

## **ASIGNMENT AND DECENTRALIZATION OF MANAGEMENT OF SOES:**

### **Status, problems, causes and recommended actions**

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#### **1- Regulations on assignment & decentralization of management of SOEs**

In reality, assignment & decentralization of management of SOEs have occurred even before the existed legal framework on SOEs.

The first Law on SOEs issued in 1995 introduced the initial basis legal framework on assignment & decentralization of management of SOEs . The revised Law on SOEs issued in 2003 marked renovated regulations governing SOEs based on key ideas and orientations of Congress IX, Central Resolution No. 3.

Renovated contents on management and assignment & decentralization of management of SOEs reflected in the Law on SOEs 2003 include the following:

- Clear distinction between owners and owner representatives of SOEs. Accordingly, the owner of state-owned company (SOC)<sup>1</sup> is the State. Owner representatives include organizations & individuals performing functions of owner representatives such as: the Government, the Prime Minister, line-ministries, Provincial People's Committee, Ministry of Finance, Board of Directors.

- Mechanism of assignment & decentralization of performing owner rights is as follows: (a) The Government shall uniformly organize the exercise of rights and the performance of obligations of owners ; The Government shall directly perform the rights and obligations of owners; (c) the Prime Minister shall directly perform or authorize the concerned ministries to perform a number of rights and obligations of owners over particularly important State companies set up under the Prime Minister's decisions; (d) The Government assign and

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<sup>1</sup> State-owned company (SOC) is a kind of SOE with 100% of charter capital owned by the State, registered under the Law on SOEs. This regulation of the Law on Enterprises is to distinguish SOC with the one-member limited liability company which is also a kind of SOE with 100% of charter capital owned by the State but registered under the Law on Enterprises.

decentralize line-ministries, Provincial People's Committee, Ministry of Finance, Board of Directors to perform some rights and obligations of owners.

- General rights and obligations of state owners include the following:

First, rights of state owners generally consist of: (a) To decide on the establishment, reorganization, dissolution, ownership conversion of the companies; to decide on the managerial structures of the companies; to select, appoint, dismiss, stipulate the wage and bonus regimes for, the Managing Board chairmen and members, the general directors or directors of the companies; to approve the contents, amendment and supplementation of the companies' charters; (b) To decide on the objectives, strategies and plan orientations for development of the companies; to decide on investment projects valued at over 30% of the total remaining asset values on the accounting books of the State companies having no Managing Board or smaller percentages prescribed in the companies' charters; to decide on investment projects valued at over 50% of the total remaining asset values on the accounting books of the companies with the Managing Boards or smaller percentages prescribed in the companies' charters; decide on borrowing, lending, renting, leasing or other economic contracts in excess of the companies' charter capital levels; to prescribe the regime of plan assignment, goods order placement or bidding, sale prices, difference subsidies for public-utility product- and/or service- providing companies; (c) To decide on the initial investment capital level, the charter capital level and adjust the charter capital of the companies; to decide on borrowing or lending projects valued at over the level decentralized for the Managing Boards or the directors of the companies having no Managing Board; prescribe the financial regimes of the companies; and (d) To inspect, supervise, assess the results of business activities of the companies.

Second, obligations of state owners generally include: (a) To invest adequate charter capital for the companies ; (b) To abide by the companies' charters; (c) To bear responsibility for debts and other property obligations of the companies within the limits of the companies' charter capital; (d) To abide by law provisions on purchase, sale, borrowing, lending, renting and leasing contracts between the companies and owners; (e) To ensure business autonomy, to bear self- responsibility of the companies; not to directly intervene in business

activities of the companies; and (e) To perform other obligations as provided for by law.

- Owners' rights and obligations performed by the Government consist of the following: a) To approve schemes on establishment, reorganization and restructuring of State companies within the scope of entire national economy, within branches, provinces or centrally-run cities; b) To decide on or decentralize the decision on investment projects of the State companies; to decide on or decentralize the decision on allocation of initial investment capital, supplementary investment, increase or decrease of charter capital of the State companies; to submit to the National Assembly for ratification the investment projects of the State companies, which fall under the jurisdiction of the National Assembly; c) To uniformly organize the performance of tasks and powers of owners over the capital portions invested by the State in other companies. To decide on or decentralize the decision on projects for contribution of capital or assets of the State or State companies to joint ventures with foreign investors, the State companies' projects on investment overseas; d) To prescribe the financial regimes of the State companies; e) To inspect and supervise the use of capital at the State companies; f) To prescribe the regimes of wages, bonuses, subsidies and other interests for the Managing Board chairmen and members, the general directors or directors of the State companies; g) To prescribe criteria for assessment of business results of the State companies, including the norms on ratio of profits to the State's investment capital; and h) To prescribe the regime of inspection and supervision of the State companies in the performance of State-assigned objectives and tasks; to evaluate the results of business activities of the companies, managerial activities of the Managing Boards and the administration of the general directors or directors.

