



Position Paper

Vietnam's Draft Constitution

The Issue:

On January 2, Vietnam made public a draft revised constitution and invited comment.¹ The draft amendments to the constitution that we have seen make several key revisions concerning the State's role in the economy. In particular, the role of state-owned enterprises (SOEs) is de-emphasized. The draft constitution removes language stating that SOEs shall "assume a leading role" in "key" fields of the economy, and includes a new provision recognizing that Vietnam's economy includes "many different forms of ownership and economic sectors" and that "[a]ll economic sectors are important components of the national economy." These changes indicate that Vietnam intends to place SOEs on a more equal footing with the private sector.

Position:

The new constitution, by removing the 1992 Constitution's provision that SOEs would "assume a leading role" in key economic sectors and including a new provision that recognizes the importance of all economic sectors, is a welcome change that indicates that the State is taking steps to reform the role of SOEs.

Such a conclusion, however, is inferential. More overt language, such as a provision explicitly stating that private enterprises will be treated no less favorably than SOEs under the law, would give a clearer indication of the State's intentions and its consistency with international treaty commitments.

Recommendations:

AmCham applauds the new draft constitution. We believe that it will give private enterprises renewed confidence that their contributions to the Vietnamese economy are recognized and supported by the State.

AmCham, however, believes that the private sector would be even more encouraged if the new constitution contained language that unambiguously stated that private enterprises will be given treatment no less favorable than SOEs. If the new constitution provided assurance that private enterprises will be able to compete with SOEs on an equal playing field, AmCham believes that such a provision would stimulate private sector activity and investment, and would also improve the management of SOEs by opening them up to healthy competition.

Therefore, it is AmCham's view that the final version of the Constitution would be improved through a provision that clearly states that private enterprises are entitled to treatment no less favorable than that accorded to SOEs under the law.

¹ <http://www.vibonline.com.vn/Duthao/1333/DU-THAO-HIEN-PHAP.aspx#relativeFiles>