*Chapter III:*

# POLICIES OF VIETNAMESE GOVERNMENT ON FOREIGN DIRECT INVESTMENT AND FDI's FLOW IN VIETNAM.

## *3.1. Policies of Vietnamese Government on Foreign Direct Investment.*

Analysing the strong and weak points of Vietnam, in the course of attracting foreign direct investment, the Vietnam's Government has considered the mutual interest to be the most important, the most essential in investment co-operation policies.

Things that conduct all FDI policies of Vietnam's Government are how to treat to benefit Vietnam, on one hand, and to guarantee the appropriate interests of foreign investors by letting them to have higher or at least the same interests if they invest their capital in the neighbouring countries.

Together with direct benefits (such as capital,advanced technology, management experience and a certain position in the world market ) FDI in Vietnam enables Vietnam to gain indirect benefits like industrial style of living and working, increasing knowledge base of technology and management, self-discipline in work, modern management methods for internal in particular and for all Vietnamese people in general.

Besides the direct "price" to pay ( sharing benefits with foreign investors ) the attraction of FDI has caused the indirect "price" to pay ( some of internal enterprises have to compete with those sponsored by FDI and this makes Vietnamese producers either improved or bankrupted, people will be influenced by Western living style in which there are some weak behaviours ( from point of view of traditional style ) and the competitive state among labourers to be acceleratively supported by FDI). These certain "prices", however, must not be led to any harm for independence, territorial sovereignty , security of the country .

Being well aware of this, Vietnam's Government has actively implemented law for FDI and continuously improved it and other relating laws to attract more FDI and orient FDI to meet the course of socioeconomic development in Vietnam.

Up to now, Vietnam's National Assembly has approved twice the correction and supplement of the laws for FDI since it was established more than 6 years ago. ( As note above that, in Vietnam nothing else except Law for FDI that was paid attention to being corrected two times in three years by the National Assembly. The first time was at the 7-th meeting of VIII Course, from 14/6/1990 to 30/6/1990; the second time was at the 2-nd meeting of IX Course from 9/12/1992 to 23/12/1992 ).

These correction and supplement were made to give more advantages and priorities to foreign investors. The latest correction and supplement of the Law for FDI were concentrated on renewing financial policies to foreign investment activities on renewing return tax system, import-export taxes relating to enterprises

that have FDI. Law for FDI permits enterprises with FDI to use foreign accounting system normally, and other annual accounting measures according to extended regulations from 1-st January to 31-st December every year. The accounting systems appropriate to international standards and accounting customs are studying. Enterprises sponsored by FDI that are producing goods to substitute import goods, will be given advantages of changing Vietnamese currency by selling currency or by exporting goods.
Thus, policies of Vietnamese government about FDI are clear: Vietnam has made, is making and will make all possible and necessary conditions and facilities for attracting FDI into Vietnam that do not make any harm for Vietnam's independence, territorial sovereignty and security.

### *3.2. Regulations on Foreign Investment in Vietnam .*

In 1977 (two years after North liberation and one year after unifying the country) the Vietnam's Leaders decided issuing " *The Investment Regulations*". This is the first Foreign Investment document in Vietnam. But because of many socioeconomic and politic reasons at that time, "The Investment Regulations" did not come into operation. Now it is kept as government record.

In December of 1987, The *Law on Foreign Investment in Vietnam* was issued by the Vietnam's National Assembly. All regulations on foreign direct investment in Vietnam are provided by this law, main contents of which are as follows:

### *3.2.1 Objectives of the Law*

The objectives of The Law on Foreign Investment in Vietnam are clearly stated in its introductory part: expanding economic co-operation with foreign counties, achieving domestic economic development, stepping up exports based on effective exploitation of natural resources, manpower and other potentials.

### *3.2.2 Types of Investment*

In order to achieve the objectives, the Vietnamese government has approved various types of investment. Article 4 of the Law indicates that foreign organizations or individuals may be carried out in the following types :

(i). Contractual business co-operations

(ii). Joint venture enterprises or companies, referred to as Joint Venture

(iii). Private enterprises with 100 per cent foreign owned capital.

- *Contractual business co-operation* : this is the form in which the foreign side and Vietnamese side jointly implement one or more contracts in which responsibilities and interests of each side are defined. In this form the legal position of each side is independent and any new organization is not established.

