

# **EXPERIENCES OF SEVERAL COUNTRIES IN SUPPORTING FOREIGN ENTERPRISES' ACCESS TO LAND FOR INVESTMENT ATTRACTION – LESSON FOR VIETNAM**

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## **I. INTRODUCTION**

Attracting foreign direct investment (FDI) has long been regarded as a central policy instrument for promoting economic growth, structural transformation, and technological upgrading. While developing and underdeveloped economies rely on foreign capital to supplement domestic resource constraints, advanced economies likewise view sustained inflows of foreign investment as an indicator of economic competitiveness and institutional credibility. The United States provides a

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salient example: according to official data from the Bureau of Economic Analysis, total inward foreign direct investment stock reached USD 5.39 trillion by the end of 2023, up USD 227 billion from the previous year.<sup>1</sup> This trend is reinforced by recent policy initiatives that emphasize the United States as a premier global investment destination, underscoring that competition for FDI is increasingly international and spans all levels of development.<sup>2</sup>

A growing body of literature recognizes that the success of FDI attraction strategies depends on a complex interaction of economic, institutional, and legal factors. While specific determinants, such as market size or labor costs, are country-specific, others are widely shared across jurisdictions. Among the latter, policies governing land access and legal frameworks regulating land-use rights are

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<sup>1</sup> Bureau of Econ. Analysis, U.S. Dep't of Com., *Direct Investment by Country and Industry* (2024), <https://www.bea.gov/data/intl-trade-investment/direct-investment-country-and-industry>.

<sup>2</sup> White House, *Fact Sheet: President...Encourages Foreign Investment While Protecting National Security* (Feb. 2025), <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president...encourages-foreign-investment-while-protecting-national-security>

consistently identified as fundamental.<sup>3</sup> For foreign investors, particularly in manufacturing, real estate, and infrastructure-intensive sectors, secure and predictable access to land is a precondition for long-term investment decisions. Clear procedures, legal certainty, and protection against arbitrary interference are therefore critical. From the perspective of host states, land policy must simultaneously reconcile investment promotion with environmental protection, social stability, and national security considerations.<sup>4</sup> Despite the acknowledged importance of land governance, existing scholarship and policy discourse often address land access only indirectly, subsuming it under broader discussions of investment climate or property rights. Comparative, policy-oriented analyses focusing specifically on how states design institutional and legal mechanisms to facilitate foreign enterprises' access to land remain relatively

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<sup>3</sup> Org. for Econ. Co-operation & Dev. (OECD), *FDI Qualities Policy Toolkit* (2019).

<sup>4</sup> United Nations Conference on Trade & Dev. (UNCTAD), *World Investment Report 2023: Investing in Sustainable Energy for All* (2023).

limited, particularly in the context of transitional economies. This gap is especially relevant for Vietnam, where land remains publicly owned and where regulatory complexity and fragmented administration have been identified as persistent challenges to investment attraction.<sup>5</sup>

Against this backdrop, the present study examines the experiences of several countries in supporting foreign enterprises' access to land as a strategic tool for attracting FDI. By analyzing selected legal frameworks, administrative arrangements, and practical implementation mechanisms, the study aims to identify common patterns and effective practices that enhance transparency, efficiency, and investor confidence. The objective is not only to contribute to the comparative literature on land governance and foreign investment but also to draw concrete policy lessons that can inform Vietnam's ongoing reforms in land management and investment promotion.

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<sup>5</sup> World Bank, *Vietnam: Improving Land Governance for Sustainable Development* (2022).

## II. METHODOLOGY

This study employs a qualitative comparative research methodology to examine how selected countries facilitate foreign enterprises' access to land to attract foreign direct investment (FDI). Given the legal, institutional, and policy-oriented nature of land governance, a qualitative approach is appropriate for capturing the complexity of regulatory frameworks, administrative practices, and implementation mechanisms that shape investors' access to land.

### A. Research Design and Case Selection

The research is based on a comparative case-study design, focusing on a group of representative countries that have demonstrated relative success in attracting FDI, particularly in land-intensive sectors such as manufacturing, infrastructure, and real estate. The selection of countries is guided by three criteria: (i) their relevance to Vietnam's development trajectory (including both developed and emerging economies); (ii) the existence of distinctive legal or

institutional arrangements governing foreign investors' land-use rights; and (iii) the availability of reliable legal and policy documentation. This purposive selection enables the study to identify both common approaches and context-specific practices without aiming for statistical generalization.

## B. Data Sources

The study relies exclusively on secondary data, drawing from multiple authoritative sources to ensure analytical robustness and triangulation. These sources include national laws and regulations on land and investment, policy papers, government reports, investment promotion materials, and official guidelines issued by relevant public authorities. In addition, reports and analytical publications from international organizations, such as the World Bank, OECD, and UNCTAD, are used to contextualize national practices within broader global trends. Academic literature and selected case studies further support the interpretive analysis.

### C. Analytical Framework

Data analysis is conducted through qualitative content analysis and comparative legal analysis. First, the study examines each country's legal framework governing foreign enterprises' access to land, focusing on key dimensions, including land tenure arrangements, land allocation and leasing mechanisms, procedural requirements, and legal safeguards for land-use rights. Second, institutional arrangements and administrative practices, such as land banks, industrial zones, and one-stop service mechanisms, are analyzed to assess how legal rules are implemented in practice. The findings from individual cases are then compared to identify recurring patterns, innovative instruments, and critical success factors.

### D. Policy-Oriented Synthesis

The final stage of the methodology involves a policy-oriented synthesis that distills lessons relevant to Vietnam. Rather than mechanically transplanting

foreign models, the analysis assesses their adaptability to Vietnam's legal system, land-ownership regime, and administrative structure. This approach ensures that the study's recommendations are context-sensitive and aligned with Vietnam's ongoing reforms in land management and investment promotion.

### III. RESULTS AND DISCUSSION

#### A. International Experiences: Analytical Framework and Rationale

Examining international experiences in facilitating foreign enterprises' access to land is a necessary step toward identifying policy options for Vietnam, particularly amid intensifying global competition for foreign direct investment (FDI). As emphasized in the manuscript's title and objectives, land access functions not merely as a technical issue of property law, but as a strategic governance instrument that shapes investor confidence, project feasibility, and long-term economic engagement. Comparative analysis allows policymakers to

distinguish between universally applicable principles, such as legal certainty and procedural transparency, and country-specific arrangements that reflect differing land regimes, security considerations, and development priorities.<sup>6</sup>

Existing studies underscore that countries that are successful in attracting land-intensive FDI typically adopt coherent land-access policies embedded within broader investment and national development strategies.<sup>7</sup> At the same time, international experience demonstrates that openness to foreign land access is rarely absolute. Even advanced economies with strong traditions of private property impose targeted restrictions based on national security, environmental protection, or strategic resource management.<sup>8</sup> This dual objective, facilitating investment while safeguarding sovereign interests, has become more pronounced in recent

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<sup>6</sup> UNCTAD, *World Investment Report 2023* (2023).

