

*Hanoi, 29<sup>th</sup> April 2021*  
*No.: VBF29421*

*Respectfully to:*      **H. E. Mr. Dao Ngoc Dung**  
Minister of Labor – Invalids and Social Affairs

**H. E. Mr. Tran Van Son**  
Minister, Chairman of the Office of the Government

*Cc:*                      **Mr. Nguyen Thanh Tu** – Director General  
Department of Civil and Economic Law  
Ministry of Justice

**Mr. Do Nhat Hoang** – Director General  
Foreign Investment Agency  
Ministry of Planning and Investment

***Re.: Work permit for foreign labors***

The foreign business community in Vietnam appreciates our longstanding dialogue and cooperation with you and your colleagues at the Ministry of Labour, Invalids and Social Affairs. Our associations support the Government's goal of improving the Labour Code and applaud developing labour policies toward a fair, consistent and practical approach. We note, however, that implementation of Decree 152 on the management of foreigners working in Vietnam imposes onerous burdens on the private sector and is contrary to the Government's stated goal of improving the quality of the workforce to promote social and economic development here.

Vietnam-experienced expatriate employees provide value to foreign as well as local companies, and provide continuity, support, leadership and training. The economic impact goes beyond basic skills and knowledge transfer and should not be overlooked. In this regard, the foreign business community asks for your guidance on the following concerns:

**1. Requirements on foreign worker's qualifications;**

Issue Description: Competing in the global economy requires modern skill sets and traditional university education is not always the best source of such skills. There are many examples of successful and experienced people with the ability to do an expert job, who graduated many years ago with a degree in a field that is not necessarily directly related to their current qualification/job or who never graduated from university.

Recommendation: We respectfully request that authorities accept both university degrees or work/vocational qualifications as evidence of proficiency. This would allow companies to seek foreign experts with current, practical skills, even though the individual's qualifications may not necessarily match the exact job title in Vietnam.

**2. Documents proving foreign workers as an expert;**

Issue Description: Individuals working in Vietnam for a long time often find it difficult – if not

impossible – to obtain a legalized work experience letter from a former employer abroad.

Recommendation: We respectfully request that authorities recognize that work experience gained in Vietnam has the same value as work experience gained overseas. Then those who have contributed to Vietnam will not be disadvantaged.

### **3. The working period of foreign workers in Vietnam;**

Issue Description: Our business associations support the development of a highly-productive and competitive local workforce, including the principle of skills transfer to Vietnamese employees. There are, however, many instances where foreigners are required to work for longer than four years in the same role, instead of having to leave Vietnam. These foreign workers are often trusted managers or technical experts that provide foreign investors with the confidence to invest and expand in Vietnam. They are not only crucial to the business operations of the company, but also to the training and support of Vietnamese colleagues.

Recommendation: We respectfully request that MOLISA confirm that foreign workers may still apply for new work permits at the same company and in the same role after four years.

### **4. Work permit exemption for foreign capital contributors**

Issue Description: Foreign investors who are the capital contributors of organizations under Decree 11 and with a total capital contribution value of less than 3 billion VND no longer receive the exemption under Decree 152. This is a major change compared to the previous regulation set out in the Decree 11/2016/ND-CP, which set out no capital contribution cap for work permit exemption eligibility.

Recommendation: We respectfully request that authorities continue exempting work permit requirements for those individuals who have contributed capital to their organizations here.

### **5. Native English speaking country classification**

Issue Description: there has been different classification of native English speaking country by local DOLISAs. For example, while South Africa is considered as a native English speaking country by the DOLISA in Ho Chi Minh City, the DOLISA in Hanoi does not agree.

Recommendation: We also seek MOLISA's clarification on which countries are considered as native English speaking as this has a significant impact on the education and training sector. A national standard would prevent confusion and disruption to businesses.

The above list of issues is only some of many concerns facing the enterprises employing foreign workers in Vietnam after the implementation of Decree 152. Decree 152 was only released on December 30, 2020 and implemented on February 15. The many questions raised by the new regulations were not answered by provincial DOLISAs until the middle of March. This timeline created compliance difficulties for many companies and there are many cases where work permits expired with no possibility of renewal. Many foreigners who have been working in Vietnam for only two years were unexpectedly requested to apply for a new work permit, a

process which takes about two to three months given the legalization requirements for many of the documents. Other foreigners have suddenly become ineligible to work in Vietnam, despite their practical knowledge and valuable experience, because of the strict requirements for the qualification documents and the refusal to renew any work permit even if it was only issued two years ago.

It is essential to preserve the image of Vietnam as an open and friendly destination for foreign direct investment, which needs to rely on not only the qualified expertise of Vietnamese but also of its foreign staff. Companies need sufficient time to plan and find workforce solutions, especially during this pandemic. It is difficult for foreign investors to replace expatriate managers, technical experts and other specialists at short notice due to sudden regulatory changes and unclear implementation. Your assistance in clarifying these administrative obstacles will help achieve what is everyone's positive aim – availability of qualified personnel committed to productive investment by both foreign and Vietnamese businesses.

We kindly request Your Excellency to consider issues raised by the business community, look forward to seeing guidance issued to all DOLISAs to address the issues and ensure consistency in the implementation of the new regulations. We also would like to request for a dialogue with MOLISA at your convenience time **from May 3 to May 7** to discuss the above points in further details.

*Respectfully,*

**American Chamber of  
Commerce**



*Chad Ovel  
National Chair*

**European Chamber of  
Commerce**

*Alain Cany  
Chairman*

**British Chamber of  
Commerce**

*Christopher Jeffery  
Vice-Chairman*

**Korean Chamber of  
Commerce**

*Kim Han Yong  
President*

**The Japanese Chamber  
of Commerce and  
Industry in Vietnam**

*Tetsu Funayama  
Chair of VBF Committee*

**Hong Kong Business  
Association  
Vietnam**



*Michael Chiu  
Chairman*

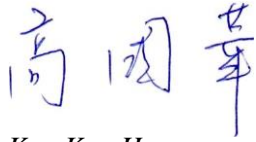
**Singapore Business Group**

*Seck Yee Chung  
Vice President*

**Swiss Business  
Association**

*Jean-Paul Haessig  
President*

**Council of Taiwanese  
Chambers of Commerce  
in Vietnam**



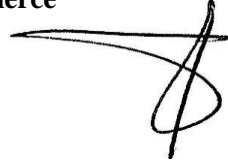
*Kao Kuo Hua*  
Chairman

**Thai Business Association  
in Vietnam**



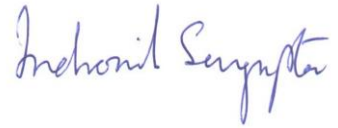
*Piyapong Jriyasetapong*  
Chairman

**Australian Chamber of  
Commerce**



*Simon Pugh*  
President, AusCham

**Indian Chamber of  
Commerce**



*Indronil Sengupta*  
Chairman, InCham

**Canadian Chamber of  
Commerce Vietnam**



*Winnie Lam*  
President

Contact point: Should you have any inquiries, please kindly contact VBF Secretariat (Ms. Ngoc Anh), Tel: 0904 859186/024 3715 2226, Email: [info@vbf.org.vn](mailto:info@vbf.org.vn)