



# Legal & Regulatory Updates for the Logistics & Transportation Sector in Vietnam

**AmCham Logistics and Supply Chain Committee**

**January 17, 2018**

# Today's Speakers



**1.** **Phuc Nguyen**  
Director  
Management Consulting



**2.** **Rohit Sinha**  
Associate Director  
Trade & Customs



**3.** **Giang Chu**  
Associate Director  
Legal Services



# Contents

- 1 National Guidelines on Logistics Service Development
- 2 Draft Law on Special Economic-Administrative Zones
- 3 E-Manifest Requirements for Shipping Lines, Forwarders
- 4 Decree 163 on Doing Business in Logistics Services
- 5 Draft Decree to Replace Decree 23 (Goods Purchase and Sale Activities in Vietnam)



# National Guidelines on Logistics Service Development



# National Guidelines on Logistics Service Development

**Decision 200 / QD-TTg – a national document issued by the Prime Minister on 14/2/2017 sets out action plans to improve competitiveness and logistics services development of Vietnam by 2025.**

**Key priorities in the action plan for authorities, include:**

- Improve the policies and laws on logistics services.
- Improve logistics infrastructure
- Improve enterprise capacity and service quality
- Develop the logistics market
- Training, raising the awareness and quality of human resources

*After Decision 200/QD-TTg was promulgated, a number of ministries, localities and associations issued sectoral plans to concretize their tasks to develop logistics services in their industry or locality, in accordance with the conditions and characteristics of socio-economic development of that industry or locality.*





# Draft Law on Special Economic -Administrative Zones (SEAZs)



# Draft Law on Special Economic -Administrative Zones (SEAZs)

## Updates

- New legal framework for the establishment, operation, and **development of 3 SEAZs** in Van Don, Bac Van Phong and Phu Quoc, with a focus on certain industries.
- **Bac Van Phong SEAZ** (Khanh Hoa province), in particular, is designed to attract investment projects in logistics and international transportation field.
- The NA is scheduled to pass a final version of the Draft Law in 2018.



*Caption: Site where Van Don SEAZ will be established in Quang Ninh province (Source: Vietnamnet)*

# Draft Law on Special Economic -Administrative Zones (SEAZs)

## Investor-friendly features

This Draft Law aims to create “an exceptionally favorable investment environment”, which includes simplified administrative procedures on investment and a more streamlined local authority approval system.

### Key points include:

- Investors investing in SEAZ will be entitled to engage in “**other investment forms**”, subject to SEAZ’s special approval. It’s still unclear, however, what “other investment forms” may be.
- **Special privileges for foreign invested enterprises (“FIE”)**: FIEs with head offices in an SEAZ will be entitled to the same export rights, import rights and distribution rights as those of local investors
- **Built-in governance**: The SEAZs will each have its own licensing authority system to develop licensing procedures applicable to investment and enterprise registration, and will be empowered to issue a number of incorporation licenses and sub-licenses.
- **Single business certificate**: able to issue a “Business Investment Registration Certificate” to replace Investment Approval, an Investment Registration Certificate, and/or an Enterprise Registration Certificate.
- The Draft Law also provides **certain incentives on tax, land, customs procedures** for investment into SEAZs.



# E-Manifest Requirements for All Shipping Lines, Forwarders



# E-Manifest Requirements for All Shipping Lines, Forwarders

**As announced by the General of Customs Department in Official Letter No.7392/TCHQ-CNTT, from January 1, 2018, all shipping lines, forwarders are required to comply with e-manifest requirement when doing customs clearance procedures.**

*Caption: Customs in Central Vietnam attend training on new E-Manifest procedures*





# Decree 163 on doing business in logistics replaces Decree 140



# Decree 163 on logistics businesses replaces Decree 140

On December 31, 2017, the Government promulgated **Decree No. 163/2017/ND-CP** on logistics business, which replaces Decree 140/2007/ND-CP **detailing the implementation of the Commercial Law on conditions for doing business in logistics services and limitation on liability of logistics service providers.**

## Highlights:

- **Reclassifies 17 logistics services** which are mostly in line with Vietnam's WTO commitments. In principle, business conditions for each logistics service are in line with commitments of Vietnam on market access for foreign investors.
- There are **some services which are not provided investment conditions and limitations on foreign ownership under new Decree as compared with Vietnam's WTO commitments.** For example: *warehousing services under all models of transportation, freight transport agency services and courier services.* Technically, foreign investors are permitted to carry out these services in line with Vietnam's WTO commitments although they are not provided with conditions under new Decree.
- **Services being technical checks and analysis remains the service that is out of scope** of agreed services under Vietnam's WTO Commitments, and also have the conditions under new Decree are unclear.
- **Scope of governance under Decree 163 does not encompass non-members of WTO,** hence, the licensing procedures to allow market access for such non-members are still unknown. In this vein, it is subject to the licensing authority's approval on case-by-case basis.

