



A STUDY OF CHINESE CAPITAL FLOWS TO SIX COUNTRIES: **VIETNAM**

Mitigating Governance Risks From Investment in Southeast Asia

**CENTER FOR INTERNATIONAL
PRIVATE ENTERPRISE**

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FORWARD & INTRODUCTION

Forward

CIPE works at the intersection of economic development, democracy and human rights, a unique position from which to address governance challenges posed by high-risk capital flows. In recent years, CIPE and its partners have witnessed an alarming trend: large amounts of capital invested by authoritarian regimes flowing through opaque channels into emerging markets. In these markets where governance is already weak and corruption is already rampant, high risk capital creates political and economic distortions which often do more harm than good in the recipient country. CIPE coined

the term corrosive capital to describe state-backed financing that lacks transparency and accountability flowing from authoritarian states into new and fragile democracies.

CIPE's approach to combatting the effects of corrosive capital centers on identifying specific governance gaps in countries where democratic processes are at risk. Then, working with local partners, we design and implement projects that help close these gaps, fostering collaboration and information sharing among civil society, the private sector, and lawmakers. Because the adverse governance impacts in countries that receive this capital are well-documented and the global flows of such capital are growing

exponentially, CIPE is currently expanding both its policy research and programming on corrosive capital.

This report is unique in a number of ways: (1) it presents invaluable local perspectives on how Chinese investments are being documented, perceived, and implemented in countries around the world; (2) it identifies governance gaps which permit capital inflows to exploit or exacerbate weakness in young democracies; and (3) it provides recommendations for local stakeholders to address these gaps and make the most of Chinese investments. This publication is a demonstration of CIPE's commitment to the principles of local ownership, inclusion, learning & innovation, and accountability which are essential for emerging economies to enjoy sustainable and inclusive growth.

The report represents a group effort by CIPE and its partners. The effort grew out of a long-running dialogue on Chinese investment in Southeast Asia. CIPE partners cited a lack of data and consistency in the existing literature on the governance effects of Chinese state-backed debt and investment in emerging Asian markets. This report aims to fill that information gap and illuminate the governance distortions engendered by corrosive capital.

The first step in this effort was a set of deep-dive country-specific assessments. CIPE

partnered with five think tanks and three independent researchers based in Southeast Asia to systematically study the issues. In addition, CIPE commissioned the Rhodium Group to collaborate with our partners in the development of a comprehensive dataset to track Chinese direct investments flowing into Southeast Asia.

It is CIPE's hope that this publication equips donors, implementers, policymakers, and advocates with information that makes their work more effective at managing the risks of corrosive capital. By mitigating the risks of corrosive capital, the targeted investments of CIPE's ongoing program can achieve a larger scale and aggregate impact on the resilience of markets and democracies in the face of capital flows from nondemocratic countries.



Andrew Wilson

**EXECUTIVE DIRECTOR
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Introduction

Chinese outward investments have increased substantially in recent years, especially after 2013's introduction of its Belt and Road Initiative (BRI). BRI is the most ambitious infrastructure investment effort in recent history. The effect of BRI in Southeast Asia has been a tremendous volume of capital rushing in over a very short period of time. Chinese capital (including foreign direct investment, aid, and commercial loans) offers many benefits. It contributes to economic growth, job opportunities, and better-connected infrastructure networks in local economies. However, a growing volume of evidence indicates that many forms of capital emanating from authoritarian nations have a corrosive effect on democratic institutions and private enterprise in recipient countries.

The genesis of this publication was a CIPE forum in December 2017 at which CIPE's Southeast Asian partners expressed the urgent need to fill the information gap of the impact of corrosive capital on governance distortions. Local researchers and analysts across the region have identified an absence of evidence in the existing body of work on Chinese investment projects and the impact on the local economies and communities. Additionally, researchers and scholars sought greater clarity on specific gaps in governance through which Chinese capital can flow.

This report analyzes the patterns, trends, and characteristics of Chinese investments in Southeast Asia. Against the backdrop of the rising flood of Chinese investment across the region, the report highlights common issues and shared governance risks across countries, and identifies questions requiring further study. The sizable economic interests and political intricacies of China and BRI make this research sensitive in some countries; as result, some information has been redacted from the final report.

Countering corrosive capital requires working closely with local partners in vulnerable countries. In each case, the specific governance gaps which place democratic institutions at risk must be identified. In cooperation with local partners, CIPE can then design and implement local projects to help close those gaps and reinforce democratic institutions by fostering collaboration and information sharing among civil society, the private sector, and lawmakers.

Objectives, Scope & Methodology of the Report

This report aims to answer an important policy question: How can Southeast Asian economies benefit from the Chinese investment while mitigating the associated risks? This report will provide authoritative

and up-to-date data on Chinese regional FDI and loans in chapter 1; the following seven chapters document different forms of Chinese capital flows and identify governance gaps in six countries. Chapter 2 presents the case of Malaysia which highlights issues of opaque procurement practices associated with Chinese mega projects, as well as the need to improve corporate governance of state-owned enterprises to avoid conflict of interest. In chapter 3, Chinese investments are involved in controversial price fixing in the Indonesian extractives industry. Chapter 4 demonstrates the development of evolved oversight mechanisms to screen infrastructure projects in Myanmar. In Chapter 5, Cambodia provides an illustration of what can happen in a small to mid-sized country that becomes overly dependent on Chinese investment. In Chapter 6, the authors raise environmental concerns in Vietnam. Chapter 7 discusses regulatory capture issues in the Philippines using the online gambling industry as an example. Looking into the fast-growing

Fintech industry, chapter 8 showcases risky investments and the data abuse problem in Indonesia. In all the case studies, authors examine the macro-level impact of Chinese investment, identify governance gaps, assess its initial impact. They then develop policy recommendations for key stakeholders such as businesses, governments, civil society organizations and international organizations to address these challenges and develop a streamlined, transparent, foreign investment monitoring and management process.

The scope of this report is primarily Foreign Direct Investment (FDI) from the People's Republic of China. During the research process, some authors discovered that domestic controversy centered primarily on Chinese commercial loans funding large infrastructure projects. The capital discussed in this report therefore encompasses all investments from China. Some authors focus on FDI while others place greater emphasis on other official financing such as aid and loans.



CHINESE INVESTMENT IN VIETNAM

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Introduction

21st-century economic trends in Vietnam are being driven by certain factors on both the national and regional levels, namely:

- (i) Lowering of barriers that had previously restricted the growth of the private economic sector;
- (ii) Reducing government intervention and related crowding-out effects generated by state-owned enterprises (SOEs);
- (iii) Deepening integration into international economic activities;
- (iv) Intensively attracting

foreign direct investment (FDI) to stimulate national exports.

In the interest of attracting foreign investment, Vietnam enacted its first Foreign Investment Law in December 1987, implementing price, exchange and property ownership reforms which laid the foundations for long-term economic growth. In 1990, three years after the passage of the law, Vietnamese export turnover still amounted to only USD 2.4 billion. By 2017, this number had increased to almost

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USD 214 billion, or 95% of GDP (GSO, 2018)⁴. Foreign firms from more than 100 countries contributed to this growth, and FDI contributed to nearly 70% of Vietnam's total export turnover. In the 10-year period from 2007-2017 the total FDI capital disbursed to Vietnam reached USD 134 billion, accounting for 47.8% of the total registered capital in the country (GSO, 2018a).

Adding to the effects of increased FDI, reforms to Vietnam's bilateral and multilateral free trade agreements (FTAs) have helped maintain the momentum of economic integration with other nations. Important trade agreement milestones for Vietnam include joining the ASEAN Free Trade Area (AFTA), effective from June 1996, signing the U.S.-Vietnam Bilateral Trade Agreement, effective from December 2001, and becoming a member of the World Trade Organization (WTO) in January 2007 (MPI, 2016). Vietnam has entered into other bilateral trade agreements over this period, including the Comprehensive Trans-Pacific Partnership (CPTPP) Agreement and the Vietnam-EU Free Trade Agreement (EVFTA) and has also participated in negotiations on the Regional Comprehensive Economic Partnership (RCEP).

Integration into the international economy has expanded Vietnamese access to not only

external sources of capital and technology, but also to modern management practices and expertise. In many ways, Vietnam's regulatory environment for doing business has been moving closer to international standards, and market barriers to FDI have been diminishing.

In 2014, after issuing numerous legal documents to adopt international practices into property rights, business law, and investment law, Vietnam introduced the 2014 Investment Law. This law replaced the Investment Law of 2005 and served to meet the stringent requirements of important FTAs such as EVFTA and CPTPP. The promulgation of the new investment law has produced outstanding results, among them moving Vietnam from a positive list mechanism to a negative list mechanism. Since 2017, Vietnam has experienced a net improvement of 12 places in the World Bank's Ease of Doing Business ranking, from 82nd to 70th in the 2020 report (a slight decline from its 69th-place ranking in 2019). Compared to other ASEAN countries, Vietnam made particularly strong progress in improving its rank over this period.

As a result, in the first six months of 2019, Vietnam attracted USD 351.66 billion from FDI inflows. China has quickly emerged as a major investor, with a dramatic increase in