- *Joint Venture* is established in accordance with a contract signed by both sides ; It has its Vietnamese legal position. Interests and responsibilities of each side in this form are defined by ratio of their contributed capital into the joint venture and by others.

- *Private enterprises with 100 per cent foreign invested capital* are enterprises belonged to and established and managed by foreign organisations or individuals. These enterprises are set up in the form of Ltd.Co. and have Vietnamese legal position.

### *3.2.3 Interests of foreign investors (FI):*

- The Vietnam's Government shall quarantee fair and equitable treatment to any FI ( Article 20)
- FI have rights to transfer their capital and profit abroad ; repatriate or remit abroad their profits, any approved payment due to them for provision of technology or services, the principal and interest due on any loan from abroad (Article 23)
- In the course of investment in Vietnam the invested capital, properties and assets of FI shall not be requisitioned or confiscated under administrative procedure. This is quaranteed by the Vietnam's Constitution, 1992.
- The enterprise with foreign invested capital shall not be nationalized ( Article 21 )
- Enterprise with foreign invested capital is exempted from import tax of equipments, machines, spare parts, accessories, production-trading means including means of transportation, raw materials, patents, know-how etc.
- Vietnam encourages FI to invest in production of export goods and import-substitution goods, to set up large enterprises using new modern technology, large number of labourers. For these enterprises the profit tax is much lower ( 15% or 20% in comparison with

popular 25% ), and the profit tax is exempted for first two years accounting from the first profit-making year. Moreover, the tax of transferring profit abroad is decreased for big invested capital ( 10% for FI investing below 5 million USD, 7% for FI investing 5-10 million USD and 5% for FI investing over USD10 million)

