



The World Bank



**ARE THERE PREFERENTIAL TREATMENTS TOWARDS STATE-OWNED ENTERPRISES?**

**EVIDENCES FROM PRACTICE**

**Hanoi - 2015**

**ARE THERE PREFERENTIAL TREATMENTS OF SOEs:  
EVIDENCES FROM PRACTICE**

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## PREFACE

State owned enterprises (SOEs) constitute a significant economic sector in Vietnam. Before the market-based reforms introduced in the end of the 1980s, it was virtually the only formal economic sector which produced industrial goods or delivered services. With the rapid development of the domestic private enterprises and FDI, the SOEs have gradually lost their monopoly position and been increasingly forced to compete on equal footing with their private peers. Nevertheless, numerous strategic papers, notably the recently promulgated Constitution, continue to declare a leading role in the economy for the state sector. While these papers also state clearly that there are no differential treatments of enterprises from different ownership backgrounds, there are concern about existence of unequal treatments that may be associated with the leading role of the SOEs, their connection to policy makers or simply a remaining habit from the command regime.

The paper investigates whether the SOEs continues to receive preferential treatments by reviewing both the regulatory framework and practical evidence. Removing unequal treatments between SOEs and private firms is at the core of SOE reform in Vietnam. This will impose more competitive pressure on the SOEs and result in improved performance.

Essentially, there are double major challenges to the success of the SOE reform. First, change in the mindset is critical given the SOEs continue to be viewed as leading sector of the economy. It can take years or even decades to change the mindset and attitude towards the SOEs, from being the only economic sector in a command economy to one of several sectors in a level-playing field business environment. Changes in the mindset have been reflected in changes in the regulatory framework which display significant improvement over time.

The second major challenge is the implementation of well-intended reform measures. In particular, weak enforcement is often a decisive factor behind the slow and at times ineffective transformation of good policies to real progress. The SOE reform is not an exception and the paper aims to illustrate the (in)effectiveness of implementation in SOE reform by documenting evidence of deviation of practice from regulatory framework.

This study is prepared by Le Duy Binh (Economica Vietnam) and Doan Hong Quang (the World Bank) with contribution of Nguyen Thuy Nhi and Truong Duc Trong (Economica Vietnam).

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## LIST OF ABBREVIATIONS

<b>AFTA</b>	:	ASEAN Free Trade Area
<b>BOD</b>	:	Board of Directors
<b>DATC</b>	:	Vietnam Debts and Assets Trading Company
<b>EVN</b>	:	Electricity of Vietnam
<b>FDI</b>	:	Foreign direct investment
<b>IPO</b>	:	Initial public offerings
<b>MOF</b>	:	Ministry of Finance
<b>ODA</b>	:	Official development assistance
<b>PPC</b>	:	Provincial People’s Committee
<b>PVN</b>	:	PetroVietnam (Vietnam Oil and Gas Group)
<b>ROA</b>	:	Return on assets
<b>ROE</b>	:	Return on equity
<b>ROS</b>	:	Return on sales
<b>SBV</b>	:	State Bank of Vietnam
<b>SCIC</b>	:	State Capital Investment Corporation
<b>SGRF</b>	:	State General Reserve Fund
<b>SOE</b>	:	State owned enterprises
<b>TPP</b>	:	Trans-Pacific Partnership
<b>UDIC</b>	:	Urban Infrastructure Development Investment Corporation
<b>US-BTA</b>	:	U.S. – Vietnam Bilateral Trade Agreement
<b>USD</b>	:	U.S. dollar
<b>VDB</b>	:	Vietnam Development Bank
<b>VINACOMIN</b>	:	Vietnam National Coal – Mineral Industries Holding Corporation Ltd
<b>VND</b>	:	Vietnam dong
<b>VNPT</b>	:	Vietnam Post and Telecommunications Group
<b>WTO</b>	:	World Trade Organization

# **I. OVERVIEW OF SOEs: REGULATORY FRAMEWORK, RECENT REFORMS AND PERFORMANCE**

## **1. Regulatory Framework for SOEs**

*At the law level, SOEs are increasingly being made subject to the same regulations as those applicable to private and foreign enterprises with no preferences*

Vietnam used to have separate laws which are applicable to SOEs, foreign invested enterprises, and private enterprises. In an effort to comply with requirement under the USBTA and WTO, the legal framework for all type of enterprises was set up in 2005 with the promulgation of the unified Enterprise Law and Investment Law which are applicable to all type of enterprises, regardless of their ownership structure. At the transition period, SOEs were still subject to the 2003 SOE Law until 30 June 2010. As of 1 July 2010 onwards, the establishment, operation and governance of SOEs are made subject to the unified Enterprise Law. The SOE Law 2003 was then abolished and was no longer effective. With this, SOEs no longer have its own law.

To observe the national treatment and MFN principles under WTO and a wide range of bilateral trade agreements to which Vietnam is a member or is negotiating, the level playing field between SOEs, private enterprises and foreign enterprises have been gradually created. The common Investment Law was also introduced in 2005 and then revised in 2014, providing the same legal framework for SOEs, FIEs and private enterprises. Similarly, revisions to other laws are also made in order to eliminate all the discriminatory treatments towards SOEs on laws, e.g. Law on Credit Institutions, Law on Land. For example, according to prevailing laws, SOEs have no preferences to accessibility to land, at least on law and paper. Private enterprises have equal rights as SOEs when they lease, transfer land.

At the law level, regulations are silent about any preferential treatments to SOEs when it comes to accessibility to other production factors like credit, electricity, technology, human resources, etc. Neither do they provide any preferences in terms of special trading rights, accessibility to business rights, privileged mining rights, etc. to SOEs. A review of the Telecom Law, Law on Minerals, Trade Law, Law on Insurance Business, Petroleum Law, Labor Law ect. shows that the laws and regulations in Vietnam do not give any privileges to SOEs and SOEs are subject to the same business conditions and regulations like any other enterprises operating in Vietnam.



In terms of exit from the market or settlement of disputes, the Civil Code, the Bankruptcy Law, etc. no separate regulations or stipulations are found which tend to give preferential treatments to SOEs.

As such, in writing and in regulations, SOEs, private enterprises, and FIEs all operate in the same legal framework without any preferences being given to SOEs.

***SOE-specific regulations still exist to govern operation and management of SOEs though no preferences to SOEs can be easily seen in these regulations***

To govern the establishments and management of SOEs, a number of regulations (which are all under-law regulations) are promulgated, for example the Decree No. 180/2004/ND-CP dated 28/10/2004 on the establishment, organization and dissolution of SOEs, Decree No. 25/2010/NĐ-CP dated 19/3/2010 on conversion of SOEs into one member liability limited companies, etc.

In addition to these, the Decision on the establishment and approval of operation charter of SOEs can also be seen as an integral part of the regulatory framework on SOEs.

SOEs which have been converted to become one member liability limited company are subject to the Enterprise Law 2005 (and now the Enterprise Law 2014) and Decree No. 25/2010/NĐ-CP in terms of management of capital of the State. Large economic groups still comply with the Decree No. 111/2007/ND-CP and *Decree* No. 101/2009/NĐ-CP dated 05/11/2009 on pilot establishment, governance, and operation of State conglomerates.

In 2003, the Government also released the Decree 61/2013/NĐ-CP in 2013 to improve the transparency of the SOEs by imposing mandatory information disclosure requirements applicable to SOEs.

In 2012, the Government issued Decree No. 99/2012/ND-CP dated 15/11/2012 on the assignment and decentralization of tasks and responsibilities of different government agencies in exercising the State ownership in SOEs.

The Government also issued Decision No. 37/2014/QĐ-TTg on criteria and categories for classification of SOEs. The Decision is used as an important basis to speed up SOE reform.

Therefore, these SOE specific regulations do exist. However, they are mostly formulated to govern the establishment and operation of SOEs, to improve their corporate governance, reporting and evaluation, information and disclosure. These regulations are not designed to give privileges or preferential treatments to SOEs. Rather, they are made to enable the State exercise their role as owner or investor in these enterprises, to enhance their performance and/ or to reform them. In many cases, they even provide more restrictive conditions on SOEs, e.g. salary and bonus rates applicable to high-level management of the SOEs and of its employees and workers, business lines where SOEs can be established. Again on paper, there is no evidence to show that these SOE-specific regulations provide any preferential treatments to SOEs.

***In addition, case-by-case piece of regulations for applicable to a single specific SOE are also given***

In addition to SOE-specific regulations, regulations are also made in relation to a specific SOE. Such regulations can take the form of a decision by the Prime Minister or Decision of the Provincial People's Committee. Most popular of them are Decision by the PM or by the President of the PPC on the establishment and approving the Charter of an SOE. In some cases, they are decisions by the PM by the Head of PPC to increasing the charter capital of an SOE by allocating more funds to it, or giving State credit at preferential to an SOE. For example, in October 2009, the Prime Minister issued the Decision No. 1596/QD-TTg regarding the financial restructuring solutions for Vinashin. The SBV also released the Letter No. 357/NHNN-TD dated 17 July 2009 the restructure and write-off of overdue debts of Vinashin.

Some argument go that these decision are not part of the regulatory framework of SOE and they are only applied on a case by case basis. They are simply a decision by the Government, acting in the capacity of the owner and shareholder of the SOE. But some do see that these are still part of the regulatory framework. They believe that it is in these decisions that show that the regulatory framework still provide preferences and privileges to SOEs. Most recent example is the Decision of the Prime Minister n giving credit to Vinashin, or to delay their social payment obligations.

So it appears that the laws, regulations in Vietnam do not have any stipulations which provide any preferences to SOEs. SOEs are operating in a level playing field with our any

preferential treatments being given by laws or regulations except for some of the case-by-case decisions of the PM or President of the PPC.

Why are there still loud voice clamoring that SOEs are still receiving a lot of preferential treatments and privileges? Are there any differences between what the law says and the practice go. This can be further analyzed in Section 3 of this paper. Before that, the following sections review the recent reforms and performance of SOEs in Vietnam.

## **2. The reform and development process of SOEs**

The SOE reform in Vietnam was kick started with the launch of DoiMoi, the market-based economic reform, in 1986. The transition from a centrally planned economy towards a “multi-sectoral economy” in which private sector and FDI are officially recognized and protected is a salient feature of the economy reform in Vietnam. The proliferation of the private sector clearly puts an enormous pressure on the performance of the SOEs and there is no doubt that this competition has contributed to improvement of SOE performance over time.

Reform within the SOEs sector took place almost simultaneously with measures that promote private sector development. Decision 217/1987 of the Council of the Ministers is often referred to as the first fundamental milestone of SOE reform in Vietnam. It was issued in 1987, shortly before Vietnam promulgated its very first Law on FDI and issued Resolution 10 on assigning long-term land use rights to farmers. A look at the issued important legal and policy documents shows that SOE reform has always received considerable attention from the leadership. Annex 1 provides an incomplete yet considerably long list of regulatory documents issued by the Communist Party of Vietnam (CPV) and the Government of Vietnam since DoiMoi. It shows how active the regulators have been in order to strengthen the performance of the SOEs. On the other hand, it illustrates how complex and difficult the implementation can be in practice given frequent changes and potential overlaps or inconsistencies. An example of the complexity of the regulatory environment for the SOEs is a book published by the National Steering Committee for Enterprise Reform and Development (NSCERD) in 2003. The book collects only important documents about SOE reform issued during period 2001-03 but is already of 617 pages.

This section will review the reform process in Vietnam for the major components of the process: corporatization, ownership reform, and consolidation.