4 Industrial goods contributed approximately 75% of this amount.

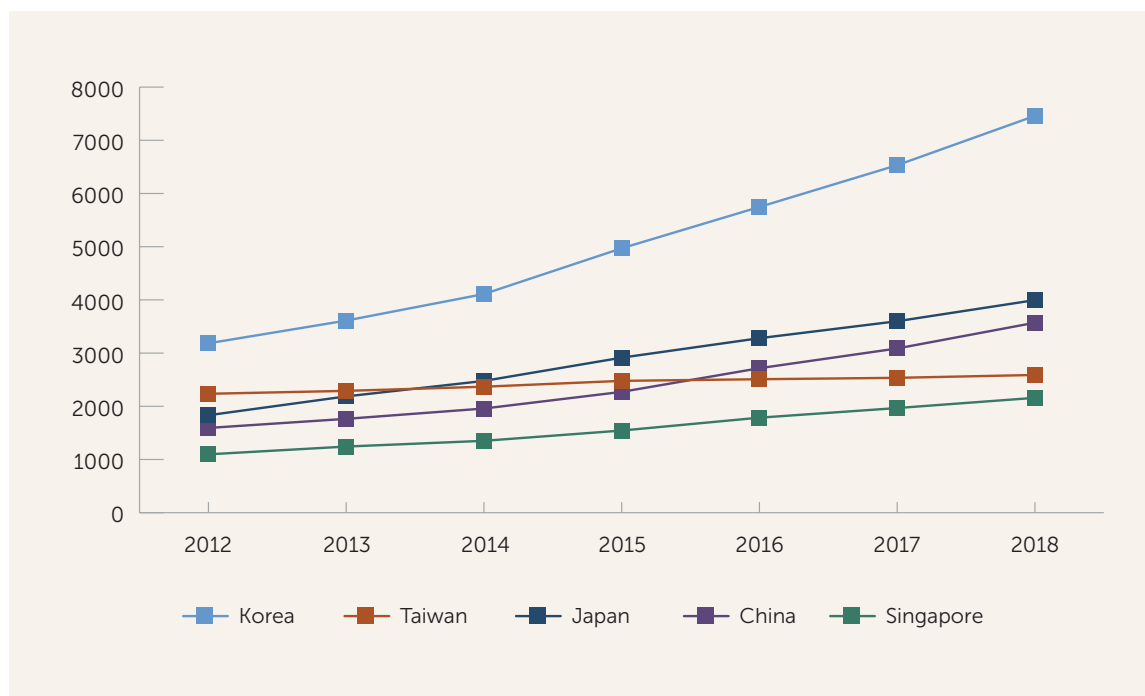
both registered capital and total number of projects. Accordingly, this report will examine the scale and the trend of development of Chinese direct investment into Vietnam in comparison with investors from neighbor countries, and its effect on the Vietnamese economy. As previously discussed, the opacity of Chinese capital investments poses major complications to analysts. The standard “input approach” to analysis is not possible when data on Chinese inputs is not available. Therefore, this report uses an output-based approach, using Chinese engineering/procurement/construction (EPC) contractors as a case study. This is a valid approach because 90% of Chinese EPC contracts to build Coal-Fired Power Plants in Vietnam are funded primarily by Chinese capital (GreenID Vietnam, 2016). However, contractors may win bids funded by other capital sources, so this may not be the case in other sectors of the economy. This report acknowledges that there is scope for further research. The report also offers policy recommendations for ameliorating the effect of corrosive capital in Vietnam.

Chinese FDI in Vietnam

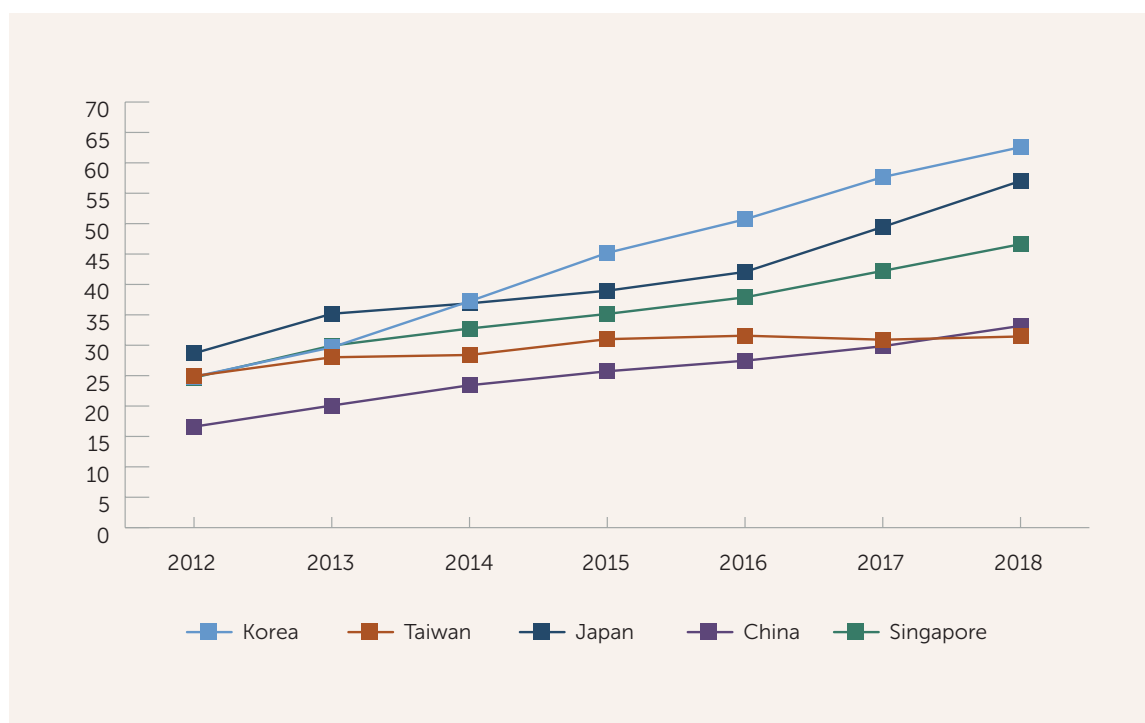
China’s policies to promote FDI outflows have been meticulously planned since 1992. In 1997, during the 15th National Congress of the Chinese Communist Party, China first announced the “Going Out

Policy” to promote outward investment as a tool to fully deploy China’s comparative advantages. The Going Out Policy also featured in China’s “10th 5-year plan to develop national socioeconomics.” That document highlighted several needs: (i) To enhance the scope and modalities of China’s international economic integration and technical cooperation in order to adapt to globalization; (ii) To encourage competitive companies to expand overseas operations, particularly in the exploration of resources, participation in international contracts, and expansion of labor exports; and (iii) To implement mechanisms to facilitate the overseas operation of domestic companies (Figure 1, PG. 108 and Figure 2, PG. 108).

Since 2012, Vietnam has witnessed a clear increase in the number of projects and total registered FDI capital from countries and territories such as South Korea, Japan, and Taiwan. In 2012, FIA’s reports indicated a total of 1,832 registered projects from Japan. While this number only exceeds China’s total by 239 projects, total registered Japanese capital in Vietnam reached USD 28.67 billion in 2012, 12.06 billion higher than that of China. In the six-year period from 2012 to 2018, South Korea, Japan, and China all steadily increased the number of registered projects in Vietnam, yielding average growth rates in project quantity of 15.3%, 13.93%, and 14.44% respectively (Figure 3, PG. 109). Increases in

FIGURE 1: Number of Registered Projects by Northeast Asian Countries in Vietnam, 2012 - 2018

SOURCE: FIA(a)

FIGURE 2: Total Registered Capital of Northeast Asian Countries in Vietnam, 2012 – 2018 (USD \$ Billions)

SOURCE: FIA(a)

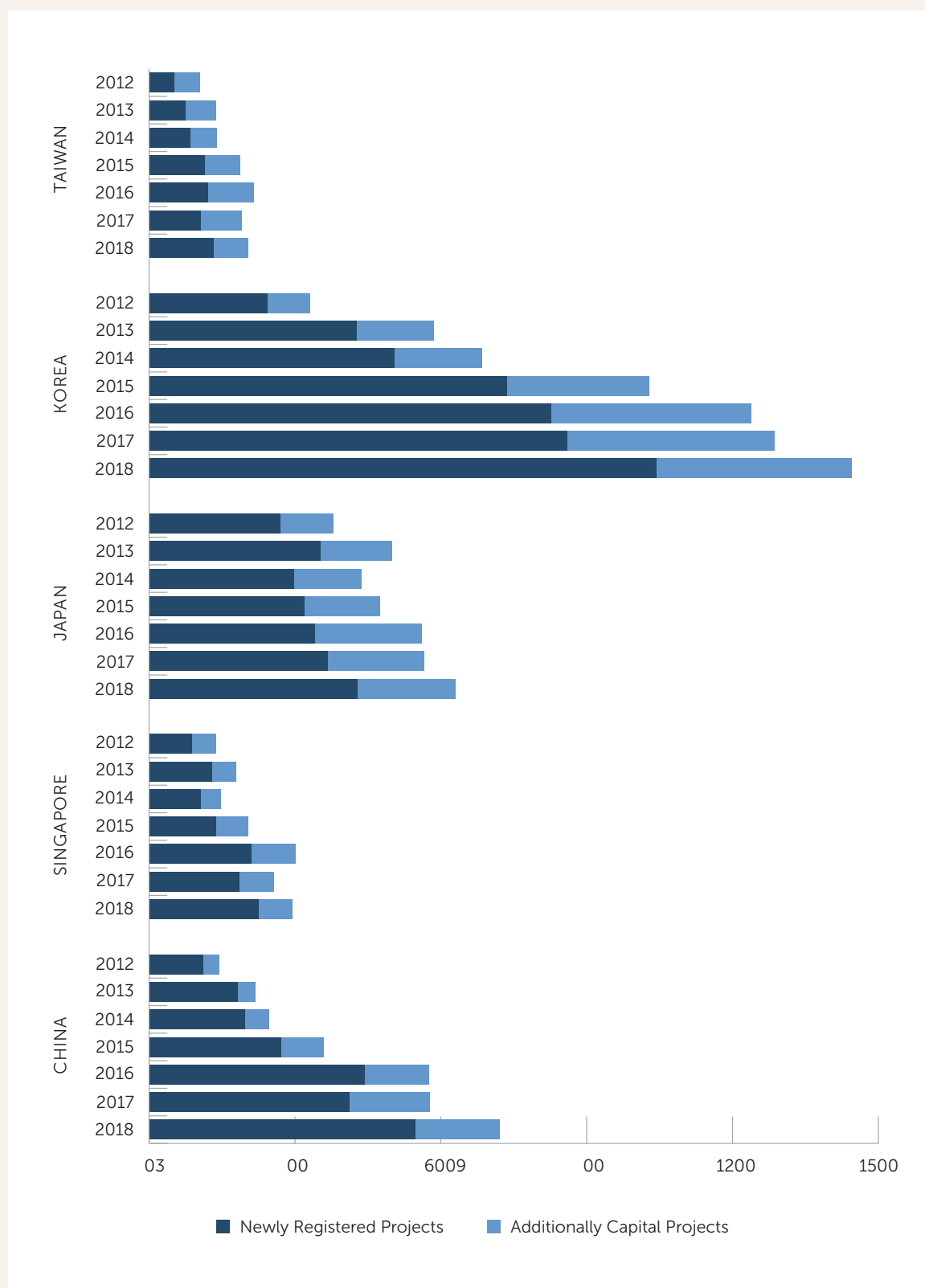
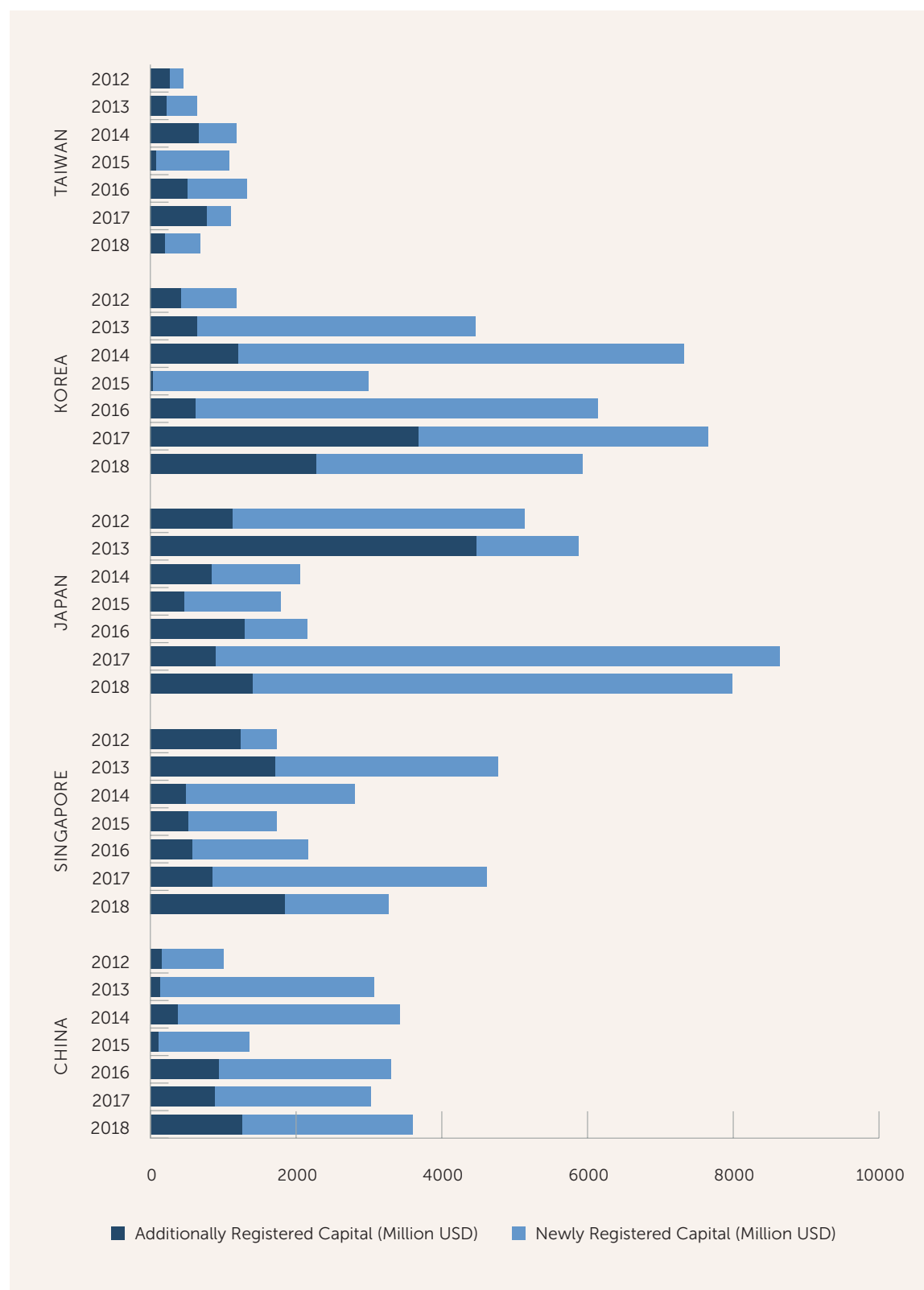
FIGURE 3: Number of Newly Registered and Additionally Capital Projects in Vietnam, 2012 – 2018**SOURCE:** FIA(a)