- Owners' rights and obligations performed by the line-ministries, provincial-level People's Committees include the following: a) To elaborate schemes on reorganization of independent State companies set up under their own decisions for submission to the Prime Minister for approval; to effect the reorganization of State companies according to the schemes already approved by the Prime Minister; b) To decide on the establishment, reorganization, dissolution, ownership conversion of the State companies; to approve contents, amendment and supplementation of the charters of the State companies. To

reach agreement with the Finance Ministry on determination of the initial charter capital level, increase of charter capital of the State companies; c) To decide on the objectives, strategies and long-term plans of the State companies having no Managing Board; d) To decide according to competence on investment projects valued at over 50% of the total remaining asset values on the accounting books of the State companies having the Managing Boards or smaller percentages prescribed in the companies' charters; to decide according to their competence the investment projects valued at over 30% of the total remaining asset value on the accounting books of the State companies having no Managing Board or smaller percentages prescribed in the companies' charters; to propose the Government to approve the investment projects of the companies, which fall beyond the levels decentralized to the line-ministries or provincial-level People's Committees; e) To decide on approval of the plans on use of capital and assets of the State companies to contribute capital to joint ventures with foreign investors; the State companies' projects on investment overseas; the schemes on the use of capital and assets of the companies to contribute capital to, or buy shares of, domestic companies above the levels decentralized to the Managing Boards or directors of the companies having no Managing Board prescribed in the companies' charters; approve plans on purchase of companies of other economic sectors; f) To decide on undertakings to sell assets valued at over 50% of the total remaining asset value on the accounting books of the State companies with Managing Boards or smaller percentages prescribed in the companies' charters; on the sale of assets valued at over 30% of the total remaining asset value on the accounting books of the State companies having no Managing Board or smaller percentages prescribed in the companies' charters; the borrowing, lending, renting, leasing of capital or assets with value higher than the charter capital of the State companies having no Managing Board; g) To decide on selection, appointment, dismissal, regimes of wage, allowance and other interests of the Managing Board chairmen and members; to select, sign contracts or decide on appointment, removal from duty, dismissal, wage level and other interests of directors of independent State companies having no Managing Board; to organize the evaluation of results of operation and management of the companies by the Managing Boards and directors according to the Government's regulations; (h) To participate in inspection and supervision of the management and use of capital, the distribution of income, the deduction

for establishment and use of funds of the State companies;. (i) To perform functions, powers, duties and responsibilities of owners toward one-member state-owned limited liability company with 100% of charter capital invested by line-ministries and provincial people's committees accordance with the provisions of the Law on Enterprises; and (k) To perform other rights and obligations as assigned or decentralized by the Government

- Owners' rights and obligations performed by the Finance Ministry are as follows: (a) To submit to the Government for promulgation, and organize the implementation of, the regimes of financial management, business accounting, the regimes of reporting and financial publicity of the State companies, the consolidated financial statements of the corporations; b) To allocate investment capital from the State budget in the following cases: (i) Investment in the establishment of new State companies after the establishment schemes are approved by the Prime Minister; and (ii) Additional investment to increase the charter capital of the State companies at the proposals of the persons who decide on the establishment of the State companies; c) To participate in assessment of the results of operation and management of the companies by the Managing Boards and the directors of the State companies according to the Government's regulations; d) To organize the inspection and supervision of the management and use of capital, the distribution of income, the deduction for establishment and use of funds of the State companies; and (e) To perform other rights and obligations as decentralized by the Government.