### *Corporatization of SOEs*

Corporatization has been a popular approach in both advanced and developing countries to improve SOE performance. The objective is to make the SOEs to operate like private corporations and therefore improve their efficiency and productivity. Corporatization is designed primarily to restructure the internal governance of the SOEs, strengthen their autonomy while preserving the state ownership. A condition for full corporatization requires the SOEs to be incorporated under the same laws that govern private corporations.

Early reform measures in Vietnam focused on raising the managerial autonomy of SOE managers and introducing separation between the State's ownership of equity in enterprises and the regulation of the industries in which those enterprises operate. Decision 217/1987 essentially abandoned the central planning mechanism and allowed a significantly higher level of authority for the SOE managers in planning and operation. The legally binding targets for the majority of SOEs were reduced to just one indicator: either budget contribution or turnovers and quantitative targets were removed.

Keep an arm's-length relationship between government agencies and state-owned enterprises was then further improved with the issuance of the Law on SOEs in 1995. Compared to Decision 217, the 1995 SOE Law significantly broadened managerial autonomy to SOEs. It classified SOEs into two categories: (i) State Business Enterprises which operate on a profit basis and without subsidies; and (ii) State Public Service Enterprises which operate in accordance with State social and defense/security policies and are eligible for subsidies. The Law also listed the owner's rights to be exercised by the state in SOEs and defined the governance structure of the State General Corporations with similar characteristics of holding companies.

Corporatization was included as one of the main reform policies for SOEs in the Resolution 5 of the 3<sup>rd</sup> Plenum of the Central Committee of the CPV in 2001 which sets out the SOE reform strategy for period 2001-10. Important steps to corporatize the SOEs include the issuance of Decree 63 in 2001 and the SOE Law in 2003 which replace the 1995 SOE Law. Decree 63 specified the procedures for the transformation of SOEs and enterprises established by political organizations and mass organizations into single member limited liability companies. The SOE Law 2003 classified the SOEs into three organizational types: state corporation (including General Corporations), state joint stock company, and state limited liability companies in which the last two categories are similar to the corporate structure of private enterprises as determined by the Enterprise Law 2000.

An important breakthrough of the corporatization process was the issuance of the Enterprise Law 2005 which became effective in July 2006. The Enterprise Law 2005 requires the conversion of all SOEs to corporatized entities by June 30, 2010. With the promulgation of the Enterprise Law 2005, all enterprises of Vietnam irrespective of their ownership structure are supposed to operate in the same legal environment. The adoption of the Enterprise Law 2005 has some important consequences for the corporate governance of transformed SOEs, in terms of the establishment of Board of Members (in limited liability companies that did not have boards of directors before the transformation) and the relationship between the State as a shareholder with the other shareholders in joint stock SOEs.

Most recently, the Law on Enterprises 2014<sup>1</sup> (amended) has regulated that the enterprises whose 100% charter capital is held by the state are considered state-owned enterprises. Before that, as per the Law on Enterprises 2005<sup>2</sup>, SOEs are those whose over 50% charter capital is owned by the state. Along with the equitization efforts, as per the new regulation, the number of SOEs is likely to be further cut down. In addition, the subsidiaries or protections to SOEs should be re-balanced to match with input resources and comply with international regulations to help Vietnam overcome challenges in bilateral and multilateral negotiations. The Government also released the Decree 61/2013/NĐ-CP in 2013 to improve the transparency of the SOEs by imposing mandatory information.

The issuance of Decision 929 and Decision 704 by Prime Minister Nguyen Tan Dung in mid-2012 represents another major milestone in SOE reform in Vietnam. Decision 929 outlines a comprehensive restructuring of the SOEs sector and requires the formulation of legal documents for further separation of the exercise of owner's rights from state regulating agencies whereas improvement in corporate governance, including transparency in SOE operation is the focus of Decision 704.

At present, there are two main types of organizations of exercise owner's right in Vietnam: the decentralized and the dual model. The decentralized (sectoral) model is the one where SOEs are under the responsibility of relevant sector ministries or provinces. The dual model is the one where the responsibility is shared between the sector ministry and the Ministry of Finance (MOF). The State Economic Groups (SEGs) fall under the

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<sup>1</sup> *Clause 8, Article 4, the Law on Enterprises* (2014). The law was promulgated by the 8<sup>th</sup> plenum, the 13<sup>th</sup> National Assembly of the Socialist Republic of Vietnam on 26 Nov 2014.

<sup>2</sup> *Clause 22, Article 4, the Law on Enterprises* (2005). The law was promulgated by the 8<sup>th</sup> plenum, the 11<sup>th</sup> National Assembly of the Socialist Republic of Vietnam on 29 Nov 2005.

dual model with responsibilities being assigned by the Prime Minister to several line ministries. The centralized model, in which the ownership responsibility is concentrated under one single agency, has recently been proposed but no consensus has been reached.

*Ownership transformation:*

Ownership transformation is a central component of the SOE restructuring in Vietnam. The reform occurs primarily through equitization, referred to as the transformation of an SOE into a joint stock company in Vietnam. The process of equitization in Vietnam has gone through several phases, from piloting in the first half of the 1990s to expansion in the second half of the 1990s before it becomes the centerpiece of the SOE reform since the new millennium.

Equitization in Vietnam started with the issuance of Decision 202 of the Chairman of Council of Ministers in 1992. Decision 202 launched a pilot program which called for transformation on a voluntary basis of a limited number of viable or potentially viable small-scale, non-strategic SOEs into joint-stock companies (JSCs). This was to be done through acquisition of shares by enterprise employees (on preferential terms), by domestic private and public investors, and by foreign investors on a limited basis (with the proviso that this latter group's participation had to be approved by the Prime Minister). The transformed SOEs would then be subject to the Law on Company that governed the registered private enterprises at that time.

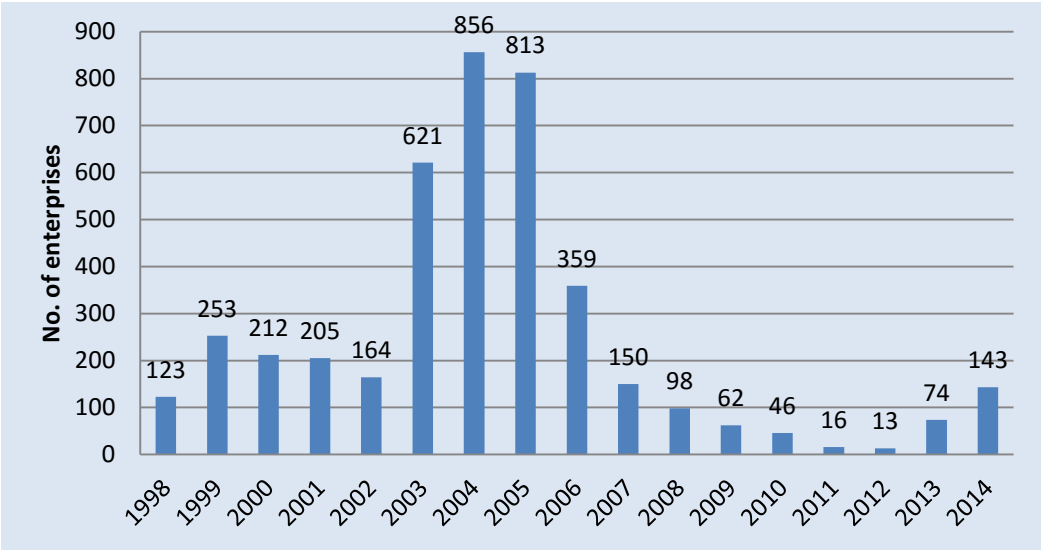
Expansion of the initial pilot for only a few small SOEs was taken place in the period 1996-98 with the issuance of two Decrees of the Government: Decree 28-CP in May 1996 and Decree 25 in March 1997 which amended several articles of Decree 28. These Decrees extended the scope of equitization to all non-strategic small and medium sized SOEs and required SOE controlling agencies (ministries, minister-level institutions, People's Committees, and State corporations) to select enterprises for equitization. Some benefits were offered to the equitized enterprises such as a 50 percent reduction of profit tax for two consecutive years after the transformation or continued access to preferential credits from State-owned commercial banks. Decree 25 attempted to accelerate the process by providing full authority for the leaders of line ministries and provinces in arranging equitization of small SOEs with asset below 10 billion VND. The pilot of equitization ended with the issuance of Decree 44 in 1998. For the first time, a list of sectors that the state should hold dominant share after equitization was officially published.

The role of equitization in the SOE restructuring agenda was fundamentally changed with the Party Resolution 5 of the 3<sup>rd</sup> Plenum of the Central Committee in September 2001

which sets out the SOE reform program for the period 2001-10. Equitization was considered the cornerstone of the reform agenda, and the goal was to essentially complete the equitization by 2010. Right after that, the Prime Minister issued Decision 183/2001 approving the action plan to implement Resolution 5. The process of equitization accelerated considerably over the period 2002-2006 during which ownership in a large number of small and medium SOEs was successfully transferred.

As part of Vietnam’s wide reforms on equitization and governance of SOEs, the foundation of the State Capital Investment Corporation (SCIC) in 2005 was in part designed to reduce the conflicts of interest that may arise when line ministries own and control equitized SOEs operating in their sectors. The establishment of the SCIC is expected to provide a mechanism to accelerate the transformation of ownership, in which the SCIC takes over the State’s role as owner of the equity in SOEs. By the end of 2011, representation of state ownership in nearly one thousand equitized enterprises has been transferred to SCIC management. Another step to support the restructuring and equitization process is the establishment of the Debt and Asset Trading Corporation (DATC) in Ministry of Finance in 2003. DATC is expected to play a fundamental role in resolving inter-SOE debt obligations by enabling SOEs to trade tranches of debt and streamline the equitization process.

**Figure 1. Progress of Equitization: 1998-2014**



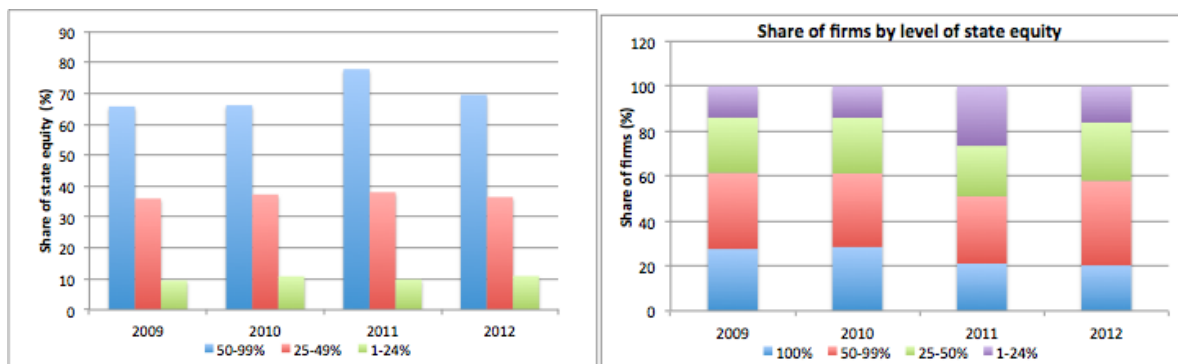
Source: CIEM (2015)

The equitization momentum faded since 2007, partly because of the outbreak of the global financial crisis in 2008-09 which was a decisive factor behind significant decline

of the stock market in Vietnam (Figure 1). Falling share prices made the equitization of the SOEs much less attractive to both the Government of Vietnam and the potential strategic investors. In addition, the complexity of the equitization of large SOEs is another important factor behind the slowing pace of ownership transformation. Responding to repeated calls for fundamental reform of the SOE sector, the government issued Decision 929 in June 2012 that again places equitization as the center of the SOE restructuring for period 2012-2015.

