

LAWS AND REGULATIONS IN VIETNAM

GOVERNMENTAL AUTHORITIES

The principal governmental authorities responsible for the administration of VMEP, VCFP, CQS and VTBM are:

- the Dong Nai People's Committee, in relation to the issue of an investment certificate pertaining to the re-registration of VMEP and any subsequent licensing issues of VMEP;
- the Dong Nai People's Committee, in relation to the issue of an investment licence for CQS;
- the Dong Nai Industrial Zone Authority, in relation to the issue of investment licences for VTBM and VCFP;
- the Ministry of Planning and Investment, in relation to overall supervision of investment activities;
- the Ministry of Industry and Trade as the ministry with direct responsibility for the motorbike industry;
- the Ministry of Transportation, in relation to technical and quality standards of motorbikes, motorbike frames and engines produced domestically;
- the Ministry of Science and Technology, in relation to the 'goods quality regime' and compliance with industrial property requirements; and
- the Ministry of Finance, including the General Tax Department and local tax departments, in relation to taxation.

LICENCES AND APPROVALS

Each of VMEP, VCFP and CQS (VCFP and CQS being referred to in this section as the "**Subsidiaries**") and VTBM is required to obtain, and has obtained, an investment licence or investment certificate from the appropriate licensing authority, which evidences its due establishment and allows it to engage in its current business activities. VMEP elected to re-register under the Enterprise Law described below and, on 27 June 2007, was issued investment certificate number 471043000041 to replace its investment licence. The investment licence or certificate of VMEP, VCFP and CQS will expire 50 years from 25 March 1992, 12 April 2002 and 14 June 2002, respectively. As foreign-invested enterprises, VMEP and the Subsidiaries are not required to obtain permits, licences or sub-licences, other than their respective investment certificate or investment licence, to carry on their businesses.

Companies that are licensed to manufacture and assemble motorbikes and motorbike parts are required to satisfy certain conditions relating to the scale of investment and to meet certain quality, technology and management standards. In particular, such companies are required to:

- publicly confirm the conformity of their products to existing quality standards or otherwise publish their own set of quality standards;

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- obtain a “type approval certificate” (for each type of motorbike) or a “type approval certificate for systems/components” (for each type of engine, frame and certain other motorbike components) from the Ministry of Transportation, which is valid for 12 months from the date of issue and is renewable;
- obtain certificates of inspection of equipment from the Vietnam Register; and
- in the case of a company that manufactures motorbikes, obtain an ISO9001:2000 Certificate from the General Directorate for Standards and Quality.

The principal regulations currently applicable to the motorbike industry in Vietnam, and the principal requirements under each, are as follows:

- Decision 24/2002/QD-BCN of the Ministry of Industry and Trade, dated 7 June 2002, on standards for companies manufacturing and assembling two-wheel motorbikes. Under this decision:
 - a manufacturer must invest or co-invest in the manufacturing of components or parts (or at least engines or motion transmitters) with at least 20% local content;
 - land used for the factory must have a stable, long-term grant of 15 years or more;
 - a manufacturer must carry out a number of mandatory tests before the sale of products, with the test results preserved electronically for at least three years; and
 - a manufacturer must obtain an ISO 9001:2000 certification.
- Decision 2557/2002/QD-BGTVT of the Ministry of Transportation, dated 15 August 2002, issuing rules relating to quality, technical safety and environmental protection in the motorbike manufacturing and assembly industry. Under this decision:
 - a manufacturer is required to send samples to a testing laboratory designated by the Vietnam Register;
 - a manufacturer must obtain from the Vietnam Register type approval certificates for each type of motorbike and part that it manufactures;
 - a manufacturer must obtain from the Vietnam Register certificates evidencing inspection of equipment; and
 - the Vietnam Register may conduct site inspections and review certificates on an annual basis and has the authority to withdraw certificates issued to a manufacturer where these requirements have been breached.

