

RAJAH & TANN ASIA

LAWYERS
WHO
KNOW
ASIA

REGIONAL
ROUND-UP
2021:
VIETNAM



CHINA
Rajah & Tann Singapore
Shanghai Representative Office

LAO PDR
Rajah & Tann (Laos)

PHILIPPINES
C&G Law

VIETNAM
Rajah & Tann LCT Lawyers

CAMBODIA
R&T Sok & Heng Law Office

MYANMAR
Rajah & Tann
Myanmar Company

THAILAND
R&T Asia (Thailand)

MALAYSIA
Christopher & Lee Ong

SINGAPORE
Rajah & Tann Singapore

INDONESIA
Assegaf Hamzah
& Partners

RAJAH & TANN ASIA

CAMBODIA | CHINA | INDONESIA | LAOS | MALAYSIA | MYANMAR | PHILIPPINES | SINGAPORE | THAILAND | VIETNAM

www.rajahtannasia.com

CONTENTS

Introduction	3
Looking Back: 2021	4
Gazing Into: 2022	7
Key Contacts	9
Our Regional Contacts	10
Disclaimer	11

Introduction



Throughout the year, we have been keeping you up to date on noteworthy developments across the region with our Regional Round-up Publications. As we enter 2022, we are pleased to share with you our *2021 year-in-review of the Regional Round-up* for our Regional Offices in the Rajah & Tann Asia network.

In each jurisdiction, we recount the key milestones in the path that has been travelled in 2021, as well as consider the terrain of the road that lies ahead in 2022. In the "**Looking Back: 2021**" section, we take stock of the past year and highlight the key legal and regulatory developments affecting each jurisdiction in 2021. In the "**Gazing Into: 2022**" section, we look ahead to some key areas of development that you should take note of in the year to come, referencing the legal and business trends shaping up potential legislative and regulatory changes in each jurisdiction.

We hope that this year-in-review edition of the Regional Round-up provide some perspective and insight into the legal landscape of the jurisdictions across the region. As always, please feel free to contact our lawyers in our Regional Offices if you have any queries or for further discussions.

Please click on the links below to access the full collection of our country-specific *2021 year-in-review of the Regional Round-up*:

- [Cambodia](#)
- [China](#)
- [Indonesia](#)
- [Laos](#)
- [Malaysia](#)
- [Myanmar](#)
- [Philippines](#)
- [Singapore](#)
- [Thailand](#)
- [Vietnam](#)

Looking Back: 2021

2021 was a challenging year for Vietnam. To contain the spread of the COVID-19 pandemic, the State enforced **lockdowns** for several months. This resulted in **significant disruptions to the manufacturing and supply chains**.

However, the pandemic did not hamper the drive of the Government in pushing out legislation on spotlighted industries or sectors. This includes the **sub-sectors of Vietnam's digital economy**. 2021 saw the Government enact or publish draft regulations to cover areas such as **personal data protection, e-commerce, internet services and online content, cross-border advertising, and telecommunications**.



Vietnam's **future power development** remained a topic of considerable interest in 2021 – particularly as to whether the Government would continue to drive **clean energy as a major power source** for the future. Investors closely monitored the numerous iterations of the proposed **National Power Development Plan VIII**. Project owners also continue to monitor the transitional treatment of their projects that remain under construction or have otherwise yet to have achieved commercial operational date by the feed-in-tariff (FiT) deadlines.

Other key important developments relate to:

- the implementation of some provisions of the **Law on Investment 2020**;
- the implementation of the **Labour Code 2019**; and
- the regulation of **foreign employees working in Vietnam**, and the **recruitment of Vietnamese employees working for foreign employers in Vietnam**.

Summaries of the key developments relating to the above areas are provided below.

Technology, Media & Telecommunications – New Decree Amending and Supplementing Regulations on Cross-border Advertising

On 20 July 2021, the Government issued Decree No. 70/2021/ND-CP ("**Decree 70**") amending and supplementing several articles of Decree No. 181/2013/ND-CP implementing the Law on Advertising. Decree 70 took effect on 15 September 2021.

Broadly, Decree 70 modifies the regulations governing cross-border advertising to keep pace with the development of the advertising market and ensure

equality between domestic and foreign enterprises in the advertising industry. Click [here](#) for more information.