FIGURE 4: Total Newly and Additionally Registered Capital in Vietnam, 2012 – 2018 (Million USD)**SOURCE:** FIA(a)

total invested capital, as opposed to number of projects, also differ among these countries: Japan and South Korea have shown the fastest growth in total invested capital, with average annual growth of 12% and 17% respectively (Figure 4, PG. 110). Taiwanese FDI doubled in 2016-17 due in large part to vigorous Taiwanese business campaigns in Vietnam and growing popularity of Taiwanese goods (Van, 2019). Meanwhile, China has contributed the lowest total registered capital in the group of countries surveyed. This finding suggests that Chinese investment has focused on increasing the quantity of small-scale projects rather than investing in large projects.

In fact, in the years of 2012, 2014, 2016 and 2018, China showed a clear trend of increasing its number of registered FDI projects (see Figure 4), but the total size of capital inflows slowed over that same period (see Figure 5). In 2016 and 2018, the average size of Chinese FDI projects registered in Vietnam decreased from USD 5.326 million per project to 4.27 million per project, lower than its average project size in 2012 and 2014. In contrast, South Korea and Japan enjoyed a period of booming investment in Vietnam. In the period surveyed, South Korea increased both the number and size of its projects relative to China. Japan similarly displayed rapid growth from 2012 to 2018, from 270 to 429 projects and a total

registered capital increase from USD 4 billion to 6.5 billion (see Figures 3 and 4). China's expanded FDI in Vietnam has not yet shown signs of becoming an investment boom as in the case of South Korea and Japan.

By 2016, China's investment in Vietnam had spread across many economic sectors, focused on mining, processing, manufacturing, water and electric utilities, and real estate. Outside of these specific sectors, very small amounts of capital have been dispersed to other industries. Direct investment from China (including Hong Kong) into Vietnam tends to focus on industrial rather than service sectors. Japan and South Korea, in contrast, undertake diverse and in-depth investment across different economic sectors.

Chinese FDI increased rapidly, but China's share of FDI inflows remained low. Chinese FDI into Vietnam increased year by year, but still accounted for a relatively small proportion compared to FDI from Japan and South Korea. China's investment, including investment by entities registered in the Hong Kong Special Administrative Region, amounted to USD 7.1 billion over the first five months of 2019 (Hong Kong: 5.08 billion, China: 2.02 billion), making China the leading investor over this period.

China's FDI projects in Vietnam are mostly small scale. Chinese projects primarily target

small-scale businesses, with little investment in large corporations. As of 2018, the average volume of investment projects stood at only USD 9.29 million per project, lower than that of Japan (14.26 million per project) and Taiwan (12.14 million per project). In the first half of 2019, among 279 new projects of Chinese investors, average project investment totaled approximately USD 6 million per project.

Chinese FDI in Vietnam often funds imports from China.

The General Statistics Office of Vietnam (GSO) does not provide the amount of imports by source country or FDI sector, but it can be seen that the import proportion of the FDI sector has increased significantly since 2001, from 30.7% to over 57%. According to the Vietnam General Department of Customs, FDI enterprises account for a large share of Vietnam's import structure. China has invested in most of the commodity groups comprising this structure, in addition to providing a large proportion of total imports to Vietnam. Among 51 commodity groups, China is the supplier of 46 groups. More importantly, the number of imported products from China that serve the demands of the FDI sector is increasing.

China's investment structure has changed significantly.

The above analysis of investment structures based on newly registered projects from China indicates a clear focus on manufacturing, labor and

resource development, including production of metal, textiles and clothing, leather, wood, and paper. This shift has been particularly evident in light of Vietnam's negotiations for new generation FTAs such as EVFTA and RCEP. Chinese investors have focused on the leather, footwear, and textile industries, which are considered to be among Vietnam's industries of comparative advantage. This may imply that a desire for economic integration is driving China to shift its labor-intensive industries to Vietnam. This trend has recently increased significantly with the formation of a series of heavily invested Chinese textile and yarn factories clustered in Nam Dinh, Quang Ninh, Binh Duong and Hai Duong.

China's FDI distribution is not significantly different from other countries.

In general, there is not much difference in the distribution of recipient enterprises of Chinese FDI compared to enterprises receiving investment from other countries. Most businesses receiving direct investment are located in geographical areas with high population density and developed infrastructure. However, Chinese FDI projects exhibit higher prevalence in Vietnam's central region relative to projects of other countries. This finding could reflect China's interest in real estate investments, rather than an intention to occupy economically strategic positions in the Central Highlands region. At the provincial scale, in the first 5 months

of 2019, China's investment focused most prominently on Tay Ninh Province, where registered Chinese FDI amounted to USD 514.4 million (accounting for 25.4% of the period total).

Chinese FDI may increase if the U.S.-China trade dispute persists. In terms of trade and investment data, it is extremely difficult to collect enough data to support the conclusion that Chinese enterprises might promote investment in the Vietnamese manufacturing sector with the explicit intention of exporting Vietnam-produced goods to American markets. Should China undertake such a strategy in order that Chinese enterprises could avoid tariffs imposed by the U.S. on targeted Chinese imports? While trade tensions between China and the U.S. escalate, it is likely that Vietnam and Cambodia will become new investment destinations for Chinese businesses seeking to avoid the negative impacts of the trade war.

Are China's FDI inflows in Vietnam problematic?

As shown above, Chinese FDI inflows into Vietnam were not significant and the average scale of projects was smaller than that of other investors from Northeast Asia. On August 20, 2019, the Vietnamese Politburo issued Resolution No. 50-NQ/TW on directives to improve institutions and policies to enhance the quality and efficiency of

foreign investment by 2030. This Resolution imposed stricter constraints and regulations on foreign capital flows. Consequently, the research team concluded that it was difficult to clearly describe major problems incurred by Chinese investment based on analysis of China's FDI into economic sectors.

Other Forms of Investment: Engineering-Procurement-Construction Contracts

Investment types can be divided into direct investment and indirect investment. The previous section of this report discussed the types of Chinese direct investment. Research data indicates that these investments are generally small-scale, market-oriented, and profit-driven. Because this type of investment is subject to the purview of clear guidelines and laws developed by the government, these direct capital flows have relatively low impact on society, the environment, or transparency in governance. In addition to FDI, Chinese investment in Vietnam also includes official development assistance (ODA), commercial loans, and government-guaranteed loans. In Vietnam, these types of investment significantly exceed foreign direct investment. Since the official implementation of the Belt and Road Initiative (BRI), the quantity of government loans from China has increased significantly. This increase has caused domestic debates over the impact

of these loans on certain communities. This study aims to assess the impact of these non-FDI capital inflows.