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- Decree 179/2004/ND-CP of the Government, dated 21 October 2004, providing for state oversight of the quality of products and goods. Under this decision:
 - the Ministry of Science and Technology is responsible for establishing national standards for commodities and ensuring that all commodities have the product quality certifications they are required to have;
 - the provincial Department of Science and Technology is responsible for supporting local authorities and liaising with other government organs in connection with product quality management;
 - other ministries are responsible for establishing procedures and protocols for quality inspection;
 - state inspectors are responsible for carrying out inspections for compliance with quality control regulations; and
 - companies found in violation of quality control regulations are subject to administrative sanctions (such as monetary fines and suspension of operations) and could be liable for damages.
- Decision 03/2006/QD-BKHCH of the Ministry of Science and Technology, dated 10 January 2006, on the announcement of quality standards. Under this decision:
 - a manufacturer is required to establish its own set of quality standards or adopt recognised standards (such as industry, national, regional or global standards);
 - a manufacturer must publish its quality standards and file the quality standards with the provincial Department of Quality Standards and Measurement; and
 - a manufacturer is responsible for the information on the quality standards that it has announced.
- Decision 04/2006/QD-BKHCH of the Ministry of Science and Technology, dated 10 January 2006, on the announcement of conformity to quality standards. Under this decision:
 - a manufacturer is required to obtain an evaluation from an organisation designated by the responsible ministry; and
 - the manufacturer must publish the results of the evaluation and confirm the conformity of its products with the quality standards, and must file the published announcement with the relevant authority.
- Decision 50/2006/QD-TTg of the Prime Minister, dated 7 March 2006, issuing a list of products and goods for which quality control is compulsory. Under this decision:
 - motorbikes are subject to compulsory quality control.

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In addition, dealers, repair service providers and retail parts outlets in Vietnam are required to possess a certificate of business registration (equivalent to the investment licence or investment certificate of a foreign-invested entity) in order to provide services under sales or services arrangements. Thus a dealer must be authorised, under its certificate of businesses registration, to sell motorbikes, and a repair service provider must be licensed to provide motorbike repair services.

PROTECTION OF FOREIGN INVESTORS

The current Investment Law states that the Vietnamese government guarantees the fair treatment of foreign entities investing in Vietnam, and affirms, in principle, that capital and assets invested in Vietnam by foreign investors will not be requisitioned or expropriated through administrative measures and foreign-invested companies will not be nationalised. No implementing regulations, however, have been issued to provide more detailed guidance on how this guarantee will be put into practice.

It is also provided in the Investment Law that if a change in law adversely affects a foreign investor, the investor generally will be entitled to keep and enjoy the existing incentives stipulated in its investment licence or may, as an alternative, elect to (i) change the existing objectives of its project (ii) apply for an exemption from or reduction of taxes in accordance with current law (iii) apply for damages to be deducted from its taxable income or (iv) apply for compensation. In addition, if more favourable investment incentives become available under any law passed after the date of its investment licence, a foreign-invested company may apply for such incentives.

Thus, the existing incentives of VMEP, its Subsidiaries and VTBM remained unchanged by the promulgation of the new regime (described below) that came into effect following the receipt of their respective investment licences.

GENERAL INVESTMENT AND COMPANY LAWS

Every foreign investment in Vietnam is required to be licensed by an appropriate authority. This licence constitutes the legal permission to invest in Vietnam and serves as the business registration certificate of the company into which a foreign entity invests.

VMEP, its Subsidiaries and VTBM were established under a former regime, known as the Foreign Investment Law (“**FIL**”), under which foreign investment was regulated separately from domestic investment. VMEP was established under the Foreign Investment Law in Vietnam of 1987, while the Subsidiaries and VTBM were established under the Foreign Investment Law in Vietnam of 1996 (as amended in 2000).

