



## INTRODUCTION

**V**ietnam snakes its way down from China, past Laos and Cambodia, bordering the Gulf of Thailand, the Gulf of Tonkin, and the South China Sea.

Vietnam's independence ended in the mid-1800s when the country was colonized by the French who imposed significant political and cultural changes. Vietnam declared independence after World War II but France continued to rule until 1954 when it was defeated by Communist forces under Ho Chi Minh. Under the Geneva Accords of 1954, Vietnam was divided into the Communist North and anti-Communist South. United States' economic and military aid to South Vietnam grew throughout the 1960s, but in 1973 United States' armed forces were withdrawn following a cease-fire agreement. Two years later, North Vietnamese forces overran the South, reuniting the country under Communist rule.

Despite the return of peace, the country has experienced little economic growth because of conservative leadership policies. Since 2001, Vietnamese authorities have committed to increased economic liberalisation and enacted the structural reforms needed to modernise the economy and produce more competitive, export-driven industries. The country continues to experience protests over religious persecution from groups such as the Protestant Montagnard ethnic minority from the Central Highlands and the Hoa Hao Buddhists in southern Vietnam.

Today, Vietnam plays home to over 86 million people, most of whom are Vietnamese. Minorities include Tay, Thai, Muong,

Khome, Hoa, Nun and Hmong. Buddhism is the principal religion but there are also sizeable Taoist, Confucian, Hoa Hao, Caodaists, Muslim and Christian minorities. Vietnamese is the official language, although English is increasingly favoured as a second language.

### Economic overview

Vietnam is a densely populated, developing country that in the last 30 years has had to recover from the ravages of war, the loss of financial support from the old Soviet Bloc, and the rigidities of a centrally-planned economy. Substantial progress was achieved from 1986 to 1997 moving from an extremely low level of development and significantly reducing poverty.

With Vietnam's membership in the ASEAN Free Trade Area, entry to the US-Vietnam Bilateral Trade in December 2001, and the country's ascension to the World Trade Organisation in 2007, the government has made progress in reducing poverty and maintaining strong rates of economic growth.

One area where reforms have recently been made is in the tax regime in the nation. Vietnamese and foreign employees will be taxed identically from January 1st 2009, while Vietnam's National Assembly Standing Committee has also approved plans to reduce the corporate tax rate from 28 percent to 25 percent.

The government is set to face a number of remaining challenging policy issues in 2008-09, most notably the need to control inflation and to reduce downward pressure on the currency. GDP growth is forecast at 6.9 percent in 2008, owing to lower credit expansion and dampened consumption growth in response to record levels of inflation.

### Bureaucracy and corruption

Few countries could rival the amount of red tape found in Vietnam. Similarly, corruption is a national problem at every level of government, and the country has witnessed several high-profile cases in recent years including two of the largest

- Vietnam failed to make it onto the World Competitiveness Scoreboard in 2008
- The nation experienced a 67.8 percent jump in food prices year-on-year from May 2007-2008
- Early in 2008, the government announced agreed to enlarge the official border of Ha Noi to allow the city to expand up to 1.5 times its current size

state-owned corporations, Vietnam Post and Telecommunications Corporation and Vietnam Petroleum. High-ranking officers have been accused of embezzling hundreds of millions of US dollars, and in May 2004 the Minister of Agriculture and Rural Development was removed from office for involvement in a large-scale corruption case. Not surprisingly, Vietnam ranks a lowly 121 on Transparency International's Corruption Perceptions Index 2008.

**Legal system**

The Vietnamese legal system is based on communist legal theory and the French civil law system. It should be noted that it is still in the developmental stage and as a result laws, circulars and decrees it is often subject to interpretation.

Vietnam's judicial bodies are the Supreme People's Court, the local People's Courts at the provincial, district, and city levels, the military tribunals, and the People's Organs of Control. The Supreme People's Court is the highest tribunal and is charged with the supervision of subordinate courts. Local people's courts function at each administrative level except at the village level where members of the village administrative committees serve in a judicial capacity. Proceedings of local courts are presided over by people's assessors.

**Bar Association**

To practice law in Vietnam, certificate of law practice issued by the Ministry of Justice and admission to the bar association at the place of residence of the lawyer is required. The relevant bar associations issue Lawyer Licences to their members.

The new Law on Lawyers Adopted in 2006 provides for a nationwide lawyer association which will be called the Vietnam Lawyers Federation, a plan for which was approved by the Prime Minister in January 2008. The Vietnam Lawyers Federation will serve as the primary social and professional organisation of lawyers nationwide, with its own legal status, seal and account. It will be headquartered in Hanoi, and operate under a self-funding mechanism with membership fees, contributions and other lawful revenues.

The Federation's mandate is to protect lawful rights and interests of lawyers and bar associations, promulgate and supervise the observance of a code of conduct by professionals, organize regular training courses in legal knowledge and professional skills for lawyers, take part in lawmaking, research and legal dissemination and education, and enter into international cooperation in the legal profession. Apparatus will consist of the National Lawyers Congress, the National Lawyers Council, the Standing Committee and other assistant bodies. The Congress and the Council will both have terms of three years. **PBP**

**PRACTITIONERS' TIPS**

**In-house counsel**

The number of companies housing corporate counsel is on the rise in Vietnam, again due in large to a vast increase in foreign direct investment. That said, at present very few local companies have actually taken the plunge and hired an internal team, although this is likely to change in the future. As such, much work is still farmed out to private practice firms.