Studying Chinese capital inflows into Vietnam using an “input approach” from the Chinese side tends to be very difficult, because this information is often not published. The terms of Chinese loans often stipulate that the terms themselves be kept from the public. This study instead relies on an output approach: studying Engineering, Procurement, and Construction (EPC) model projects to assess the impact of Chinese loans. There are two reasons why this approach is significant in Vietnam. First, regardless of where the loan originates (e.g. Japan, the World Bank, China), the ratio of Chinese public works to EPC bidding is very high, facilitating assessment of the impact. Secondly, EPC projects are large-scale (with budgets ranging from hundreds of millions to billions of dollars), so the results of environmental, political, and social well-being are more readily apparent.

Defined in Item 3, Article 1, Circular No. 01/2002/TT-BXD, the term “engineering/procurement/construction contract” (abbreviated to “EPC contract”) or turn-key contract refers to a written agreement concluded between a project investor and a contractor or a contractor partnership (referred collectively to as general EPC contractor) for performing the work of designing and providing supplies, equipment,

and technical services, and/or constructing and installing a project or bidding package.

According to the provisions of Vietnamese law and international practice, EPC is a type of construction contract often applied to large-scale projects, especially energy projects. An EPC contract usually designates a single individual responsible for the design, procurement, or construction covered under the contract. However, in order to mobilize sufficient capital for these projects, Vietnam regularly utilizes loans from World Bank, Asian Development Bank (ADB), Export-Import Bank of China (CHEXIM), Industrial and Commercial Bank of China (ICBC) and ODA from Japan, Korea, China, etc. These financial liabilities often include conditions that the borrower must choose contractors from the lender country. Consequently, EPC contractors from the investor country tend to win bidding packages. This practice, known as “Tied Aid,” requires that the recipient of bilateral aid use that aid, loans, or grants to purchase goods and services from the donor nation. Tied aid ensures that the donors’ commercial interests benefit directly from the funds thus disbursed, while keeping the money from reaching local producers and suppliers. As a result, recipients derive significantly less value than from untied aid (Meeks, 2018).

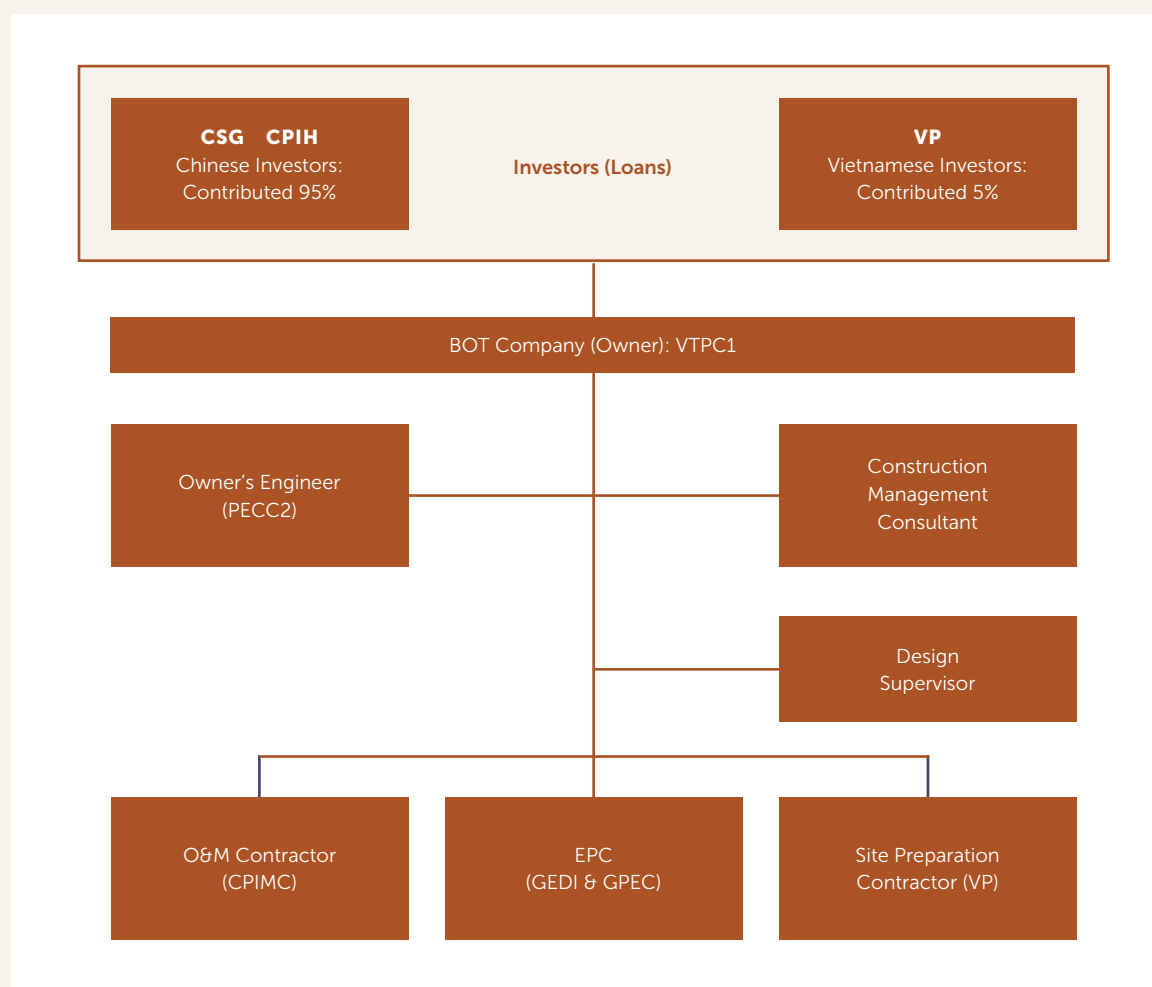
In March 2005, the Development Assistance Committee (DAC) signed the Paris Declaration on Aid Effectiveness, calling for

an end to the practice of tying aid. Vietnam committed to the Paris Declaration that year via the Hanoi Core Statement on Aid Effectiveness (HCS). However, the HCS did not include any metrics for measuring untied aid (McCarty 2). DAC members have largely kept their commitment to untying aid in Vietnam: by 2008, 74.3% of DAC aid to Vietnam was untied (McCarty, viii). China is not a DAC or OECD member, and has made no such commitment. Aid from other nations has not followed suit: as of 2009, Vietnam

received a high proportion of concessional lending from non-DAC donors, including China and South Korea. Japan, another major investor in Vietnam, also reserves its right to use tied aid for certain low-income countries. (DAC, 6) Due to the opacity of Chinese investment, without metrics on the Vietnamese government side it is difficult to fully assess the extent of this problem.

Figure 5 (PG. 115) illustrates two points regarding the participation of Chinese

FIGURE 5: The financial structure of Vinh Tan 1 Coal Fired Power Plant (CFPP)



SOURCE: Authors' collection from field survey (2019)

contractors in a typical EPC project: (i) CFPP is a project that was predominantly funded by Chinese loans; (ii) A Chinese company won the contract. Out of 19 EPC contracts, there were only two cases in which a Chinese bidder won a contract funded primarily by non-Chinese capital. This implies that the problems associated with EPC contractors may be representative of problems with Chinese investment in general. Indeed, in Vietnam, a majority of infrastructural projects have Chinese EPC contractors: for example, 80% of EPC contracts in the energy sector were Chinese; 65% and 70–80% in the chemical and mining sectors, respectively. Therefore, in this report, except for cases with a specific footnote, the term “EPC project” and its equivalents will be used to describe Chinese EPC contractors.

In addition, an EPC contract also predetermines the completion price and time, which is typically decided on the day the contract is signed (PwC, 2016). Due to these advantages, EPC contracts are often chosen for energy and infrastructure projects in Vietnam. In those projects, EPC contractors come from many different countries, including Japan, South Korea, and European countries. Vietnam has also entered into EPC contracts with a relatively large number of Chinese contractors.

In fact, in Vietnam, Chinese contractors tend to be selected for EPC bidding packages

over contractors from other countries.

The first reason for this preference relates to Vietnamese regulations on contractor selection. According to provisions in the Bidding Law of 2013, a bid assessment will be conducted using one of three different methods: (i) Lowest price method; (ii) Assessment price method; and (iii) Through a combined assessment of technical capacity and project cost. For the “lowest price” method, technical, financial, and commercial proposals are considered on the same basis when attempting to satisfy project requirements, and the bidder with the lowest price receives the highest ranking. However, the law does not stipulate in a clear and detailed manner under which situations this method should be employed over the other methods established under the Bidding Law.

In the absence of such guidelines, the law suffers from a loophole allowing bidders to approve contractors offering the lowest prices for their services for the sake of simplicity and convenience. For many projects, Chinese contractors often bid at a very low price compared to contractors from other countries, such as Japan and South Korea. Although Chinese contractors offer attractive prices to bidders, China’s technical and environmental standards are lower than those of Japan and South Korea. If the lowest price method is applied, Chinese contractors will often win these packages.

In other cases, Chinese contractors win bidding packages because of specific terms in the investment contract itself. The construction of infrastructure projects always requires a large amount of investment, and for many such projects, neither the government nor domestic enterprises in Vietnam can mobilize sufficient capital without the assistance of external loans. Borrowing from multilateral development banks such as the World Bank or the Asian Development Bank is often subject to very low interest rates and long maturity, but borrowers may be deterred by numerous requirements for environmental impact assessment reports and stringent conditions on technical issues. Meanwhile, borrowing from China is much easier, with more relaxed terms related to environmental protection and the use of technology. Therefore, for many infrastructure investment projects in Vietnam, Chinese investors often contribute a large proportion of project capital requirements. Many Chinese investors are able to gain controlling rights to a project's output when they supply more than 50% of the total investment. With such large control over key capital flows on investment projects, China is able to wield influence and press for favorable terms for Chinese domestic companies to be the sub-contractor of these projects.

Bräutigam (2011) argues that the lion's share of Chinese overseas financial support takes

the form of export credit or concessional loans and does not meet the criteria for ODA. For example, following the classic model of tied aid, Chinese aid to African states often utilizes concessions to promote the import of Chinese goods and services. Bräutigam (2011) and Sun (2014) criticize China for using ODA to disguise a cynical effort to expand its own interests on the African continent.

Kim, S.-K. and Kim, Y.-H (2016) outlined three major impacts of tied aid as follows:

- Tied aid decreases the recipient's value-for-money. According to the DAC, tied aid increases the cost of supplies by 15-40%, due to the donor country contractors' effective monopoly and increased cost of transport compared to locally-sourced supplies.
- Tied aid prevents developing countries from taking full ownership of their own development. It leaves procurement in the donors' hands, resulting in decisions that channel aid money back to the donor, bypassing the local economy.
- Tied aid deprives developing countries of the full potential of the long-term sustainable development that untied aid might have provided by channeling funds into the local economy.