*In 2005, the Government issued Decree 132/2005/ND-CP exercising of rights and obligations of the State Owner at SOCs. This Decree is more specific and detailed than the Law on Enterprises 2003 on rights & obligations of owners in general; on assignment & decentralization of exercising rights & obligations of owners performed by Ministries and Provincial People's Committees. In reality, Decree 132/2005/ND-CP was served as major legal basis for the Government and the Prime Minister to directly perform some rights & obligations of owners; major legal basis on assignment & decentralization to Ministries, Ministry-equivalent agencies, Government agencies, Provincial People's Committees , Boards of Directors to exercise rights and obligations of owners; legal basis for independent SOCs, state corporations and state economic*

groups (SEGs) to comply with state laws and regulations on rights and obligations of owners.

In 2012, the Government issued Decree 99/2012/ND-CP assignment and decentralization of exercising rights, responsibilities and obligations of state owners toward SOEs and state capital invested in enterprises. Decree 99/2012/ND-CP replaced Decree 132/2005/ND-CP with amendments and supplements on assignment & decentralization geared toward: (i) making clear clarification of assigned/decentralized agencies and individuals exercising rights, responsibilities and obligations of state owners (including, state owners in general, the Government, Prime Minister, line-ministries, Provincial People's Committees, Ministry of Finance, Ministry of Planning and Investment, Ministry of Home Affairs, Ministry of Labor, War Invalid and Social Affairs, Members' Councils, Company Presidents, representatives authorized to perform rights and responsibilities of state owners, shareholders, members of enterprises); (ii) clear division between rights, responsibilities and obligations of assigned or decentralized agencies, organizations and individuals; (iii) clear clarification of rights, responsibilities and obligations of agencies, organizations and individuals assigned or decentralized to exercise rights, responsibilities and obligations of state owners in three types of enterprises: enterprises in which the State holds 100% of charter capital; enterprises in which the State holds over 50% of charter capital; and enterprises in which the State holds not more than 50% of charter capital; (iv) increasing rights, responsibilities and obligations of line-ministries to act as direct superiors of Members' Councils of SEGs and bridge linking Prime Minister and the Government; (v) paying more attention to assignment & decentralization of exercising rights, responsibilities and obligations of state owners in enterprises which are joint-stock companies or limited liability companies with two or more members.

In an effort to create the legal framework required for establishing pilot SEGs and strengthening management and supervision of pilot SEGs, in 2009, the Government issued Decree 101/2009/ND-CP (on pilot establishment, organization, operation and management of SEGs), which provides for assignment & decentralization of exercising state owner rights toward SEGs. Agencies and individuals assigned or decentralized to exercise state owner rights toward SEGs consist of the following: the Government, Prime Minister, Line-

Ministries, Ministry of Finance, Ministry of Planning and Investment, Ministry of Home Affairs, Board of Directors of SEGs. Ministry of Planning and Investment, Ministry of Home Affairs are two state bodies added to the list of state owner representing agencies toward SEGs compared to the Law on SOEs and state owner representing agencies Decree 132/2005/ND-CP. In addition, detailed scope of rights and obligations of state owner representing agencies toward SEGs are also stipulated.

Then in 2010, the Government issued Decree 25/2010/ND-CP on transformation of state companies into one-member limited liability companies and management of State-owned one-member limited liability companies. Regulations on management and supervision of state owners toward one-member limited liability companies are new and important in this Decree in the context of required transformation of state companies into one-member limited liability companies after the Law on SOEs expired in 1/7/2010.

Overall, however, the legal framework on assignment & decentralization of exercising rights and obligations of state owners does not have sufficient detailed rules for applying into practice effectively. Many provisions just reflect general principles, not specific enough for effectively meeting requirements of assignment & decentralization of exercising rights and obligations of state owners in the context of restructuring SOEs for growth model transformation.

#### **4- Status of assignment & decentralization of SOE management**

In reality, management toward SOEs and assignment & decentralization toward state owner representatives have been reflected in various models as follows:

- “Executive ministries, executive administrative bodies” model before the Law on SOE 1995.

- “Paralell” Model featured by owner representatives of line Ministries and Ministry of Finance in period 1995-2000 at the time of establishing General Administration Office of State Capital and Assets in Enterprises.

- “Limited dispersion” Model applicable to SOEs established by Ministries, Provincial People’s Committees in the period 2000-2003 after

dissolution of General Administration Office of State Capital and Assets in Enterprises.

- Model of “dispersion” of owner representatives applicable to SEGs and state corporations from 2004 up to now under the Law on SOEs 2003 and the Law on Enterprises 2005.