The FIL was replaced by the Investment Law and the Enterprise Law, both of which came into effect on 1 July 2006. VMEP, its Subsidiaries and VTBM are foreign-invested companies (“**FICs**”), with the status of limited liability companies under the Enterprise Law. The new regime established by the Enterprise Law aims to provide equal treatment, at least in some fundamental respects, for foreign inbound investments and domestic-owned investments. Companies which were established under the FIL, like VMEP, its Subsidiaries and VTBM, have two years from 1 July 2006 to re-register under the Enterprise Law if they want to do so. If they opt not to re-register, they can continue to operate under their existing licences until the licences expire but will not be allowed to change their scope of business or to extend their term of operation during this time.

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Given the regulations that have been issued so far to implement the Enterprise Law, it is generally considered advantageous for FICs licensed before 1 July 2006 to re-register under the new regulations. An FIC, for example, could only be established as a limited liability company without shares under the old law. The new regime has made available more forms of legal entities, namely, single-member limited liability companies, multiple-member limited liability companies, and joint stock companies. Under the prior regulations, it was possible to convert an FIC into a foreign-invested joint stock company but only on a case-by-case basis. In addition, under the old regime, if an FIC that was established to complete a specific project or to carry out a specified business wished to work on an unrelated project or to expand into new businesses, the foreign investor was usually required to set up a separate FIC for this purpose. Under the new regime, this can be accommodated by adding the new project or the new line of business without setting up a new entity.

VMEP has re-registered under the Enterprise Law and has obtained a new investment certificate. The Subsidiaries and VTBM, however, continue to operate under their respective licences and charters pursuant to the FIL. Whether the Subsidiaries and VTBM re-register depends essentially on their business objectives and commercial considerations since re-registration is not legally required. Ultimately, if there is an issue that is not provided for in the investment licences or the charter of a Subsidiary or VTBM, the issue will be dealt with under the Enterprise Law. The Company does not currently intend to re-register the Subsidiaries under the Enterprise Law but will consider re-registration if one of the Subsidiaries intends to expand its business scope or if a governmental authority recommends it.

The Enterprise Law has introduced a new system to register or to obtain approval to implement a project. When an FIC which is registered or licensed under the Enterprise Law wants to carry out any new investment project, it must obtain an investment certificate for that project. Depending on the nature of the project, an investment certificate can be obtained through either a registration process or an evaluation process. Registration is somewhat simpler as the FIC is mainly required to submit relevant documents. Under the evaluation process, the structure of the project will be reviewed in addition to the documents. There is no difference in the nature of an investment certificate obtained through a registration process and one obtained through an evaluation process. The distinction essentially relates to the internal procedures that the licensing authorities carry out to consider and process applications.

Requirements regarding the capital structure of an FIC under the Enterprise Law also differ from those under the FIL. Under the FIL, the legal capital (being the amount the foreign investor was required to contribute to the FIC) was required to compose at least 30% of the total investment capital of the FIC. This requirement has been removed under the Enterprise Law, and the concept of legal capital has been replaced by charter capital, which also represents the amount that the investor is required to contribute to the FIC and is the maximum liability of the investor in respect of the FIC.

A further significant difference between the two regimes is that FICs have less discretion to determine their governance structure under the Enterprise Law. The new rules are more comprehensive and similar to general principles adopted elsewhere in the world. The governance structure under the Enterprise Law must include a board of directors and a general director (“**a director**”). Entities incorporated under the Enterprise Law are afforded broad autonomy in defining the powers of their directors and executives, but under the law, a director is by default responsible for:

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- implementing the board's decisions and resolutions;
- implementing the business plans of the company adopted by the board;
- running daily operations, and managing the company in accordance with targets and business plans that have been approved by the board;
- representing the company in all contractual transactions and civil transactions to which the company is a party;
- co-ordinating the activities of the company;
- managing and supervising the business activities of the subsidiaries of the company;
- preparing the company's annual business plans, expenditure programmes and budgets for submission to the board;
- preparing the annual financial statements with the assistance of the chief accountant and reporting on the operations of the company for submission to the board;
- ensuring that the administrative and operational policies of the company are carried out under his supervision and control;
- negotiating and signing employment contracts and the collective labour agreements (if any) on behalf of the company;
- recruiting employees, delegating powers, and assigning tasks and responsibilities to the company's employees;
- appointing and dismissing managers (other than those appointable or dismissable only by the board);
- determining salaries and other payments to employees in accordance with cash limits approved in advance by the board;
- representing the company before Vietnamese courts and Vietnamese governmental authorities;
- maintaining the shareholder register and the company seal;
- providing information about business operations and the financial status of the company upon a written request of the board (or of any board member); and
- performing such other duties as are incidental to his office or are entrusted to him by the board in conformity with the charter and the prevailing regulations of Vietnam.

Corporate governance rules under the Enterprise Law require a company to establish multiple levels of authority within the company, each with well-defined responsibilities and powers, whereas the FIL was silent on these issues, which gave a foreign-invested enterprise broader discretion to structure its management. The lower degree of latitude under the Enterprise Law has made it easier for the Vietnamese government to introduce and implement good corporate governance practices that are commonly adopted elsewhere in the world.

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The new regime offers FICs assurance of their ability to repatriate profits to their investors abroad. There is no restriction on dividend payouts under either the old or new regime, provided that the company has fulfilled its tax obligations.

The replacement of the FIL by the Enterprise Law in most respects is unlikely to adversely impact the motorbike industry in general or the Group in particular.

LAND

The land regulations in Vietnam are complicated and very different from land regulations in many other jurisdictions. Land in Vietnam belongs to the state. Generally, land is leased to FICs for individual, licensed projects and for designated purposes and is therefore specific to each FIC. In general, land is not freely transferable. An FIC may lease land for the duration of its investment licence or investment certificate based on a decision by either the Prime Minister or the relevant People's Committee. Alternatively, and more flexibly, an FIC may choose to lease or sub-lease land in a zone through a lease or sub-lease with the zone developer.

At its own discretion, an FIC may elect to pay land rental for a whole lease term in one lump sum or to pay land rental annually. The method of payment affects the rights of the FIC over the leased land and, in particular, over the land use rights (“**LURs**”) with respect to the leased land. Most importantly, a land user who pays rent in one lump sum has more extensive rights over its LURs, such as to mortgage the LURs (and any building on the land), to use the LURs to provide guarantees and to use the LURs to make capital contributions in the form of the LURs. A land user who pays rent annually, by contrast, does not have these rights with respect to its LURs.

While land in Vietnam cannot be privately owned, foreign investors can own, during the term of the land lease, buildings erected on the land.

All legitimate land users are entitled to obtain land use rights certificates in their name. Similarly, all legitimate owners of property or buildings constructed on land are entitled to obtain certificates of property ownership. These certificates constitute conclusive evidence of the rights of land users and property owners, and provide the basis for the users to exercise their rights, such as to transfer, to mortgage or to dispose of their land use rights or properties.

TAXES

FICs in Vietnam are subject to the following principal national taxes: (i) corporate income tax (“**CIT**”), including capital gains tax; (ii) VAT; (iii) import and export duties; (iv) personal income tax (“**PIT**”) in relation to Vietnamese and foreign employees; and (v) various withholding taxes. There are no local taxes.

CIT

Foreign-invested companies are liable to pay CIT on their taxable profits at rates ranging from 10% to 28%.

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Under the terms of its existing investment licence, VMEP is subject to: (i) 18% CIT with respect to the assembly and production of motorbikes and components and spare parts for motorbikes (with an exemption for two years from the first profit-making year and a 50% reduction for the following two years) and (ii) 10% CIT with respect to the assembly and production of motorbike engines (with an exemption for 8 years from the first profit-making year).