International assessments of China's ODA practices tend to agree that Chinese aid

tends to be a vehicle for Chinese interests, but it is difficult to evaluate the economy-wide impact of Chinese ODA in Vietnam due to inadequate data. However, analysis of EPC case studies involving Chinese investors and contractors shows the same problems emerging in the Vietnamese context.

Overview of China's EPC Contracts in Vietnam

Vietnam's electricity output is the third highest of the ASEAN countries, only lower than that of Indonesia and Thailand. Hydropower production has been climbing, and it has recently played an integral part in Vietnam's power generation. However, this recent trend may soon end, as the proportion of hydropower among all Vietnamese electricity output has remained stable at roughly 33% for several years while coal power has continued to grow. Coal power accounted for 11% of Vietnam's electricity output in 2000 and increased steadily to one-third of electricity output by 2016. Coal power will continue to be crucial to meeting Vietnam's energy needs, and its cheap price and ease of use will make coal power difficult to replace in the near future. According to some estimates, coal-power generation will grow at 10% every year and will provide half of the energy supplied in Vietnam by 2028 (Proctor, 2019).

Even as some banks are terminating their financing of coal projects, China remains a

major investor in Vietnam's coal-based energy sector. The Hanoi-based environmental group Green Innovation and Development Centre said in a recent report that Chinese investors are involved in 15 operating coal plants in Vietnam, along with another 6 under construction, and 2 more under development. And China is not the only country investing in the Vietnamese energy sector. In April 2019, Japan Bank for International Cooperation signed a USD 1.2 billion loan agreement with Vietnam's Van Phong Power Co. Ltd., to develop the two-unit, 1,320-megawatt Van Phong 1 coal-fired power plant.

In order to collect information for this report, the research team first constructed a list of active and under-construction coal-fired power plants (CFPP) in Vietnam as of 2018. The list was prepared based on the information provided by Vietnam Energy Map (JETRO(b)), 2016 Power Industry Reports announced by Vietnam Electricity (EVN), and the Revised Power Development Plan VII provided by Vietnam's Electricity Regulatory Authority.

Based off of this list, the research team collected project information from the following sources:

- National bidding network: <http://muasamcong.mpi.gov.vn/>
- Ministry of Industry and Trade: <http://www.moit.gov.vn>

- Vietnam Electricity's website and its affiliates: <https://www.evn.com.vn>
- News reports from Vietnamese and Chinese newspapers

The research team successfully compiled a list of 51 CFPP projects. Over the course of the investigation, the research team found that five projects had been terminated; one project was put into operation with no available information about project contractors; and nine projects had not yet announced contractor selection results. After eliminating these above projects, the research team was left with a list of 36 coal-fired power plants with comprehensive information about contractors. The team used information related to these 36 projects to prepare this report.

Of the 36 coal-fired power plants constructed under EPC contracts, 19 plants (52.7%) were constructed by Chinese contractors. China's contribution is surprising in terms of both quantity and scale of projects in comparison with contractors from other countries (Figures 6 and 7, PG. 120). As these figures indicate, the CFPPs contracted by Chinese entities offer a potential cumulative 14,850 megawatts. In addition, CFPPs built by Chinese contractors are mostly located within power centers. For example, the EPC contracts include four plants in the Vinh Tan power center in Tuy

Phong District, Binh Thuan Province, two of which have been completed and are now operating. Chinese contracts cover three of these plants, while the fourth was contracted to a South Korean contractor. Similarly, in Quang Ninh, there are eleven CFPPs currently under operation, of which Chinese contractors built eight. This illustrates the concentration of Chinese contractors on key power centers of Vietnam.

Major Problems Related to Chinese EPC Contractors

Many Chinese-contracted projects in Vietnam face delays in construction progress and suffer from poor quality. Similar problems affect Japanese and Korean contractors. Controversies surrounding Chinese EPC projects primarily relate to environmental, labor, and legal issues.

ENVIRONMENTAL ISSUES

Anthracite coal is the most widely used type of coal in Vietnam, with large reserves found in Vang Danh, Mao Khe, and Trang Bach mines. Anthracite is also the primary input for CFPPs in Vietnam. However, anthracite coal carries a relatively large slag ratio, accounting for 30-37% of the total coal mass used in power plants and 6-14% of their emissions (Truong Duy Nghia, 2013). Continued operation of coal power plants in Vietnam will harm the environment due to the large

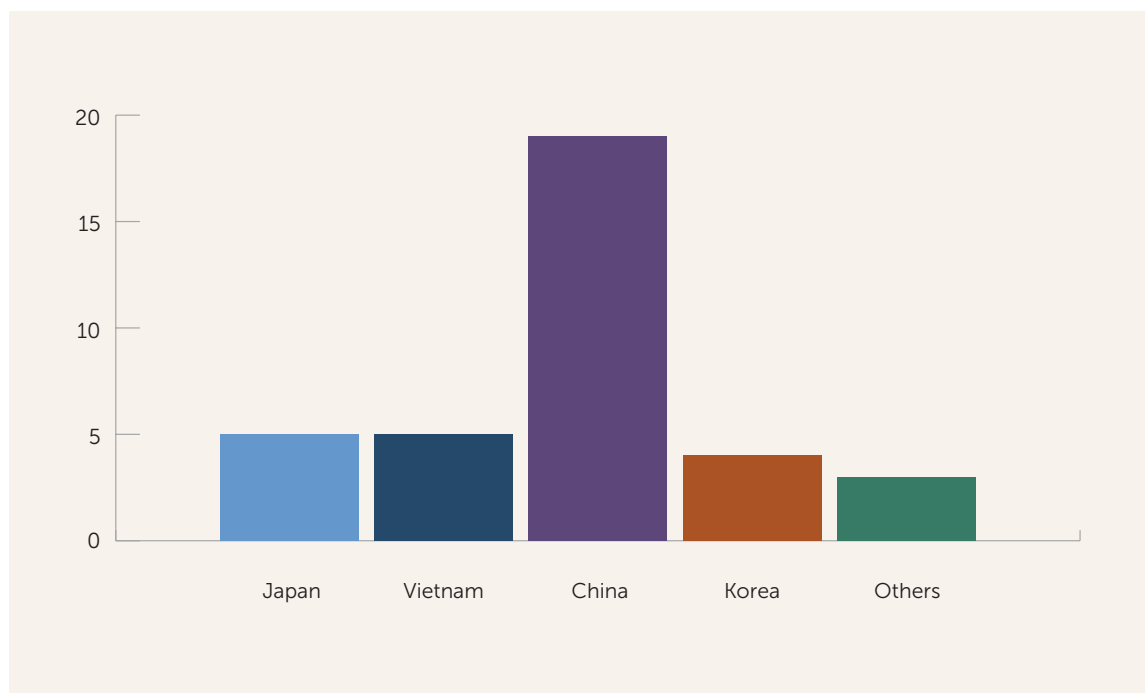
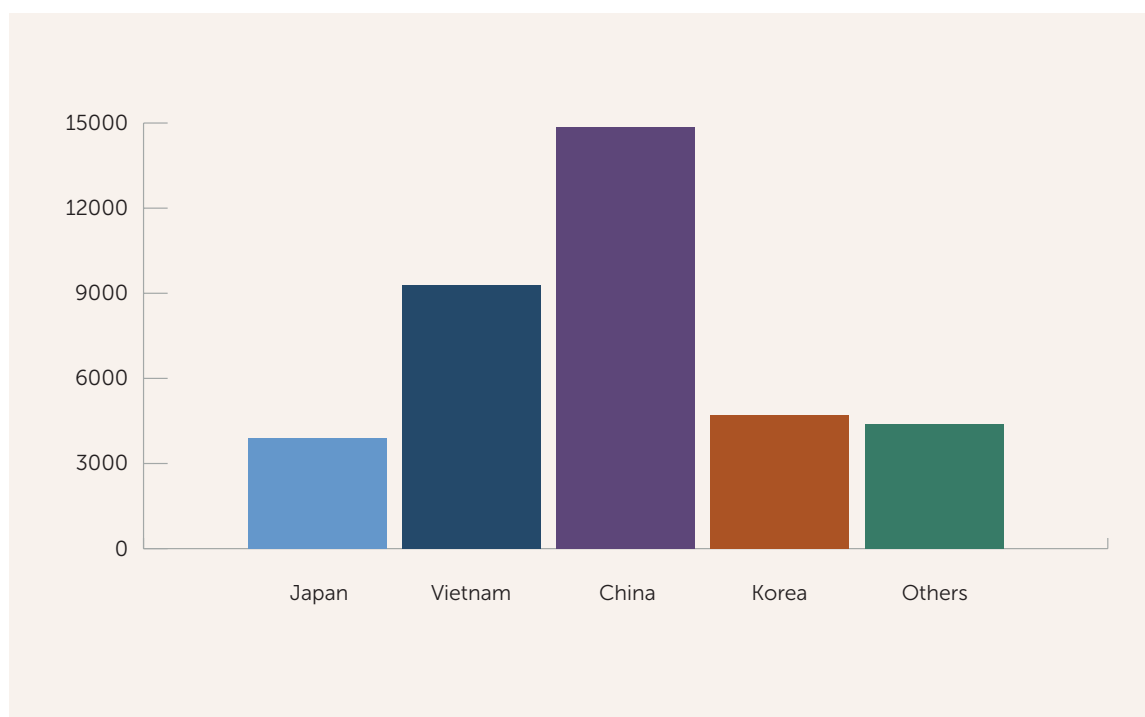
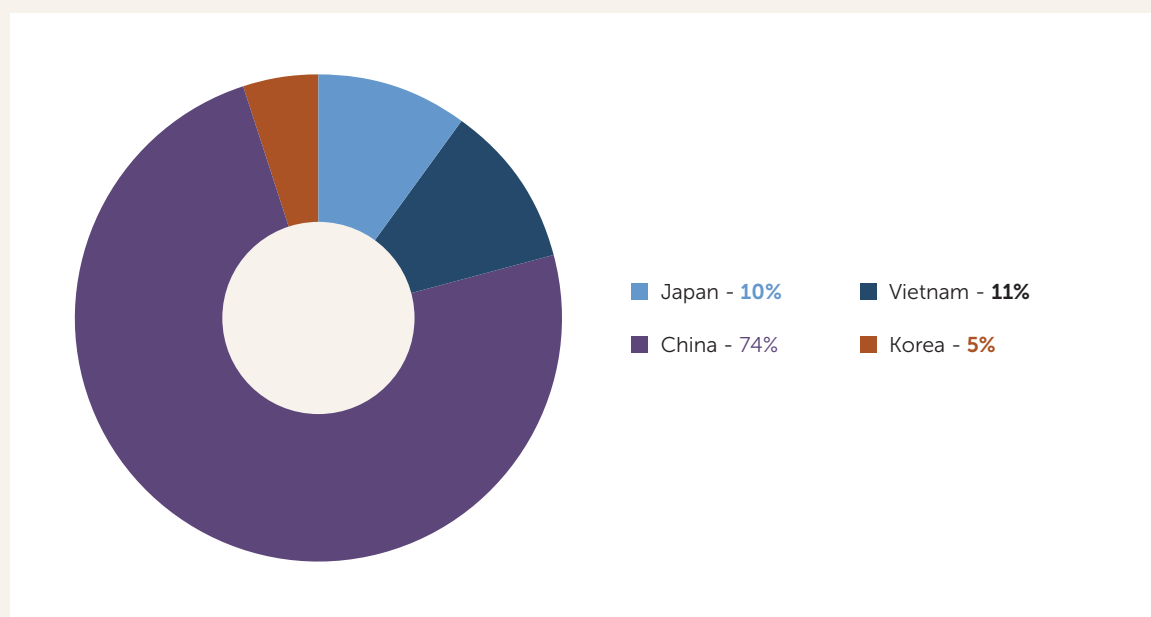
FIGURE 6: Number of Coal-Fired Plants by Contractors' Countries**SOURCE:** Author's collection**FIGURE 7: Contribution to Total Capacity by Contractors' Countries (MW)****SOURCE:** Author's collection