# Limitations on foreign ownership for logistics services under Decree 163

#	Logistics services	Limitations on foreign ownership
1	Maritime freight transportation services (operating a fleet under the national flag of Vietnam)	Not exceed 49%
2	Container handling services	Not exceed 50%
3	Customs clearance services under sea carriage	Allow JVC (must have capital contribution of Vietnamese partner)
4	Other supporting services	Allow JVC (must have capital contribution of Vietnamese partner)
5	Domestic waterways freight carriage services	Not exceed 49%
6	Railway freight carriage services	Not exceed 49%
7	Road freight carriage services	Not exceed 51%
8	Aviation carriage services	Implemented in accordance with Law on Civil Aviation of Vietnam (which foreign ownership ratio does not exceed 49%)



# Draft Decree to Replace Decree 23/2007/ND-CP (Goods Purchase and Sales Activities)



# Draft Decree to Replace Decree 23/2007/ND-CP on Goods Purchase and Sale Activities in Vietnam

## Application for Issuing of Trading Permits in Logistics

- Requires Foreign Invested Enterprises (“FIEs”) in Vietnam to apply for a **Trading Permit (“TP”)** for providing some logistic services
- Does NOT apply for “Committed Logistics Services” (Services for which Vietnam has committed itself in international treaties.
- The draft Decree is expected to be adopted and come into effect in early 2018.
- Current situation: It’s still a DRAFT and there is controversy on the definition of Committed vs Non-Committed.





Thank you



## **KPMG Tax and Advisory Limited**

No. 115 Nguyen Hue Street, Ben Nghe Ward District 1, Ho Chi Minh City, Vietnam

**Tel:** + 84 838219266

### **Phuc Nguyen**

Director, Strategy & Operations  
Management Consulting  
[phuctnguyen@kpmg.com.vn](mailto:phuctnguyen@kpmg.com.vn)

### **Rohit Sinha**

Associate Director  
Trade & Customs  
[rsinha3@kpmg.com.vn](mailto:rsinha3@kpmg.com.vn)

### **Giang Chu**

Associate Director  
Legal Services  
[gtchu@kpmg.com.vn](mailto:gtchu@kpmg.com.vn)



**[kpmg.com/socialmedia](https://kpmg.com/socialmedia)**

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2018 KPMG Limited, KPMG Legal Limited, KPMG Tax and Advisory Limited, all Vietnamese one member limited liability companies and member firms of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity.

The KPMG name, logo and are registered trademarks or trademarks of KPMG International.



# Annex: Further details

# Draft Law on Special Economic -Administrative Zones (SEAZs)

## Industry focus of 3 SEAZs

### Van Don SEAZ, Quang Ninh province:

- High tech, hi-tech supporting industries;
- Eco-tourism, cultural tourism, cultural industry;
- Aviation services & aviation logistics;
- Procurement and commercial services.

### Bac Van Phong SEAZ, Khanh Hoa province:

- IT, electronics, precision engineering;
- Seaports of goods and international passengers;
- Port logistics services;
- Trade, finance.

### Phu Quoc SEAZ:

- Resorts, eco-tourism;
- International conferences and exhibitions, procurement and trade services;
- Asset management services;
- Health services.

# Draft Decree to Replace Decree 23/2007/ND-CP

## What are Committed Logistics Services?

To identify which logistics services may be regarded as Committed Logistics Services, we can refer to Vietnam's commitments on logistics and transportation when Vietnam joined the WTO. **Any service which is not in the list of a Committed Logistics Services would require a Trading Permit.**

### Committed Logistics Services include the following:

- Storage and warehousing services (CPC 742);
- Other storage and warehousing services (part of CPC 749);
- Freight transport agency services (CPC 748);
- Maritime transport services: including passenger transportation, excluding transport services by non-seagoing vessels (CPC 7211); freight transportation, excluding for transport services by non-seagoing vessels (CPC 7212);
- Customs clearance services (marine brokerage);
- Transport services by non-seagoing vessels: including passenger transportation (CPC 7221); freight transportation (CPC 7222);
- Transport services by railway: including passenger transportation (CPC 7111); freight transportation (CPC 7112);
- Road transport services: including passenger transportation (CPC 7121 and CPC 7122); freight transportation (CPC 7123).

*Source: Official Letter No. 9911/BCT-KH dated 24 September 2015 on the route for opening logistics service market for foreign investors*