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speech by Nguyen Dinh Tai

**Director of Management Consulting and Training Center,
CIEM, Vietnam**

VIETNAM'S POLICY IN ATTRACTING FDI

1. Some remark on the recent performance of FDI in Vietnam

- Nowadays, the stable growth rate and improved business-investment environment in Vietnam have attracted a lot of attention of many large corporations in the world with increasing scale of investment. Most of investment which is available to pour into Vietnam is focused on projects in the area of thermo-electricity, real estate and steel industry.

- There emerged projects that have a great amount of investment. For example, The Sumitomo Corporation, after conducting a 2-year survey in Vietnam, planned to make investment of 3.8 billion USD to build a thermo-electricity factory with the capacity of 2,640 MW in Van Phong economic area (Khanh Hoa province). This corporation has just received the certificate of joint investment with The Vinaliner to launch the project of building the Van Phong international port, with the initial investment of nearly 200 million USD. Besides, the joint-venture between The AES Corporation (the US) and The Coal and Mineral Corporation of Vietnam will build Mong Duong 2 thermo-electricity factory (in Quang Ninh province) with the capacity of 1,200 MW with the investment of nearly 1.5 billion USD.

- In the area of real estate and tourism, there are quite many big projects waiting for certificate of investment. Notably, the project "the Asian pearl" composed of financial centres, hotels and urban complexes in Phu Quoc with the investment of 2.7 billion USD was invested by The Trustee Suisse (Switzerland) in cooperation with The Vietnam Construction Import-Export Corporation. Moreover, Kumho Asiana of Korea also planned to build Giang Vo Culture-Commerce Centre and My Dinh Exhibition Centre (Hanoi)

valued at 2.5 billion USD. These two centres are projected to be completed before 2010.

- After the investment decision was made by Intel, the information technology of Vietnam becomes more and more attractive to foreign investors and is now attracting a lot of large-scale projects. The typical example is that The Foxconn Corporation (Taiwan) is planning to make investment of 5 billion USD to build electronic technology areas in many provinces throughout the country, and an electronic manufacturing factory is expected to be brought into operation in Bac Ninh. Also, the Pacific Land Limited Corporation of England is also speeding up its investment of 1 billion USD in Sai Dong A hi-tech zone.

Although the performance of attracting and utilizing FDI has been improved compared to the previous years, it has not corresponded to the present potential and opportunities, when large investors like Japan, Korea, Taiwan, the US, et are regarding Vietnam as one of the prioritized area of investment.

2. Overall assessment of the performance relating to FDI in Vietnam after promulgating the Investment Law

2.1. Positive factors

- The business environment in Vietnam has been improved gradually to comply with the international commitments of Vietnam, which is highly appreciated by the community of foreign entrepreneurs, turning Vietnam into an attractive destination to large investors. This assessment was drawn from the results of the annual survey conducted by JETRO announced in the first quarter of 2007. Such big investors as Japan, Korea, Taiwan, etc have begun a new wave of investment into Vietnam.

- Adopting the Investment Law to both domestic and foreign investment has created an equal competition for enterprises, facilitated them to be expanded and diversified; such barriers as the ratio of domesticated components, the ratio of exported goods, etc have been removed, making it easy for investors to choose any line of business corresponding to their business ideas.

- Speeding up decentralization in encouraging, attracting and controlling foreign investment has helped local authorities to be more proactive. The procedure and management process over enterprises have become more simple and easier to bring into full play autonomy, accountability of enterprises.

- Investment promotion has been improved with participation and cooperation of lines, ministries and local authorities towards clinging to multinational corporations, big investors in order to turning intentions of making investment in Vietnam into real projects.

- State management over foreign investment activities has received a lot of attention from all levels from central governments to lines, ministries and local authorities.

- The Government promulgated the Directive No 15/2007/CT-TTg on some main solutions to speed up foreign investment into Vietnam; the Decision No 109/2007/QĐ-TTg on the mechanism of building and implementing the Program of National Investment Promotion in the period of 2007-2010.