<sup>7</sup> OECD, *FDI Qualities Policy Toolkit* (2019).

<sup>8</sup> Sarah Bauerle Danzman & Geoffrey Gertz, *Why Land Matters in Foreign Investment Screening*, 46 REV. INT'L POL. ECON. 1 (2023).

years amid geopolitical tensions and concerns over foreign control of sensitive assets.<sup>9</sup>

For analytical clarity, this study groups national experiences into advanced economies and emerging or developing economies. Advanced economies are characterized by mature legal systems, high levels of institutional capacity, and predominantly private land ownership regimes. Their experiences are particularly relevant for Vietnam insofar as they illustrate how foreign investors' land-use rights can be secured through stable legal frameworks without compromising public interests. The United States and Australia are examined as representative cases, reflecting two different but influential approaches to balancing openness and regulatory control.

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<sup>9</sup> Julien Chaisse & Mitsuo Matsushita, *Maintaining the WTO's Supremacy in the Age of Investment Screening*, 114 AM. J. INT'L L. 479 (2020).

1. Experience of Advanced Economies:  
Analytical Background

a. The United States: The Case of  
Texas

The United States is frequently characterized as one of the most open jurisdictions worldwide with respect to foreign investors' access to land. This openness is historically grounded in the country's development model, which has relied heavily on immigration, private property, and market-driven capital accumulation as engines of economic expansion. Unlike jurisdictions where land ownership is closely linked to nationality or sovereignty considerations, U.S. law treats land primarily as a monetary asset, governed by private law principles. As a result, foreign investors, whether individuals or corporate entities, generally enjoy the same rights as domestic actors to acquire, lease, and use land, subject to limited public-law constraints.<sup>10</sup> This non-discriminatory approach reflects a liberal

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<sup>10</sup> James J. Park, *Foreign Investment and Property Rights in the United States*, 41 YALE J. INT'L L. 85 (2016).

investment regime that prioritizes market efficiency, capital mobility, and investor autonomy.

Texas provides a particularly instructive subnational case for comparative analysis. As one of the largest U.S. states by land area, with a diversified economy spanning manufacturing, agriculture, energy, and logistics, Texas has actively positioned itself as a destination for both domestic and foreign investment. From a policy standpoint, access to land in Texas is premised on the assumption that foreign investment contributes positively to regional economic development, job creation, technological diffusion, and integration into global value chains. Consequently, restrictions on land ownership or use are not framed in terms of investor nationality but somewhat justified on neutral, generally applicable grounds, such as land-use planning, environmental protection, and national security.<sup>11</sup> This regulatory philosophy is consistent with broader U.S. constitutional principles of equal protection and due

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<sup>11</sup> U.S. Gov't Accountability Off., *Foreign Investment in Agricultural Land* (2024).

process, which limit the state's ability to impose arbitrary or nationality-based distinctions in property relations.

At the federal level, the legal framework governing foreign investors' access to land is best described as risk-based and supervisory, rather than restrictive. The Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) exemplifies this approach. AFIDA does not prohibit or cap foreign ownership or leasing of agricultural land; instead, it requires foreign persons to disclose such transactions to federal authorities.<sup>12</sup> The primary objective of this mechanism is informational: by collecting data on foreign involvement in agricultural land markets, the federal government can monitor ownership patterns, assess potential policy implications, and respond if systemic risks emerge. Legal scholars have emphasized that AFIDA reflects a regulatory preference for transparency and oversight,

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<sup>12</sup> Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. §§ 3501–3508.

intervening only when clear public-interest concerns arise.<sup>13</sup>

More robust intervention powers are conferred under the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which expanded the jurisdiction of the Committee on Foreign Investment in the United States (CFIUS). FIRRMA authorizes the review of certain real estate transactions involving foreign investors, particularly those involving land near military installations, ports, airports, or other critical infrastructure.<sup>14</sup> Importantly, FIRRMA does not operate as a blanket restriction on foreign land access. Instead, it adopts a transaction-specific and evidence-based assessment of national security risks. This individualized screening model is widely regarded in the literature as an effective mechanism for reconciling openness to foreign investment with legitimate security

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<sup>13</sup> Neil E. Harl, *Foreign Ownership of Agricultural Land: Policy and Practice*, 18 DRAKE J. AGRIC. L. 1 (2013).

<sup>14</sup> Foreign Investment Risk Review Modernization Act of 2018, Pub. L. No. 115-232.

concerns, especially in an era of heightened geopolitical sensitivity.<sup>15</sup>

At the state level, Texas law essentially complements this federal framework. The Texas Property Code and related statutes do not impose general restrictions on foreign ownership or leasing of land, nor do they require prior approval based solely on foreign status. Land-use regulation is primarily exercised through zoning, environmental compliance, and infrastructure planning, all of which apply equally to domestic and foreign land users. Recent legislative developments, most notably Senate Bill 17, signal a growing sensitivity to geopolitical risks associated with investors from certain jurisdictions. However, such measures remain narrowly targeted, exceptional in scope, and politically contested, rather than constituting a systemic shift toward protectionism.<sup>16</sup>

From a comparative perspective, the U.S. experience, illustrated by the case of Texas,

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<sup>15</sup> Edward M. Graham & David M. Marchick, *US National Security and Foreign Direct Investment* (Updated ed. 2021).

<sup>16</sup> Texas S.B. 17, 88th Leg., Reg. Sess. (2025).

demonstrates that secure and attractive land access for foreign investors can be achieved through a combination of strong private property rights, low procedural barriers, and narrowly tailored security review mechanisms. For Vietnam, where land remains publicly owned and administrative discretion plays a significant role in land allocation, this experience suggests that improving transparency, legal certainty, and predictability in land-use rights may be more effective for investment attraction than broad nationality-based restrictions or ad hoc approvals. The U.S. model thus provides valuable insights into how investor confidence can be fostered without undermining the host state's capacity to protect essential public interests.

#### b. Australia's Experience

Australia presents a contrasting but equally instructive model of regulating foreign investors' access to land. While the country remains formally open to foreign capital and has long relied on external investment to support economic

development, its regulatory approach is characterized by centralized oversight and systematic pre-screening of foreign land transactions. This approach reflects a policy choice to treat land not merely as a market commodity, but as a strategic national asset closely linked to sovereignty, food security, environmental sustainability, and national security.<sup>17</sup> Unlike the largely decentralized, market-driven U.S. model, Australia places the state in an explicit gatekeeping role regarding foreign access to land.