The pace of the equitization process picked up slightly in the period 2013-2014. In 2013, Vietnam successfully equitized 74 SOEs, almost the same number achieved in three years 2010-12. The number of newly equitized SOEs in 2014 is almost twice as high as that of 2013. Nevertheless, Vietnam only fulfilled less than 72 percent of its 2014 equitization plan with a target of 200 SOEs.

**Figure 2. Quality of Equitization – Changes in the Share of State Equity in Enterprises and composition of firms with state equity during 2009-12**



Source: GSO Enterprises Surveys: Authors' Calculation. Left panel refers to the average share of state equity in an enterprise with state capital. Right panel is the composition of firms with state capital.

The quality of equitization is another hotly debated issue recently. Selling a part of the equity of a fully state-owned enterprise, no matter how small the part is, is already qualified as a successful case of equitization. In addition, it is not uncommon that the buyers are also other SOEs. In both cases, equitization is unlikely to put pressure on performance of the equitized SOEs, hence defy the ultimate objective of equitization in improving SOEs productivity and efficiency. Towards this objective, further changes in ownership structure of equitized SOEs are expected to take place after IPOs. But in reality, it appears that changes in ownership structure remain negligible. Figure 2 depicts the changes in the share of state equity in enterprises in the period 2009-12. Enterprises with state equity are classified into three different groups based on the percentage share



of state equity, 1-24, 25-49, and 50-99. Across all categories, the average share of state equity displayed little or no change, even for enterprises in which state capital accounts only for minor shares. Taking together all these enterprises with state equity as a group, the share of state equity even increased slightly, from 87.4 percent in 2009 to 89 percent in 2012.

The right panel of Figure 2 depicts the composition of enterprises with state capital over 2009-12. The changes took place only between 100 percent and 50-99 percent whereas the share of firms in the categories 1-24 and 25-49 percent of state equity displays almost no changes. Overall, Figure 2 indicates that some fully-owned SOEs had been equitized in 2009-12, but only small proportion of equity was sold to the private sector. The remaining enterprises with state capital experienced very little or no changes in the share of state equity.

#### *Attempts to conglomerating SOEs*

Another major component of the SOE reform in Vietnam is the establishment of big state conglomerations. The main objective of this policy is to have some “flagship SOEs” that are expected to be the “iron fists” of the economy in regional and global competition. Strengthening the competitiveness of these selected SOEs will be achieved by the consolidation or expansion of existing SOEs in strategic sectors into big corporation. Besides their dominant market power, these big state corporations also enjoy other preferential treatments such as concessional credit, privileged access to land, credit or government contracts. In addition, because they are considered an important tool for implementation of industrial policies and for macroeconomic management, they can benefit from sector-specific policies or subsidies.

This picking winner approach was initiated with Decision 202-CP in 1992 which already stated the intention of the authority in setting up big and leading state economic groups. Yet actual implementation started initially with the foundation of state general corporations with the issuance of Prime Minister’s Decision 90 and 91 in March 1994. Decision 90 called for establishment of State corporations with at least five voluntary SOE members and minimum legal capital of VND 100 billion. Decision 91 called for formation of much larger corporations with at least seven SOE members appointed by the State and minimum legal capital of VND 1,000 billion. An important difference between them is that while the so-called Corporations 90 (established by Decision 90) report to line ministries or Provincial People's Committees, the Corporations 91 report directly to the Prime Minister. By 2003, there were 18 General Corporation 91 in operation in various strategic sectors such as cement, railway, food, coffee, rubber, and shipbuilding.

The number of General Corporations 90 grew much faster and reached about 80 at the end of 2011.

The goal to establish large state economic groups was emphasized with Resolution 5 of the 3rd Plenum of the Central Committee in 2001. Nevertheless, the decision to establish the first economic group namely Bao Viet Holdings on a pilot basis was only issued four years later in November 2005. The pilot was expanded quickly with 7 more state economic groups founded by the end of 2006 and four were established in the period 2009-10. The performance of the state economic groups which were all founded around the time of the global financial crisis has been a big disappointment. Consequently, they become the center of the SOE restructuring process which was outlined by Decision 929. In October 2012, two state economic groups in construction, VNCI and HUD, were disbanded after less than 3 years of operation.

In general, the reform direction in all three above mentioned areas has broadly been consistent over time. Perhaps one notable change is the involvement of different stakeholders in policy making process. While the CPV continues to set the strategic orientation, the extent of its engagement in operational details appears to decline. An indicator of this trend is the changes in the content of the Resolution of the CPV in 2001 and the Conclusion Remark of the recently concluded Plenum of CPV's Central Committee. Given the severity of the challenges and issues facing the SOEs in 2010s, the SOE reform may be of more strategic importance than the time in 2001. But this time, there was no a specific Resolution like Resolution 5, and instead, there was only a one Decision from the Government, Decision 929.

Another important change in the roles of different stakeholders relates to the increased engagement of the National Assembly in the oversight of the overall efficiency of the SOE sector, especially after the transfer of the State Audit of Vietnam to the National Assembly in 2006. The State Audit of Vietnam regularly carries out audit of selected SOEs, in particular the large state economic groups and reports to the National Assembly. Nevertheless, the National Assembly is yet to involve in the appraisal process for the establishment of new large general corporations or economic groups with assets several times higher than the financial threshold of a typical nationally important project. By law, decision to invest in projects that cost more than 20 trillion VND with at least 30 percent from state capital must be approved by the National Assembly first before it goes through the standard project appraisal cycles. At present, all SEGs have assets of a multiple of this threshold, and the assets of the biggest SEG, Petro Vietnam, is worth 466 trillion VND in 2010. But the approval of these SEGs only needs to go to the Prime Minister.

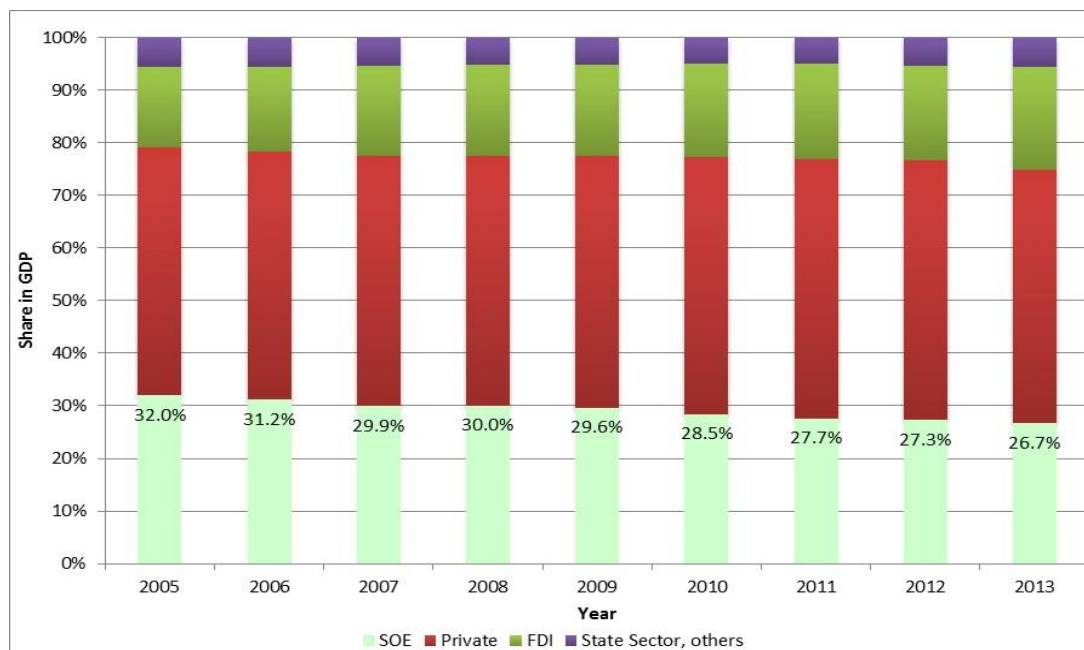
## 2. SOEs' performances

### *SOEs continue to play an important role but its relative contribution to the economy decreases over time*

The SOEs sector has always been at the center of policy making in Vietnam. While it is no longer the only economic sector in the economy, its vital role has been re-affirmed in the Constitution 2013. The state sector assumes the leading role in the economy, even though no clear definition is provided for the “leading role” or how the state sector with the leading role will compete on equal footing with the other sectors.

The SOEs continue to make important contribution to Vietnam's GDP, albeit its share exhibits a gradual declining trend. In terms of GDP contribution, SOEs share declined from about 33 percent in 2000 to 26.7 percent % in 2013. Part of that could be attributed to the SOE reform program, which resulted in a rapid decrease in the number of SOEs, from nearly 6,000 in the year 2000 to 3,200 in 2013.

**Figure 3. Composition of GDP by Ownership: 2005-13**



Source: GSO Statistical Yearbooks. GDP of SOE enterprises excludes sectors of Administration, Communist and Social Organization Activities and Education and Training

### *SOEs exhibit dramatic growth in size and still dominate a large number of industries*

There are two immediate consequences of the SOE restructuring in Vietnam. First, the number of SOEs has rapidly decreased over time because of equitization, divestment and merge. From 12,000 as reported at the beginning of the reform, the number of SOEs was reduced to more than 3,000 in 2013, or less than 1 percent of the registered enterprises. About 45 percent of SOEs, most of them are state farms, state forestry farms or public utilities, were managed by local authorities in 2013. It should be noted that the merge of SOEs has also been a major factor behind the rapid reduction of the SOEs. A large number of small SOEs were brought under the management of large state corporations and economic groups. As of early 2013, the number of businesses under 73 wholly state-owned groups and corporations was more than 2,000, divided almost equally between child companies and affiliated units. Those who have the highest number of subsidiary businesses are PetroVietnam (250); Vietnam Rubber Group (163), VNPT (85); Vinacomin (70) and Vietnam National Textile and Garment Group (Vinatex) (60)<sup>3</sup>.

Second, the conglomeration, merge and divestment of small SOEs have led to the concentration of state assets in a much smaller number of SOEs, hence resulting in a rapid increase of the average size of the SOEs. The increase was even more dramatic since 2005 with the establishment of the economic groups. Over the period 2005-12, the annualized growth rates of equity and assets of an average SOE in industry were 33.3 and 22.1 percent, respectively. This is twice as much as the performance of the average domestic private firm over the same period of time.

The size of the average FDI firm recorded an insignificant rate of changes. It is interesting to note that all of the growth in both assets and equity of an average domestic private firm occurred during 2005-09. The domestic private sector seemed to be hit severely by the global crisis, with no notable changes in their average assets and equity during 2009-12.