Technology, Media & Telecommunications – Code of Conduct on Social Networks

On 17 June 2021, the Minister of Information and Communications issued Decision No. 874/QĐ-BTTTT together with the Code of Conduct on social networks ("**Code of Conduct**"), which took effect on the same date. The Code of Conduct applies to social network service providers and the users of social networks, including individuals, organisations, officials, public employees and workers in government agencies, regulatory authorities.

The Code of Conduct sets out rules of conduct for organisations and individuals concerning the use of social networks, including conducting oneself or behaving in an appropriate manner in line with the moral and cultural values and fine traditions of the Vietnamese nation. It provides "rules" which social networks should adhere to, such as (i) having clear terms and conditions (T&Cs); (ii) putting in place measures for the detection and removal of contents that violate the laws; and (iii) providing support to "vulnerable" users. Click [here](#) for more information.

Technology, Media & Telecommunications – Roll-Out of "Mobile Money" Pilot

On 9 March 2021, the Prime Minister issued Decision 316/QĐ-TTg to approve the "mobile money" pilot, which allows the use of telecommunications accounts to pay for small value goods and services. This pilot, which is implemented nationwide, will last for two years.

Entities participating in the pilot are those licensed to provide electronic wallet payment intermediary services, and licensed established public mobile territorial telecoms networks (or subsidiaries with authorisation from a qualified telecoms company).

The "mobile money" transactions may be used for payment of goods and services in Vietnam, or transfer of funds between mobile money accounts. The maximum transaction limit of an account is VND 10 million per month for all transactions, including withdrawals, transfers, and payments. Click [here](#) for more information.

Energy & Resources – Draft National Power Development Plan 8 (PDP 8)

Over the course of 2021, the Ministry of Industry and Trade issued numerous draft proposals for Vietnam's National Power Development Plan VIII (PDP 8).

The latest draft in October 2021 reveals the Government's pursuit of coal-fired projects that were earmarked in the existing National Power Development Plan VII. This suggests that Vietnam will continue to rely heavily on coal for its energy needs – even despite mentions of a gradual phase out in the draft plan. The intention to continue pursuing coal-fired projects has caused some concern as to the country's energy security for the future.

Nevertheless, for the long-term future, from 2031 to 2045, the Government has proposed to rely more significantly on wind and solar energy through increasing capacity for harnessing these alternative energies.

Foreign Investment – Decree Detailing the Implementation of Some Articles of the Law on Investment 2020

On 26 March 2021, the Government issued Decree 31/2021/ND-CP ("**Decree 31**") to guide the implementation of some of the articles of the Law on Investment 2020.

Decree 31 lays down detailed provisions on investment procedures and requirements, including market access restrictions, investment incentives, and requirements in applications for mergers and acquisitions (M&A) approval. Click [here](#) for more information.

Employment & Benefits – Decree Implementing the Labour Code 2019

Decree 145/2020/ND-CP ("**Decree 145**") which provides guidance on the implementation of the Labour Code 2019 came into effect on 1 February 2021.

Decree 145 sets out key changes such as (i) introducing detailed provisions on sexual harassment at the workplace, including what constitutes sexual harassment, and avenues for recourse in the event of workplace harassment; (ii) revamping the procedures for organising employee dialogue; and (iii) providing longer minimum notice periods for unilateral termination for certain

occupations and business lines. Click [here](#) for more information.

Employment & Benefits – Decree Regulating Foreign Employees Working in Vietnam, and the Recruitment and Management of Vietnamese Employees Working for Foreign Employers in Vietnam

On 15 February 2021, Decree 152/2020/ND-CP ("Decree 152") regulating foreign employees working in Vietnam, as well as the recruitment and management of Vietnamese employees working for foreign employers in Vietnam, came into effect.

Decree 152 introduces and updates cases in which foreigners would be eligible for work permit exemptions. Particularly, exemptions are now available for foreigners who (i) are married to Vietnamese citizens and are living in Vietnam, or (ii) are probationers on Vietnamese ships.

Furthermore, the existing work permit exemption that applies to foreigners who own companies in Vietnam has now been tightened to only apply to foreigners who have contributed a minimum of VND 3 billion in capital to the company. Therefore, under Decree 152, owners of small enterprises with a capital threshold of less than VND 3 billion would no longer be able to receive a work permit exemption.

Pursuant to Decree 152, foreign organisations and individuals may now directly recruit Vietnamese citizens by giving prior notice to the labour authority. This is not the case previously, where foreign organisations needed to engage a recruitment organisation to assist in the hiring of Vietnamese citizens. Click [here](#) for more information.