VCFP is subject to 15% CIT, with an exemption for three years from the first profit-making year and a 50% reduction for the following seven years.

VTBM is subject to 15% CIT for 12 years from the commencement of production and 28% CIT for the following years, with an exemption for three years from the first profit-making year and a 50% reduction for the following seven years.

Before 1 January 2007, CQS was subject to 15% CIT for the first five years from the commencement of production, with an exemption for two years from the first profit-making year and a 50% reduction for the following three years. CQS is now subject to 20% CIT for the period from 1 January 2007 to 31 December 2012. After that, the CIT rate applicable to CQS will be adjusted to 28%.

Capital gains tax

Capital gains made by an investor as a result of a transfer of a capital interest in a company are subject to capital gains tax at a standard rate of 28%. The taxable gain is generally calculated on the basis of the transfer price less the initial value of the transferred capital and related transfer expenses.

VAT

VAT is imposed at rates of between zero and 10%, depending on the nature of the goods or services being sold. Motorbikes sold locally are subject to 10% VAT. Generally, manufacturers are responsible for collecting VAT from buyers.

Import and export duties

Rates of import duty are subject to frequent change and apply equally to all importers. Import duty rates fall into three categories: ordinary rates, preferential rates and special preferential rates, depending on the nature and origin of the goods. Ordinary rates apply to imported goods that are not subject to preferential rates or special preferential rates and will not exceed preferential rates by more than 70%. Preferential rates apply to goods originated from countries or regions having an MFN arrangement with Vietnam. Finally, special preferential rates apply to goods from countries or regions which apply special preferential treatment on imports from Vietnam. Rates of export duties are generally zero. The goods currently imported by the Group are subject to import duties at rates ranging from zero to 90%. The Group is not currently subject to any export duty.

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PIT

Both Vietnamese and foreign employees are subject to PIT. PIT is imposed on a progressive basis pursuant to the Ordinance on Income Tax imposed on High-Income Persons. The first VND5,000,000 of the income of a Vietnamese employee is tax-free. A foreign employee is not subject to PIT until his or her income exceeds VND8,000,000. Currently, there are four progressive PIT rates: 10%, 20%, 30% and 40%.

Generally, a flat rate of 25% applies for foreign employees who remain in Vietnam for less than 183 days in any consecutive 12-month period. Those residing in the country for an aggregate of 183 days or more in a consecutive 12-month period from the first date of arrival or in subsequent calendar years are treated as tax residents for the purpose of PIT and are required to declare their worldwide income.

A company in Vietnam is required to declare and file PIT returns, and to withhold PIT on a foreign employee's Vietnam-related income physically paid in Vietnam. Additional PIT which Vietnamese authorities may impose on a foreign employee's Vietnam-related income received abroad would be the responsibility of the employee.

Withholding tax

Withholding tax is payable on payments abroad of interest on overseas loans, royalties, licence fees, foreign contractors' fees, and cross-border lease charges, etc. Unless the foreign parties to these transactions register to pay tax directly in Vietnam for their Vietnam-related businesses, companies in Vietnam are responsible for withholding the amount of tax payable and paying it to the state on behalf of the foreign parties.

No remittance tax is imposed on profits remitted overseas to foreign investors.

SOCIAL AND HEALTH INSURANCE PREMIUMS FOR VIETNAMESE EMPLOYEES

Contributions to the national social insurance fund are mandatory. An employer and its employees are obliged to contribute to the social insurance fund a certain percentage of the employee's monthly contracting salary, which is known as the "contribution salary". However, if the total monthly contracting salary of the employee is more than twenty times the Vietnamese government's statutory minimum wage, then, for the purpose of calculating social insurance contributions to be made by the employer and the employee, the contribution salary will be deemed to be fixed at twenty times the statutory minimum wage.