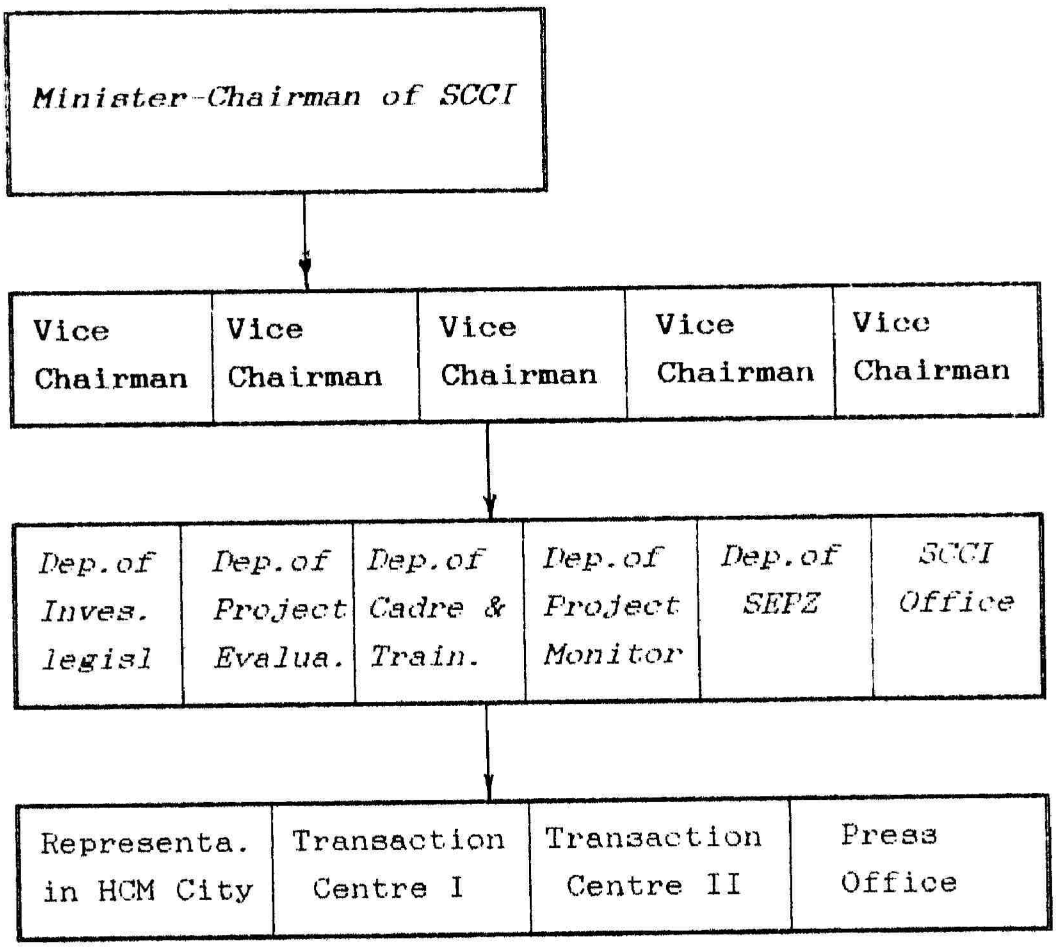
### *3.2.4 Organization.*

To make suitable conditions for FI and implement the "one-door" policy in issuing investment license, Vietnam sets up The State Committee for Co-operation and Investment (SCCI). The functions, duties, rights and responsibilities and organization of the SCCI are provided by Vietnam's Government on 25 March, 1989 some main of which are :

- Proposing investment policy to the government,
- Issuing investment licences,
- Monitoring the licensed projects,
- Supervising and guiding FDI,
- Others.

The Present Organizational Chart of the SCCI is whown in the Fig 3.1.

*Fig.3.1 : Organizational Chart of the SCCI*




***Source: SCCI, Hanoi Nov. 1994.***

### *3.3. Flow of Foreign Direct Investment in Vietnam.*

For the period of 1988-1994, the State Committee for Co-operation and Investment has granted investment licenses to nearly 1200 projects with total registered capital of USD 11 billion, approximately.

Foreign investment capital has increased rather rapidly, with average annual growth of 46% from 1988 to 1994. The investment in 1988 reached USD 366 million as the compared amount to USD 3500 million in 1994. On an average per project size is nearly USD 10 million.

The capital investment has been focused mainly in industrial sector, comprising to 54% of registered capital. For the last 7 years, 70% of invested capital has been involved in manufacture and 30% in service activities; 60% of the projects shared in depth investment in the existing facilities for improving, upgrading and rehabilitating the technical bases [10].

As far as types of investment concerned, 71% of projects are Joint Ventures, 17% under wholly foreign owned enterprises and 12% ( including oil and gas projects ) of business co-operation contract. The number of projects allocated in the North accounted for 35% with 45 % of invested capital [11]

There have been over 700 corporations from 50 countries, invested in Vietnam. Taiwan, Hong Kong, Korea, Australia, Singapore, Malaysia, Japan, France, Netherlands and United Kingdom are in the top ten. The big European corporations seized their superior position in the field of oil and gas sector. The Asian corporations have their strong posts in other sectors. The United States of America already has its own projects in Oil and Gas mining and consumption production.

---

10, 11. Ngo Van Diem, Report on the East Asia Investment Seminar at UM, Malaysia, Dec.1994

By the end of 1994, a total of approximately USD 3.5 billion had been committed comprising about 32% of total investment capital to be pledged. New production capacity in number of sectors of steel manufacturing, motor and auto assembling, light industry : textile, garment production, spinning, leather processing, beverage, afforestation, plant breeding. Thank to the foreign investment co-operation, the domestic and international communication has been improved greatly, the off-shore oil and gas potentials of Vietnam has been assessed.

The crucial result in this field is the access to some of state-of-art technology and techniques in certain economic sectors such as telecommunication, oil-gas exploitation and mining, motor and auto assembling and manufacturing, chemicals (lubricant, paint ), agriculture ( banana plantation, mushroom, vegetable, maize farming with advanced bio-industrial methods, shrimp industrial farming), construction of international standard airports, hotels, production of quality commodities and foodstuff. The modern business and production management and experiences has been absorbed.

A number of 65,000 direct employment and hundreds of thousands of indirect labour are involving in the capital construction, production of raw materials and other services.

By the end of 1994, 180 (Tab.3.1) investment licenses have been revoked prior to the expiry with the total registered capital of USD 800 million, comprising 15% of total projects and 7.5% of registered capital. About

80% revoked projects are small size and 70% project licenses granted in years 1988-1990. This resulted in lack of financial ability of foreign party, regardless the commitment in capital contribution, the complicated fluctuation of the market price, confusing the primary calculation of the project ; disputes arisen between the parties, preventing from the project implementation ; some of the projects sponsors performed their operation besides the objectives provided in the investment licenses.

Apart from such primarily encouraging results, there are many defects and shortcomings been exposed in the course of investment co-operation. There are some existing shortcomings of the economy , such as : the poor infrastructure, the incomplete legal system and frameworks, it requires time for resolving the problems. Nevertheless, the major problems to be obstacles to the foreign investment activities : sophisticated procedures, so many doors and steps to go through, various permits to be required for the performance of the investment proposals, creating troublesome and obstacle to the foreign investment activities.

