

2.3 Tax

No major gaps or deficiencies were identified for this area of legislation².

2.4 Intellectual Property

2.4.1 General Industrial Property

Deficiency: Industrial Property Not Protected Under Decree on Industrial Property Rights.
Source: Sesto Vecchi and Michael Scown, Russin and Vecchi, "Intellectual Property Rights in Vietnam", in *IP Asia*.
Date: July 1992.
Details:

The Decree on Industrial Property Rights states that industrial property that is "contrary to public order, principles of humanity and socialist morality, or which is detrimental to public interest shall not be protected under the Decree" (p.57 of source). Investors may be unsure of what exactly is offensive to socialist morality.

Deficiency: Provision for State to Issue Non-Voluntary Licenses of Utilization.
Source: Sesto Vecchi and Michael Scown, Russin and Vecchi, "Intellectual Property Rights in Vietnam", in *IP Asia*.
Date: July 1992.
Details:

Owners of titles of protection (trademarks, patents, etc.) for intellectual property are required under the Decree on Industrial Property Rights to utilize, or transfer the right to utilize, the property to the extent required "to meet the needs of the socio-economic development of the country" (p.59 of source).

If the owner does not meet this arbitrary measure, the Chairman of the State Committee for Science may grant a "non-voluntary license of utilization" to another organization. In addition, the Chairman may "if he considers it necessary" use the protected property for Vietnam's national defense, for the treatment of human diseases, or for "other vital purposes". The owner must be compensated in these cases, but the decision to use the property cannot be appealed.

This provision in the Decree has serious implications for certain foreign investors, such as pharmaceutical companies.

2.4.2 Specifically Trademarks

Deficiency: First-to-File Rule.
Source: Fred Burke, Baker & McKenzie (Hong Kong), "Trademark Protection in Vietnam", in *East Asian Executive Reports*.
Date: October 1991.
Details:

As mentioned in the Inventory, Vietnam follows a general first-to-file rule for obtaining trademark rights. Vietnam is officially a member of the Madrid Union (on trademark protection), but has no record of recognizing marks registered in other signatory countries.