FIGURE 8: Number of Coal-Fired Power Plants with Environmental Record by Contractor Country**SOURCE:** Author's collection

amount of waste slag and emissions (Figure 8, PG. 121).

Among 36 examined operating CFPPs, 19 of these plants have been involved in environmental incidents. Of these 19, 14 were constructed by Chinese contractors. Negative effects of these environmental incidents mainly relate to dust pollution, slag disposal, and processing of industrial wastewater.

The Vinh Tan 2 Thermal Power Plant, a CFPP constructed by the Shanghai Electric Company, is a representative case. Vinh Tan 2 went into operation in January 2014. During its operation, Vinh Tan 2 was involved in several environmental incidents, such as failing to implement measures to properly

cover coal dust during transport, failing to properly transport waste, illegally discharging waste, and failing to comply with regulations on the operation of a contaminated water treatment system. As a result, the plant was fined by the General Department of Environment for environmental violations with a total fine of USD 62,000. Vinh Tan 2, however, was late in paying its fines and took no further action to minimize pollution. This led to public demonstrations in 2015, when protestors obstructed adjacent highways to prevent the continued transportation of plant waste. The demonstrations quickly escalated, and many people threw stones and gasoline bombs.

The transportation of coal ash on residential roads and the overloading of waste dumps are common among many CFPPs in Vietnam, including plants in Son Dong, Long Phu, Mong Duong, Vung Ang, and Duyen Hai. These harmful practices are widespread among plants built by contractors from a variety of countries, including Japanese and Korean contractors. The problem of environmental incidents is attributable not only to contractors, but also to Vietnam's own mechanisms of environmental regulation, planning, and enforcement.

Specifically, there is a lack of synchronization in urban and electricity development planning regarding the treatment of ash and waste slag, and the number of slag disposal sites is insufficient to meet demand. There are also no designated roadways for transportation of plant waste: Duyen Hai, Vinh Tan, and Vung Ang Thermal Power Plants all transport their waste via National Route 1A. Currently, Vinh Tan 2 Thermal Power Plant has implemented a successful program to recycle coal slag into building bricks or for use as an additive in concrete production. However, the Ministry of Industry and Trade has not yet issued technical standards or legal frameworks on the treatment and disposal of slag.

The combustion of coal produces two types of slag. Light slag is relatively "pure," with physicochemical properties capable

of neutralizing soil acidity and fertilizing plant growth (Set, 2017). Light slag is often released through plant chimneys. Heavy, bottom layer slag contains many impurities, including solid and heavy elements, and is unable to escape through plant chimneys. This second type of slag must be mechanically discharged from the CFPP. Heavy slag contains toxic chemicals and radioactive isotopes produced during high-temperature coal combustion and requires relatively advanced technological processing and treatment methods and strict quality control procedures.

This problem raises the issue of technical capacity when constructing CFPPs. Indeed, in China there are CFPPs built with world-class combustion technology. Advanced Chinese technology used in these CFPPs has allowed the plants to achieve a 50% combustion efficiency rate and emission levels approximately 50% lower than the world average (IEA, 2014). This shows that Chinese entities are able to produce power plants that meet high environmental standards. After all, the choice of technology for CFPPs in Vietnam is still the choice of investors and relevant authorities. Key stakeholders in Vietnam must consider the cost-benefit implications of environmentally safe technologies.

During a research trip to Vinh Tan 1 and Vinh Tan 2 CFPP, both constructed by

Chinese contractors, the plants' technical manager informed the research team that the plant had implemented an online environmental monitoring system, which is updated daily and connected directly to the Provincial Department of Natural Resources and Environment. In addition, the wastewater treatment of the two plants operates efficiently and strictly complies with environmental standards. For the exhaust filtration system, both plants apply electrostatic filtering technology to eliminate many impurities and toxic emissions arising from coal combustion. The plant's wastewater and emissions control policies are relatively strict, contrary to media reports. However, coal slag treatment still poses the greatest challenge, while Vietnam lacks specific regulations and management mechanisms.

LABOR SAFETY AND OTHER PROBLEMS RELATED TO CHINESE LABOR

Chinese EPC contractors in a number of projects have committed numerous violations of Vietnamese labor law. In one typical case, that of the 2015 construction of the Cat Linh-Ha Dong railway, inspectors from the Invalids and Social Affairs branch of the Ministry of Labor discovered several violations by the Chinese contractor including:

- The contractor failed to meet the minimum wage requirement. The minimum wage provided by the

contractor was VND 3,000,000, VND 100,000 lower than the regionally mandated minimum wage;

- The contractor did not notify competent authorities about wage scale, payroll information and labor quotas;
- Some one-third of employees (28 out of 82 people) did not participate in social and unemployment insurance;
- The contractor failed to conduct technical safety inspections for certain machines and equipment, despite strict occupational safety requirements on the use of this equipment;
- The contractor did not provide a comprehensive statistical report about the number of employees engaging in jobs with strict safety requirements.

In addition, a report submitted to the General Secretary by the Vietnam Energy Association stated that many thermal power projects under Chinese contractors use a large amount of imported labor from China. Indeed, interviews conducted by the research team with the board of managers of Vinh Tan 1 and 2 revealed that during the peak construction period of these plants, both plants employed a large number of Chinese workers and engineers.

Vietnamese authorities are concerned that this influx of foreign labor into Vietnam poses

a risk of social or economic turmoil. Local authorities and EPC contractors therefore impose strict regulations to manage the perceived risks posed by the presence of this foreign labor force. Chinese workers and engineers working in Vietnam live in private dormitories with strict protection and management; and workers are required to return to their dormitories before 10 pm. If any disputes with local residents arise, foreign laborers may be deported. Once their working contract ends, they must return to China. To promote local job creation, plant operation after the completion of the construction process uses primarily local workers. Plant managers retain only a small number of Chinese technical and maintenance personnel to better support plant management and operation.

LEGAL CONFLICTS WITH EPC CONTRACTORS

In Vietnam, legal conflicts have arisen in many EPC projects under Chinese contractors. Some of these conflicts have yielded serious consequences and economic damages.

The Case of Ninh Binh Fertilizer

Ninh Binh Fertilizer Plant, whose investor is the Vietnam National Chemical Group, is a key project in the development plan of Vietnam's chemical industry. The EPC contractor of the Ninh Binh plant is China Huanqiu Contracting & Engineering

Corporation. It began construction on the USD 667 million plant in 2008. In addition to the primary EPC contractor, 16 Chinese subcontractors, 1 European subcontractor, and 1 Vietnamese subcontractor are also participating in the project.

The first problem is that the EPC contractor initiated construction 420 days after the starting date stipulated in the contract, resulting in an additional cost of VND 527 billion (USD 24.33 million). The investor and the EPC contractor have not yet agreed on a plan to deal with this cost. Furthermore, according to a feasibility study on the Ninh Binh project, the plant was expected to make losses over its first three years of operation before achieving profitability in the fourth. However, in the fourth year of operation, the accumulated loss reached VND 364 billion (USD 16.81 million).

In addition, EPC general contractors violated terms of the signed EPC contract. During the trial run, the contractors exceeded certain limitations stated in the contract, ultimately preventing the contractor and investor from liquidating the contract. When the project was handed over to operators, the new managers learned that the plant's technical specifications were not in accordance with the initial feasibility study report, nor as specified in the signed EPC contract.

The Case of Thai Nguyen Steel Plant Phase 2

The Thai Nguyen Iron and Steel Plant was funded by the Thai Nguyen Iron and Steel Joint Stock Company ("Thai Nguyen") with a total investment of VND 3.8 trillion. This plant is a key project in the "Vietnam Steel Development Plan up to 2010." The plant's Chinese EPC contractors, the China Metallurgical Construction Corporation (MCC), started construction in 2007. The initial construction period was projected to last 30 months. But as of 2019, minimal construction has taken place, and some completed items have suffered damage or degradation. Construction delays resulting in part from MCC's failure in 2013 to mobilize sufficient capital for the plant's construction forced the contractors to put construction activities in abeyance and withdraw Chinese laborers back to China.

At that time, Thai Nguyen Iron and Steel Company had delivered funds for almost 92% of the contract value, but MCC did not transfer all associated equipment to Thai Nguyen. Furthermore, of the equipment and machines that MCC did hand over, several items were of incorrect origin and specifications or otherwise not in accordance with Vietnamese standards. In February 2019, the Government Inspectorate required the investor to review the terms of the EPC contract in preparation for a suit against the Chinese EPC contractor.

Legal conflicts are not unique to Chinese contractors. In the case of Dinh Vu Fiber Factory, the EPC contractor is a joint group of contractors from South Korea and Vietnam. During the construction process, a dispute arose between the investor and the EPC contractor due to unclear terms of the initial EPC contract. In another case, a Quang Ngai biofuel producer was unable to liquidate a contract with Vietnamese EPC contractor PetroVietnam Technical Services Joint Stock Corporation due to unfinished work by the contractor and failure to complete a required assessment before starting operations.