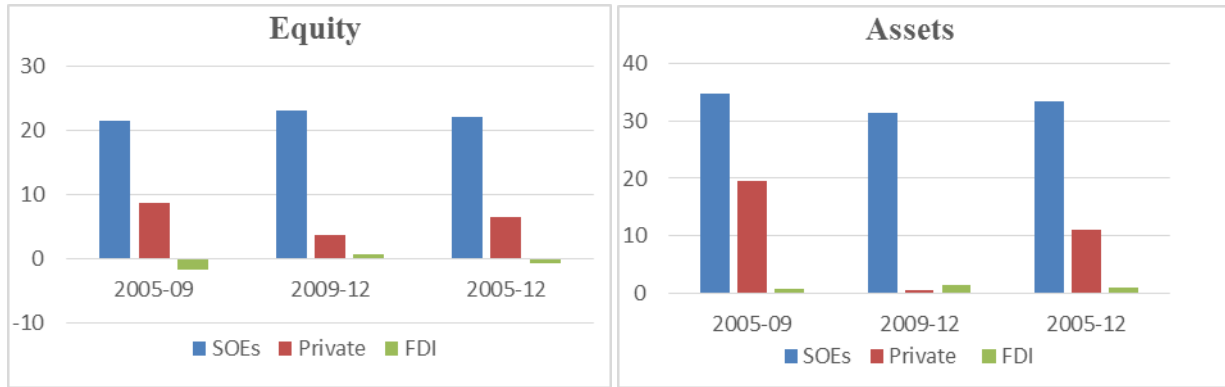
The growth of the SOEs was steady, despite the global crisis and the much larger size. In terms of assets, a SOE on average was equivalent to 53 private domestic enterprises in 2005, and the difference became 66 in 2012. The size difference is even more striking in

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<sup>3</sup>The National Assembly's Standing Committee (2014), "*The report on the supervision over the restructuring of the economy in public investments, SOEs and banking system*", 1 Nov 2014.

industry. In 2012, the average industrial SOE is as 120 times larger than its private peer in terms of equity and 83 times larger in terms of assets.

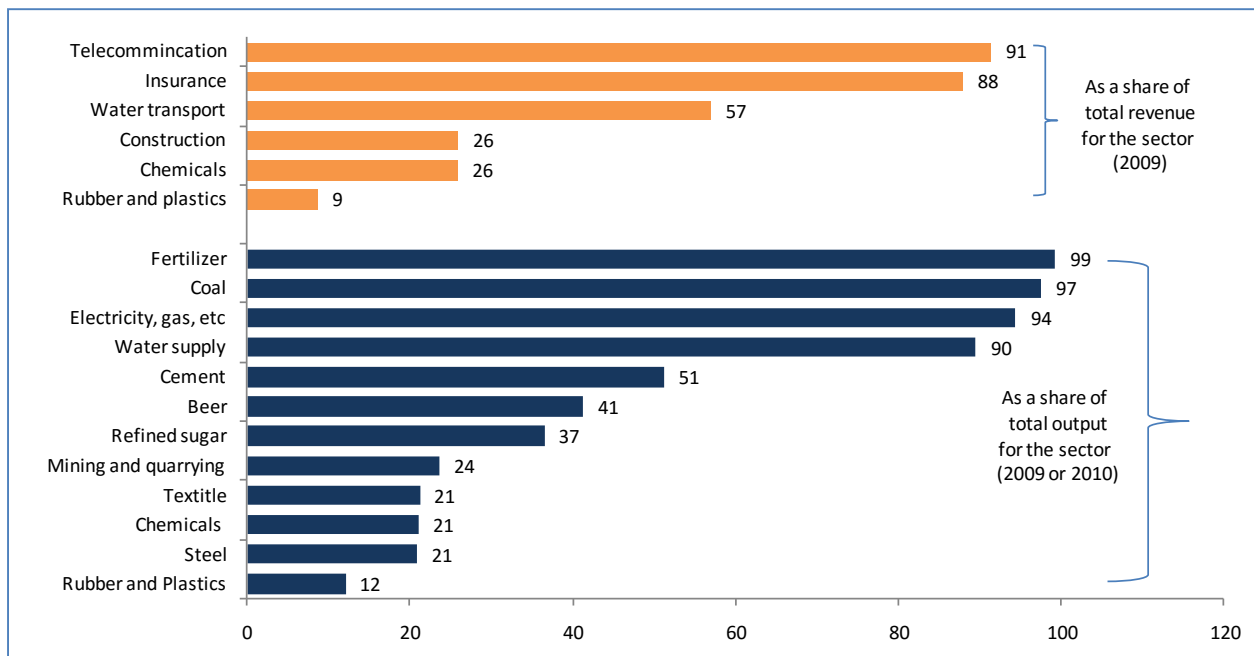
**Figure 4. Growth of the Average Industrial Enterprise: 2005-12 (in %)**



Source: GSO Enterprise Surveys: Authors calculation

A consistent guiding principle of the SOE reform since the 1990s is to withdraw them from commercial activities which can be carried out by the private sector. Figure 5 shows that the state sector still has considerable presence of a number of commercial activities. Apart from strategic sectors such as fertilizer, coal, electricity and gas, and telecommunications, the state has still maintained its considerable presence in several consumer goods such as cement, beer, refined sugar, and textile.

**Figure 5. Share of SOEs in Output/Revenue for the Enterprise Sector (2009 or 2010)**

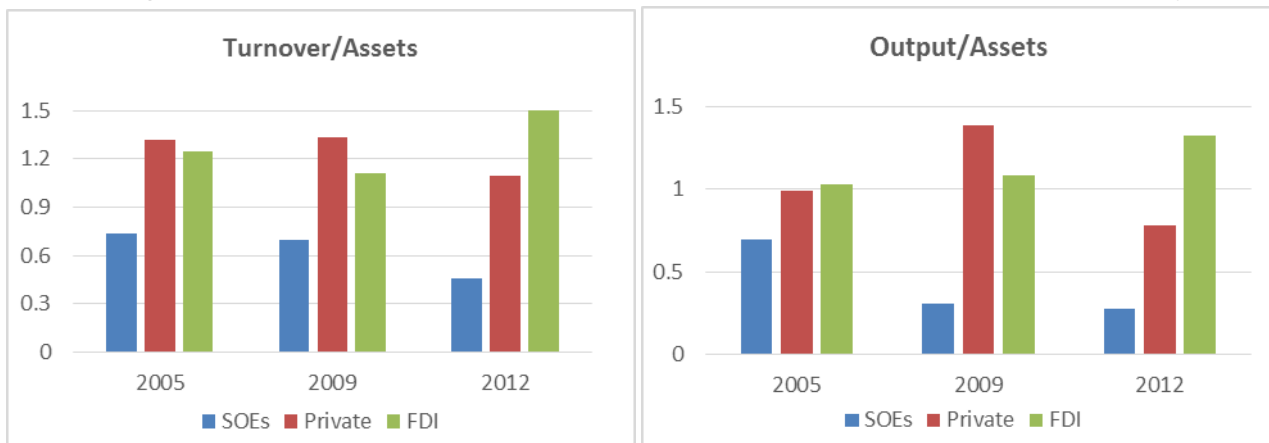


Source: VDR 2012.

***A trend of declining efficiency of SOEs and widening performance gap versus private sector***

While the SOEs have exhibited radical expansion of their size, their efficiency in the usage of resources has been below their peers in the private sector, and the efficiency gap appeared to be widened over time. In 2005, the industrial SOEs needed about 1.4 units of assets to generate one unit of turnover or output. Their performance worsened over time. In 2012, they needed 2.2 units of assets for one unit of turnover and 3.3 units of assets for one unit of outputs. The FDI exhibited fairly consistent performance while the private sector experienced some decline of efficiency in generation of outputs during 2009-12.

**Figure 6: Economic Performance of SOEs and Private Sector in Industry**



Source: GSO Enterprise Surveys, authors' calculation

***SOEs only assume an insignificant role in employment generation at present***

In 2013, SOEs attracted 1.6 million workers, accounting for 14.5% of Vietnam's workforce. The jobs created by the SOE sector in 2012 was only 78.8% percent of the 2005 level. From the largest source of employment generation in the 1990s, the SOEs turned into the least important source. In contrast, the private and FI sectors exhibited rapid growth in job creation and double the workforce during 2005-12 (Table 1). The reason lies on the stronger development of private and FI enterprises. Along with the openness of the market and looser mechanisms, the above sectors have grown strongly and attracted more employment. In addition to tightening the establishment of new SOEs,

the equitization and divestment of many SOEs is also an important factor behind the declining role of the SOEs.

**Table 1. Total number of workers in enterprises**

*Unit: thousand laborers*

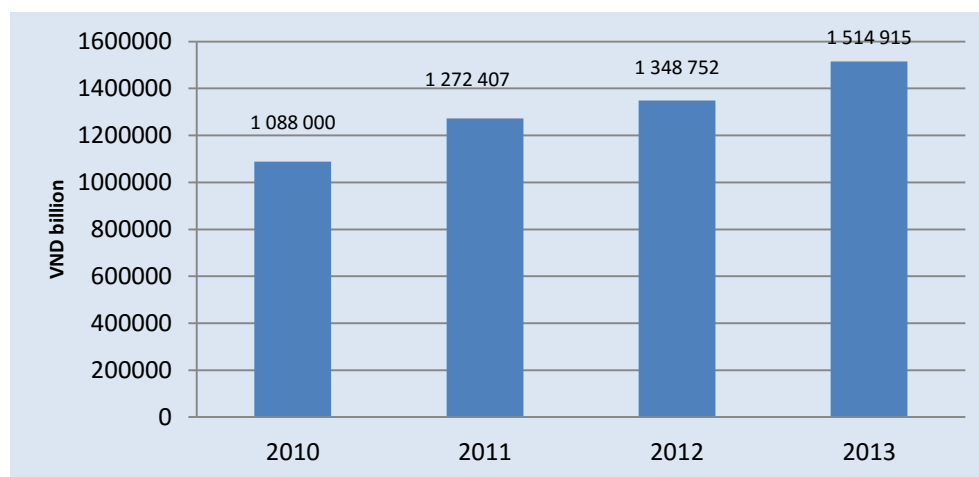
Type of enterprise	2005	2009	2010	2011	2012
SOEs	2037.7	1796.9	1691.8	1664.4	1606.4
Private enterprises	2819.0	5002.5	5983.0	6680.6	6758.5
Foreign invested enterprises	1220.6	1919.6	2156.1	2550.6	2720.0

**Source:** *Statistic Yearbook (2013), page 214*

***SOEs have becoming increasingly over indebted in the past years while financial performance have not been improved***

Total debts of the SOEs rose sharply by 30% in merely 3 years, between 2010 and 2013<sup>4</sup>. Total debts of the SOE sectors is estimated to reach VND 1 514 trillion in 2013.

**Figure 6. Debts of SOEs over years**



**Source:** *Ministry of Finance (2014)*

<sup>4</sup> Some conglomerates and corporations with high level of bad receivables debt: *Parent company of Vinamotor VND 11 billion; Parent company of Vinatea VND 29,187 billion*

In 2013, some SOEs have a high level of debts include: PetroVietnam (PVN) with VND 163,063 billion; Electricity of Vietnam (EVN) with VND 78,583 billion; Vietnam National Coal Mineral Industries Holding Corporation (Vinacomin) with VND 49,566 billion; Vinalines VND with 47,627 billion and Song Da Corporations with VND 20,357 billion.

**Table 2. Debts of SOEs over years**

Ratio	Unit	2010	2011	2012	2013
D/E		1.67	1.77	1.82	1.45
D/A	%	60.00	62.50	54.02	

**Source:** *Ministry of Finance (2014)*

According to the report on the supervision over the restructuring of the economy in public investments, SOEs and banking system of the Standing Committee of the National Assembly to the National Assembly on 1 November, the return on equity (ROE), return on assets (ROA) and return on sales (ROS) of SOEs and listed enterprises are as follows:

**Table 3. Rate of return of SOEs and listed enterprises over the past 3 years**

Type of enterprise	SOEs			Listed companies		
	2011	2012	2013	2011	2012	2013
Return on equity (ROE)	25%	19%	17%	15%	13%	15%
Return on assets (ROA)	6%	7%	10%	6%	5%	6%
Return on sales (ROS)	11%	9%	6%	7%	6%	8%

**Source:** *The report on the supervision over the restructuring of the economy in public investments, SOEs and banking system (1 Nov 2014) and the authors' synthesis*

According to the Ministry of Finance (2014), key financial performance indicators of SOEs are higher than those of listed companies. However, while ROA has improved the over years, ROE and ROS of SOEs have deteriorated fast in recent years. The gaps are being narrowed down at an accelerated rate.