The cornerstone of Australia's land-access regime is the Foreign Acquisitions and Takeovers Act 1975 (FATA), which establishes the legal basis for reviewing and approving foreign acquisitions of land and other significant assets. Administration of the regime is entrusted to the Foreign Investment Review Board (FIRB). This federal-level body advises the Treasurer on whether proposed transactions are consistent with the "*national*

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<sup>17</sup> Andrew D. Mitchell & Elizabeth Sheargold, *Foreign Investment Screening and National Security in Australia*, 52 GEO. J. INT'L L. 1 (2021).

*interest.*”<sup>18</sup> Under this framework, foreign investors are generally required to obtain prior approval before acquiring or leasing agricultural, residential, or commercial land above specified monetary thresholds. This *ex ante* approval requirement distinguishes Australia sharply from jurisdictions that rely primarily on post-transaction disclosure or monitoring.

The national interest test applied by FIRB is deliberately broad and flexible. In assessing applications, authorities may consider a range of factors, including national security implications, competition effects, impacts on local communities, consistency with government policy objectives, and the character of the investor.<sup>19</sup> While this breadth has attracted criticism for introducing uncertainty and administrative discretion, scholars note that it also allows the regulatory framework to adapt to changing economic conditions and geopolitical

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<sup>18</sup> Foreign Acquisitions and Takeovers Act 1975 (Cth) (Austl.).

<sup>19</sup> Foreign Acquisitions and Takeovers Regulation 2015 (Cth) (Austl.).

risks.<sup>20</sup> Importantly, the test is not explicitly nationality-based; instead, it focuses on the nature of the transaction and its potential consequences for Australia's long-term interests.

Regulatory control over foreign land access has been further strengthened through recent legislative reforms, most notably the Foreign Investment Reform (Protecting Australia's National Security) Act 2020. These reforms expanded the government's powers to review transactions involving land located near sensitive infrastructure, military facilities, or other assets deemed critical to national security. They also introduced enhanced monitoring and enforcement mechanisms, including the ability to impose conditions on approved investments and to require divestment in exceptional circumstances. Academic analyses suggest that while these measures have increased compliance costs for foreign investors, they have also improved policy

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<sup>20</sup> Luke Nottage & Elizabeth Sheargold, *The Rise of Foreign Investment Screening in Australia*, 44 MELB. U. L. REV. 1 (2020).

coherence and bolstered public confidence in the foreign investment screening system.<sup>21</sup>

From an institutional perspective, Australia's model is characterized by relatively high transparency. FIRB operates under published guidelines, statutory timeframes for review are clearly defined, and investors receive reasoned decisions when approval is granted subject to conditions. This procedural clarity mitigates some of the uncertainty inherent in a discretionary screening regime and contributes to the overall predictability of the investment environment. Land registration and reporting requirements, particularly for agricultural land, further enhance the state's capacity to monitor foreign involvement in land markets without resorting to outright prohibitions.

Compared with other countries, Australia's experience illustrates how a centralized, interventionist approach to foreign investors' access to land can coexist with a generally open investment

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<sup>21</sup> Kelsey Johnson, *Australia's National Security Test for Foreign Investment*, 45 MELB. U. L. REV. 612 (2022).

climate. For Vietnam, where land remains under public ownership and concerns over national security, environmental protection, and social stability are pronounced, the Australian model offers valuable insights. In particular, it demonstrates how a unified screening authority, a clearly articulated national-interest test, and transparent administrative procedures can be employed to reconcile the attraction of FDI with heightened regulatory oversight without undermining investor confidence.

## 2. Experience of Emerging Economies: Analytical Background

Examining the experiences of emerging economies in regulating foreign enterprises' access to land is particularly important for this study, given Vietnam's shared structural and institutional characteristics with this group of countries. Unlike advanced economies, where private land ownership and market-based allocation mechanisms dominate, most Asian emerging economies retain a strong public role in land governance. Land is frequently

regarded as a strategic national resource, closely tied to social stability, food security, industrial policy, and political legitimacy.<sup>22</sup> As a result, foreign investors' access to land is typically mediated through administrative approval, long-term land-use rights, or leasing arrangements rather than outright ownership. A recent study emphasizes that emerging economies face a dual, and often competing, policy imperative. On the one hand, they seek to attract foreign direct investment (FDI) to accelerate industrialization, infrastructure development, and technological upgrading. On the other hand, governments remain cautious about relinquishing control over land, particularly in sensitive sectors or locations, due to concerns over speculation, displacement, environmental degradation, and national security.<sup>23</sup> This tension has led to the development of hybrid land-access regimes that

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<sup>22</sup> Cotula, *Land, Property and Sovereignty in Emerging Economies*, 48 J. PEASANT STUD. 1 (2021).

<sup>23</sup> Sarah Bauerle Danzman & Geoffrey Gertz, *Why Land Matters in Foreign Investment Screening*, 46 REV. INT'L POL. ECON. 1 (2023)

combine openness to foreign investment with stringent regulatory oversight.

Comparative analysis of emerging economies is therefore especially relevant to Vietnam for three reasons. First, many such countries share a state-centered land ownership or management model, in which land-use rights are granted for limited terms and subject to administrative conditions. Second, they frequently employ industrial-policy instruments, such as investment encouragement lists, special economic zones (SEZs), and preferential land access for priority sectors, to steer foreign investment toward national development objectives.<sup>24</sup> Third, emerging economies tend to rely on discretionary approval mechanisms, which, if not carefully designed, can generate legal uncertainty and administrative fragmentation, undermining investor confidence.<sup>25</sup>

This section examines China, Thailand, and Malaysia as representative emerging economies in

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<sup>24</sup> OECD, *FDI Qualities Policy Toolkit* (2019).

<sup>25</sup> Julian Arato, *The New Regulatory State and Foreign Investment*, 71 *HASTINGS L.J.* 1 (2020).

East and Southeast Asia that have adopted distinct yet comparable approaches to foreign investors' access to land. China exemplifies a model in which land remains publicly owned and foreign investors are granted time-limited land-use rights closely aligned with state planning priorities. Thailand illustrates a mixed regime combining private land ownership with strict nationality-based restrictions, mitigated by long-term leases and special investment regimes. Malaysia represents a relatively more liberal model among emerging economies, allowing foreign land ownership subject to state approval and sectoral conditions. Together, these cases provide a nuanced comparative foundation for identifying policy lessons applicable to Vietnam's ongoing land and investment reforms.