The current “dispersion” model shows an excessive large number of state owner representing agencies and individuals exercising management and supervision of SOEs, including the Government, Prime Minister, economic-technical management Ministries, functional management ministries (Ministry of Finance, Ministry of Planning and Investment, Ministry of Home Affairs, Ministry of Labor, War Invalid and Social Affairs); Provincial People’s Committees; Board of Directors of General Corporations No. 91; Board of Directors of SEGs. In addition, some other agencies such as Office of the Party Central Committee; Party Office of Central Enterprises, Vietnam General Confederation of Labor also take part in the Steering Committee for renovation and development of enterprises, which also imply their involvement in performing management and supervision of SOEs.

## **5-Shortcomings and limitations of assignment & decentralization of SOE management**

### ***5.1- Regulations on assignment & decentralization of SOE management show overlapping and inconsistency among various legal documents***

The Law on SOEs expired in 1/7/2010, the legal framework for regulating rights of state owners and assignment & decentralization of SOE management (including assignment & decentralization of state owner representatives and separation between owner representative functions and state management functions rights), nevertheless, consists of regulations of the Law on SOEs overlapped with regulations of the current Law on Enterprises. Specifically:

- Decree 132/2005/ND-CP with the legal basis of the Law on Enterprises is not applicable to one-member limited liability companies. In reality, this Decree still applies to regulate assignment & decentralization of management of SOEs which were transferred to one-member limited liability companies registered under the Law on Enterprises until Decree 99/2013/ND-CP (replaced Decree 132/2005/ND-CP) goes into effect.



- Management of SEGs and assignment & decentralization of exercising owner rights toward SEGs applies both Decree 101/2009/ND-CP applicable separately for SEGs, and Decree 132/2005/ND-CP applicable to regulate assignment & decentralization of exercising state owner rights for SOEs in general. Both these Decrees were promulgated on the basis of the expired Law on SOEs.

Decree 25/2010/ND-CP was issued to manage one-member limited liability companies, under which the owner is an organization. However, until end of 2012 (prior to promulgation of Decree 99/2012/ND-CP), there were no legal documents with clear regulation on specific agencies acting as owners or owner representatives of one-member limited liability companies. For that reason, assignment & decentralization of management of one-member limited liability companies, particularly with regard to one-member limited liability companies being parent companies of SEGs, have not been regulated.

The application of overlapped regulations on assignment & decentralization of SOE management based on the Law on Enterprises and regulations based on the old Law on SOEs on one hand show confusion in transformation of SOEs from registering under the Law on SOEs to registering under the Law on Enterprises; and on the other hand reveals deficiencies or gaps in legal framework on ownership rights and in execution of state owner rights toward SOEs when the Law on Enterprises is uniformly applied to all kinds of enterprises.

### ***5.2- Thinking and state administrative apparatus inconsistent with SOE management in market economic institutions***

Currently, SOE management is assigned and decentralized to state management bodies being Ministries and Provincial People's Committees. The mechanism of performing state owner functions of Ministries is basically based on functions and tasks of administrative management of Ministries. In fact, state owner representing agencies still employ cadres and apparatus to perform state management functions with inherent shortcomings and limitations such as administrative & bureaucratic working styles, long delays, waiting for collective opinions, unclear duties, lack of motivation and efficiency, etc. This modality is not appropriate for active, sensitive, assertive and self-responsible working

manners of investors and owners normally seen in business affairs under market mechanism..

### ***5.3- Assignment & decentralization to excessive number of agencies and organizations involved in owner representatives***

Assignment & decentralization to excessive number of agencies and organizations involved in owner representatives lead to the following constraints and limitations

- Collaboration in exercising state owner representative functions between agencies and organizations reveals numerous difficulties. In which, many of these difficulties and obstacles are due to the fact these agencies and organizations are independent and isolated from each other or dominated by local interests, “vested interests”.

- Delayed performance of state owner representative functions. Presently, tasks of owner representatives are performed by civil servants and officials in part-time basis, lacking specialization and professionalism in the context of overlapping administrative and bureaucratic paper works of state agencies. This is an important cause of delays in implementing state owner representative functions, resulting in lost opportunities or make it difficult for businesses.

- Difficult assurance of comprehensiveness and synchronization of state owner rights in SOE management

State owner rights should be consistent with 4 groups of basic and interrelated management rights including: (i) organizational and personnel rights (ii) rights of deciding production and business development orientations; (iii) rights of managing state capital and assets; rights of inspecting and supervising business performance of SOEs; and (iv) rights of getting benefits from performance of SOEs.