## II. PREFERENTIAL TREATMENT OF SOEs – EVIDENCES FROM PRACTICE

### 1. SOEs have easy access to credit, ODA and overseas loans

The Government's report on financial performance of SOEs in 2013 discloses that SOEs operations are mostly financed by bank loans. The total debts of large State-owned conglomerates or economic group (*tap doan*) in 2013 reached VND 1,514,915 billion, an 9% increase as compared with 2012. The average debt to equity (D/E) ratio is 1.45. Alarmingly, 41 large SOEs have debts three times higher than their equity. *Loans from commercial banks and credit institutions are estimated at VND 489,260 billion, increasing by 12.3% as compared with the previous year.* Loans from banks were the most important contributor to the rise in the total debts of SOEs. The growth rate of loans to SOEs is higher than the average growth rate of total credit in the whole banking system in 2013 (which is reported at 8.8%). This shows that a much larger part of the incremental increase in total credit of the banking sector in 2013 are actually loans to SOEs.

With 3000 enterprises, the SOE sector accounts for 14.5% total loan outstanding to the economy. The total amount of loans made to 12 state economic conglomerate alone account for 9% of total loan outstanding of the whole banking sector. SOEs which higher debt are EVN with VND 78,583 billion in debts and Vinacomin with VND 49,566 billion.

Besides, the SOE and conglomerates are also borrowing VND 325,936 billion as overseas loans. Of the amount, borrowing from Government's ODA funds stands at VND 125,061 billion. VND 122,543 billion were borrowed with Government's guarantee. The rest is borrowed at the SOE own risk.

Large SOEs have continuously asked for preferences when applying for bank loans. For example, Vietnam Airlines suggested that the corporation would still benefit from some preferences after equitization: e.g., 100% Government guarantee when purchasing airplanes, exemptions from the regulations on collaterals when applying for export credit and guaranteed loan. These are incentives have been suggested by Vietnam Airlines to the Government and are highly likely to be accepted.

According to the Economic Commission of the National Assembly, a large share of credit by the banking sector have been channeled to SOEs. The Commission estimated that the share of total bank credit to SOEs were higher than 50% of total during the late 20<sup>th</sup> century and is still as high as 30% now. Apart from credit from commercial banks, SOEs also receive “soft” budget from the Government when they slip into difficulties<sup>5</sup>.

## **2. SOEs are granted loans without collateral and guaranteed by the Government in one way or another**

According to “the SOE Restructuring plan” submitted by the Ministry of Finance to the Government, as of September 2011, the total domestic loans of SOE from domestic credit institutions amounted to VND 415,347 billion. If the amount of loans which SOEs borrowed from overseas sources at its own discretion and the guaranteed loans which are borrowed between end of 2010 to September 2011 are not included, the amount of loans borrowed by SOEs with explicit Government guarantee account for 17.5% of the total loans borrowed by SOE as of as of September 2011. The amount of loans by SOEs with explicit Government guarantee is equivalent to VND 72,686 billion as of this time.

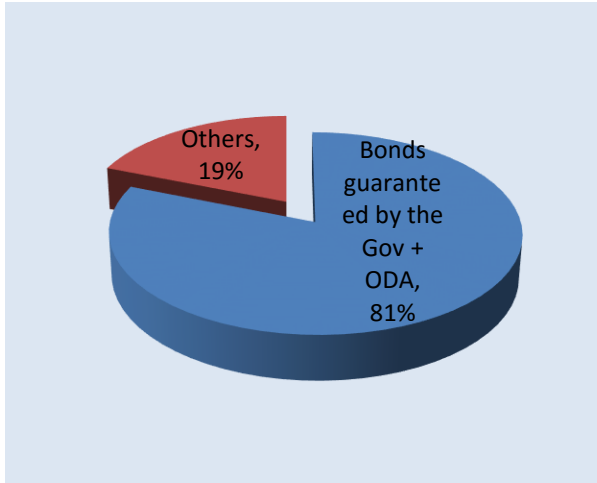
However, besides the loans guaranteed by the Government, SOEs also receive indirect guarantees of the Government by way of loans borrowed from the Vietnam Development Bank (VDB). An important source of funds of VDB are the issuance of valuable papers and ODA. According to its annual report, as of 2012, the capital mobilized by way of issuance of bonds guaranteed by the Government was VND 115,504 billion. As of 2012, VDB total funding source also include VND 107,061 billion as ODA funds. These two sources alone (Government’s guarantee or from state budget) reached VND 222,565 billion, accounting for 85.6% total operating capital of VDB (VND 274,708 billion). Both of these funding sources are obviously loans which are guaranteed by Government<sup>6</sup>.

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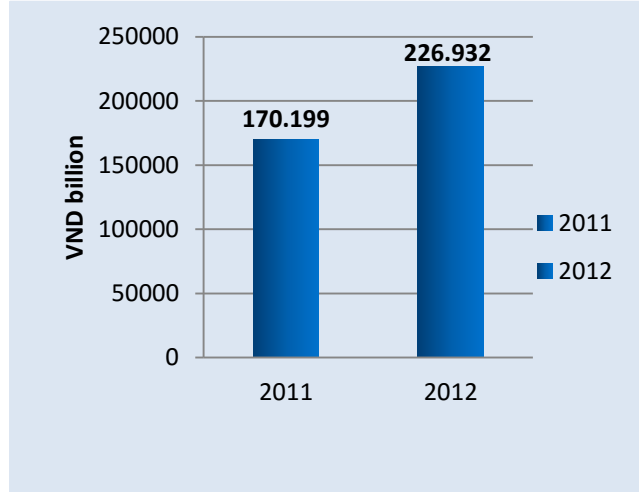
<sup>5</sup>Economic Commission of the National Assembly (2013), *Public debts and sustainability in Vietnam: Past, present and future*”.

<sup>6</sup>Vietnam Development Bank (2012), *2012 annual report*.

**Figure7. The proportion of funds sources originating from issuing valuable papers with guarantee by the Government and from ODA funds in the total funds resources of VDB**



**Figure8. Estimated loan outstanding to SOEs by VDB**



**Source:** Annual reports 2011 and 2012 of VDB and estimates of the authors

It is important to note that a high proportion of the funds are later lent by VDB to SOEs in form of preferential loans for investment and most of the loans are made without collateral. Mr. Nguyen Quang Dung, Director General of Vietnam Development Bank (VDB) disclosed that, “the aggregate debts of SOE and State conglomerate account for 75% to 80% of the total loan outstanding of VDB... Under the current situation, many leaders of State conglomerates and corporations have sent requests to VDB asking for loan rescheduling and loan restructure” (VnEconomy, 13 September 2011). By assuming the figure of 75% disclosed by the Director General, the total credit made to SOEs with indirect government guarantee through VDB would be approximately VND 170 trillion in 2011 and VND 226 trillion in 2012.

As such, by adding the total loans to SOE with explicit Government guarantee (using the number officially announced by MOF) with the total loans to SOEs which is indirectly guaranteed by the Government (loans by VDBs to SOE), one can conclude that the total loans to SOE with guarantee by the Government (explicit and indirect) amounted to **VND 242,900 trillion** as of end 2011.

**Box1. Government guarantees the loans to 16 cement projects with the amount of USD 1,365 million**

“Out of 16 cement projects benefiting from guarantee by the Government for overseas loans, 4 face difficulty in debt repayment with total loan balance of USD 382 million (equivalent to 27.9% of total USD 1,365 million loan guaranteed for the cement projects),” as reported by the Minister of Finance. These projects are Dong Banh Cement with USD 45 million (guarantee granted in 2008); Thai Nguyen Cement with USD 59 million (2005); Tam Diep Cement: USD 133 million (2000); and Hoang Mai Cement: USD 145 million (1998).

Since cement is a priority investment area, the Government has had policy of granting guarantees of overseas loans for projects in the area.

These statistics can’t be comprehensive because the indirect guarantees of the Government to loans by SOEs also take other forms. However, these statistics do show an undeniable fact that an important share of the loans to SOEs are guaranteed by the Government, either in an explicit or in an indirect manner. Such a quick estimate shows that loans to SOEs with official and indirect guarantee of the Government accounted for: (i) 38% of total combined loan outstanding of the whole banking system and of VDB to the SOE sector; and (ii) 30% of total liabilities of the SOE sector (estimated VND 1.2 million billion in 2011).

**Table 4. Estimation on loans and debts of SOEs which are guaranteed by the Government**

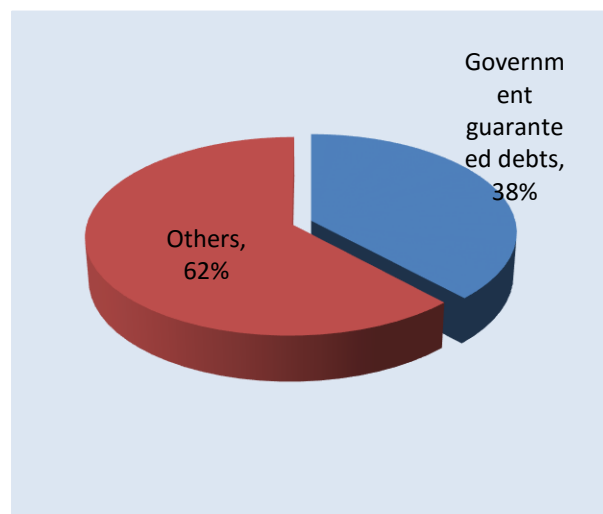
<i>Unit: billion dong</i>	
<b>SELECTED INDICATORS</b>	<b>2011</b>
Total loan outstanding to SOEs in the banking system	415,347.00
Total loan outstanding of VDB to SOEs (including loans made from ODA sources)	226,932.00
Total loan outstanding to SOE by both the banking system and by VDB	642,279.00

SELECTED INDICATORS	2011
Total loan outstanding made by banking system and VDB with guaranteed by the government (direct and indirect)	242,884.73
Overseas loans of SOEs with guarantee by the government	122,000.00
Total debts of SOEs (estimated)	1,200,000.00
The proportion of SOE's debts with guarantee by the government (out of the combined total loan outstanding to SOE of both the banking system and VDB)	<b>38%</b>
The proportion of SOE's debts including overseas debts, debts with direct and indirect guarantee by the government (out of total debts of SOEs)	<b>30%</b>

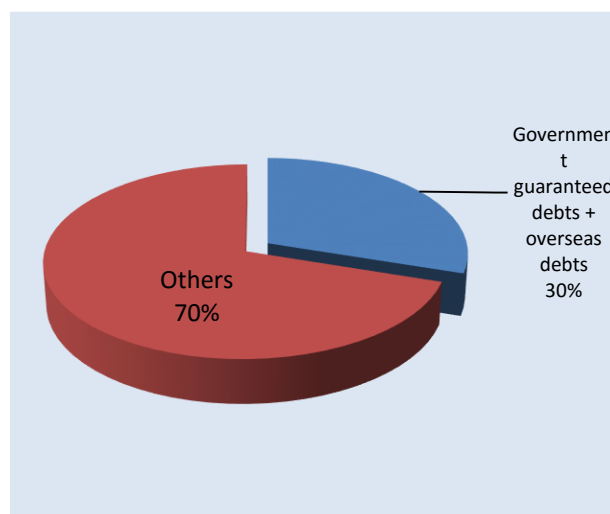
**Source:** Authors' calculation based on the data provided in the annual reports of SBV, VDB and the Government's report on the performance of SOEs

In addition, according to the Government's report on the financial performance and business results in 2013 of SOEs, SOEs, especially the conglomerates, are borrowing from overseas source the amount of VND 325,936 billion. Of the amount, the overseas loans guaranteed by the Government stand at VND 122,543 billion.