#### a. China's Experience

China's approach to foreign investors' access to land is particularly relevant to Vietnam, as both countries share the foundational principle of public ownership of land. Under the Chinese legal system,

land is owned either by the State or by rural collectives, and private parties, including domestic and foreign investors, may only obtain land-use rights for a fixed term. This principle, enshrined in the Constitution and operationalized through statutory law, fundamentally shapes the modalities through which foreign investors may access land and distinguishes China from jurisdictions that permit private land ownership by foreigners.<sup>26</sup>

China's policy on land access for foreign investors reflects a carefully calibrated balance between investment attraction and stringent state control over land as a strategic national resource. Rather than allowing foreign investors to acquire land-use rights through free market transactions, the Chinese system conditions land access on conformity with national and local socio-economic development strategies, industrial policies, and land-use master plans.<sup>27</sup> In practice, this means that

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<sup>26</sup> Land Administration Law of the People's Republic of China (2020), art. 3.

<sup>27</sup> Minzi Su, *The Role of Foreign Investment in China's Land Use Policy*, 29 ASIAN PERSPECTIVE 63 (2005).

foreign investors may access land only when responding to investment opportunities identified or endorsed by competent authorities at the central or local level. A defining characteristic of China's policy framework is its sector-based differentiation. Foreign investors are encouraged to invest in industries aligned with national development priorities, such as high technology, clean energy, advanced manufacturing, healthcare, and modern services. They may receive preferential treatment with respect to land access, including reduced land-use fees, priority allocation, and infrastructure support from local governments.<sup>28</sup> By contrast, foreign investment in restricted or sensitive sectors, particularly commercial real estate development in major urban centers or areas linked to national security, is subject to heightened scrutiny or outright limitation. This selective openness reflects China's broader strategy of using land policy as an instrument

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<sup>28</sup> Ministry of Commerce of the People's Republic of China, *Foreign Investment Guide of the PRC* (2022).

of industrial upgrading rather than as a neutral market mechanism.<sup>29</sup>

Importantly, foreign investors are not permitted to own land in China directly. Access is limited to long-term leases granting land-use rights (LURs), which are time-bound and purpose-specific. To obtain such rights, foreign investors must establish a legally recognized investment vehicle under Chinese law, either in the form of a joint venture (JV) with a domestic entity or a wholly foreign-owned enterprise (WFOE). The land-use right is thus structurally linked to the approved investment project, reinforcing the State's ability to supervise land use throughout the project lifecycle.

The legal framework governing foreign investors' access to land in China is anchored in three principal legislative instruments: the Foreign Investment Law (2020), the Land Administration Law (amended 2020), and the Urban Real Estate Administration Law (amended 2007). Together,

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<sup>29</sup> Xiaoyang Zhang, *Real Estate Investment in China: Legal Review and Analysis of Foreign Investors' Participation*, 6 MURDOCH U. ELEC. J. L. 1 (1999).

these statutes establish a comprehensive system governing the nature, duration, and procedural requirements of land-use rights available to foreign investors. The Foreign Investment Law (FIL) represents a significant milestone in China's investment regime. While the FIL does not regulate land access directly, it establishes the principle of national treatment for foreign investors at the entry and post-entry stages, including with respect to access to factors of production such as land.<sup>30</sup> Article 4 of the FIL affirms that foreign-invested enterprises shall enjoy equal treatment with domestic enterprises. In contrast, Article 28 introduces the Negative List System, under which foreign investment is prohibited or restricted in specified sectors or geographic areas. Where an investment project falls within the negative list, land access is correspondingly denied or limited, illustrating the indirect but consequential role of investment regulation in shaping land access outcomes.

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<sup>30</sup> Foreign Investment Law of the People's Republic of China (2020), art. 4.

The Land Administration Law (2020) provides the core statutory framework governing land ownership, land-use planning, and land-use rights. Article 3 reiterates the principle of public ownership of land, while permitting entities, including foreign-invested enterprises, to obtain land-use rights through lease arrangements. The Law specifies permissible methods for granting land-use rights, including public auction, tender, or listing, particularly for commercial and industrial land.<sup>31</sup> Lease terms vary according to land-use purpose, typically ranging from 40 years for commercial land to 50 years for industrial land and up to 70 years for residential land. The Law also imposes obligations relating to environmental protection, efficient land use, and compliance with urban and rural planning, reinforcing the regulatory nature of land-use rights.

The Urban Real Estate Administration Law further refines the regulatory framework for land access in urban areas, with particular relevance for

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<sup>31</sup> Land Administration Law of the People's Republic of China (2020), art. 8.

foreign investors engaging in real estate development. The Law affirms that foreigners may not own urban land but may obtain land-use rights through leasing arrangements.<sup>32</sup> It requires foreign investors to establish a company under Chinese enterprise law before accessing land at the primary level. It grants local authorities broad supervisory powers to prevent speculation, hoarding, or misuse of land. Lease renewal upon expiry is not automatic and remains subject to government approval, a feature that has been identified as a source of legal uncertainty for long-term investors.<sup>33</sup>

In practice, foreign investors' access to land in China follows a multi-stage administrative process closely linked to investment approval. Before leasing land, a foreign investor must obtain an investment permit from the competent authority, which may include the Ministry of Commerce (MOFCOM), the National Development and Reform Commission

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<sup>32</sup> Urban Real Estate Administration Law of the People's Republic of China (2007), art. 2.

<sup>33</sup> Wei Cui & Xue Bai, *Land Use Rights and Investment Certainty in China*, 54 J. COMP. ECON. 112 (2022).

(NDRC), provincial-level authorities, or special economic zone administrations, depending on the scale, sector, and sensitivity of the project. This approval process primarily focuses on whether the proposed investment aligns with national and local investment-promotion policies. Once the investment project is approved, the investor must identify a suitable land parcel that is consistent with the approved land-use plans. Local governments often play an active role at this stage, particularly in industrial parks and special economic zones, where land is pre-zoned, and infrastructure is ready. For high-value or large-scale projects, land-use rights are commonly allocated through competitive procedures such as auctions or tenders, ensuring transparency and enabling authorities to select investors capable of delivering the projected socio-economic benefits.<sup>34</sup>

After securing the right to lease land, the investor enters into a land-lease agreement with the local

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<sup>34</sup> Ministry of Natural Resources (China), Circulars on Granting State-Owned Construction Land-Use Rights.

land-administration authority or, in some cases, with rural collectives authorized to lease construction land. The contract specifies the land area, lease term, rent, permitted land use, and obligations relating to environmental protection and construction standards. Registration of the land-use right with the local land registry is mandatory to secure legal recognition and enforceability. Throughout the lease period, the investor remains subject to regulatory oversight, and failure to comply with approved land use may result in penalties or revocation of the land-use right.