**External selection**

Recent amendments to the regulations regarding international law firms in Vietnam allow foreign firms to provide Vietnamese legal advice through qualified Vietnamese lawyers, while foreign lawyers act as consultants on international law and are not permitted to appear before the Vietnamese courts. Common sense dictates using a combination of firms for different matters depending on the complexity.

**Billing arrangements and discounts**

The need for legal consultancy for economic organizations and foreign and domestic businessmen over the past several years has grown exponentially. Foreign legal consultants in investment and business areas are arriving in pace with economic demand, and their fees lie outside the regulating scope of the government. Fees are agreed on by clients and are generally very high given the pricing level in Vietnam.

**Billing rates per hour**

Local firm associate	US\$100-150
Local firm partner	US\$150-300
International firm associate	US\$200-300
International firm partner	US\$400-600

## COUNTRY FILE

### Banking and finance

**Allens Arthur Robinson** acts for several foreign banks in Vietnam including ANZ, Citibank, CBA, Mizuho Bank, Bank of Tokyo Mitsubishi UFJ, GE Money, Erste Bank and ABN AMRO. The practice group is headed by Thomas Miller, with Bill Magennis considered a key partner. In the past year work for the firm has involved advising retail banks, investment banks and other financial services companies on their entry into the Vietnam market.

**Baker & McKenzie** was one of the first international law firms to establish a presence in Vietnam. Led by Fred Burke, Tran Manh Hung and Nguyen Hoang Kim Oanh, the team continues to advise major financial institutions and government departments on landmark deals and regulatory issues. Recent experiences include working with the United States Agency for International Development and the State Bank of Vietnam on proposed amendments to the Law on Credit Institutions and various implementing decrees in banking and finance. The firm also advises several foreign banks on significant projects in the country, including Vietcombank Fund Management, a joint venture between Vietnam's largest State-owned bank, Vietcombank, and VCH, a Singaporean fund management company, in the establishment of Vietcombank Partners Fund 2, which targets mainly pre-IPO Vietnamese companies.

**DFDL Mekong's** core business is advising on foreign direct investment projects in the Mekong region. The banking and finance team is led by Martin Desautels, who represented Société Générale VietFinance in the development of their activities in the field of cash and asset back loans, and Bangkok Bank in the considered acquisition of an interest in PetroVietnam Finance Co.

**Freshfields Bruckhaus Deringer's** fields a team of expert practitioners capable of handling top-end banking and finance work. Highlights include advising Standard Chartered Bank, Mizuho Corporate Bank and FMO in various syndicated loans to large Vietnamese corporations, IFC on the sale of an interest in Asia Commercial Bank, HSBC Insurance in its purchase of an interest in Bao Viet Insurance, the first equitisation of a large state-owned enterprise in Vietnam, and Morgan Stanley in its purchase of an interest in PetroVietnam Finance Co, the second equitisation of a large state-owned enterprise. Jan Johansson and Bui Thanh Tien are the main banking lawyers.

In 2007 **Gide Loyrette Nouel's** banking and finance capabilities expanded from classic transactions towards more advanced transactions in areas such as derivatives. Headed

by Nicolas Audier, the banking and finance practice was involved in PetroVietnam's bond issuance on the New York Stock Exchange – which was the first ever bond issuance by a Vietnamese entity abroad. The firm has also assisted major investments banks and key international players in their operations on the Vietnamese market, including notably JP Morgan, Morgan Stanley, and Société Générale.

**Indochine Counsel's** banking and finance team is led by managing partner Dang The Duc. The firm has determined to position itself as a leader in the practice area. Key clients include Southern Bank, Commonwealth Bank of Australia and Providential Holdings.

**Lovells** banking and finance team in Vietnam has recently been boosted by a number of new arrivals to the firm. The team is led by Tim Fletcher, a partner based in the Hong Kong office and comprises of Jamie Barr (partner, Hong Kong), Christian Schaefer (senior associate, Ho Chi Minh City) and Hung Trieu (associate, Ho Chi Minh City). The firm continues to be an active adviser to a number of leading financial institutions in Vietnam. It has advised Natixis on collateral and security issues for a €160 million debt facility granted to a commodities trader.

**Mayer Brown JSM (Vietnam)** has had a busy year with their banking and finance group handling an increasing volume of work from its existing banking clients, including HSBC, Calyon Bank, China Trust, ANZ and Deutsche Bank where they continue to assist on various issues regarding loans, securities and regulatory matters. The firm has also advised Habubank Securities Co Ltd, Citibank NA, Hanoi Branch and HSBC on numerous bond transactions.

**Russin & Vecchi's** banking and finance group has represented a number of banks on the structuring of transactions. The firm acts as Vietnam counsel to Royal Bank of Scotland in its take-over of ABN AMRO. The firm also acts for Saigon Premier Container Terminal in a project financing transaction with a syndicated group of lenders in connection with a facility of US\$200 million. Currently, the firm is acting for a syndicate of offshore banks and their local branches in a loan of US\$60 million to a real estate project in Saigon South.

**Tilleke & Gibbins** is currently advising a large Chinese state-owned bank on a US\$60 million loan transaction to finance an expressway project near Hanoi. The firm also recently advised an eastern European investor in connection with the pending acquisition of a major stake in a Vietnamese financial institution.