**Figure 9.** The proportion of SOE's debts with guarantee by the government (out of the combined total loan outstanding to SOE of both the banking system and VDB)



**Figure 10.** The proportion of SOE's debts including overseas debts, debts with direct and indirect guarantee by the government (out of total debts of SOEs)



**Source:** Authors' calculation based on the data provided in the annual reports of SBV, VDB and the Government's report on the performance of SOEs

Obviously, private sector enterprises and FIEs do not have such an advantages of having its debts being guaranteed by the government at such a massive scale.

### **3. The loans not guaranteed by the Government are still repaid by the State on SOE behalf in case they default**

SOEs also benefit from implicit guarantees even though they are not officially guaranteed by the Government when borrowing loans. This often makes bank feel more secure when lending to SOEs, affecting their behavior of preferring loans to SOEs.

The past few years witness a number of cases where SOE loans are repaid by the Government even though such loans are not guaranteed by the Government. A typical example is the Vinashin loans from banks are being written off and the State has to foot the bill. Vinashin transferred parts of its debt to Vinalines and PVN, pushing PVN into difficulty. The State then have to take action to support PVN.

In 2010, the Ministry of Finance was requested by the Ministry of Construction to provide some kind of support to subsidiary companies of Song Da Corporation which were unable to repay overseas debts, and to Dong Banh Cement JSC. Dong Banh Cement Jsc was reported to be unable to repay the principal and interest of over VND 141 billion and was in shortage of VND 607 billion for loan repayment in the period 2011-2015.

Although while the generally rule of “being fully responsible for borrowing and loan repayment” is applicable to all SOEs, this “soft” budget mechanism to support SOE is another evidence to the statement that the majority of credit and loans to SOE is guaranteed, either explicitly or implicitly, by the state.

### **4. SOEs benefiting tremendously from lending made under Government directives**

According to a report of the project “Strengthening Capacity in Advising, Evaluation and Overseeing Macro-economic Policies” of the Economic Commission of the National Assembly, the Government transferred USD 750 million of the proceeds of an international bond issuance to Vinashin. In addition, Vinashin borrowed USD 650 million from Credit Suisse, Hong Kong branch with the Government’s guarantee. The Government also requested the State Capital Investment Corporation (SCIC) to take over the VND 700 billion loss of Vinashin in its investment into Bao Viet Group. Furthermore, the Government *asked banks* write off the debts of Vinashin and

continue to lend the conglomerate even when they are in horrible financial shape, disregarding the prudential and credit regulations of the SBV.

In October 2009, the Prime Minister issued the Decision No. 1596/QD-TTg regarding the financial restructuring solutions for Vinashin. The SBV also released the Letter No. 357/NHNN-TD dated 17 July 2009 on writing off and restructuring debts and loans of Vinashin<sup>7</sup>. With such administrative measures, the credit and financial flow has been unfrozen and directed straight to this SOE.

**Box2. Vinashin was offered with loans of 0% interest to pay salaries and social insurance as per the Prime Minister's decision**

As per the Decision No.87/2010/QD-TTg signed by the Prime Minister on 24 Dec, Vinashin and Vinalines were granted with 0% loans to repay salaries, insurance, severance and vocational training allowances to employees.

The Prime Minister approved to allow the businesses and non-business units under Vinashin, the businesses under Vinalines transferred to Vinashin, to borrow from VDB to repay salaries, insurance, severance and vocational training allowances to employees.

The maximum loan amount is equal to the repayment of salaries, insurance and allowances (including interests incurred from salary and insurance repayment as per prevailing regulations) as of 31 October 2010 and the consecutive period until end of 31 December 2010. The maximum loan duration is 12 months at the interest rate of 0%.

**5. When in default, SOEs are supported by the State in many different ways such as loan write-off or rescheduling**

In principle, the Government only provide guarantees to some SOEs when they borrow from overseas. All loans by SOEs, especially domestic loans, are at the own risks of the SOEs and their lenders. However, when SOEs are in difficult and are unable to repay their domestic loans, they will be supported by different forms by the Government such as added capital, loan rescheduling, loan transfer or write off.

The Committee Commission of the National Assembly disclose that loans of SOEs from commercial banks are some times repaid by the government on their behalf when the SOE borrower is in difficulty. For example, in case of loan write-offs (e.g., Vinashin's debts at commercial banks), the Government eventually has to pay for part of it. In the case of

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<sup>7</sup> “Three warning lessons on public investments drawn from Vinashin case” (<http://ecna.gov.vn>),

debt transfer (e.g., Vinashin's debts being transferred to Vinalines and PVN), it may entangle other SOEs into trouble. Pressure to save these SOEs will eventually again fall on the State's shoulders.

Another example is the loan of USD 45 million from ANZ to Dong Banh Cement Project, which was invested by COMA or MIE. When the project made losses and in default, the Ministry of Finance had to guarantee to repay the loan on behalf of the SOE that runs the project.

In early August 2014, the Ministry of Finance provided guidance to VDB on restructuring of debts by the parent company and the companies transferred from Vinashin. According to the guidance, about VND 2,800 billion principal would be written off in 2014 and 2015. The accumulated interest of 760 billion was written off on 31 December 2013<sup>8</sup>. As for VND 9,000 billion of loans outstanding at other credit institutions, Vinalines reported that they would actively negotiate with the credit institutions to sell the debts to DATC or introduce other measures: e.g., debt write-off, rescheduling, interest reductions under the Government's direction.

According to the report of the Minister Dinh La Thang at the National Assembly session at the end of 2013, Vinashin, DATC and credit institutions have completed the first phase of restructuring in form of issuing exchangeable bonds with the duration of 10 years and at the rate of 8.9% per annual. Thus, Vinashin reduced the principal and interest by VND 13,152 billion and the debt after restructuring was valued at VND 3,462 billion and one-time repaid after 10 years. To repay the debt of USD 600 million which the SOE borrow at its own risk from foreign credit institutions, Vinashin and DATC also completed the issuance of Government guaranteed corporate bonds in Singapore market.

As confirmed by the Minister of Transportation at the National Assembly session at the end of 2013, after financial restructure, Vinashin's debts were mostly restructured by way of loan reduction, write-off, and interest rate being discounted. Some debts will be bought back by Vinashin.

The Minister also said that Vinalines also succeeded at restructuring its debts of VND

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<sup>8</sup><http://kinhdoanh.vnexpress.net/tin-tuc/doanh-nghiep/vinalines-se-co-them-2-000-ty-dong-de-tai-co-cau-no-3074387.html>, access in Jan 2015.



7,855 billion at VDB, and of VND 20,412 billion at domestic institutions by way of debt rescheduling and by reducing the periodical installments between 2013 – 2014. Moreover, the corporation completed the process of receiving additional VND 9000 billion to increase their charter capital.

## **6. SOEs are allowed to use state budget or funds originating from the state budget for debt restructuring**

At the end of September 2014, the Government agreed in principle to allow Vinalines to use the proceeds from IPO at their member companies for debt restructuring. The decision was issued after the meeting on 3rd September chaired by Deputy Prime Minister Hoang Trung Hai on the business performance and the execution of the restructuring plan at the Corporation. Thanks to the guideline, Vinalines was more likely to have more VND 2,000 billion for debt restructuring if the process of selling shares at seaports in the year would be smooth. By doing so, SOEs enjoy favorable mechanism to keep the proceeds from selling the state's assets without contribution to the state budget revenue.

SOEs' debts are suggested to be handled by state budget. The mechanism is something that private enterprises never think of even in their dream. Recently, the Ministry of Planning and Investment has suggested spending part of state budget for handling bad debts of SOEs. This has caused many reactions in public opinions and by National Assembly's members. In the interview with press, Dr. Tran Hoang Ngan, the member of the Economic Commission of the National Assembly presented his view that "The use of state budget, which is actually tax payers' money, for repaying bad debts incurred SOEs will further undermine the confidence of the people. The people would not agree with it. In our economy, market principles should prevail. If SOEs bad debts are cleared off by using State budget, the big question is how about those of private enterprises?"

### **Box3.Vinalines had additional hundreds of billion dong for debt restructuring by selling Hai Phong Port**

2 months ago (24 November 2014), the leaders of SGRF and its business VOI had a face-to-face meeting with the leaders of Ministry of Transport in Hanoi to discuss about the "complete purchase" of Hai Phong Port. Vinalines issued the shares of Hai Phong Port in May 2014 but slow selling with only 5.32% sold. VOI is the joint venture between SGRF and

the State Capital Investment Corporation (SCIC).

Only two days after the meeting and official offering, the Ministry of Transport signed a document to submit to the Prime Minister to allow Vinalines transferring at least 19.68% to maximum 29.68% of their stock to VOI to reduce the ownership of Vinalines from 94.68% to the minimum stake of 51% according to the amended restructuring plan of Vinalines for the period 2012-2015 by the Prime Minister. The proposal is aimed at helping Vinalines with hundreds billion dong, creating financial resources for restructuring. Since Hai Phong Port is a subsidiary of Vinalines, the proceeds from selling stock will return to the pocket of Vinalines rather than contribute to the central corporate re-organization fund.

On 6 Jan 2015, the Government approved the proposal so that Vinalines and VOI can further discuss about next steps to sign official contract.

## **7. SOEs' capital are directly poured in and financed by the State budget**

During the allocation of central budget in 2011, the National Assembly approved the expenditure plan of 5 State-owned conglomerates and Corporations No.91. The expenditures included the foreign sourced capital of VND 1,090 billion to support Vietnam Railways Corporation. The National Assembly also proposed to the Government to allocate state budget to some state owned conglomerates, corporations and commercial banks to continue the tasks assigned by the State in previous years.

Though 50% of National Assembly's deputies disagree with the proposal (200/398 votes), an amount of VND 3,500 billion was still decided to be invested into PetroVietnam as per the resolution on central budget allocation 2011.

To protect their views, the Standing Committee of the National Assembly argued that the budget allocated to state corporations and conglomerates is used to complete projects and works for public interests. They cannot be regarded as capital pumped into SOEs. Moreover, the capital includes ODA funds which had specifically designate the SOEs, conglomerates and corporations as beneficiaries.

The investments in state conglomerates and corporations in general and Petro Vietnam in particular always is always a controversial issue when State budget allocation is debated. However, according to the Standing Committee of the National Assembly, the investment into Petro Vietnam and allowing the conglomerate to retain profit are in line with the development strategy of the petroleum industry by 2015 with orientation towards 2025 as per the Decision No.386/QD-TTg dated 9 March 2006 of the Prime Minister and the conclusion of the Polibureau.

Accordingly, PetroVietnam was allowed to retain at least 50% of profit which is shared to the host country in VietsovPetro petroleum business and product sharing contracts. Petro Vietnam was allowed to actively use the fund to invest in developing petroleum industry and trading. The investment process and procedures are complied with the investment law.

The Standing Committee of the National Assembly acknowledges the high investment demand in the petroleum sector with a number of on-going projects and works. If the re-investments are not made, the petroleum sector will face challenges and the efficiency of investments will be impaired. Thus, the Standing Committee proposed to the National Assembly to approve the re-investment of VND 3,500 billion into Petro Vietnam as per the Government's recommendation.