From an analytical perspective, China's land-access regime illustrates a model in which land policy is deeply integrated with industrial strategy and territorial governance. By conditioning land access on project approval and sectoral alignment, the State retains significant leverage over the direction and quality of foreign investment. Empirical studies suggest that this approach has been practical in channeling FDI toward manufacturing and infrastructure sectors that support long-term

development objectives.<sup>35</sup> At the same time, scholars have identified several challenges associated with this model. The heavy reliance on administrative discretion can lead to uneven implementation across localities, regulatory opacity, and uncertainty about the renewal and transferability of land-use rights.<sup>36</sup> These issues are particularly salient for foreign investors seeking long-term stability, as land-use rights remain inherently time-limited and contingent on continued policy alignment. For Vietnam, China's experience offers both positive lessons and cautionary insights. The use of land access as a tool of industrial policy and the integration of land-use planning with investment approval are directly relevant to Vietnam's development strategy. However, China's experience also underscores the importance of enhancing legal certainty, transparency, and uniform application of land regulations to sustain investor confidence while preserving state control over land resources.

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<sup>35</sup> OECD, *FDI Qualities Policy Toolkit* (2019).

<sup>36</sup> Lorenzo Cotula, *Land, Property and Sovereignty in Emerging Economies*, 48 J. PEASANT STUD. 1 (2021).

## b. Thailand's Experience

Thailand provides a particularly instructive example among emerging economies because it combines a private land-ownership regime with a restrictive yet flexible approach to foreign investors' access to land. While Thailand shares essential similarities with Vietnam in terms of geographic location, development trajectory, and economic structure, its land regime is shaped by Western legal traditions that recognize private ownership of land. This structural difference makes Thailand a valuable comparative case, illustrating how an emerging economy reconciles openness to foreign direct investment (FDI) with concerns over land sovereignty and national control.<sup>37</sup>

Thailand's policy on land access for foreign investors is characterized by a dual objective: actively encouraging foreign investment in priority sectors, while retaining firm state control over land

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<sup>37</sup> Natalya Scurrah & Philip Hirsch, *Foreign Direct Investment and Land Access in Southeast Asia*, Mekong Land Forum (2020).

ownership and long-term land use by foreigners. In principle, foreign investors are prohibited from directly owning land. This prohibition reflects longstanding political sensitivities surrounding land concentration, national identity, and rural livelihoods.<sup>38</sup> At the same time, Thailand has progressively introduced targeted exceptions and functional substitutes, such as long-term leases, joint ventures, and special economic regimes, to ensure that land policy does not become a barrier to investment attraction. Foreign land ownership is permitted only in narrowly defined circumstances, typically where the investment is deemed to deliver substantial economic or technological benefits. Such cases include large-scale investments, projects approved under special economic regimes, or investments in sectors aligned with national development strategies, such as high technology, renewable energy, green tourism, and infrastructure development. In ordinary circumstances, foreign

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<sup>38</sup> Teo Keang Sood, *Restrictions on Foreign Ownership of Land in Thailand*, 1992 SING. J. LEGAL STUD. 629.

investors rely on long-term leasehold arrangements, which have become the dominant mechanism for securing operational stability without transferring ownership.<sup>39</sup> This policy architecture reflects Thailand's broader investment governance strategy: land access is not treated as a standalone right but as a derivative privilege linked to investment quality, scale, and alignment with public policy objectives.

Thailand's legal framework governing foreign investors' access to land is relatively comprehensive and internally coherent. The principal statutes include the Land Code B.E. 2497 (1954), the Foreign Business Act B.E. 2542 (1999), and the Eastern Economic Corridor Act B.E. 2561 (2018), supplemented by the Civil and Commercial Code, the Investment Promotion Act B.E. 2520 (1977), and planning legislation. Together, these instruments define the permissible forms, duration, and conditions under which foreign investors may access land. The Land Code establishes the foundational

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<sup>39</sup> Maya Ito, Jirapong Sriwat & Apinnya Sarntikassen, *Thailand: Land Ownership Rules and Common Questions Raised by Non-Thai Investors* (2021).

rule that foreigners may not own land in Thailand (Section 86). However, it also provides carefully circumscribed exceptions. Section 96 bis allows foreigners who invest at least 40 million baht in approved sectors to own up to 1,600 square meters of land for residential purposes, subject to the Ministry of Interior's approval. This ownership right is conditional upon maintaining the qualifying investment; if the investment falls below the statutory threshold, the land must be disposed of.<sup>40</sup> The Land Code also permits foreign land ownership where Thailand has entered into treaties granting reciprocal rights, though such cases are rare in practice.

The Foreign Business Act (FBA) regulates the establishment and operation of foreign-owned enterprises and indirectly structures land access. Under the FBA, a company with foreign ownership of not more than 49 percent is classified as a Thai company and may therefore own land.<sup>41</sup> This rule

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<sup>40</sup> Land Code B.E. 2497 (1954) (Thai.), § 96 bis.

<sup>41</sup> Foreign Business Act B.E. 2542 (1999) (Thai.), § 4.

has made joint ventures a widely used mechanism for foreign investors seeking land ownership, though scholars have noted governance and control risks associated with minority foreign shareholding.<sup>42</sup> Where joint ventures are not feasible, foreign investors typically resort to long-term leases. Leasehold arrangements are governed by Sections 540–543 of the Civil and Commercial Code. The standard lease term is up to 30 years, renewable once for an additional 30 years. While renewability offers a degree of continuity, renewal is not automatic and depends on registration and compliance with legal requirements. Without registration at the Land Office, leases are legally enforceable for a maximum of 3 years, regardless of the contractual term, underscoring the importance of formal compliance.<sup>43</sup>

A distinctive feature of Thailand’s approach is its use of special economic regimes to relax land-access restrictions in strategically important areas. The Eastern Economic Corridor (EEC) Act of 2018

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<sup>42</sup> Andrew Harding, *Foreign Investment, Law and Land in Thailand*, 43 J. CONTEMP. ASIA 1 (2019).

<sup>43</sup> Civil and Commercial Code (Thai.), §§ 540–543.

exemplifies this approach. Covering the provinces of Chonburi, Rayong, and Chachoengsao, the EEC aims to attract high-value foreign investment in advanced manufacturing, digital industries, and logistics. Under the Act, foreign investors may own land in Special Economic Promotion Zones (SEPZs) for business purposes and lease land for up to 50 years, with a possible extension of up to 49 years.<sup>44</sup> In addition, projects approved by the Thai Board of Investment (BOI) may be eligible for additional land-related incentives. For significant or priority projects, BOI approval may allow foreign investors to lease land for up to 99 years, coupled with tax incentives and administrative facilitation. Empirical studies suggest that these mechanisms have played a significant role in sustaining Thailand's competitiveness as an FDI destination despite restrictive baseline ownership rules.<sup>45</sup>

In practice, leasing land is the most common pathway for foreign investors. Investors must first

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<sup>44</sup> Eastern Economic Corridor Act B.E. 2561 (2018) (Thai.).