Presently, each owner representing agency is assigned and decentralized to implement an area or an array of specialized tasks of economic state management. Each owner representing agency, thus, recognizes and evaluates SOEs from its specialized perspective, resulting in one-sided perception and assessment of SOE efficiency and one-sided execution of owner rights. Meanwhile, it is necessary to review and evaluate SOE efficiency and manage SOEs on the basis of effectiveness and efficiency of comprehensive execution of

4 groups of owner rights. However, the current mechanism of assignment & decentralization shows an absence of agencies or individuals assigned to act as focal points in charge of analysis and evaluation of exercising state owner rights in a general and comprehensive manner over 4 aforementioned groups of rights. Thus, assignment & decentralization toward owner representatives do not guarantee comprehensive, synchronizing and consistent state owner rights.

- Lack of specialized and professional apparatus and cadres exercising state owner representative functions

This is a reality in all ministries, ministry-equivalent agencies, government agencies, provincial people's committees, except for Ministry of Transport and Ministry of Agriculture and Rural Development with recent establishment of Departments of Enterprise Renovation and Development in 2011 to assist Ministers in renovating and developing enterprises under their authorized management.

#### ***5.4- Underestimated supervision in assignment & decentralization of SOE management***

Assignment & decentralization of SOE management, as above mentioned, mean the transfer part of state owner rights of SOE management to assigned & decentralized agencies/organizations. More specific, it is the transfer of management rights of the entire population to the Government, the executive body of the National Assembly and also the the highest administrative body. The Government in turn assigns and decentralizes or transfers management rights to agencies, SOEs (with 106 focal point entities as above-mentioned). With functions of unified management and implementation of the rights of owners toward SOEs, the Government has rights and responsibilities to oversee the execution of state owner rights in these 106 focal point entities. Similarly, the National Assembly representing public ownership has rights and responsibilities to monitor the Government's execution of unified management and implementation of the rights of owners toward SOEs.

However, for a long time Vietnam had experienced the absence or vacancy of legal documents specializing in supervision of SOEs and state owner representatives. Since 2006, supervision and evaluation of SOEs have begun to receive more attention with the release of Regulations on supervision and

evaluation of performance of SOEs attached with Decision 224/2006/QĐ-TTg of Prime Minister. Recently, the Government issued Decree 61/2013/NĐ-CP promulgating Regulation on financial supervision, performance assessment, and disclosure of financial information applicable to SOEs and state-capitalized enterprises.

In reality, supervision of SOEs has not produced significant positive results. Supervision and evaluation of SOEs in compliance with Decision 224/2006/QĐ-TTg mainly imply encouragement of improved realization of wage and bonus mechanisms, while the application of Decree 61/2013/NĐ-CP with many renovated supervision contents, has to wait for specific guidelines of ministries and agencies. Recently, some ministries and agencies and provincial people's committees have intensified activities of supervision of SOEs. In 2009, National Assembly conducted thematic supervision of SEGs. Nevertheless, this has been the only activity of supervision of the National Assembly conducted so far. The current situation shows that supervision of exercising state owner rights has not yet been put in place in SOE management. Besides, SOE supervision reveals a lack of systematic approach, unclear identification of supervision objectives, contents, methods, and organization appropriate to roles and positions of state owners, signaling substantial gaps in SOE management and assignment & decentralization of SOE management.

#### ***5.5- Problems in separation of owner functions and state management functions***

First, the Law on SOEs in 1995 and the Law on SOEs in 2003 contained some separate provisions and principles on rights and obligations of state owner rights<sup>2</sup> and on state management contents toward SOEs<sup>3</sup>. However, due to an absence of specific and detailed guidelines on clear separation between these two kinds of functions, there is no legal basis for separating state owner functions and state management functions.