SOEs have had strong reactions when being asked to pay higher contribution to the State Budget. As mentioned above, PVN is allowed to retain 50% profit of the conglomerates to re-invest into it. In 2013, a proposal was made to that the conglomerate could only retain 25% of the profit for re-investment purpose and 70% being paid to the State Budget (instead of the 50:50 ratio in previous years). The proposal faced strong reactions of the petroleum industry. "They have had very strong reactions, sending documents and lobbying through different channels. Thus, when SOEs are asked to contribute a larger share of their profits to state budget, such request is likely to result in strong waves of disagreements and protests by SOEs, ministries, line ministries and agencies and they will cite reasons to protect their interest and even bargain the sharing ratio", a member of the Economic Committee of the National Assembly said. Obviously, private enterprises, if active in mining and exploitative industry, are not entitled to such preferences. Private enterprises can never be in a position like PetroVietnam to negotiate with the National Assembly or the Government on how much of the profit in a mine they can retain for reinvestment.

## **8. SOEs charter capital and equity is supplemented with funds originating from the State budget**

In early 2010, the Prime Minister assigned the municipal and provincial People's Committees to review and approve the proposals and timelines of supplementing charter capital in each 100% state-owned enterprise. The additional capital is sourced from local budget and profit after tax of enterprises. And if still insufficient, proposal for support will be submitted to the central Government for decision.

According to the Official Letter No. 316/TTg-DMDN, the beneficiaries of supplementing charter capital are the enterprises in which the State needs to hold 100% charter capital as per the overall corporate reorganization and reform scheme approved by the Prime Minister.

The support level from the Corporate Restructure Support Fund is maximum 70% of the insufficient charter capital.

Most recently, in the report to the National Assembly in the November session 2013, the Minister of Transport, Mr. Dinh La Thang, said that Vinalines completed the procedures of supplementing VND 900 billion of charter capital<sup>9</sup>. Also, as per the Decision No. 926/QĐ-TTg of the Prime Minister, Vinashin has become one member limited liability company since 1 July with the charter capital of VND 14,655 billion. The charter capital of Vinashin has been increased from VND 9,000 billion to 14,655 billion. The capital

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<sup>9</sup>It is a sad fact that the additional charter capital was used in a very wasteful manner. According to the news leaked by Vinalines, the group received the Decision No.09/2014QĐ-PQTT dated 3 October 2014 of Hanoi People's Court on the result of considering the proposal of cancelling the arbitration award of the conflict No. 28/12 with SK E&C (South Korea) in the Bid Package 1b of Van Phong international terminal development project (kick off phase). Hanoi People's Court decided not to cancel the award and not to allow the related parties to further complain and appeal. Therefore, Vinalines was obliged to repay VND 65.26 billion to SK E&C and the interest of late repayment as per the arbitration award of the Board of Arbitration of Vietnam's International Arbitration Center. According to the assessment of Vinalines, if the arbitration award is enforced, it will impact significantly on the difficult financial situation of the No. 1 sea transportation business in Vietnam. To have USD 3.2 million to deposit into escrow account, the Board of Directors of Vinalines had to use temporarily the amount of VND 68 billion from the funding of VND 9,000 billion used by the Government for supplementing charter capital. "Given unfavorable condition like today, it seems impossible for Vinalines to recover the charter capital", said a leader of Vinalines.

increase of the conglomerate is clearly an exceptions because it does not require the approval of the National Assembly<sup>10</sup>. It is done by way of MOF supplementing charter capital by using the central Corporate Restructuring Fund (the fund is also originated from state budget).

In Hanoi, Deputy Prime Minister Vu Van Ninh in the meeting with Hanoi People's Committee on SOE restructuring for the period 2014-2015 concluded that the proposal of retaining the proceeds of selling state capital after equitizing 100% state owned enterprises for restructuring would comply with prevailing regulations. Where necessary to supplement charter capital to SOEs, Hanoi People's Committee cooperates with the Ministry of Finance to develop the plan for submission to the Prime Minister for review and decision.

## **9. Benefit from price subsidies and special privileges**

Citing the challenges due to the impact of the tension on East Sea since last May, Vietnam Airlines proposed to its line ministry, the Ministry of Transportation, to use such support measures as reduction of 25% prices/fees at airports and flight control as well as decreasing the import tax of aviation fuel from 7% to 3%.

Regarding the rents and the prices of other services at airport, Vietnam Airlines proposed that the rents and prices should not be increased in 2014.

Being aware of the difficult situation of Vietnam Airlines which is a consequence of external factors, the Ministry of Transportation have approved instantly some recommendations of Vietnam Airlines: e.g., the adjustment of slot limit (the number of takeoff/landing) to increase the number of flights in some routes of Vietnam Airlines. Since last May, the Ministry agreed to reduce 25% fees of flight control, take off/landing and commodity/passenger security screening.

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<sup>10</sup>Decree No. 09/2009/ND-CP regarding the financial management at SOEs and the management of state capital invested into other enterprises regulating that: "SOEs have right to mobilize capital for business activities within the ratio of liabilities over charter capital and not exceeding 3 times of the ratio... The representative of owner is responsible for working with the Ministry of Finance to strictly oversee the mobilization and use of capital at SOEs. In case of using state budget to supplement charter capital, the Ministry of Finance will submit to the Government and National Assembly for decision."

Regarding the proposal of Vietnam Airlines for preferences, in an interview with the Dai Doan Ket Newspaper, Dr. Cao SyKiem, former Governor of SBV said this is "an unacceptable proposal" because it goes against the market economy.

## **10. Unlike private enterprises, SOEs are not that worried about bankruptcy in case of accumulated losses**

The report of the State Audit listed the SOEs who are running at loss with negative owners' equity. In the list announced by the State Audit are: the parent company of Cienco 5 with financial investment loss of VND 11.4 billion; 5/50 companies invested by EVN with the loss of VND 3,702 billion and 11/31 companies invested by PVN with the loss of VND 6,342 billion. In addition, 7/24 companies invested by the Urban Infrastructure Development Investment Corporation (UDIC) have cumulative losses of VND 339.6 billion; 6/57 companies under Vinacomin have losses of VND 118.3 billion; 3/8 affiliates and associates under Song Da Corporations as well as affiliates and associates under Vinamotor are loss making.

SOEs with negative owners' equity include 3/10 companies under Cienco 5 (with negative net worth of VND 53.7 billion); the Northern Food Company under Vinataba (with negative equity of VND 166.74 billion).

Vinashin alone had the loan balance of approximately VND 86,000 billion with due debt of VND 14,000 billion. It has failed to balance its cashflow. However, such support as debt transfer (to other corporations and conglomerates), debt rescheduling (Government's guarantees at banks) and capital supplementation (increasing charter capital of VND 9,000 billion to VND 14,655 billion), Vinashin continued to be in existence.

### **Box 4. Regulations on submitting bankruptcy applications in SOEs as per the Bankruptcy 2004**

**Article 3.** Enterprises, cooperatives which fall into the state of bankruptcy

Enterprises, cooperatives, which are incapable of repaying their due debts at creditors' requests, shall be regarded as falling into the state of bankruptcy.

**Article 16.** The State enterprise owners' right to submit applications for opening of bankruptcy procedures

1. When realizing that State enterprises fall into the state of bankruptcy but the enterprises decline to fulfill the obligation to submit the applications for opening of bankruptcy procedures, the representatives of the enterprises' owners shall have the right to submit applications for opening of bankruptcy procedures for such enterprises.

Though many SOEs are teetering on the verge of bankruptcy or are de facto in bankruptcy already due to the financial health, rarely (not to say never) do the owner representatives of enterprises (or the State and specifically the agencies representing ownership in SOEs) initiate bankruptcy procedures of the enterprise according to Bankruptcy Law.

### **11. Some SOEs allegedly violate tax regulations or commit tax frauds but their legal representatives or managers are not punished by law**

According to the State Audit's report published on 25 July 2014, out of 242 audited businesses under 27 SOE and State conglomerates, most of them did not reflect accurately their revenues.

The specific example is the case of EVN. The State Audit confirmed that "EVN has declared revenue inaccurately". Specifically, the parent company of EVN raised the electricity price of two power plants, including Uong Bi Thermal Power Company and Can Tho Thermal Power Company, yielding a benefit of VND 865.8 billion. In addition, EVN decreased the selling price of electricity to 5 electricity corporations in the sector by VND 1,717 billion to offset losses in the other businesses. EVN did not register allocation criteria and comply with allocation ratio for the losses of foreign exchange rate difference according to the roadmap in the electricity selling price plan. The parent company of EVN had overinvestment (VND 21,312 billion higher than its charter capital) with low efficiency of investment.

Apart from EVN, the State Audit also cited the case of Chi Thun JSC. (under Daklak Rubber Company) which selling lower than market price, bringing unlawful benefit of VND 6.9 billion to its affiliated companies.

In all of the cases, there is no report or evidence showing that the leader of these SOEs are penalized for the wrongdoing they committed.

### **12. Equitized SOEs fail to comply with the regulations on information disclosure like private public companies**

To date, there are approximately 3,700 equitized enterprises in the whole country. According to the update of Securities Commission as of end July 2014, 1,007 listed

companies registered the applications of public companies at the State Securities Commission (SSC).

Among the equitized SOEs, apart from those listed and registering as public companies, thousands of equitized companies have not registered as public company with SSC. This has affected adversely the benefits of shareholders, making it hard for the authorities to oversee the transparency of enterprises' operations.

The consequence is negative. However, due to the lack of legal regulations and weak enforcement, the SSC seemed unable to handle the enterprises who have not registered as public company. This stems from the fact that as per prevailing legal regulations, when enterprises start equitization and IPO, they have to comply with legal regulations on equitization. However, there are not well linked with the regulations in the securities sector. Specifically, IPO is linked with the obligations of registering the equitized company as public company, registration at the depository and the central transaction registration in the stock market.

A number of SOEs, after IPO, all meet the criteria of public companies as per the Securities Law, e.g. more than 100 share owners/ investors, paid- in charter capital of VND 10 billion or more. However, many of them did not proceed to register as public company and there is no penalty applicable to equitized SOEs who meet the criteria of public company to comply with this regulations.

### **13. Loose financial discipline without strict control of shareholders like private enterprises**

Despite a lot of preferential treatments and privileges being given, a number of SOE and conglomerates are performing poorly with high levels of overdue debts and bad debts. When the Government asks to clarify accountability and request for measures to address the issues, they deliberately ignore the Government's directives.

The poor performance and loss-making situation of SOE and conglomerates are not new. However, the backlog of overdue debts and bad debts from years to years has become a "tumor" of the whole economy.



SOEs don't seem to care about recovering their receivables. Recently, the State Audit published the audit results of 2013 indicating clearly: "The fact that many SOEs and conglomerates did not strictly collect debts have resulted in large amount of overdue and bad debts among SOE. Some large amount receivables have not been recovered for years; some internal debts of corporations and among corporations have not been addressed completely...".

For example, PV Power (under PVN) had an in overdue debts of VND 9,650 billion which it need to collect. The amount is VND 2,314 billion at VNPT, VND 558 billion at CIENCO 1, VND 482.4 billion at LILAMA, VND 325 billion at Vinacomin, and VND 36.5 billion at Vinatex.