**Vision & Associates** partners and associates active in banking and finance include Luu Tien Ngoc, Ngo Trung Hieu, Dang Trong Hieu, and Charlene Yuen. Engaged by many large Vietnamese and foreign banks, such as Vietcom-

bank, BIDV, MB, VIB, DongAbank, Creditsuisse, ANZ, and KEB the firm's lawyers actively assist in providing advice, drafting, negotiating and finalising deals.

The practice of **YKVN** focuses on banking and finance transactions. The firm has worked extensively with the four State-owned Vietnamese bank, as well as international banks operating in Vietnam. They have also advised Vietnam Airlines and Vinashin on most of their significant financings for the expansion of Vietnam Airlines' fleet and shipbuilding operations of Vinashin. The firm is currently advising International Finance Corporation in its financings of consumer finance programs of several Vietnamese joint stock banks, including ACB, Techcombank, Sacombank and VIB.

**DLA Piper** is also recommended in this area.

### Capital markets

**Allens Arthur Robinson's** Vietnam practice has been active in the capital markets area. On the equity side the firm has been involved in: providing Vietnam law advice in relation to the admission of two property funds on London's AIM; advising CLSA Capital on the issuance of offshore equity-linked and swaps instruments which are linked to underlying listed securities in Vietnam; and advising Daiwa, ANZ and JP Morgan on various capital markets transactions.

**Baker & McKenzie's** team handles all types of capital market transactions, from advisory to the establishment, management and listing of various capital funds. Led by Fred Burke, Seck Yee Chung and Nguyen Hoang Kim Oanh, the firm has recently acted for a number of local and foreign private equity funds. Examples include the proposed foreign exchange securities listing of a private Vietnamese property developer, and the SEAF Blue Ocean Fund, which focuses on opportunities providing mezzanine-type capital for small-to-medium-sized Vietnamese enterprises.

**DLA Piper's** lawyers have been at the forefront of landmark transactions in Vietnam since the government initiated its doi moi (renewal) policy in the early nineties. These include advising Indochina Capital Vietnam Holdings Ltd on its listing on the main board of the London Stock Exchange, which raised US\$500 million and made it the first Vietnam-focused investment fund to list on a major global stock exchange. The arrival of Stephen Peeples in 2007, as head of US capital markets in Asia is set to strengthen the practice.

**DFDL Mekong** has an active capital markets practice in Vietnam. The firm has advised China trust Bank in relation to an IPO on the Ho Chi Minh City stock market, and BOCI Asia Ltd on onshore legal issues in relation to the potential listing on a foreign stock market of a Vietnamese financial institution. Thierry Gougy heads the practice group.

**Freshfields Bruckhaus Deringer** is a dominant force in capital markets/investment funds and securities work. It advised Dragon Capital on the establishment of Vietnam Resource Investment Ltd, a new real estate fund listed on the AIM, and the merger of Vietnam Enterprise Investments Ltd (VEIL) and Vietnam Growth Fund Ltd (VGF). The team also advised Capital Land on the establishment of a new private equity real estate investment fund; and Mekong Capital on the private placement of the Mekong Azalea Fund.

**Gide Loyrette Nouel's** capital markets practice has grown rapidly of late. In recent activity, the firm assisted Natixis in the acquisition of a minority strategic shareholding in an equitised State-owned commercial bank. In other activity the firm has been assisting JP Morgan (acting as underwriter of the issuer) in all legal, corporate and regulatory aspects of the secondary listing on the Singapore stock exchange of a leading Vietnamese listed company. Nicolas Audier, Bernadette Fahy and Le Thuy Lan are key individuals in this area.

**Indochine Counsel** had an active year in its capital markets practice. The firm assisted several high-profile clients in their IPO listings, including: Saigon Paper Corporation; Dong A Management Co, Providential Holdings, and Vietnam Assessment Management Ltd.

**Mayer Brown JSM (Vietnam)** has a standing reputation in the area of capital markets. Their significant deals include acting as the sole Vietnamese counsel on matters of the Vietnamese law, for the lead arranger Deutsche Bank of the issue 3,000 billion Vietnam dong 8.15 percent bonds by the Bank for Investment and Development of Vietnam.

**Orrick, Herrington & Sutcliffe's** recent experience includes advising on a full array of capital markets, debt offerings and private placement transactions. The firm is currently advising a US-listed company to raise US\$200-300 million to invest in Vietnam.

Within the past 12 months **Russin & Vecchi** worked on capital markets projects for Merrill Lynch, JP Morgan Fleming Asset Management, Goldman Sachs, Fox-Pitt, Kelton (Asia) Ltd, UBS. The firm continues to advise foreign funds and investment banks, such as Mason Capital, Blackhorse, Legg Mason, Farallon, and UBS on regulatory issues in connection with investment in Vietnamese securities as well as on issues in connection with distribution of Vietnam-linked investment products from offshore to Vietnamese investors.

**Vision & Associates'** partners and associates active in the capital markets arena include Luu Tien Ngoc, Ngo Trung Hieu, Dang Trong Hieu and Charlene Yuen. The firm's clients in this field include banks (Credit Suisse, Woori Bank); finance, asset management and insurance corporations (SwissRe, Bao Minh, Bao Viet, Vinare); investment funds in



the course of equitising state-owned corporations; and other funding and investment activities.