Beginning in 2007, under the Law on Social Insurance, social insurance contributions will be increased gradually, year by year, as follows:

	2007	2008	2009	2010	2011	2012	2013	2014 onward
Employees	5%	5%	5%	6%	6%	7%	7%	8%
Employers	15%	15%	15%	16%	16%	17%	17%	18%

In addition, the employer and employee are also required to pay health insurance premiums at a rate of 2% and 1%, respectively, of the total salary of the Vietnamese employee.

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ENVIRONMENTAL REGULATIONS

The Law on Protection of the Environment, dated 29 November 2005, sets out the general legal framework for the protection of the environment in Vietnam and imposes penalties for breaches of its provisions. It aims to limit adverse impacts on the environment, control environmental degradation and pollution, control environmental hazards and exploitation, encourage the proper use of natural resources, and protect biological diversity.

All projects in Vietnam must comply with environmental standards issued by the Ministry of Natural Resources and Environment. The motorbike industry is required to comply with standards relating to:

- the discharge of wastewater;
- gas emissions;
- toxic waste; and
- noise and vibration.

Those engaged in the motorbike industry are obliged to adopt appropriate environmental measures to prevent and control damage to the environment resulting from waste disposal, noise, water, smoke emission, nuclear waste, petroleum, and radioactive or toxic substances generated in the course of production, construction, transportation, storage, exploration and other activities. The Group has been issued a wastewater discharge permit valid until 27 April 2016 for its Ha Tay Factory and has registered its plans and measures to manage toxic waste for various factories. These registrations are valid until 5 September 2008.

Those engaged in the motorbike industry are also obliged, where appropriate, to obtain permits for the use of ground water as well as for the discharge of wastewater into rivers.

Breach of environmental regulations may result in the imposition of penalties, including fines, damages and the withdrawal of investment licences, and may also result in criminal sanctions on individuals.

Since 1 July 2007, more stringent Euro II emission standards have applied to all newly manufactured or imported motorbikes.

The Law on Environmental Protection requires that certain foreign investors prepare either an Environmental Impact Assessment Report (“**EIAR**”) or an Environmental Protection Undertaking (“**EPU**”) for their projects, depending on the importance and level of environmental impact of the project. An EIAR differs from an EPU in that an EIAR must be submitted to the appropriate authority for appraisal, while an EPU only needs to be registered. An EPU is registered with the district-level people’s committee, which, when necessary, may authorise commune-level people’s committees to issue a certificate of registration. VMEP, the Subsidiaries and VTBM are subject to the EIAR requirement and have submitted their EIARs.

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In addition, under the Law on Environmental Protection, VMEP, the Subsidiaries and VTBM are required to:

- comply with the Law on Environmental Protection;
- implement environmental protection measures described in their EIARs and comply with environmental standards;
- prevent and limit any adverse impact on the environment caused by their activities;
- remedy environmental pollution caused by their activities;
- educate and raise environmental protection awareness among their employees;
- comply with reporting requirements;
- observe the environmental protection, supervision and inspection regime of the relevant local authorities; and
- pay environmental tax and environmental protection fees (an environmental tax applies to any individual or organisation that produces and trades in products that are deemed to have a long-term adverse impact on the environment and human life).

Companies engaging in the collection, transportation and disposal of toxic waste must satisfy the following conditions to be eligible to obtain a licence:

- conduct and submit an EIAR or EPU;
- set up toxic waste disposal facilities satisfying the specific conditions set out in the Law on Environmental Protection;
- have methods, technologies and equipment to dispose of toxic waste that are suitable to the chemical, physical and biological properties of each kind of toxic waste;
- possess appropriate means and facilities for the temporary storage and transportation of toxic waste designed to prevent toxic waste leakage;
- have a technical system, equipment or solution to control pollution and protect the environment;
- have an automatic environmental observation system;
- have at least two technicians with intermediate or higher-level degrees in chemistry or environmental science, or a similar discipline; and
- have appropriate plans, processes and programmes for the disposal of toxic waste.