Cooperation with Chinese EPC contractors has undeniably involved numerous practices contrary to Vietnamese regulations, which have in turn caused serious financial losses. However, this problem is not limited to a single sector such as energy or infrastructure. Rather, these problems stem from inefficiencies in state management and legal frameworks regulating foreign contractors in general and EPC contractors in particular.

Governance Gaps in Vietnamese Regulation

It is undeniable that the practices of Chinese EPC contractors have damaged Vietnamese interests in critical infrastructure projects, even violating Vietnamese laws in some cases. Contractors from Japan or Korea, while incurring fewer technical faults and

accidents during construction and operation, have also violated environmental standards and/or failed to meet construction deadlines, as have Chinese contractors. This implies an overall deficiency in Vietnamese regulation of both the operational and construction phases of infrastructure projects.

In principle, EPC should generally be applied for power plants or large infrastructure projects that require a fixed predetermined price and high compatibility in component technology. However, many EPC projects in Vietnam experienced cost overruns, as in the case of Cat Linh–Ha Dong railway. This problem was engendered by lenient contractual terms that failed to stipulate responsibility for excess costs.

Prior to 2015, Vietnam had only two official Circulations (Circulation No. 01/2002/TT-BXD issued in 2002 and Circulation No. 08/2003/TT-BXD issued in 2003) that provided detailed guidelines on managing EPC projects. At that time, contract terms were simply negotiated by the investor and contractor. It was not until 2015–2016 that the Vietnamese government introduced new regulations covering the pre-bidding process and terms and clauses of EPC contracts. These regulations were made in an effort to partially comply with the International Federation of Consulting Engineers (FIDIC) conditions of EPC contracting. Indeed, the comprehensiveness and transparency

of FIDIC's conditions were proven by the success of projects conducted by North American and European contractors, who based their EPC contracts on FIDIC.

However, these regulations are only compulsory for projects that receive government funding. Other projects are merely encouraged to comply. Cost overruns are also the result of delays by responsible authorities in authorizing contractor access to the construction site. The land clearance process has faced opposition from residents due to inadequate compensation. Vietnam lacks a transparent and effective framework to determine compensation prices equivalent to market price. In some cases, this situation resulted in lawsuits that significantly delayed construction and increased costs.

Authorities did little to keep Vietnamese quality-control standards up to international standards. Vinh Tan 2 CFPP is a typical case study. As the amount of coal ash and slag are about to exceed the capacity of waste dumps, engineers from Vinh Tan 2 proposed a detailed plan to transform ash and slag into construction bricks. However, responsible authorities were slow in issuing new standards and a legal framework to enable this proposal, and the Vinh Tan 2 initiative has been put into abeyance for months. The Directorate for Standards, Metrology and Quality, a governmental body responsible for advising the Vietnamese

government on standardization, metrology, productivity and quality management issues, has developed limited numbers of standards related to CFPP. Only 15 standards have been issued and published online that could partially cover technical features of CFPP. This shortage in technical guidance makes it difficult for investors to evaluate the technical quality of contractors and creates gaps allowing contractors to use inferior technical benchmarks that might degrade the quality of CFPPs.

There are several case studies in which EPC contractors breached contractual obligations to Vietnamese investors, resulting in severe economic damages (the cases of Thai Nguyen 2 steel plant and Ninh Binh Fertilizer) to Vietnam. The Vietnamese legal framework is deficient in its investor protections against damages incurred by EPC contractors breaching their contracts. The Vietnamese government has recently issued new regulations to prioritize the technical quality of contractors' proposals over lower bidding in order to improve the standard of Vietnamese economic infrastructure.

Policy Recommendations

RECOMMENDATIONS TO IMPROVE TRANSPARENCY

- Government reporting: Large-scale and key projects should periodically report to

the National Assembly or State Council. The Assembly and State Council do not typically publicize data; this practice should be changed.

- Expert influence: The government should utilize dialogue channels including scholars and influential public figures to publicize objective statements about project development.
- NGO participation: The government should defend and strengthen the capacity of civil society organizations to serve as monitors of the social and environmental behavior of firms and government alike and increase the accountability of investors and construction parties. The government should construct a dialogue mechanism for resident communities, investors, and authorities to solve problems.
- Clear regulations: Clear legal regulations on the participation of private enterprises are vital in infrastructure projects. There is also a need to limit, and clearly report on, the participation in these projects of businesses established by government officials or their families, or others with close ties to government leaders. This practice invites collusion among vested interests and promotes corrupt behavior. It is therefore essential to establish mechanisms for information

disclosure regarding infrastructure projects. From international experience, many governments, such as the United Kingdom, Chile, or Peru, have proactively publicized information about PPP projects or contractual information without waiting for specific requests from the community, encouraging the community to make contributions or supervise the construction of these projects. Such action will contribute significantly to enhancing transparency and limiting corruption.

RECOMMENDATIONS ON VIETNAMESE GOVERNMENT POLICY REGARDING FOREIGN CAPITAL FLOWS

- Apply multilateral development bank (MDB) standards to BRI loan projects. For instance, to better utilize loans from CHEXIM or AIIB, Vietnam could encourage co-funding from the Asian Development Bank or other MDBs to better meet financial and environmental standards adopted by experienced donors.
- The Vietnamese government should adapt and expand the 2005 Hanoi Core Statement on Aid Effectiveness to include indicators and targets for untying aid. The state should take a strong stance against tied aid, including actively promoting local contracting and publicly

questioning donors' selections of sources for contracts.

- Move from Low-Bid Procurement to Life-Cycle Cost Analysis (LCCA) to promote a quality infrastructure approach. The government should implement detailed guidance on technical standards so that investors have a benchmark to compare technical proposals among contractors. Obviously, the project with higher technological standard will require a larger initial outlay. Accordingly, the government should only allocate money to projects that would have a major economy-wide impact, rather than squandering capital on inefficient projects.

RECOMMENDATIONS FOR IMPROVING EFFECTIVENESS OF ENVIRONMENTAL PROTECTIONS

- Enforce and upgrade existing environmental and social protections.
- Defend and strengthen the capacity of environmental and social ministries to enforce and upgrade laws.
- Spearhead collaboration among governments, local civil society, and foreign investors to achieve informed consultation before extractive projects begin, and to address local concerns in good faith.

References

- ASEAN Stat. (2019, February 15). Flows of Inward Foreign Direct Investment (FDI) by Host Country and Source Country. <https://data.aseanstats.org/fdi-by-hosts-and-sources>
- Ashvin, A., & Malha, N. (2012). Investment-led growth in China: Global spillovers. *IMF*.
- Atkinson, K. (2019, May 22). Vietnam's Transport Sector and opportunities. *Grant Thornton*. https://www.grantthornton.com.vn/insights/articles/chairmans-insights/vietnams-transport-sector-and-opportunities/#_ftn1
- Ban quản lý khu Kinh tế Quảng Ninh. (2019, May 24). Giới thiệu Khu kinh tế cửa khẩu Móng Cái. *Ban quản lý khu Kinh tế Quảng Ninh*: <http://qeza.gov.vn/default.aspx?mid=AreaDetail&it=32>
- Bộ Kế hoạch và Đầu tư. (2018, May 21). Giới thiệu chung về các vùng kinh tế trọng điểm. *Bộ Kế hoạch và Đầu tư*. <http://www.mpi.gov.vn/Pages/gtvungktttd.aspx>
- Bottom ash. (2018, September 3). *Energy Education*. https://energyeducation.ca/encyclopedia/Bottom_ash
- Development Assistance Committee. (2019, January 24) Revised DAC Recommendation on Untying ODA. *OECD*. [https://one.oecd.org/document/DCD/DAC\(2018\)33/FINAL/en/pdf](https://one.oecd.org/document/DCD/DAC(2018)33/FINAL/en/pdf)
- Dilek Aykut, Apurva Sanghi, and Gina Kosmidou. (2017). What to do when FDI is not direct or foreign. *World Bank*.
- FIA. (2019, February 15). *Monthly FDI Statistic*. <http://fia.mpi.gov.vn/chuyenmuc/172/So-lieu-FDI-hang-thang>
- GSO. (2018). *Statistical Data: Trade, Price and Tourism*. https://www.gso.gov.vn/default_en.aspx?tabid=780
- GSO. (2018). *Statistical Data: Investment and Construction*. https://www.gso.gov.vn/default_en.aspx?tabid=776
- GSO. (2018). *Statistical Data: Transport, Postal Services and Telecommunications*. https://www.gso.gov.vn/default_en.aspx?tabid=781
- Hồ Công Hòa. (2011). Mô hình hợp tác công tư - Giải pháp tăng nguồn vốn, công nghệ và kỹ năng quản lý của tư nhân cho các dự án về môi trường tại Việt Nam. *Tạp chí Quản lý Kinh tế*, 14 - 27.
- IEA. (2014). Emissions reduction through Upgrade of Coal-fired power plant. *UK: IEA*.
- IEA. (2018). World Energy Outlook 2018. *IEA*.
- Global Infrastructure Hub. (2019, May 22). Investment forecasts for Vietnam. *Global Infrastructure Hub*. <https://outlook.gihub.org/countries/Vietnam>
- GreenID Viet Nam. (2016). A study on financiers of Coal power in Vietnam. <http://en.greenidvietnam.org.vn/view-document/5b10c35e5cd7e85364f7aa9b>
- Government of Vietnam. (2005, July 2) Hanoi Core Statement on Aid Effectiveness. *Ministry of Health*. [http://hpg.icdmoh.gov.vn/upload_images/files/Hanoi%20Core%20Statement%20\(final%20ver\)%202%20July%2005.pdf](http://hpg.icdmoh.gov.vn/upload_images/files/Hanoi%20Core%20Statement%20(final%20ver)%202%20July%2005.pdf)
- JETRO(a). (2019, April 28). *Viet Nam EPC Contractor*. https://www.jetro.go.jp/ext_images/jfile/report/07000429/vn_epc_contractor.pdf
- JETRO(b). (2019, February 11). Viet Nam Energy Map. *JETRO*: https://www.jetro.go.jp/ext_images/jfile/report/07000429/vn_energy_map.pdf
- JICA. (n.d.). Ngành giao thông vận tải: Quá khứ và tương lai. Hanoi: *JICA*.

Julia Kubny and Hinrich Voss. (2010). China's FDI in ASEAN: Trends and impact on host countries.