The investment procedures now are focused in the SCCI as well as other government agencies . For the time being there is a synchronuors process for the improvement of the administrative procedures including the procedures of the foreign investment to be considered as the focusing point in the assignment of the Government in 1994-1995. The foreign investment procedures shall be improved to a new orientation that the State shall enact all regulations and rules, standardization criteria as the corridor for the activities of entrepreneurs, minimizing the assessment case by case. By doing so, the procedures shall be simplified, less doors to be gone through, cut short the red tape and time consuming for consideration but reserve the State management to the foreign investment activities.

From table 3.1 we can see that for the period 1988-1994, total licensed projects are 1,186 with total investment capital of USD 10,704 million; therein complete projects are 10 with investment capital of USD 90 million and remaining projects are 966 with investment capital of USD 10,591 million. The complete projects are mainly of small and medium scale in service , hotel and tourism areas. Also from the table 3.1, Vietnam has contributed only USD 462 million or 20% approximately. The largest capital invested can be seen in the oil and gas branch (USD 1,290 million) and the smallest- in the agriculture and forestry (USD 180 million). This situation also can be seen in the case of Malaysian investment in Vietnam (see chapter 4 below).

*Tab.3.1 The performance of the foreign direct investment in Vietnam for 1988-1994.*

*Million USD*

| | *Estimation for 1994* | | *1988-1994* | |
|---|---|---|---|---|
| | *Number of Projects* | *Investment Capital* | *Number of Projects* | *Investment Capital* |
| 1.Inv.Proj.Licenced | 350 | 3,500 | 1,186 | 10,704 |
| 2.Revoked Projs. | 55 | 170 | 180 | 795 |
| 3.Complete Projs. | 3 | 5 | 10 | 90 |
| 4.Additional In.Cap. | 65 | 500 | 128 | 700 |
| 5.Total number of remain Projs.and reg.Cap | - | - | 966 | 10,519 |
| 6.Disbursement of Inv.Cap. of which : | | | | |
| *.Vietnam Contribution | - | 150 | - | 462 . |
| *.Foreign Contribution | - | 1,000 | - | 2,673 |
| *.Overseas Loan | - | 250 | - | 350 |
| 7.Disbursement of Inv.Cap. by sector : | | | | |
| *.Oil and gas | - | 487 | - | 1,290 |
| *.Industry | - | 300 | - | 955 |
| *.Transportation, Post | - | 70 | - | 220 |
| *.Agriculture, forestry | - | 50 | - | 180 |
| *.Hotel | - | 161 | - | 411 |

***Source : SCCI, Hanoi,Nov. 1994.***

*Tab.3.2: Annual licensed and deployed capital (1988-1993), (Million USD).*

| Year | 88 | 89 | 90 | 91 | 92 | 93 |
|---|---|---|---|---|---|---|
| Annual licensed Cap. | 366 | 539 | 596 | 1288 | 1938 | 2777 |
| Annual deployed Cap. | 60 | 100 | 200 | 260 | 535 | 1001 |

*Source : SCCI, Hanoi, Jan.1994 , Page 6.*

For the period 1988-1993, the annual licensed and deployed capital have increased fast (tab.3.2). If licensed capital in 1988 was only USD 366 million, in 1993 it increased to USD 2777 million (increased nearly by 9 times). The same situation can be seen in the annual deployed capital. It has increased by nearly 17 times for the period.

Thus, foreign direct investment in Vietnam has grown fast for the last five years. However, as stated in the sub-section 2.2, to the year 2000, Vietnam needs USD 20 billion of foreign capital. To attract this amount, Vietnam has to carry out many measures. We think that there are 4 decisive factors :

1. Social and political stability ,
2. Internal economic improvement ,
3. Enlargement of foreign political relation to create a new position of Vietnam in the World.
4. Perfecting Laws and improving policies for management organizations to establish attractive environment for gaining success in FDI competition.

In opinions of many economists and investors, Vietnam has been making good process and stability with the first three factors and it is on the way towards a better future.

For the fourth factor, Vietnam has been making efforts to gain foreign investors' attraction, but it has some weak points to overcome that were mentioned above. In our opinion, first and foremost Vietnam has to train its people well and to make systematically them be able to work in the new international investment environment.