- Based on local socio-economic development plans up to 2010, some provinces have worked out lists of projects in need of investment, and facilitated investors like shortening time, lessening the process of "pre-examination", implementing the process of one-door transactions, reducing costs of granting Certificates of investment, concentrating on building infrastructures for industrial zones, creating "clean" sites for investors.

2.2. Some shortcomings to be made transparent to encourage investment

Some foreign investors suppose that Vietnam's commitments in investment with WTO have not come into reality since there have been shortcomings arising during implementation, there have been unclear items in legal documents regulating investment, which causes not only investors but also State management agencies to have different ways of understanding and adopting those documents. And this has slowed down the process of

reviewing and granting certificates of investment, like:

- The list of conditional investment areas is applied for foreign investors, but specific conditions are not put forward for each area but simply referred for application in accordance with specialized laws or commitments in international treaties. This has caused the legal system of investment not to be transparent and investors not to have confidence in reality of the Investment Law.

- With regard to services, most of the commitments relating to opening services market have been realized directly but in a confusing way due to no documents guiding implementation.

- Besides, there are some other disadvantages to be dealt with, namely: infrastructures in some provinces are still weak, auxiliary industries in Vietnam are still limited, costs of inputs increase (due to price influences of some commodities in the international market), implementation of intellectual property rights have not been strict, infrastructures for employees in industrial parks are still in difficulty, not being recovered.

- Decentralization of management over foreign investment has been carried out, but in many provinces, investment promotion has not been effectively implemented in popularizing local images and potential, due to limits in expenses, human resources (skills, experiences), physical facilities for promotion are still lacking.

3. Priorities for investment policy reform

Priorities for investment policy reform that are under consideration by the Vietnamese government at different levels concentrate on the following pillars:

- rapidly and completely adopt fair treatment among foreign and domestic investors; guarantee early fulfillment of WTO commitments regarding market entry in the service industry; accelerate the equitization program of state-owned enterprises and provide for more integration of foreign investors in the program;

- make entry and approval procedures relating to domestic and foreign investors and their investment undertakings more transparent and readily accessible; to be specific, further simplify the investment registration and certification procedures, coupled with clearer and more friendly description and explanation of the existing procedures; consider changing to a more simple registration system for foreign investors doing a single job of verifying conformity with Vietnamese laws; set clearer rules on areas where investment is prohibited or only allowed conditionally;
- tighten and make more effective communication and coordination between central and provincial governments in the entry and approval process and give explicit explanation on their respective responsibilities and accountability.
- clarify the role of the Parliament (laws approving entity) and the government (laws enforcing body) with respect to investment;
- increase the transparency of the real estate market in Vietnam, as well as safety and marketability of land use rights; speed up and improve the performance of land planning and strengthen management of planning (including rezoning and reclaiming land being abused or ineffectively used); simplify and warrant justice and equity rights, liabilities and administrative routines in getting access to public property for production and business use, with special focus on improving the ability of small and medium enterprises (SMEs) to acquire land use rights and upgrade property used in production and business directly from government resources;
- upgrade the capacity and enforcement of the Intellectual Property Act, including introduction of preventive measures; provide refresher training to judges; develop justice supporting services and give more power to intellectual property enforcing agencies;
- reinforce governance and provide political support for law drafting bodies; underline counseling, critical debate, forecast and assessment of the implication and competitiveness of existing and proposed legislations;
- make transparent and concretize laws in order to mitigate opportunities for corruption;
- increase the capacity and independence of the judicial system in Vietnam.

4. Some urgent measures to attract FDI

- To continue improving the mechanism of one-door transaction in agencies in charge of granting certificates of investment and managing investment; building a mechanism of cooperation in dealing with, supervising, checking investment activities; dealing with procedures of land, tax, customs, etc timely to create an open environment in investment.

- To speed up implementation of approved national investment promotion programs, to be more interested in some key regions/nations like: European, the US, Japan; to make it possible for provinces to participate in programs and working teams of investment promotion at central level.

- To support big projects of foreign investors which are now under negotiation or to formulate projects in more flexible ways.

- To promulgate the list of projects calling for national investment in the period of 2007-2010 and the program of attracting foreign investment in the period of 2007 - 2010 to lay a basis for lines, ministries and local authorities to launch activities.