade
Ministry of Foreign Affairs
Ambassador of the United States
Consul General of the United States
Chairman, Vietnam Chamber of Commerce and Industry

Dear Mr. Minister:

RE: Amended Law on Lawyers

We send greetings on behalf of the 700 companies of the American Chamber of Commerce. AmCham has been contributing to Vietnam's development since 1994. Our members have invested billions of dollars in Vietnam across many industry sectors, and have been largely responsible for much of the rapidly growing bilateral trade, which will likely reach \$24.5 billion this year, not to mention exports to global markets of higher value-added products from "modern manufacturing" U.S. FDI that has recently come to Vietnam.

We raise an issue that our members find of great concern.

We refer to language contained in the Law on Lawyers, which has recently been enacted by the National Assembly. We refer particularly to *Article 70.2.(c) Scope of professional practice by foreign lawyer practicing organizations*. In this language, foreign law firms practicing law in Vietnam would not be permitted to "provide notarization and legal document services relating to Vietnamese law". This is a new restriction on the scope of practice of foreign law firms as compared to the current Lawyer Law (2006).

If this language is only intended to preclude foreign law firms from being involved in certification and notarization of formal documents such as house and land titles, then we have no objection. If, on the other hand, this language is interpreted to preclude foreign law firms from engaging in work connected with preparation, drafting and drawing up of legal documents touching on Vietnamese law and including commercial contracts and business charters, even with the participation of Vietnamese qualified lawyers working for such foreign law firms, then our members are alarmed at the repercussions of such an interpretation.

We urge the Government of Vietnam to officially confirm that Vietnamese lawyers can continue to write commercial contracts and business charters, even if they work for foreign firms.

We believe that a restrictive interpretation would be totally contrary to the spirit and letter of Vietnam's WTO accession. However, the purpose of this letter is not to argue legal issues.

If the implementing regulations for the amendments are applied restrictively, it would stand out as a step backward at a time when other Asian countries are further opening their legal services market to enhance their competitiveness. It will threaten the long-standing role of foreign law firms in Vietnam. Many of these firms have been long-time supporters of the development of Vietnam and have made vast contributions to the development of Vietnamese law and Vietnam's economy. Many foreign lawyers have been mentors of Vietnamese lawyers and as such have contributed greatly to the development of the Vietnamese legal community.

After many years of an open market for legal services, after the very positive contribution that foreign law firms have made to Vietnam's integration and legal development, after the positive contribution that foreign law firms make every day to the Vietnamese investment environment, we believe that adopting this interpretation would be a surprising reaction by the Vietnamese government. Vietnam's experience demonstrates clearly that where the market has been closed and uncompetitive (eg, litigation in local courts) the system remains undeveloped, but where it is open and competitive (commercial legal advisory and documentation services) the profession develops more quickly to international standards.

Of course, we understand that Vietnam must assure the integrity of the interpretation of its law. In our members' experience, however, in our global economy most issues and most legal documents involve a mix of foreign law, Vietnamese law, foreign norms, Vietnamese norms and all require sharp language skills. These are ingredients best coordinated by foreign lawyers and Vietnamese lawyers working together. International law firms with qualified Vietnamese lawyers provide the kind of integrated legal services that sophisticated foreign and Vietnamese clients demand and expect.

Law firms provide integrated responses to complex legal issues in the same way that international accounting firms with Vietnamese qualified staff provide integrated approaches to complex accounting questions. They apply both Vietnamese and foreign accounting law and principles.

Our members, when they use legal services, would have a very difficult time to obtain legal advice on complex matters which often involve issues of both Vietnamese and foreign law if they had to separate that advice by nationality. To require this would be a totally regressive step for Vietnam after more than 20 years of progress, integration, and internationalization. It would be contrary to the current regional and global trend.

Our members that have offices in other countries have developed world-wide relationships with law firms (as they have, for example, with accounting firms). To require them to change those relationships for Vietnam is difficult to explain, to implement, and difficult, we believe, to justify. We also believe it undermines Vietnam's attractiveness as an investment destination at a time when strides need to be taken to create more jobs, skills, tax revenues and technical capacity.

Many of our commercial members have worked successfully in the region to open legal practice to foreign law firms in order to permit the more integrated type of practice that they require and that Vietnam already provides. We cite only four examples: Singapore, Japan, Malaysia and Korea have been abandoning the regressive forms of restrictive legal practice which they adopted 30-40 years ago and which artificially divided legal practices between local and foreign law firms. These countries have already moved toward an integrated legal practice.

Our members now have a choice of law firms: ethnic foreign, Vietnamese, integrated, multinational, large and small law firms. International standard legal services are a critical pre-condition for competitiveness in trade and investment. Lawyers from a number of local law firms have benefitted significantly from the current open system in which they have received training and have developed skills in foreign law firms. The restrictions would hinder foreign law firms, but more importantly it would close the opportunity for training and transfer of skills that routinely go on in a foreign law firm thereby limiting the entry of new Vietnamese lawyers into the international legal market. This would clearly be contrary to the interests of both clients (who want to have their choice of counsel whether

local or international) and young Vietnamese lawyers (who want the training and experience an international firm can provide).

In the end, our members feel that they bear the ultimate responsibility for the professionalism, accuracy, and quality of the legal advice they receive. Our members believe that they should be free to choose their law firm whether they seek advice on foreign law or Vietnamese law.

Our members look forward to receiving your support in this important issue.

Sincerely yours,



Chairman, Ho Chi Minh City Chapter
The American Chamber of Commerce in Vietnam



Chairman, Hanoi Chapter
The American Chamber of Commerce in Vietnam