TS Phạm Sanh. (2014, April 25) “Lỗi hổng quản lý giá xây dựng” *Thư viện pháp luật*. <https://thuvienphapluat.vn/tintuc/vn/thoi-su-phap-luat-binh-luan-gop-y/7083/lo-hong-quan-ly-gia-xay-dung>

Lương Hoàng Thái. (2018). Những cam kết trong các FTA thế hệ mới và khả năng thực hiện của các doanh nghiệp Việt Nam. Hà Nội: Trung tâm WTO, Văn phòng Công nghiệp và Thương mại Việt Nam.

Malischek, R. (2019, May 24). Tracking clean energy process: Coal-fired power. *IEA*. <https://www.iea.org/tcep/power/coal/>

McCarty, A., Julian, A., and Banerjee, D. (2009, December) The Developmental Effectiveness of Untied Aid: Evaluation of the Implementation of the Paris Declaration and of the 2001 DAC Recommendation on Untying Aid to the LDCs: Vietnam Country Study. *Mekong Economics Ltd*. <https://www.oecd.org/dac/evaluation/dcdndep/44539878.pdf>

Meeks, P. (2018, September) Development, untied: Unleashing the catalytic power of Official Development Assistance through renewed action on untying. *European Network on Debt and Development*. <https://eurodad.org/files/pdf/5ba3a41be1899.pdf>

MPI. (2016). Vietnam 2035 - Toward Prosperity, Creativity, Equity, and Democracy.

Nguyen Xuan Truong, Chairman of the Đắk R'lấp commune People's Committee (2019, 23 April). Personal interview.

Nam, M. o. (2016). Viet Nam 2035 - Toward Prosperity, Creativity, Equity and Democracy.

NBSC. (2019). Annual Data. <http://www.stats.gov.cn/english/Statisticaldata/AnnualData/>

Nguyễn Ngọc Anh, Nguyễn Thắng. (2007). Foreign Direct Investment in Vietnam: An Overview and Analysis the Determinants of Spatial Distribution Across Provinces. *SSRN Electronic Journal*.

Nguyễn Ngọc Kim. (2006). Hành lang kinh tế Côn Minh - Lào Cai - Hà Nội - Hải Phòng và vai trò của tỉnh Lào Cai. *Nghiên cứu Trung Quốc*, 22 - 32.

Nguyễn Thị Tuệ Anh. (2015). Thực trạng chính sách đầu tư nước ngoài ở Việt Nam. In T. T. Nguyễn Thị Tuệ Anh, *Đầu tư trực tiếp nước ngoài ở Việt Nam: Thực trạng, hiệu quả và điều chỉnh chính sách* (pp. 46-83). Hà Nội: Viện Nghiên cứu Kinh tế và Quản lý Trung ương.

Proctor, D. (2019, June 1) Vietnam Supports Solar and More Coal Generation. *Power*. <https://www.powermag.com/vietnam-supports-solar-and-more-coal-generation/>

PwC. (2016). EPC Contracts in the power sector.

Representatives from Vinh Tan 2 Coal Fired Power Company (2019, 25 April). Personal interview

Sajid Anwar và Nguyễn Lan Phi. (2010). Foreign direct investment and economic growth in Vietnam. *Asia Pacific Business Review*, 183 - 202.

Set, R. (2017). Flyash: Characteristics, Problems and Possible Utilization. *Advances in Applied Science Research*, 32 - 50.

Tóm tắt quá trình Việt Nam gia nhập WTO. (2011). *Bộ Tài chính*. http://www.mof.gov.vn/webcenter/portal/btc/r/lvtc/htqt/hnvhttc/wto/wtogtc/whatwto1/wtocthd_chitiet58?dDocName=BTC203255&_adf.ctrl-state=mj1fwlho_50&_afLoop=68241724194425474#%40%40%3F_afLoop%3D68241724194425474%26dDocName%3DBTC203255%26_adf.ctrl-stat

Trần Đình Thiên. (1999, December). Impact of the regional crisis. *ISMEA*. <http://ismae.org/ASIAlist/Tran-Dinh-Thien.html>

Trương Duy Nghĩa. (2013). Lựa chọn phương pháp đốt than Anthracit cho các nhà máy nhiệt điện Việt Nam. *Khoa học và Công nghệ Nhiệt*.

UBND Tỉnh Bình Dương. (2014). *Báo cáo tổng thể*.

UNCTAD. (2019). Data Center: Foreign Direct Investment. <https://unctadstat.unctad.org/wds/TableView/tableView.aspx?ReportId=96740>

Van, T. (2019, August 26) Vietnam a hotbed for Taiwanese excellence. *Vietnam Investment Review*. <https://www.vir.com.vn/vietnam-a-hotbed-for-taiwanese-excellence-70145.html>

WCA. (2012). Coal - Energy for Sustainable Development. UK: *World Coal Association*.

World Bank. (2001). Vietnam economic monitor. *World Bank*.

Xiao, G. (2004). People's Republic of China's Round - Tripping FDI: Scae, causes and implications. *ADB*.

CONCLUSION

Investments from China into Southeast Asia have contributed to economic growth and the development of the private sector in the host countries. For example, in Malaysia the solar panel and glass industries have seen leaps in growth due to Chinese investments. Yet there are also cases in Southeast Asia in which the local private sector received marginal benefit from Chinese investments. For instance, in Cambodia, the report showed that Chinese firms have little interaction with local firms and do not contribute much to the capacity and skill development of the local workforce. As a result, the spillover effect of Chinese investments on local SMEs has been limited.

Local firms in host countries seek to benefit more from investments from China. Several

authors pointed out that small businesses are concerned about being unfairly outcompeted by Chinese firms, which are supported by state-led industrial policies and cheap credit from the state.

Foreign direct investments from China sometimes goes into high risk and lightly regulated industries, such as mining, online gambling, and payday lending. In the cases of the Philippines and Indonesia, the authors documented that these investments bypass, ignore, or undermine regulations in the host countries. Problems include importing illegal workers, evading taxes, and exploring military networks which are deeply vested in the economy. Southeast Asia's young democracies have suffered from weak rule of law and lax enforcement. Chinese

investments at times exploit and exacerbate these governance gaps.

Chinese-funded megaprojects raise more concerns than traditional FDI due to a lack of transparency and the opacity of the deal-making processes. The deals are made among the ruling elites of China and the host countries without proper scrutiny or oversight. It is widely recognized that the influx of Chinese capital and contractors help to alleviate the massive infrastructure

gap in the region. To better utilize these capital inflows, the governments in Southeast Asia need to strengthen their capacity to mitigate the risks identified in this report, such as weak public procurement regulatory regimes, a lack of information on and robust oversight of BRI projects, weak governance of SOEs, and corruption.

Table 1 (PG. 198-199) lists recommendations to help mitigate risks stemming from large Chinese investment inflows:

TABLE 1: Recommendations to Help Mitigate Risk Stemming from Large Chinese Investment Inflows

PROBLEMS	SOLUTIONS
Lack of transparency in public procurement	<ul style="list-style-type: none"> • Increase transparency of the public sector and public procurement process • Have clear legal regulations on public procurement • Follow public procurement international best practices, such as competitive and public bidding • Replace low-bid procurement practices with Life-Cycle Cost Analysis (LCCA) to promote quality infrastructure project • Empower civil society and interested stakeholders to advocate for greater transparency on public procurement process
Corruption	<ul style="list-style-type: none"> • Strengthen anti-corruption work through institutional changes • Lawmakers should exercise oversight of loans that the government undertakes • Implement Freedom of Information act • Publicize government loan terms • Disclose ownership of companies which participate in mega infrastructure projects (especially if these companies are owned by government officials, their families, or close associates). • Provide for third party quality control/independent audit mechanism of the mega infrastructure projects • Implement PPP laws to facilitate investments and monitor PPP projects in hopes to increase transparency and accountability

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PROBLEMS	SOLUTIONS
Weak governance of state-owned enterprises	<ul style="list-style-type: none"> • Demand greater scrutiny of SOEs by lawmakers • Require disclosure of SOEs' annual reports and detailed financial statements as well as disclosure of remuneration of company directors, any financial liabilities potentially borne by the taxpayer and justification of the entities' activities against public policy objectives • Implement mechanisms for SOEs to reduce conflicts of interest among directors
Illegal worker/migration	<ul style="list-style-type: none"> • Implement better management systems for foreign workers • Improve the system of working permits and business licenses for foreign investors
Social tension, environmental degradation, land grabbing and force eviction	<ul style="list-style-type: none"> • Apply multilateral development bank (MDB) standards (such as financial feasibility, environment assessment, social and governance impact analysis) for Belt and Road Initiative loan projects • Promote Corporate Social Responsibility and corporate governance among Chinese firms
Little contribution to local private sector	<ul style="list-style-type: none"> • Provide a level playing field for local and foreign contractors by requiring foreign firms to abide by the OECD guidelines on export credit assistance • Ensure any local content requirements focusing on promoting technology and knowledge transfer between foreign and local firms

The countries of Southeast Asia should strengthen their regulatory environment to reduce the likelihood of corruption, increase transparency, enhance oversight mechanisms, and improve their public procurement framework. In addition, civil society organizations can play a more significant role as a bridge between foreign investors and local communities to spearhead inclusive dialogue among governments, local civil society, and foreign

investors before megaprojects begin so as to ensure that local voices are heard. Civil society and a free press can also help monitor foreign business behavior and promote OECD guidelines for multinational enterprises in agriculture supply chains, the extractive sector, mineral supply chains, and textile and garment supply chains to advocate for more responsible business practices.

Governments can also use regional platforms such as ASEAN to gain stronger negotiation power when advocating for more responsible investments from China.

For China

Chinese civil society is eager to work with foreign counterparts to encourage Chinese firms to engage in more corporate social responsibility and be more responsive to local communities' concerns. Chinese companies could seek Chinese civil society's assistance to try to act more responsibly and inclusively.

The Chinese government could work with Chinese companies abroad to ensure that they are abiding by guidelines released by Chinese business associations. The mining and construction industry associations from China have published guidelines that are on par with international standards. More broadly promoting and sharing these guidelines would help improve business behavior overseas.

Regarding investments with an international development purpose, China should try to employ the standards of AIIB in all its BRI projects to ensure that this new global power is also advancing development goals by acting more responsibly. Greater transparency in business engagements and MOUs between governments would help improve China's image in the region and counter a reputation of colluding with ruling elites.

Lastly, the report highlights research questions requiring further scholarly attention, including:

- Whether Chinese private firms are driven purely by the profit motive or instead act based on the policy guidelines from the state
- Whether SOEs and private firms from China respond differently to local pressure and incentives
- The extent to which China uses its economic leverage to influence host countries' domestic politics or foreign policy

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