*Second*, state bodies assigned to manage SOEs in reality perform economic state management functions and at the same time act as owner representatives agencies to exercise tasks and rights within owner functions. In

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<sup>2</sup> Article 27, the Law on SOEs 1995; Article 64, the Law on SOEs 2003

<sup>3</sup> Article 25, the Law on SOEs 1995; Article 87, the Law on SOEs 2003

which, line-ministries performed state management functions by industries and at the same time acted as owner representing agencies. General Ministries (MOF, MPI, MOLISA, MOHA) perform state management by areas (finance, labor-war invalid-& social affairs, home affairs, planing and investment) and are assigned to exercise tasks & rights within owner functions, including involvement in approval, revision, admenment of charter; increse or decrease of charter capital; approval of wage norms; hiệmvụ, quyền hạn thuộc chức năng chủ sở hữu như tham gia trong quá trình: phê duyệt, sửa đổi, bổ sung điều lệ; tăng giảm vốn điều lệ; phê duyệt đơn giá tiền lương; appointment, dismissal or discipline of leaders/managers; approval of business strategy, major projects, projects of establishment and arrangement of SOEs, criteria for clarification of SOEs, etc.

*Third*, there is an absence of separation of management apparatus to perform state owner functions and management apparatus to perform economic state management. Even state administrative agencies have no units specializing in performing owner functions. And even the Steering Committee on Enterprise Renovation and Development and Enterprise Renovation Department of the Office of Government have just performed advisory and assistant functions for the Government and Prime Minister.

*Fourth*, there is unclear distinction between approaches and modalities of performing state owner functions and approaches and modalities of performing state management. All regulations and decisions of the State on SOEs (regardless of broad or narrow sense implying economic state management or use of owner powers) are reflected in the same form of documents: ether in the form of legal documents or in the form of adminisrative documents.

## **6- Consequences and causes**

The current situation of assignment & decentralization of SOE management shows numerous chronic issues such as excessive complication, overlapping, confused focal point agencies and unclear separation between functions of state owners and functions of state management. This reality not only contains potential ricks but also leads to the following on-going consequences:

- *First*, assignment & decentralization are characterized by excessive focal point agencies and largely based on state administrative management bodies, administrative apparatus, civil servants dispersed and spread out by industries and areas, resulting in difficult cooperation, agreement and slow decision making of state owners.

- *Second*, negative impacts on effective and efficient management of SOEs, including effective and efficient execution of functions and rights of state owners; and effective and efficient economic state management; Irrational assignment & decentralization with numerous focal point agencies, lack of specializing, professional and dedicated management apparatus and cadres lead to serious lack of supervision, control, detection, analysis, warning, collaboration and close cooperation with each other among state agencies to be fully and comprehensively capable of exercising roles, powers and responsibilities of state investors like other investors. In this context, it is difficult for the State to play the roles as owners and professional, active, and responsible investors like private investors; difficult to facilitate SOEs to operate effectively; and at the same time also difficult to establish a professional administrative management system, effective and efficient state management.

- *Third*, the “dual” roles performed by state bodies (in term of issuing economic policies for industries under their management and general policies for various types of businesses, and acting as owner representatives of SOEs at the same time) have negatively affected sectoral economic policies and performance of state owner representing functions. On the one hand, this status creates bias toward SOEs, discrimination of non-state enterprises; unfair business environment and distorted competition. On the other hand, corporate governance of SOEs reveals a lack of professionalism, lack of transparency, unclear owner policies, preferential treatment of SOEs over non-state enterprises. In addition, SOEs are also used arbitrarily by state owner representing agencies for various purposes, distracting them from focusing on profit-making businesses. Inevitable consequence of the “2 in 1” policy is that business performance of SOEs is of low efficiency but neither SOEs nor owner representatives of SOEs are able to give clear & convincing explanations, resulting in many controversial & pressing debates in public opinion.

- Fourth, assignment & decentralization with numerous focal point agencies negatively affect the capacity and effectiveness of apparatus and personnel. Regarding corporate governance of SOEs, there is a lack of paying due attention to renovating organizational structure & personnel arrangement to exercise tasks within owner's functions. In this connection, the current apparatus and personnel performing functions of state administration are still employed, showing a lot of constraints and limitations such as administrative and bureaucratic thinking and working styles, long delays and passively awaiting for collective opinion, unclear responsibilities, lack of motivation and efficiency; lack of professionalism and specialization; lack of paying due attention to exercise single purpose duty, that is, performance of owner functions or performance of economic state management; insufficient understanding of SOE real situation; lack of reliability, accuracy, adequacy, comprehensiveness, update, and consistency, resulting in a lack of a solid basis for analysis & evaluation of SOEs and providing recommended solutions.

- Fifth, there is a lack of business autonomy, negatively affecting performance of SOEs due to impacts or interventions of multiple assigned or decentralized agencies through various time-consuming administrative and bureaucratic procedures and resultant long delays.