**YKVN** is a pioneer in securities and capital market transactions and the firm has worked on debt offering, equity offerings, investment funds and regulatory issues. On equity offerings, the firm is advising three out of the four large state-owned banks and Vietnam Airlines on their equitizations, including their IPOs in Vietnam. The firm is also advising Vinamilk and Tan Tao on their debut secondary listings in Singapore. YKVN is currently advising joint lead managers Barclays, Citigroup and Deutsche Bank for the Rule 144A/Regulation S sovereign bonds of Vietnam.

### Corporate and M&A

**Allens Arthur Robinson's** well regarded Vietnam practice advises multinational clients on all legal aspects of investing and doing business in Vietnam. The firm advised Bao Viet, the state owned insurance corporation, in its recent equitisation, including the sale of a 10 percent interest to HSBC. The firm also advised one of the shortlisted strategic investors on its bid for a strategic stake in Vietcombank, the largest commercial bank in Vietnam.

Maintaining its prominent position in the areas of tax and corporate advisory service, **Baker & McKenzie** continues to act on commercial and regulatory work for existing market leaders and significant new market entrants. The firm assisted Qantas with its 30 percent acquisition of Pacific Airlines, the first foreign investment in a Vietnamese air carrier. The firm is also the lead legal advisor to the USAID-funded 'STAR' Project and has advised the government on various new trade laws and implementing decrees.

**DFDL Mekong** and its legal advisers and lawyers have been involved in numerous corporate assistance matters in Vietnam. Practice group head Thierry Gougy and key partner Martin Desautels assisted the vendor on the legal structure for the disposal and preparation of a share sale agreements in the disposal of a majority equity interest in a company specialising in automotive and heavy equipment distribution in Vietnam.

The corporate and M&A group at **DLA Piper** has been involved in several high-profile transactions over the past year, including: advising Hanesbrands on its multiple facility acquisition and expansion program in Vietnam; and advising international and Vietnam based real estate developers including Mapletree, CDL, and Vietnam Partners (New York and Hanoi).

Highly regarded in this area, **Freshfields Bruckhaus Deringer's** corporate and M&A team advised Morgan Stanley on the acquisition of an interest in Vietnam Gateway Securi-

ties, renamed Morgan Stanley Gateway Securities; ANZ on its acquisition of a strategic interest in Saigon Securities Incorporation; HSBC on the purchase of an additional interest in Vietnam Technological and Joint Stock Commercial Bank; Deutsche Bank on the purchase of a strategic interest in Habubank; and Goldman Sachs in its purchase of strategic interests in several companies.

A prominent player in the M&A market in Vietnam, **Gide Loyrette Nouel** is instructed on all types of transactions. In 2007, the firm advised Alcatel Lucent, AXA, Casino, Essilor, Sanofi-Aventis, ST and Total on major restructuring or investment projects.

**Indochine Counsel's** corporate/M&A practice a core practice has had another active year, advising on share acquisition by an offshore fund managed by Vietnam Asset Management Ltd, and representing a local cosmetic distribution company in its joint venture with a Japanese partner.

**Lovells** corporate and commercial team in Vietnam is led by Tim Fletcher (partner, Hong Kong). The team continues to advise a broad range of international clients on their activities and foreign investment in Vietnam, including advising a Hong Kong-based developer on a foreign-invested joint venture enterprise in southern Vietnam for a US\$140 million residential-for-sale development project in Long An province and advising an Eastern European design and private equity investor in the establishment of a 100 percent foreign-owned architectural design company in Vietnam.

**Mayer Brown JSM (Vietnam)** has long been a major corporate and mergers and acquisitions player in Vietnam. Their corporate and M&A group has undertaken a broad range of corporate transactions over the last year, with an emphasis on due diligence exercises, Vietnam licensing requirements, joint venture negotiations and real estate development projects. Over the last 12 months, the firm has successfully advised many multi-nationals including American and European companies on strategies, structures, negotiations, investment analysis and acquisitions in Vietnam.

**Orrick, Herrington & Sutcliffe's** M&A lawyers have handled a number of significant transactions. The team is currently advising a top Vietnamese Internet company in the potential sale of the entire concern to a notable multinational Internet company.

**Pham & Associates** renders services relating to incorporation, merger and acquisition of many companies in Vietnam, both domestic and foreign owned. The firm has also been advising and assisting clients in setting up representative offices and branch offices of foreign enterprises in Vietnam. Clients in this regard include VietnamNet Media Corp, Viet-

nam Media Co Ltd, Kim Solutions Co Ltd, Li & Fung (Trading) Ltd, Neo C&C Ltd and Charles Wembley Co Ltd.

A first-tier firm in Vietnam, **Russin & Vecchi** advises on all aspects of doing business in Vietnam. The firm acted for both Intel Products Vietnam Ltd and a second American chip manufacturer on all licensing issues and continues to provide corporate advice. The firm has advised several foreign funds and parties, including Citi Venture Capital International, VinaCapital Group, Vietnam Opportunity Fund (listed on AIM), Vietnam Equity Fund, BankInvest, Vietnam Partners LLC, in a number of mergers and acquisitions in Vietnam and in cross-border mergers and acquisitions that have a Vietnam component.