Gazing Into: 2022

Despite the pandemic challenges faced in 2021, the Government has since shifted its COVID-19 policy direction with a view to "**living with the virus**". Compounded with a strengthening vaccine drive, our **outlook for 2022 is optimistic**.

Draft pieces of legislation that were slated to be enacted by the end of 2021 are likely to come into fruition in 2022. These include regulations on **personal data protection, internet services and online content, and cybersecurity**. It is expected that companies will be reviewing their existing data protection compliance policies to align with the upcoming regulations.



In the **clean energy sector**, the **National Power Development Plan VIII** is expected to be passed. In addition, the substantive provisions of the **Law on Environmental Protection** (which was passed in 2020) have come into effect from 1 January 2022. Among others, this will introduce more concrete policies on an **emission trading system**.

Data Protection – Draft Personal Data Protection Decree

In 2021, the Government released its draft decree on personal data protection. The decree is expected to become Vietnam's first omnibus personal data protection law.

The draft, which is partially influenced by the EU General Data Protection Regulation (GDPR), introduces stricter cross-border data transfer requirements, the concept of sensitive data, a dedicated "Personal Data Protection Committee" that will supervise compliance with data protection laws, and much harsher penalties for non-compliance (including fines determined as a percentage of the revenue of an infringer).

Technology, Media & Telecommunications – Proposed Amendments to Decree on Internet Services and Online Content

In 2021, the Government developed multiple drafts of the amendment to Decree 72/2013/ND-CP, which regulates internet services and online information. The latest draft amendments were proposed in November 2021.

The draft amendments revamp the existing decree, by introducing stricter content control requirements for internet-based businesses, new regulations on data centre service providers (including cloud services) and revised licensing requirements for internet companies.

Corporate Commercial / Technology – New E-Commerce Regulations

On 25 September 2021, the Government passed Decree 85/2021/ND-CP ("**Decree 85/2021**") that expands the extraterritorial scope of Vietnam's existing e-commerce laws to capture a much broader set of foreign companies.

New registration and other compliance obligations now apply to foreign e-commerce companies that have business in Vietnam. Decree 85/2021 came into force on 1 January 2022. Click [here](#) for more information.

Energy & Resources – Law on Environmental Protection

In 2020, the National Assembly passed the Law on Environmental Protection. The substantive provisions of this law have come into force from 1 January 2022.

The new law seeks to streamline the environmental licensing regime by introducing a universal or master licence that would replace many of the permits that were required under the former law.

It also introduces regulations on an emission trading system. While it remains to be seen how the system would operate in practice, the law lays a foundation on which a domestic emissions trading market would be developed.

We anticipate that the Government will enact further implementing or guiding decrees to the Law on Environmental Protection later in 2022.

KEY CONTACTS



Dr Chau Huy Quang
Managing Partner

T +84 28 3821 2382

quang.chau@rajahtannlct.com



Vu Thi Que
Partner/Chairwoman

T +84 28 3821 2382

que.vu@rajahtannlct.com



Lim Wee Hann
Executive Committee Member

T +84 28 3821 2673

wee.hann.lim@rajahtann.com



Logan Leung
Partner

T +84 28 3821 2382

logan.leung@rajahtannlct.com

OUR REGIONAL CONTACTS

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
F +65 6225 9630
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

Rajah & Tann Singapore LLP Shanghai Representative Office

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.id

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +951 9345 343 / +951 9345 346
F +951 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79/ +632 8894 4931 to 32
/ +632 8552-1977 to 78
F +632 552 1978
www.cagatlaw.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382
F +84 28 3520 8206

Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This publication is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this publication.

DISCLAIMER

Rajah & Tann Asia is a network of member firms with local legal practices in Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes our regional office in China as well as regional desks focused on Brunei, Japan and South Asia. Member firms are independently constituted and regulated in accordance with relevant local requirements.

The contents of this publication are owned by Rajah & Tann Asia together with each of its member firms and are subject to all relevant protection (including but not limited to copyright protection) under the laws of each of the countries where the member firm operates and, through international treaties, other countries. No part of this publication may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Asia or its respective member firms.

Please note also that whilst the information in this publication is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as legal advice or a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. You should seek legal advice for your specific situation. In addition, the information in this publication does not create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on the information in this publication.