<sup>45</sup> OECD, *Investment Policy Reviews: Thailand* (2023).

establish a legal entity under Thai law, identify suitable land, and conduct due diligence on ownership and zoning status. Where BOI approval is required, the lease agreement may be signed subject to a suspensive condition pending approval, which typically takes 30–90 days. Once executed, the lease must be registered to ensure enforceability and preserve its full term. Analytically, Thailand’s experience demonstrates that restrictive land ownership rules do not necessarily deter foreign investment when accompanied by predictable leasehold rights, targeted exceptions, and strong investment-promotion institutions. For Vietnam, Thailand offers a model for strategically deploying long-term leases, joint ventures, and special economic zones to attract FDI while maintaining state oversight of land ownership and use.

### c. Malaysia’s Experience

Malaysia represents a distinctive model among emerging economies by combining a relatively open stance toward foreign land ownership with a

decentralized and approval-based governance structure rooted in federalism. Unlike China and Vietnam, Malaysia recognizes private land ownership as a core legal institution; unlike Thailand, it permits foreigners to own land directly, subject to regulatory safeguards. This hybrid approach makes Malaysia a particularly relevant comparator for Vietnam in assessing how an emerging economy balances investment openness, national interest protection, and subnational regulatory autonomy.<sup>46</sup> Malaysia's land-access policy for foreign investors is generally facilitative, reflecting the country's long-standing reliance on foreign direct investment as a driver of industrialization and export-oriented growth. At the same time, land is treated as a strategic and sensitive resource, particularly in relation to agriculture, national security, and socio-economic redistribution. Consequently, foreign investors' access to land is not

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<sup>46</sup> Yuki Hashimoto & Najad Yulkipli, *Property Investment in Malaysia: The Procedures of Acquisition by Foreign Interest* (2022).

absolute but conditional upon state approval and compliance with development objectives.<sup>47</sup>

Foreign investors are, in principle, permitted to acquire land for commercial, industrial, and residential purposes. However, agricultural land, land located in border regions, and land situated near military or security installations are subject to stricter controls and, in some cases, outright prohibition. In addition, Malaysian states commonly impose minimum purchase-price thresholds for land transactions involving foreigners, especially in urban areas. These thresholds are intended to prevent speculative acquisitions and protect affordability for local populations, while still allowing foreign participation in higher-value segments of the property market.<sup>48</sup> Malaysia's policy framework is also explicitly sector-oriented. Priority sectors, including high technology, manufacturing, tourism, logistics, and renewable energy, benefit from preferential treatment in land access, often facilitated

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<sup>47</sup> Teo Keang Sood, Restrictions on Foreign Ownership under the National Land Code 1965, 1992 SING. J. LEGAL STUD. 629.

<sup>48</sup> Luther Law Firm, *Purchasing Land in Malaysia* (2023).

through investment incentives and expedited approval procedures. Special Economic Zones (SEZs) and industrial corridors play a central role in this strategy, offering foreign investors integrated access to land, infrastructure, and fiscal incentives.<sup>49</sup>

A defining feature of Malaysia's land regime is its federal constitutional structure, under which land administration falls primarily within the jurisdiction of state governments. While federal authorities formulate general investment policies, state authorities retain decisive power over land approvals involving foreign interests. This decentralized model introduces a layer of regulatory complexity but also allows for policy differentiation based on local development priorities.<sup>50</sup>

In practice, this means that a foreign investor's ability to acquire or lease land depends not only on compliance with federal guidelines but also on the discretion of the relevant State Authority. Scholars have noted that this approval-based system functions

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<sup>49</sup> OECD, *Investment Policy Reviews: Malaysia* (2023).

<sup>50</sup> Andrew Harding, *Federalism and Land Law in Malaysia*, 52 J. SOUTHEAST ASIAN STUD. 89 (2021).

as a flexible policy instrument, enabling states to screen investments for alignment with local economic, environmental, and social objectives.<sup>51</sup> However, it may also generate uncertainty and transaction costs for investors unfamiliar with state-level administrative practices. The legal framework governing foreign investors' land access in Malaysia is anchored in the National Land Code 1965 (NLC), supplemented by sector-specific statutes and administrative guidelines. The NLC establishes the core principles of land administration and delineates the conditions under which foreigners may acquire interests in land.

Section 433B of the NLC requires foreign purchasers seeking to acquire land or any interest therein, including ownership, transfer, or long-term lease, to obtain prior approval from the State Authority. Approval is discretionary and granted only where the transaction is deemed not to prejudice national or state interests. This provision reflects

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<sup>51</sup> Lee Hwok Aun, *Foreign Investment, Property Markets and Regulation in Malaysia*, 47 *THIRD WORLD Q.* 1563 (2020).

Malaysia's preference for ex ante regulatory control rather than categorical prohibition. Section 433C introduces special categories of foreign ownership, particularly for land required for major development projects contributing significantly to the national economy. These provisions allow the State Authority to approve foreign ownership where broader economic benefits can be demonstrated. Transfers of land ownership must be registered under Section 205 to reinforce transparency and legal certainty. Section 204A further permits foreigners to use state-owned land through lease agreements with the State Authority, thereby expanding access without transferring ownership.<sup>52</sup> For stratified properties such as condominiums, the Strata Titles Act 1985 and the Building and Common Property Act 2007 apply. While foreigners may purchase strata units, restrictions often apply regarding ownership concentration and location, particularly in areas considered sensitive for security or social reasons. These constraints illustrate Malaysia's nuanced

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<sup>52</sup> *Id.* §§ 204A, 205, 433C.

approach to balancing openness with risk management.<sup>53</sup>

Administrative guidance plays a crucial role in practice. The Guidelines on the Acquisition of Properties by Foreign Interests, issued by the Economic Planning Unit (EPU), consolidate statutory requirements and policy considerations, thereby enhancing regulatory transparency. Although not legally binding in the strict sense, these guidelines significantly shape approval decisions and investor expectations. Despite the permissibility of ownership, land leasing remains a prevalent mode of access for foreign investors, particularly for large-scale or long-term projects. Foreign investors may lease land from state authorities or private landowners, subject to any required approvals. Leasing agricultural land is subject to heightened scrutiny due to food-security and rural-development concerns. Lease agreements are governed primarily by the Contracts Act 1950 and the National Land Code 1965, with additional relevance of the

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<sup>53</sup> Strata Titles Act 1985 (Malay.).