Well regarded in this area, **Tilleke & Gibbins** recently advised a Japanese investor on the US\$10 million acquisition of a seafood processing facility in Vietnam. The firm also advised one of the largest US cold storage multinationals on the acquisition and development of a cold storage warehousing project in Vietnam.

**Vision & Associates** continue to play an active role in corporate-related advisory services. The partners and associates active in this field include Pham Nghiem Xuan Bac, Pham Minh Hai, Le Quynh Anh, Charlene Yuen and Nguyen Dinh Nha. The firm is entrusted to provide legal advices on merges, acquisitions, equity securities subscription, drafting, negotiating and finalising the deals. Legal due diligence is provided based on the nature of deals. Clients in this field include Chevron, Cargill, Motorola, Obayashi, Posco, and Hyundai-Vinashin Shipyard.

**YKVN** is a recognised leader in M&A and the firm has advised on many landmark deals in Vietnam. The firm is currently advising the Bank for Foreign Trade of Vietnam on its sale of a strategic stake as part of its equitisation process. It is also advising Bank for Investment and Development of Vietnam and Industrial and Commercial Bank of Vietnam on their equitisation process. These sales of strategic interest to foreign investors will be among the first big M&A deals as part of the equitisation of State-owned banks in Vietnam and will set precedent for future deals in Vietnam.

### Employment

**Allens Arthur Robinson's** head of employment Nigel Russell advises a number of multinational companies on employment matters in Vietnam on an on-going basis, including, Nike, Holcim, Coca Cola, Colgate, Philip Morris and Blue-Scope Steel. This work includes advice on regulatory and compliance matters, and preparation of standard labour documentation, including labour contracts and internal labour rules, a peculiar feature of Vietnamese law.

**Baker & McKenzie** provides comprehensive advice on a full range of employment, labour law, regulatory and immigration-related issues to both public and private organisations. Led by the highly regarded Fred Burke, the firm's recent work includes advising on Vietnam's new labour law as well as employee stock option programs, foreign exchange compliance advice and registration work for various multinational clients.

Isabelle Robineau heads the employment group at **DFDL Mekong**. The firm assisted the Apple Tree Group in reviewing the group's employment contracts and labour documentation and has assisted international engineering services group Rockwell in all their labour matters. Practice group head Le Nguyen Huy Thuy is well regarded.

**Gide Loyrette Nouel's** team regularly advise French and international clients on all aspects of employment law in Vietnam. The firm's Nicolas Audier and Doan Chien recently advised a European entity on the termination of employment contracts involving Vietnamese nationals, helping to settle labour disputes and conclude a settlement agreement.

**Indochine Counsel** advises on the full spectrum of employment contracts and disputes. The firm represented Thuy Loc Corp and Pacific Airlines on labour and contractual issues in the previous year. Le Nguyen Huy Thuy is the practice group head.

**Pham & Associates** provides services under the form of individual contracts and retainer contracts to both domestic and overseas companies who wish to recruit and use labourers in Vietnam. The firm has recently advised Kobayashi and Hyundai Vinashin.

Amongst other work, **Respondex & Fan** advised a major public listed German company on the separation and terms of its long-time managing director.

**Vision & Associates'** partners Le Quynh Anh, Dang Trong Hieu and Le Tuan Anh lead the firm's employment practice group. The firm provides legal advice and assistance on a retainer basis for several foreign and foreign invested companies in Vietnam including Youngone (more than 10,000 workers), Hyundai-Vinashin Shipyard, Samsung, Fujitsu, Nissan Techno Vietnam, Toyota Vietnam, and Honda Vietnam.

**YKVN** has advised many joint ventures and 100 percent foreign-owned companies on applicable labour regulations, such as preparation of labour contracts, preparation and negotiation of collective labour agreements with Vietnamese employees, and all other matters relating to social insurance, labour regimes and labour disputes. Led by partner, Diep Hoai Nam, the practice group are advising a number foreign invested companies on their stock option plan for employees



in Vietnam subsidiaries. Notable clients including, Procter & Gamble, IBM, Intel and Citibank.

**Mayer Brown JSM (Vietnam)**, Orrick, Herrington & Sutcliffe, Russin & Vecchi and Tilleke & Gibbins are also recommended in this area.

### Intellectual property

**Allens Arthur Robinson**'s advises clients on a range of IP issues in Vietnam, including enforcement of IP rights. It is aiming to expand its IP practice in 2008, with the addition of Thao Nguyen, who recently joined the firm from Lovells.

Tran Manh Hung leads **Baker & McKenzie**'s IP practice team in Vietnam, advising various major international brands on matters ranging from registration to cancellation and appeals, anti-counterfeiting and litigation, and technology licensing. The firm recently advised on one of the first unfair competition actions filed under the new Competition Law.

The IP practice at **Indochine Counsel** is headed by Nguyen Thi Hong Anh. Nguyen has a solid reputation in the field, having advised key client Nuplex Resins on complex technology transfer agreements and trademark license agreements.

**Lovells** IP practice continues to expand its portfolio of international brand name clients including Adidas, Rolex, Montblanc and Dunhill. Activities include the very successful handling of extensive brand enforcement actions, trade mark management programmes for multinational clients and advising on a range of IP issues. Henry Wheare and Tu Dinh are highly recommended.

