



# VIETNAM ANTI - CORRUPTION LEGISLATION

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## Agenda:

- Snapshot of corruption and anti-corruption efforts in Vietnam
- Regulatory framework on anti-corruption in Vietnam
- Elements of a bribe under Vietnamese law
- How has corruption been addressed in Vietnam?
- High profile corruption cases

# SNAPSHOT OF CORRUPTION AND ANTI-CORRUPTION IN VIETNAM

- Corruption is widespread throughout Vietnam. Vietnam's control of corruption still lags behind other Asian countries
- Vietnam ranks 123 out of 176, dropping by 11 grades from last year according to 2012 Corruption Perception Index
- Sectors most affected by corruption are Police; Public administration; Health sector, Judiciary; Land management
- Particularly aware of continuing corruption related to public procurement and contracting procedures



# OVERVIEW OF CORRUPTION AND ANTI-CORRUPTION IN VIETNAM

- Vietnam has a comprehensive anti-corruption legal framework in comparison with other Asian countries
- The anti-corruption legal framework has significantly improved after the adoption of the Anti-corruption Law in 2005 and the National Strategy on Anti-corruption to 2020
- Anti-corruption has been moved up the political agenda in Vietnam
- Vietnamese government has acknowledged the negative impact of corruption on both Vietnam's future prosperity and the Party's own legitimacy

# REGULATORY FRAMEWORK ON ANTI-CORRUPTION IN VIETNAM

- Major regulatory framework:

- United Nations Convention Against Corruption 2004
- Penal Code No. 15/1999/QH10, Chapter VI
- Law on Anti-Corruption No. 55/2005/QH11, as amended by the Law No. 01/2007/QH12 and the Law No. 27/2012/QH13
- Law on Public Official 22/2008/QH12
- Decree No. 78/2013/ND-CP on Transparency of assets and income
- Decree No. 59/2013/ND-CP elaborating some articles of Anti-corruption Law
- Decision No. 115/2008/QĐ-TTg promulgating the regulation on publicity of the management and use of state property at state agencies, public non-business units and organizations assigned to manage and use state property
- Decision No. 64/2007/QĐ-TTg promulgating the regulations on giving, receipt and hand-over of gifts by state budget-funded agencies, organizations and units and cadres, public employees and servant
- Decree No. 107/2006/ND-CP on the responsibilities of heads of agencies, organizations and units for corruption occurring in their agencies , organizations and units



## Article 3: Corrupt acts:

1. Embezzling property.
2. Taking a bribe.
3. Abusing a position or powers to appropriate property.
4. Taking advantage of a position and/ or powers during performance of a task or official duties for self-seeking purposes.
5. Abusing powers during performance of a task or official duties for self-seeking purposes.
6. Taking advantage of a position or powers to influence another person for self-seeking purposes.
7. Passing oneself off whilst working, for self-seeking purposes.
8. Giving a bribe or bribe brokerage conducted by a person with a position and/ or powers to resolve affairs of a body, organization, entity or a locality for self-seeking purposes.
9. Taking advantage of a position and/ or powers to illegally use State property for self-seeking purposes.
10. Conducting harassment for self-seeking purposes.
11. Failing to perform tasks or official duties for self-seeking purposes.
12. Taking advantage of a position or powers to cover up a law offender for self-seeking purpose; hindering or intervening illegally in examination, inspection, auditing, investigation, prosecution, hearing or judgment execution for self-seeking purposes.

## ELEMENTS OF A BRIBE UNDER VIETNAMESE LAW

- Act: Offering, promising or making or receiving a payment
- Payment: Money or anything of value (minimum threshold: VND 2 million (approx. US\$ 100))
- Recipient: “People undertaking official duties” such as public servants, government officials, officers, managers of state-owned companies
- Intent: Induce or influence an act/omission or decision.
- Maximum penalty: Life imprisonment (giver) or death (recipient)





## HOW HAS CORRUPTION BEEN ADDRESSED IN VIETNAM?

- Although corruption has moved to the political agenda of Vietnam and an anti-corruption legal framework has been set up, corruption remains inefficiently addressed in Vietnam
- The loss of confidence in the system and lack of effective whistleblowers' protection have prevented individuals and organizations from reporting corruption incidents
- There have been 1,455 corruption-related cases settled in Vietnamese courts with 3,387 people prosecuted in last 05 years
- Up to date, only a small number of foreign citizens have been prosecuted with corruption-related crimes in Vietnamese courts



# HIGH-PROFILE CORRUPTION CASES

## Case 1: East-West Highway project

- Huynh Ngoc Sy: Former Deputy Director of Ho Chi Minh Transportation Department and Director of Japan-funded East-West Highway
- PCI: Consulting contractor of East-West Highway project
- In 2008, 4 Japanese PCI executives pleaded guilty in a Tokyo court to paying US\$820,000 in bribes to Huynh Ngoc Sy
- 3 executives of PCI were convicted to 18 months in prison; PCI was ordered by the Tokyo court to be dissolved
- Huynh Ngoc Sy was sentenced to life in prison in Vietnam (subsequently commuted to 20 years). Japan, Vietnam's biggest ODA donor country, temporarily suspended ODA to Vietnam and requested Vietnam to combat corruption



# HIGH-PROFILE CORRUPTION CASES

## Case 2: Securrency and Banknote Contract in Vietnam

- Australian federal police charged Securrency with allegedly bribing foreign central bank officials and politicians in Vietnam to secure banknote contracts between 1999 and 2005
- Securrency paid to a Ministry of Public Security colonel and middleman, Luong Ngoc Anh, and his company, CFTD, US\$20 million in commissions
- Securrency paid for education at England's Durham University of the former State Bank Governor of Vietnam, Le Duc Thuy. Mr. Thuy decided to switch Vietnam's currency from paper to Securrency's polymer material
- The Reserve Bank of Australia, then-owner of 50% of Securrency sought to sell its shares in Securrency
- Mr. Thuy, who served as central bank governor from 1999 to 2007, retired



# HIGH-PROFILE CORRUPTION CASES

## Case 3: Vinashin and Vinalines

- Pham Thanh Binh, the former chairman and CEO of Vietnam Shipbuilding Industry Group (Vinashin) was sentenced to 20 years in prison for “intentionally violating State regulations on economic management that caused serious consequences” for US\$45 million losses of Vinashin.
- Duong Chi Dung, the former Chairman of Vietnam National Shipping Lines (Vinalines), was charged with corruption relating to the purchase of a 42-year-old floating dock from Russia (at 70% of the average world market value of a newly built floating dock) and secondhand cargo vessels at sky-high costs



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**Thank you!**

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