According to the roadmap of SOE restructuring, the Government issued the Decree No. 206 on "the management of debts at 100% state owned enterprises". The Decree regulates that enterprises are responsible for developing and issuing the regulations on debt management (including receivables and liabilities), determining clearly the responsibilities of organizations and individuals in debt collection and repayment. The Decree say that the regulation of the SOEs must formulated and issued after 90 days as of the effective date of the Decree (1 Feb 2014). Or in other words, the deadline for SOE to issue such regulation is 1 May 2014.

However, nearly 4 months have passed the deadline, a number of SOEs and conglomerate still ignore the guideline. Recently, on 21 August, the Department of Corporate Finance (MOF) reported directly to the Government on the delayed action by SOEs. According to the Department, up to 31 conglomerates and corporations have not issued debt management regulations. Among those are SOEs which high levels of bad debts and receivables as listed by the State Audit: e.g., Vietnam Airlines, Vinalines, COMA, Vincem, Vinatex, Military Petroleum Corporation, Housing and Urban Development Investment Corporation (Ministry of Defense), Truong Son Construction Corporation and Saigon New Port Corporation, etc.

On 6 Sep 2014, the Government's Office conveyed the opinion of Deputy Prime Minister Vu Van Ninh to request ministries, SOEs and conglomerates to complete reports and regulations on debt management in October 2014. However, the strict enforcement on these SOEs remain to be a question. The evidence of SOEs disobeying orders from the tops are ubiquitous. Despite this, no case is reported on leaders of SOEs being dismissed

for ignoring directives from the Government – who are the shareholder, owner of the SOEs.

**14. There is still a strong tendency that SOEs expand to a wide range of business sectors and compete with private sector where it is not necessary**

According to the Law on State Capital Investment and Management, the State shall invest capital in establishing new SOE in a limited conditions and circumstances: provision of public services and products which are essential to the society, in natural monopoly sectors/industries, in high tech and capital intensive investment, sectors which serve as the thrust to the development of other sectors and the whole economy, in sectors and industries directly serving national defense and security. However, it is not easy to determine which are the natural monopoly sector. Thus, the ministries may establish a number of SOEs in some sectors which they considered to be of natural monopoly and turn such monopoly into the monopoly of enterprises. As a result, the State still invest and do business in a variety of industries and sectors even where the private sector can do better.

Mr. Nguyen Duc Kien, Vice Chair of the Economic Committee asked whether it is necessary to establish 100% state owned enterprises in public products/service sector and he also replied decisively by himself that it is not.

“We changed the concept of public service companies into public services and conducted bidding for providing public services. All economic sectors may participate in bidding and providing public services without necessary to establish 100% state owned enterprises for providing public products and services. The fact proves that the private sector is better than the public sector in providing such services”, Mr. Kien said.

Regarding the issue, Mr. Nguyen Van Phuc, Vice Chair of the Economic Committee of the National Assembly frankly expressed his view that the State will only invest in the industries/sectors that other economic sectors do not (except for national defense and security). “Before deciding to invest in establishing new enterprises of contributing capital to other enterprises, the decision maker should answer the question whether the private sector can do or foreign invested enterprises are interested in the expected investment area. If private enterprises can do and foreign invested enterprises show interest, investment shall not be conducted”.

Regarding the investment areas of SCIC (70% in the industries/sectors where other economic sectors do not invest and 30% in highly profitable industries), Mr. Phuc said the State should not invest in highly profitable industries/sectors and allow other economic sectors to invest wholly.

### **15. Line ministries adopting administrative measures and circulars to intervene in and support SOEs when the latter is in difficulty**

When 117 pilots of Vietnam Airline simultaneously asked for sick leave at the end of 2014, on January 7th, the Ministry of Transport, issued an official letter for temporary rejection of employer change for high-tech workers of Vietnam Airlines, including pilots. The dispatch was issued based on VNA's recommendation to Ministry of Transport (MoT) not to accept head-hunting among airline firms in Vietnam from now until 2020. VNA also made recommendation to Civil Aviation Authority not to issue certificates and licenses for aircraft pilots and engineers of domestic airlines if they arbitrarily quit and move to another employer.

The basis for such an official letter is the perspective of MoT that this is such an “abnormal incident which jeopardize the country's economic security, hence MoT has to adopt emergency measure”.

However, from another point of view, “this is naturally a common labor dispute case that can happen in a competitive market economy”. Moreover, “the legal basis for this official letter is unclear and is not in line with the Competition Law... Obviously, a ministry should not adopt administrative interventions to constrain legal rights of employee to support the employer which is a state company under its management”<sup>11</sup>.

“MoT's guideline to temporarily prevent pilots from quitting is misaligned with the rule of “freedom of employment and career selection” as prescribed in the Labor Law...” This official letter is an equivalent of an “administrative order”, while arbitrary termination of labor contract is an employee's right which is inherently a civil relation. Such dispatch and administrative measures still exist and happen regularly in the conduct of many line ministries to protect the SOEs where they are the “ministry/authority-in-charge”.

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<sup>11</sup>Saigon Economic Times, issue 25/1/2015 (page 23).

## **16. Only until recently have SOEs had to pay dividend to state shareholder, and many SOEs have not had to pay dividend**

Before 2013, dividends from SOE profits were transferred to the State Fund for Enterprise Reform and Development managed by the State Capital and Investment Corporation (SCIC), which manages over 900 equitized enterprises. In 2013, the Government issued a Decree that requires SOEs to hand over the dividends to the budget. In some year, the dividend and profit of SOE may come up to VND 100 trillion but that was excluded from state budget.

It was reported by State Treasury that in 2013, profit after tax of wholly state owned enterprises being paid to the State budget reached 21,480 billion dong. Gross dividend paid to State's share in other enterprises in which the State hold shares reach 5,930 billion dong. The total amount of profit after tax and dividends paid to the State Budget by wholly owned SOEs and from partly-owned SOEs amounted to 27,410 billion dong.

However, MOF leadership revealed that the abovementioned revenue concentrates in merely 20 enterprises, corporations and holding companies. Almost a half of which, i.e., about 13,700 billion dong, came from Petro Vietnam (PVN). The second largest contributor is Vietnam Military Telecommunications Group (Viettel) with about 4,000 billion dong, while Vietnam Posts and Telecommunications Group (VNPT) and Vietnam National Coal - Mineral Industries Group (Vinacomin) paid over 1,000 billion dong and 400 billion dong respectively.

Other major corporations, such as Vietnam National Petroleum Group (Petrolimex) and Vietnam Electricity (EVN), were exempted from profit sharing with the state budget despite profitable status in 2013 because of their cumulative loss of trillions dong from previous years. Therefore, their 2013 profit was held to offset the loss first.

Pursuant to Decree 71 on investment of state capital and financial management of SOE issued on 11/7/2013, all the profit mentioned earlier shall be paid to state budget after the enterprises contribute fully to the Development Investment fund, the reward and welfare fund and the Reward fund for management officers.

## **17. “Forgetting” thousands of billions of state’s profit from investments in other companies –which can only happen in SOEs**

The review report on the profit sharing from investments in other companies of 23 conglomerates and state owned enterprises was just completed recently by inspectors of Ministry of Finance.

The report showed that trillions dong of state’s profit has been appropriated or “forgotten”. Specifically, according to MOF’s inspection, over 20 inspected corporations and holding companies have invested more than 48,400 billion dong into 662 other domestic enterprises. Profit which were distributed as dividend from these investment in 3 years of 2011-2013 exceeded 8,000 billion at the rate of 5.54% per year. Yet, by the end of June 2013, those investors have not collected up to 749 billion dong of profit and dividend.

A reason suggested by MOF’s inspectors is that the invested companies have appropriated the profit and dividend distribution for shareholders to invest in business. However, more importantly, the SOEs who are shareholders in such companies have not fulfilled their responsibilities over the investment as a shareholder.

In relation to the investments in FDI companies, also based on the inspection result, up to 11 holding companies have invested in 24 FDI companies which saw a constant loss between 2011 and 2013, so they have collected no profit so far.

In addition, 12 State Economic Groups have invested in 48 FDI enterprises with total capital of nearly 7,150 billion dong, and distributed with a gross profit of 6,100 billion dong from 2011 to 2013, or 28% per year. Despite some FDI companies have made huge profit, the investing SEGs could not collect any reward.

## **18. Have opportunity to access policy information and have direct influence on policies**

According to a study by Central Institute for Economic Management (CIEM), post-equitized SOEs have not made any significant change in corporate management. In the equitized SOEs where State holds control, the Board of Director (BOD) mainly comprises of officials whose rights and interests link with management team or they also hold corporate management positions. To be specific, in over 80% state-controlled

enterprises, BOD members also hold management positions. Hence, corporate management might not be independent, objective or able to ensure interests of stakeholders, especially minority private shareholders.

There is regular senior staff rotation between SOEs and ministerial agencies. Many high-level leaders of corporations, e.g., Vinalines, EVN, CIENCO... are assigned to, typically, key positions in the ministry-in-charge or vice versa. For instance, in early 2015, the Prime Minister decided that Mr. Hoang Quoc Vuong would resign from Chairman position of EVN and become Deputy Minister of Industry and Trade. Such appointments have apparently not been possible for any private entrepreneurs till now. The staff rotation as well as relationship between the assigned leaders of the ministry with their former SOE are additional rationales behind a belief that SOEs can influence the policies of the ministry-in-charge in a way which is favorable for them.

**19. In monopoly areas, State owned enterprises benefit from pricing opaqueness and it seems that they are always “sympathized” by ministry-in-charge**

It is important to determine whether an SOE is operating in a monopoly market. Prices of products and services in freely competitive sectors have their prices determined by the market. However, in a monopoly market, the State plays a role in determining the price for products and services. In Vietnam, products and services in monopoly markets such as utilities, electricity, water, etc. have always been priced by State (otherwise they can be excessively expensive if determined by SOEs, and as a result, consumers have to accept the prices as there is no other choice available).

In the petroleum market of Vietnam, there are 11 gasoline import agencies. In the import market, Petrolimex holds up to 60% market share, and PV oil 20%. These two companies already own 80% market share. In recent years, as soon as world oil price goes up slightly, within a regulated period of time, these firms immediately report business loss and recommend price increase. When world oil price continuously decreases and fall sharply, these firms do not reduce their price accordingly. They only reduce the retail prices under strong pressure from public and authorities. However, such reduction is often insignificant. The petrol and gasoline market is yet to become real competitive market. Rather, it is dominated by a certain group of SOEs.

Recently, MOIT recommended to exclude petroleum and electricity from the list of commodities whose prices are subject to control under the draft Law on Pricing. MOIT cites the Electricity Law and many other regulations to protect their viewpoints. According to MOIT, State only controls pricing framework for power generation, wholesale, transmission, distribution, power system maintenance fee, operation fee in electricity market and power support services. “For electricity price, the Electricity Law allows State to supervise prices only, rather than setting the price. The current practice of setting average retail price by Government is only suitable for the period when EVN is the sole wholesaler and retailer of power”. It sounds like MOIT is stating on behalf of the SOEs which are under its management.

MOIT also recommends to exclude finished petroleum products from the list of service and product prices which need to be controlled and set by the Government. Local economists, businesses and public react strongly to the fact MOIT refers to Electricity Law and prevailing laws to suggest exclusion of electricity and petroleum from the list of commodities whose price need to be controlled by the State without paying due consideration of actual economic situation as well as the nature of national power and petroleum markets. The public do not feel easy and are afraid that their interests can be harmed when the power of setting prices of products and services in these monopoly markets are transferred from the Government to enterprises -which are actually monopoly SOEs under management of MOIT.

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**ARE THERE PREFERENTIAL TREATMENTS OF STATE OWNED  
ENTERPRISES?**

**Review of Regulatory Framework and Evidences from Practice**