**Pham & Associates** has recently represented Yamaha in negotiations with 45 Vietnamese musicians for permission to use 48 Vietnamese musical works. The firm has also advised and represented Vietnamese companies in negotiation for permission to translate and publish foreign works in Vietnam. The firm advised Procter & Gamble, Sound Storm, Bellmira Cosmetic, Renoma, and clients of Block & Associations, Jacobacci & Partner on appeal and opposition. The firm is also handling IP infringements and counterfeit goods for Gucci and Honda Motors.

**Rouse Legal (Vietnam)** is a specialist IP firm, dealing exclusively with intellectual property matters. Testament to his high regard in the area, Son Doan, the firm's most senior Vietnamese lawyer, was recently awarded a Fulbright scholarship. The firm successfully acted for Scotch Whisky Association, in the first geographical indications case handled by a firm in Vietnam. They were also active in the largest seizure of counterfeit perfume to date in Vietnam, where several high-profile luxury brand owners, such as LVMH, Kenzo and L'Oreal, initiated an anti-counterfeit action.

**Tilleke & Gibbins** has attained significant settlements for clients in the area of copyright infringement. The firm is advising Vietnam's Ministry of Industry and Trade on post-WTO accession IP issues through a World Bank program. Tilleke & Gibbins handles patent and trademark registration matters, as well as appeals, oppositions and cancellations.

**Vision & Associates**' IP team, led by managing partner Pham Nghiem Xuan Bac, and other partners and key associates (Le Thi Kim Dung, Do Quang Hung, Nguyen Thi Van, Nguyen Nguyet Dung) is one of the strongest and most active teams in Vietnam in the field of IP. Clients in this field, include Yahoo! Inc, Gucci and Gianni Versace.

**WINCO** is one of the leading law firms operating in the field of IP in Vietnam. The firm recently acted for Lacoste, in the high-profile infringement matter the company faced in Vietnam due to counterfeits.

**YKVN** houses a highly focussed IP practice. The firm is active in assisting and advising multinational companies in Vietnam including Procter & Gamble, Pfizer, Bristol-Myers Squibb and Toray Intellectual Property Center Ltd in the registration and protection of their trademarks, patents and copyrights in Vietnam, Laos, Cambodia and Myanmar.

**D & N International, Invenco, InvestConsult Legal Services, Mayer Brown JSM (Vietnam), patrick mirandah co,** and **Respondex & Fan** are also active in this area.

### Litigation and dispute resolution

**Allens Arthur Robinson** is very active in this area in Vietnam, and is currently advising a client in relation to a construction dispute that is likely to be the largest in the country. On such matters, the Vietnam team is supported by Stephen McComish, a construction disputes partner based in the Perth office.

Helped by the firm's local and international expertise in IP rights and legislation, **Baker & McKenzie** is advisor to various government committees, and is a litigation and arbitration choice for multinational companies operating in Vietnam. Partner and head of practice Fred Burke and his team have an excellent reputation for advising on trademark infringement and unfair competition cases, anti-trust cases, construction cases and labour disputes.

The litigation and dispute resolution practice at **DFDL Mekong** is headed by Daniel Chernov. The firm has assisted key client Algest SE in a dispute in relation to the acquisition of a minority equity interest in a hospitality project in Vietnam, and Bronson & Jacobs in debt recovery matters.

Members of **DLA Piper**'s Vietnam practice bring market knowledge and experience to bear in litigation and dispute resolution matters. The firm recently acted for Vinh Hoan

Corp in the US changed circumstances review. This is the first changed circumstances review of a Vietnamese company to have converted from an LLC to a joint stock company.

**Freshfields Bruckhaus Deringer's** first-rate transactional reputation leads to instructions from a number of high-profile clients on their litigation matters. Of particular note was the representation of ABN-Amro Bank in relation to a criminal investigation and a dispute with a state-owned bank, Incombank.

**Gide Loyrette Nouel** has long standing experience in arbitration and dispute resolution, both traditional strong practice areas for the firm's Vietnam offices. Notably, the firm acted for the Vietnamese government in a major international arbitration proceeding in 2007 and advised on, and managed, all aspects of the government's defence.

Lawyers in the litigation and dispute resolution group at **Indochine Counsel** recently acted for Brocade Ltd, a Hong Kong company engaged in a construction contract dispute and for Thuy Loc Corp on commercial disputes related to local property development.

**Pham & Associates** has been successful in the role as the authorised representative and supplier of lawyers for VOEST-ALPINE, Schlumberger Co Ltd in Vietnam and Hai Duong Labour Import-Export Joint-Stock Co to protect the client's legitimate rights and interests in commercial and labour disputes before Vietnamese courts and in arbitration.

**Vision & Associates** has a healthy reputation in handling commercial-related litigation and disputes. The firm's partners and associates active in this field include Pham Nghiem Xuan Bac, Le Quynh Anh, Do Quang Hung, Dang Trong Hieu, Le Tuan Anh, Nguyen Dinh Nha. The firm's services in this area include drafting warning letters and claims sent to debtors and competent authorities, negotiating with debtors for the return of funds, taking action on a client's behalf before the courts and arbitrations and involvement in the enforcement process of judgments or arbitration awards.

**YKVN** focuses on litigation and arbitration of foreign investment and international commercial disputes. The firm's litigators are currently representing an American manufacturing company before the Ho Chi Minh City Court in its claims with respect to more than twenty processing contracts. The firm also represented the Bank for Foreign Trade of Vietnam on a significant debt collection case against a private company in Vietnam at all levels of Vietnamese courts which lasted for more than two years.