The aforementioned consequences originate from shortcomings and limitations of irrational assignment & decentralization on SOE management, in which major causes are acknowledged as follows:

- *First*, there is a lack of renovated thinking on SOE management in market economic institutions. Although there is oriented policies and in the reality the market economic institutions are under development and improvement; the economy is under transformation toward market mechanism but there still exists old thinking and forces wanting to maintain SOE management in the old manner of the central planning & command economy with heavy bias of management by industries and areas. This results in splited division and fragmentation in assignment & decentralization of exercising functions, rights and tasks of state owners. SOE management is divided and fragmented by industries and areas, by managerial levels, by number of state owner representing agencies and entities, affecting consistency of state owner roles & functions toward SOEs.

- Second, there is slow implementation of activities to implement the Party's policy of separating owner functions and state management functions. This delay is an important cause that creates a vicious circle of assignment & decentralization and make SOE management less effective and inefficient.

- Third, *being worry of incompetency to take charge new challenges* (e.g, in case of establishing a task force for exercising owner rights). Additionally, it is reluctant to change, even resistant to change because of local interests and vested interests (industry/sectoral interests, individual interests)

- *Fourth*, it is due to the use of civil servants and cadres to act as staffs representing state owners and application of civil service regulations to these staff that prove to be not right and not suitable for business characteristics of exercising owner functions. This is also an equally important cause of irrational assignment & decentralization on SOE management.

- *Fifth*, legal framework on assignment & decentralization poses a lot of constraints and limitations; lack of clear regulations on duties of state administrative management and duties of management of state owners; these constraints make the execution of rights and obligations of state owners difficult.

- *Sixth*, excessive number of focal state owner representing agencies with numerous chronic constraints and obstacles occurred in assignment & decentralization between ministries, ministry-equivalent agencies, government agencies; between departments of ministries and provincial people's committees, affecting business performance of enterprises.

- *Seventh*, there is an absence of a special task force to exercise functions of state owners; absence of specializing qualified staffs to exercise functions of state owners; unclear separation between functions of state owners and functions of state administrative management.

## **7- Recommended actions on assignment and decentralization of SOE management**

### ***7.1- Viewpoints in assignment and decentralization of SOE management***

*First*, management of SOEs and assignment and decentralization of management of SOEs need to be perceived and applied in broad sense, implying



not only management and supervision of SOEs performed by state administrative agencies and applicable to state administrative agencies but also inclusion of supervision of the supreme power body (National Assembly) toward exercising state owner rights;

*Second*, management of SOEs in the sense of exercising rights and obligations of state owners needs to take into account the separation between organizational structure and personnel and performance of economic state management functions;

*Third*, to ensure specializing and professionalism in line with state owner representatives' characteristics and nature in service of business toward SOEs;

*Fourth*, to ensure consistency, uniformity and comprehensiveness in implementation of functions, rights and obligations of state owners regardless of approach or model of assignment & decentralization of owner representatives; and

*Fifth*, assignment and decentralization of SOE management need to be effectively carried out by specific, detailed, consistent and uniform legal framework with special focus on exercising state owner rights and supervision of exercising state owner rights.

## ***7.2- Directions for renovating assignment & decentralization of management of SOEs.***

Assignment & decentralization of management of SOEs need to be carried out toward the following:

- To remove assignment & decentralization of management of SOEs with administrative style featured by excessive focal point agencies and organizations. To stop using state administrative apparatus and using state employees to perform functions of owners. To reduce and then eliminate cooperation mechanism which is excessively administrative and bottom-up, ineffective, stagnant and responsibly unclear.

- To transform to management approach of SOEs of owners –state investors toward specializing and professional style, consistent with market economic institutions, creating dynamism in management of owners and initiatives for SOEs; target-driven management of SOEs; separating managerial

functions of owners with state management functions toward enterprises; assignment & decentralization to fewer focal point agencies and organizations with clear rights and responsibilities associated with supervision and evaluation mechanism applicable to the whole system of state owner representatives from supreme power bodies to direct state owner representatives in SOEs and state capital representatives in enterprises.

The aforementioned directions are consistent with policies of the XI Congress "to overcome administrative apparatus directly involved in business activities through administrative orders, etc."; "to consider for establishing efficient investment and business management organizations with regard to state capital and assets"; and "to renovate and refine laws, mechanisms and policies on public ownership".