Investment Act 1986 and the Companies Act 2016 where the lessee is a foreign-invested enterprise. The maximum lease term available to foreigners is 99 years, providing substantial security and predictability for capital-intensive investments.<sup>54</sup> Registration of the lease with the Land Registry is mandatory to ensure enforceability against third parties and to enable state monitoring of foreign land use. Empirical studies suggest that Malaysia's long-term lease framework has been instrumental in attracting manufacturing and infrastructure investments while preserving regulatory oversight.<sup>55</sup>

Malaysia's experience demonstrates that foreign land ownership and long-term leasing can coexist with strong state control, provided that access is mediated through approval mechanisms, sectoral priorities, and subnational governance. For Vietnam, Malaysia offers valuable lessons on how conditional ownership rights, transparent approval procedures, and SEZ-based land policies can enhance investment

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<sup>54</sup> Contracts Act 1950 (Malay.); National Land Code 1965.

<sup>55</sup> World Bank, *Malaysia Economic Monitor: Investment and Growth* (2022).

attractiveness without relinquishing sovereign control over land resources.

## B. Vietnam: General Legal Framework Governing Foreign Investors' Access to Land

### 1. Fundamental Principles of Land Ownership and Land-Use Rights

Vietnam's regime governing foreign investors' access to land is anchored in a distinctive constitutional and legal principle: land is owned by the entire people, with the State acting as the representative owner. Unlike jurisdictions that recognize private land ownership, whether with or without nationality-based restrictions, Vietnamese law categorically excludes private ownership of land by individuals, communities, or enterprises, regardless of nationality. Legal subjects may only acquire land-use rights, which are created and allocated through decisions of the State or derived through statutorily recognized transactions. Consistent with this ownership model, Vietnamese

law has never recognized foreign individuals as land users in their individual capacity. Article 4 of the 2024 Land Law exhaustively enumerates entities entitled to hold land-use rights, including domestic organizations and individuals, residential communities, certain foreign diplomatic entities, persons of Vietnamese origin residing overseas, and, most relevantly, economic organizations with foreign investment capital.<sup>56</sup> Notably absent from this list are foreign individuals, reflecting a deliberate policy choice to separate foreign land access from personal ownership and to embed it within regulated investment structures. Nevertheless, the exclusion of foreign individuals does not equate to a prohibition on foreign participation in land-based economic activities. By establishing an economic organization with foreign investment capital, foreign investors may lawfully acquire land-use rights under the legal personality of that enterprise. This approach mirrors, in structural terms, the Chinese model of land governance, while diverging significantly from the

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<sup>56</sup> Land Law 2024, art. 4 (Viet.).

ownership-based systems observed in Thailand, Malaysia, and Australia.

## 2. Legal Framework Governing Foreign Investors' Access to Land

The legal framework regulating foreign investors' access to land in Vietnam is multi-layered and highly codified. The cornerstone is the 2024 Land Law, complemented by the 2025 Investment Law, the 2025 Enterprise Law, the 2023 Law on Real Estate Business, and the 2023 Housing Law, together with a substantial body of implementing decrees and ministerial regulations.<sup>57</sup> Under previous legislation, foreign investors were required to prepare an investment project and satisfy market-access conditions as a prerequisite for enterprise establishment and subsequent land access.<sup>58</sup> While the 2025 Investment Law has eliminated the formal requirement to submit an investment project in

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<sup>57</sup> Land Law 2024 (Viet.); Law on Investment 2025 (Viet.); Law on Enterprises 2025 (Viet.); Law on Real Estate Business 2023 (Viet.); Housing Law 2023 (Viet.).

<sup>58</sup> Law on Investment 2020, art. 22(1)(c) (Viet.).

certain cases, the market-access regime remains intact. Foreign investors must continue to comply with sectoral restrictions, ownership caps, and other conditions specified in the List of Sectors and Trades Subject to Market Access Restrictions for Foreign Investors.<sup>59</sup> This regulatory design reinforces the principle that land access is derivative of lawful investment status, rather than an autonomous property right. In this respect, Vietnam adopts a control-oriented approach that prioritizes investment screening and regulatory coordination over transactional flexibility.

### 3. Permissible Forms of Land Access for Foreign-Invested Enterprises

Foreign-invested enterprises may acquire land-use rights only in the specific cases exhaustively enumerated in Article 28(1) of the 2024 Land Law. These include, *inter alia*: acquisition of land-use rights by transfer within industrial parks, industrial clusters, and high-tech zones; receipt of capital

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<sup>59</sup> *Id.* art. 9.

contributions in the form of land-use rights or their value; allocation of land for housing development projects in accordance with housing law; and lease of land directly from the State.<sup>60</sup>

Among these mechanisms, land leasing constitutes the dominant, and in practice, the principal, form of land access for foreign-invested enterprises. Although the Land Law formally recognizes both land allocation and land lease, allocation with payment of land-use levy is permitted for foreign-invested enterprises only in narrowly defined circumstances, primarily involving commercial housing projects. Allocation without payment of the land-use levy is categorically unavailable to foreign-invested enterprises. Moreover, Vietnamese law imposes strict limits on secondary access to land. Foreign-invested enterprises are generally prohibited from acquiring land-use rights through private transfers from domestic individuals or organizations, except in explicitly authorized cases such as transfers within

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<sup>60</sup> Land Law 2024, art. 28(1) (Viet.).

industrial parks or high-tech zones.<sup>61</sup> They are likewise prohibited from leasing land-use rights from private parties, being permitted only to sub-lease land in industrial parks and industrial clusters where infrastructure has been completed.

#### 4. Land Lease Regime: Duration, Procedures, and Stability

Foreign-invested enterprises may lease land directly from the State through auctions or bidding procedures organized by competent authorities.<sup>62</sup> While foreign investors may participate in such procedures in their capacity as investors, successful bidders must establish an enterprise under Vietnamese law to serve as the land lessee. Where a foreign-invested enterprise acquires a real estate project implemented on leased land, it may succeed to the existing land-lease rights without undergoing a new auction or tender.<sup>63</sup> The duration of land leases is tied to the investment project's operational term

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<sup>61</sup> Law on Land, No. 31/2024/QH15, art. 28(1)(c).

<sup>62</sup> Law on Land, No. 31/2024/QH15, art. 126(6).