**DC Law, Detech & Associates, Kelvin Chia Partnership, Lucy Wayne & Associates, patrick mirandah co, Tilleke & Gibbins, Rouse Legal (Vietnam) and Vilaf-Hong Duc** are also recommended in this area.

## **Projects and project financing**

**Allens Arthur Robinson's** Vietnam team advises on all aspects of major projects from planning, development and acquisitions to financing and restructuring. Recent matters include: acting for BP in relation to the Phu My 3 Power Project; advising P&O Ports on project financing of joint venture port project; advising Thames Water on initial project financing negotiations; and advising Holcim on all of its major financing requirements.

**Baker & McKenzie's** projects and project financing team has been involved in a number of landmark transactions. These include the establishment of Vietnam's biggest privately owned waste treatment facilities in Ho Chi Minh City, and the loan arrangements to part-finance the construction of Vietnam's first oil refinery. The firm advises the Ministry of Planning and Investment on the new BOT Decree, which will have a major impact on the construction industry. The firm also gives financial structure advice on significant ports projects in Vietnam: Calyon, SSA Marine, Limitless and SCB.

**DFDL Mekong** has a strong project finance practice group, headed in each office by lawyers with many years of project finance experience. The firm acted as local counsel to the consortium in relation to a coal fired thermal BOT project, assisting the consortium in negotiations with the Vietnamese Authorities.

**DLA Piper** lawyers are experienced at working with the Vietnamese Government and its ministries and agencies. Partners Lance Miller and Stanley Boots are currently representing the government of Vietnam as project owner on the construction and finance of the 1200 MW Mong Duong II Power Project.

In the last year, **Freshfields Bruckhaus Deringer** advised two port operators on the establishment of new ports in south Vietnam; AES on its development of 1200MW Mong Duong II Power Plant; Chevron on its gas-to-power project in southwest Vietnam; and a consortium of lenders on the project financing of the construction and development of the Nui Phao tungsten/fluorspar mining project.

Practice group head To Xuan Tinh leads the projects and project financing team at **Indochine Counsel**. The team has assisted numerous high-profile clients in the previous year, including: Southern Bank, VinaCapital Group and Dong A Fund Management Co.

The **Lovells'** projects team in Vietnam is led by Tim Fletcher (Partner, Hong Kong) and James Harris (Partner, Singapore). Christian Schaefer, senior associate, who joined the firm's Vietnam office in 2007 has substantial experience advising foreign developers in Vietnam and advising on construction and projects matters. Recent works include advising



a listed Hong Kong developer (both in Hong Kong and in Vietnam) on four large-scale residential-for sale and commercial property development projects in Ho Chi Minh City and southern Vietnam, and advising a Korean developer on the legal, financing and structuring aspects in relation to the development of a US\$1 billion residential and commercial property project in Ho Chi Minh City.

Well regarded in this area, **Mayer Brown JSM (Vietnam)** has enjoyed another exceptional year advising on some of the most complex and largest projects in Vietnam. The firm's project finance group advises and represents developers, owners of projects, lenders and institutional investors in all areas relating to project development and project financing. Activity of note in the last 18 months includes work on the first licensed Build-Transfer Project conducted by foreign investors in Vietnam.

Amongst other work, **Orrick, Herrington & Sutcliffe's** is currently advising Vietnam Electricity in the negotiation of power purchase agreement with AES for the 1200 MW Mong Duong 2 Build Operate Transfer Coal-fired Thermal Power Project.

**Russin & Vecchi** has been engaged in two extensive container port projects in the South of Vietnam in the past 12 months. In addition, the firm is acting for an American company intending to finance infrastructure to support a strategic petroleum reserve program.

**Shearman & Sterling** has a fine track record in Vietnam, having advised on a number of notable transactions including the US\$750 million sovereign bond offering by the Socialist Republic of Vietnam. Mara Folz, who has recently rejoined the Singapore office, brings with her extensive experience in Vietnam, having spent three years at a leading international firm in Hanoi working on some of the country's most significant transactions. Major deals the firm has worked on in Vietnam recently include representing the borrower and sponsors in the US\$227 million financing of the Cai Mep-Thi Vai container terminal in Thi Vai, Ba Ria-Vung Tau province, and advising Dragon Capital, Tiberon Minerals Ltd. and other sponsors in the development and financing of the US\$300 million Nui Phao mining project, a tungsten, fluor spar, copper, bismuth and gold mine in Vietnam.

**Tilleke & Gibbins** is currently advising a Japanese investor on a US\$100 million combined office/condominium/apartment development in Hanoi. The firm is also advising a US construction conglomerate on its planned participation in the new Hanoi – Haiphong highway project.

**YKVN** has a pre-eminent projects and project financing practice in Vietnam. The firm is advising China Southern Power Grid International and China Power International

Development in the development and financing of the 1,200MW Binh Thuan build-operate-transfer coal-fired power plant expected to be worth more than US\$1 billion. The firm has also advised a syndicate of the 4 State-owned banks agented by the Bank for Investment and Development of Vietnam on a construction financing of the Xekaman 3 Power Plant in Laos. This is the first BOT power project undertaken by Vietnamese developers outside Vietnam.

