



July 29, 2011

His Excellency Mr. Nguyen Tan Dung
Prime Minister
Socialist Republic of Vietnam

Re: Decree 46/2011/ND-CP dated 17 June 2011

Your Excellency,

On behalf of the membership of the American Chamber of Commerce in Vietnam (AmCham), we offer our compliments to your Excellency, and request your attention to our concerns over Decree 46 regarding the recruitment and management of foreign employees working in Vietnam and ask that implementation be delayed until a comment period can be held.

Later this year, we celebrate the 10th anniversary of the US-Vietnam Bilateral Trade Agreement (BTA). By any measure, the growth of Vietnam's economy since the BTA has been impressive, and bilateral trade between Vietnam and the US has risen over 900 percent since 2001. The provisions in the BTA created a business climate that has enabled growing numbers of Vietnamese people to share in the promise of better lives and greater opportunities.

Article 8.2, Chapter IV of the BTA provides that US companies have the right to engage top managerial personnel of their choice, regardless of nationality, and any application of Vietnam's labor law must not impair the substance of this right. Decree 46 appears to violate this BTA provision by forcing companies to recruit Vietnamese citizens for jobs where non-Vietnamese managers might be preferred by the company.

In addition, Decree 46 imposes a number of other undesirable conditions for the recruitment and work permit extensions of foreigners working in Vietnam. This Decree will dramatically prolong the recruitment process and cost, without providing the desired benefits of creating stable economic and social development for the Vietnamese people.

AmCham is honored to actively participate in the ongoing administrative reform effort. We agree that simplifying the approvals process and giving adequate time for comment and review of laws are essential to improving Vietnam's competitiveness. Decree 46, however, does not help this effort. Both the harmful provisions in the Decree and the lack of prior consultation on this Decree concern many foreign investors, which reduces Vietnam's attractiveness for foreign investment.

We respectfully request that Decree 46 not be implemented as written and we request consultation with the business community on recommended revisions to the Decree.

AmCham thanks you for your consideration and we would be grateful for the opportunity to have our opinions considered on this important issue.

Respectfully yours,

Christopher Twomey
Chair, Ho Chi Minh Chapter

Hank Tomlinson
Chair, Hanoi Chapter

cc: H.E. Mr. Nguyen Sinh Hung, Chairman, National Assembly
H.E. Mr. Nguyen Xuan Phuc, Minister, Office of the Government
H.E. Ms. Nguyen Thi Kim Ngan, Minister of Labor – Invalids and Social Affairs

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