
Deficiency: Inability to Enforce Foreign Arbitration Awards.
Source: David Howell, Baker & McKenzie (Singapore), "A Realistic Look at Vietnam: Can Disputes Be Resolved and Awards Enforced?", in *East Asian Executive Reports*.
Date: March 1992. Comments apply today under Decree 18.
Details:

According to Article 100 of Decree 18, the parties in a JV are (ostensibly) allowed to choose where to refer disputes. Due to the inexperience of arbitration bodies in Vietnam, many JVs choose foreign dispute resolution forums.

Investors must be warned, however, that Vietnam is not yet a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards. In principle, Vietnam will enforce foreign awards. In practice, however, "proceedings to enforce such an award are virtually unknown in the Vietnamese courts" (p.20).

To deal with this deficiency, the Vietnamese legislators had been working on an Ordinance on Procedures for Recognition and Execution of Judgments and Decisions of Foreign Courts and Arbitration Tribunals in Vietnam. On July 1, 1993, the Government promulgated a revised ordinance under which Vietnam will recognize civil verdicts rendered by foreign courts⁶. No mention is made, however, of decisions by foreign arbitration tribunals.

2.8.3 Labour Disputes

Deficiency: Conflict of Interest in Conciliation.
Source: Franca Ciambella, Sinclair Roche & Temperley, "Resolution of Disputes in Vietnam".
Date: February 16, 1993.
Details:

Recall from the Inventory that labour disputes may be settled by conciliation. In this process, the Local Labour Office acts as mediator. The Labour Office, however, is the office that negotiates the collective labour agreement for the workers. As such, the impartiality of the Office as a mediator is called into question.

2.9 Finance, Banking and Forex

2.9.1 Finance

Deficiency: Prohibition Against Raising Capital on Domestic Capital Markets.
Source: John Gillespie, "Foreign Investment in SR Vietnam Revisited", *International Business Lawyer*.
Date: October 1990.
Details:

Foreigners are not allowed to raise capital in Vietnamese domestic capital markets⁷. Foreign investors, therefore, must have adequate capital reserves and lines of credit to finance the enterprise until there are sufficient returns from foreign sales.

Due to the general lack of venture capital in Vietnam at present, this deficiency in the legal framework is not considered serious. It is also worth noting that Vietnamese legislators are working towards a domestic investment law (release date unknown), and are laying the groundwork for the country's first stock exchange, to be located in Ho Chi Minh City.