<sup>63</sup> Law on Land, No. 31/2024/QH15, art. 124(7).

and is capped at 50 years, extendable to 70 years for projects of exceptional scale or significance.<sup>64</sup> Upon expiry, lease extensions are discretionary and subject to state approval, reinforcing the State's ongoing supervisory role over land use

In industrial parks and high-tech zones, sub-lease terms are determined contractually but may not exceed the land-use term granted by the State to the primary lessee. This layered tenure structure prioritizes flexibility within confined spatial and regulatory boundaries.

## 5. Analytical Observations

Vietnam's land regime reflects a highly centralized, lease-based, and investment-dependent model of foreign land access. While it offers legal certainty through detailed statutory enumeration, it also imposes rigid constraints on transferability and secondary market participation. Compared with Thailand and Malaysia, Vietnam provides less

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<sup>64</sup> Law on Land, No. 31/2024/QH15, art. 172(1)(c)

flexibility in tenure and ownership structures; compared with Australia, it relies more heavily on categorical restrictions than on risk-based screening. At the same time, Vietnam's approach ensures a strong alignment between land governance, investment policy, and national development objectives. The challenge lies not in the absence of legal access mechanisms, but in enhancing their predictability, administrative efficiency, and long-term stability—a theme that emerges consistently from the comparative experiences examined in this study.

#### IV. RECOMMENDATIONS FOR VIETNAM ON FOREIGN INVESTORS' ACCESS TO LAND

Vietnam can derive substantial lessons from the experiences of other countries regarding foreign investors' access to land. A primary consideration is the need to facilitate investment while simultaneously safeguarding national sovereignty, security, and sustainable development objectives. In virtually all jurisdictions, whether developed or

emerging, the land-access regime for foreign investors balances incentives for capital inflows with the protection of core public interests. Foreign investment contributes to national wealth, technology transfer, and employment creation, yet unregulated land access can threaten national security, ecological integrity, and social stability. Vietnam's policy framework should therefore explicitly integrate principles of investor facilitation, environmental protection, and strategic control of sensitive land areas.

Experience from Thailand, Malaysia, and China demonstrates that a coherent legal and institutional framework is crucial. Foreign investors' land rights are most effectively governed through clearly delineated rules and competent authorities tasked with monitoring compliance and adjudicating disputes. For Vietnam, consolidating regulatory authority at the central level, while maintaining specialized oversight agencies, would reduce ambiguity, improve consistency in land-access decisions, and enhance legal predictability for

investors. The comparative analysis also emphasizes the necessity of linking investors' land rights to land classification and use. Commercial, industrial, and residential land should be accessible under transparent conditions, while agricultural land, border areas, and land near strategic infrastructure should remain strictly controlled. Agricultural land in particular presents unique national security and socioeconomic challenges. Large-scale agricultural investments often require extensive land areas, generate limited technological spillovers, and may employ labor in ways that do not substantially upgrade domestic skill levels. They may also trigger unintended migration or demographic pressures. Vietnam's current restrictions on foreign access to agricultural land are consistent with international practice; however, clearer legal articulation and robust monitoring mechanisms would improve enforcement and investor certainty.

Legal structures should link land rights to the investor's legal status. Foreign investors should be required to establish a domestic legal entity before

initiating land access procedures, thereby ensuring full compliance with domestic law. Land rights should be time-limited and conditional, with renewal linked to continued adherence to investment commitments and compliance with environmental, security, and planning regulations. Equal treatment with domestic investors should be guaranteed for access to commercial and residential land, while specialized procedures and restrictions apply to sensitive land categories.

The experiences of emerging economies such as Thailand and Malaysia highlight the importance of proactive, strategic planning in granting land access to foreign investors. Land allocation should occur strictly within the framework of approved socio-economic and land-use plans, ensuring that investment is consistent with long-term development strategies, sustainability objectives, and national priorities. Procedures for evaluating land-access applications should be transparent, efficient, and predictable, allowing investors to make informed decisions while safeguarding public interests.

Efficiency and protection of national interests must be achieved in tandem: administrative processes should be fast, accurate, and investor-friendly, while substantive review mechanisms ensure compliance with approved plans, environmental standards, and national security considerations.

A critical lesson from comparative experience concerns the management of planning errors. Even rigorously prepared plans may later be found inconsistent with sustainability, security, or social objectives. In such cases, projects lawfully implemented under previously approved plans should generally be respected. However, where continuation of a project poses significant risks to national security, environmental integrity, or public welfare, the state should retain the right to recover land, subject to adequate compensation and transparent communication. Vietnam can adopt these principles to create a predictable, fair, and legally defensible mechanism for land recovery, thus maintaining investor confidence while protecting national interests.

Finally, Vietnam should consider integrating incentives into the land-access framework to guide foreign investment toward priority sectors, such as high technology, renewable energy, green tourism, and infrastructure. Comparative experiences show that targeted incentives—including preferential lease terms, tax benefits, and support for project implementation in designated economic zones—can attract capital while ensuring alignment with strategic development objectives. At the same time, the overarching principle must remain clear: land access is a privilege linked to compliance with legal obligations, strategic planning, and sustainable development priorities, not an unfettered right. By synthesizing these lessons, Vietnam can build a land-access regime that balances investment facilitation with the protection of public interests. A transparent, legally robust, and strategically aligned framework will both attract high-quality foreign investment and reinforce national sovereignty, environmental stewardship, and sustainable economic growth.

## V. CONCLUSION

In conclusion, the comparative analysis of land-access regimes in Vietnam, China, Thailand, and Malaysia underscores the critical balance between facilitating foreign investment and safeguarding national sovereignty, security, and sustainable development. Vietnam's unique legal framework, where land remains collectively owned by the people and foreign investors can access land only through economic organizations with foreign investment capital, reflects both historical principles and contemporary policy considerations. Experiences from other countries illustrate that transparent legal structures, clearly defined institutional responsibilities, conditional and time-limited land rights, and integration with strategic socio-economic and land-use planning are essential to attract high-quality investment while mitigating risks associated with national security, environmental impact, and social stability. Lessons from Thailand and Malaysia further demonstrate the benefits of special economic zones, preferential leasing arrangements, and

targeted incentives in channeling investment into priority sectors such as technology, renewable energy, and infrastructure. At the same time, rigorous planning, monitoring, and enforcement mechanisms are necessary to prevent misallocation of land, environmental degradation, or conflicts with national priorities. By synthesizing these international experiences, Vietnam can refine its land-access policies to create a legally robust, investor-friendly, and strategically aligned framework that promotes sustainable economic growth, ensures equitable treatment of foreign and domestic investors, and preserves long-term national interests, thereby reinforcing its position as an attractive and responsible destination for foreign investment in Southeast Asia.