## Restructuring and insolvency

**Baker & McKenzie** has substantial experience in acting for banks and multinational companies in restructurings and debt recoveries. Led by the highly regarded Fred Burke, the firm's recent activities include advising a major international bank on the establishment of a subsidiary in Vietnam. This involves the transfer of business from at least one existing branch operation. The firm has also advised various multinationals on post-acquisition reorganisations and debt recovery matters.

Over the past few years, lawyers at **DFDL Mekong** have been involved in some of Vietnam's major debt restructuring projects, with matters often involving large regional companies with local assets. Practice group head Martin Desautels recently advised Thai Exim bank on the recovery of a loan granted to an insolvent joint venture company in Vietnam, including foreclosure of security.

**Indochine Counsel** enjoyed an active year in its restructuring and insolvency group. Head Le Nguyen Huy Thy acted for Jindal Stainless Steel in relation to a restructuring of a mining joint venture company, and for HAL Corp in the restructure of the group for private equity investment.

Recently, **Pham & Associates** has advised and represented the Hanoi Electronic Corp and its subsidiaries companies in restructuring, and the Transviet Imex Co Ltd and the Phan Truong Son Tourism Services and Trading Co Ltd in insolvency.

**Vision & Associates** partners active in the corporate restructuring arena include Pham Nghiem Xuan Bac, Pham Minh Hai, and Phan Manh Tuan. Clients of the firm in this field include many large State owned companies or corporations in Vietnam, such as Vinatex, Vinacafe, Sowatco, Vinalco, and Mekong Housing Bank.

## Shipping

Phan Anh Vu heads the capable team of shipping lawyers at **Indochine Counsel**. The firm represented Erria A/S in its business matters in Vietnam, including the acquisition of shipping companies in Vietnam. They also advised Mekong Shipping Aps on bare boat charting in Vietnam and on Vietnamese shipping laws in general.

### Telecommunications, media & technology

**Allens Arthur Robinson** has continued to build on the strengths of its TMT practice group. The firm currently acts for several of the largest telecommunications projects to date and frequently advises on regulatory matters for foreign telecoms and IT companies wishing to provide services in Vietnam. Deals counsel have acted for include: a US\$200 million fixed line network expansion project in Hanoi; and Comvik on the first foreign invested mobile phone network.

Fred Burke and Tran Manh Hung of **Baker & McKenzie** are currently advising a major telecommunications company that is converting from CDMA into GSM technology. The firm serves as its legal consultant advising on the application process for the Investment Certificate and spectrum license to operate a GSM network. The GSM project's estimated investment capital is US\$655,900,000.

The TMT practice group at **DFDL Mekong** advised the International Herald Tribune in 2007 in relation to obtaining a printing license in Vietnam.

In the last year, **Freshfields Bruckhaus Deringer** has advised Texas Pacific Group and Intel Capital in relation its sale of part of its interest in FPT Corp, a major IT, telecom and distribution group; WPP on its purchase of interests in various Vietnamese companies; and various international investors on the equitisation of mobile telecommunication companies in Vietnam.

Over the past year the **Gide Loyrette Nouel** team has demonstrated a command of emerging practice areas such as TMT in Vietnam, with a proven track record in providing assistance on all the legal and regulatory aspects of the telecommunications arena. The firm also assists clients in different areas of the audiovisual sector. In recent activity, the firm has: assisted La Poste in setting up a joint venture company with monopoly State owned enterprise VNPT; assisted in the reorganisation and restructuring of all investment projects and companies carried out or established in Vietnam by Alcatel-Lucent into a single entity; and advised a leading international telecommunications company on its

market entrance strategy in Vietnam. Nicolas Audier is a well regarded practitioner in this area.

**Indochine Counsel's** TMT practice enjoyed another active year. Nguyen Thi Hong Anh advised FPT Online on copyright issues over music records on the internet, including content license agreements and copyright licensing arrangements.

**Orrick, Herrington & Sutcliffe** has a wide range of telecommunications expertise, both locally and globally. Examples of recent Vietnam activity includes the successful negotiation of Vietnamese telecom service provider in connection with an undersea cable project spanning Singapore, Hong Kong and Japan.

**Tilleke & Gibbins** is advising the Vietnamese government on the drafting of Vietnam's first Advertising Law, which will cover many issues related to advertising in new media forms.

**Vision & Associates** partners and lawyers Luu Tien Ngoc, Do Quang Hung, Le Tuan Anh, Dang Trong Hieu and Vuong Son Ha, work to update legislative changes, to review contractual documents and to supply advice and opinions with respect to Vietnamese regulations. Notable clients include Yahoo! SEA, Microsoft and Sungard Systems.

One of the key clients of **YKVN** in the TMT sector is Vietnam Post and Telecommunications Corp (VNPT). The firm recently advised VNPT in structuring and setting up its presence in the US. The firm also advised VNPT and Hochiminh City Post and Telecommunication in the review and renegotiation of a business cooperation contract with France Telecom. The firm is currently advising a group of investors from the US and Russia to set up a joint venture with a Vietnamese state-owned corporation to provide wireless telephone services and various value added telecommunication services in Vietnam.

**Flecheux, Ngo & Associes** is also active in this area. **PBP**

*Note: The list of law firms above is not exhaustive. Other firms are active in this jurisdiction.*