Transfer of Land Use Rights for Foreign Direct Investment in Vietnam: Legal Framework, Constraints, and Reform Directions

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ABSTRACT

Land is a decisive input for foreign direct investment (FDI) in manufacturing, real estate and services, yet in Vietnam land is owned by the entire people and managed by the State, so investors cannot hold ownership and must instead acquire land use rights (LURs). This paper examines the legal framework governing the transfer of LURs to foreign-invested economic organisations that implement investment projects under the Land Law 2024 (Law No. 31/2024/QH15), which took effect on 1 August 2024, and assesses the extent to which that framework facilitates or constrains foreign investment. Transfer of LURs is treated as a legal mechanism whose design is evaluated doctrinally; the study does not measure its causal effect on investment decisions. Using doctrinal legal analysis supported by a comparative reading of the 2013 and 2024 Land Laws, related investment and real estate legislation, and secondary literature, the study maps the channels through which foreign-invested economic organisations can obtain land: State allocation with land-use fees, State lease, transfer of LURs within industrial parks, industrial clusters and high-tech parks, and indirect acquisition through capital contribution or share purchase. The findings indicate that the 2024 reforms improve legal certainty and bankability by recognising transfer rights in industrial zones, creating a mechanism to change the method of rent payment, clarifying the definition of foreign-invested economic organisations and widening the scope of security interests over land. However, constraints remain, which the paper classifies as legal and regulatory (no transfer of LURs under annual-rent leases), land-access related (purpose-based and planning restrictions), financial and administrative (uncertainty in land price determination and uneven provincial implementation), procedural and institutional (overlapping procedures across land, investment and construction laws), and dispute related. The paper concludes that the framework is conditionally facilitative: transfer rights support foreign investment most effectively when they are accompanied by transparent land pricing, digitised land records, consistent local implementation and efficient dispute resolution. Reform directions are derived directly from the legal gaps, inconsistencies and implementation problems identified, rather than from general policy preference.

Keywords: land use rights, foreign direct investment, Land Law 2024, Vietnam, foreign-invested economic organisations, legal framework

INTRODUCTION

Foreign direct investment (FDI) has been a central driver of Vietnam's export-oriented growth, and access to land with secure and transferable rights is among the first questions a foreign investor asks when selecting a location. Unlike many jurisdictions, Vietnam does not recognise private ownership of land. Article 53 of the 2013 Constitution provides that land belongs to the entire people, with the State acting as the representative owner and exercising unified management [12]. Individuals and organisations therefore hold land use rights (LURs) that are granted or recognised by the State, and the legal content of those rights, especially whether they can be transferred, mortgaged or contributed as capital, determines how bankable, liquid and exit-friendly an investment will be.

The economic rationale for secure and transferable property rights is well established: they reduce the risk of

expropriation, encourage long-term investment and allow land to serve as collateral for finance [1], [3], [5]. Empirical studies of Vietnam show that land titling and the ability to exchange LURs have influenced household investment and the allocation of labour [6], [11]. For foreign investors the question is narrower but more demanding: through which legal channels may a foreign-invested economic organisation obtain land, and to what extent may it later transfer what it holds?

The Land Law 2024 (Law No. 31/2024/QH15) was adopted on 18 January 2024 and, having been brought forward, has applied since 1 August 2024, replacing the Land Law 2013 [13], [17]. It followed Resolution No. 18-NQ/TW of 2022, which called for institutional reform of land policy to release land resources for development [4]. Practitioners have noted that the new law widens the rights available to foreign-invested enterprises, particularly in industrial zones [2], [10], [18]. Against this background, the paper treats the transfer of LURs as a legal mechanism through which access to land, exit and financing are structured for foreign investors. It analyses that mechanism in a law, constraints, investment implications and reform sequence: it examines the framework, assesses how far it facilitates or constrains foreign investment, and derives reform directions from the gaps identified. The paper does not claim to establish that transfer rights cause higher FDI inflows; that causal question requires transaction-level data and is left to future research. The study has six objectives:

- To examine the legal framework governing the transfer of land use rights in Vietnam in relation to foreign investment.
- To analyse the rights and limitations applicable to foreign-invested entities in accessing and transferring land use rights, in comparison with domestic land users where relevant.
- To identify the legal, administrative, institutional, procedural, financial, land-access and dispute-related constraints affecting the transfer of land use rights for foreign investment.
- To assess the extent to which the existing framework facilitates or constrains foreign investment in Vietnam.
- To identify gaps, inconsistencies or implementation challenges within the existing legal framework.
- To propose legal and policy reforms, derived from those findings, aimed at improving the effectiveness and transparency of land-use-right transfers for foreign investment.

Scope and Key Concepts

Land use rights and ownership. Under the Constitution, land belongs to the entire people and the State acts as representative owner [12]. A LUR is a right to use State-owned land, granted or recognised by the State. The Civil Code 2015 treats it as a property right that may be the object of civil transactions [14], but it is not ownership: it is limited in term, purpose and content, and the powers of its holder depend on the way the land was obtained. References in this paper to acquiring land therefore mean acquiring LURs and, where applicable, the assets attached to the land.

Forms of transfer. The paper uses “transfer” in two senses. In the narrow sense, transfer means the assignment of an existing LUR, together with attached assets, from one land user to another for the remaining land-use term. In the wider sense used to map the channels of land access, the paper also considers other transactions that move or encumber LURs or the economic value of land: lease and sublease, capital contribution, mortgage, transfer of a lease right together with attached assets, and indirect acquisition through the transfer of shares, capital or a real estate project. These mechanisms differ in legal nature and in the rights they confer, and the analysis keeps them apart wherever the difference matters (Tables 1 and 2). The rights available also differ by category of land user, namely households and individuals, domestic economic organisations and foreign-invested economic organisations, and the paper compares domestic and foreign-invested users where the difference affects the analysis.

Category of foreign investment. The paper examines project-based FDI carried out through foreign-invested economic organisations, the category of land user identified in the Land Law 2024 [17]. It covers manufacturing, logistics and research and development projects located in industrial parks, industrial clusters and high-tech parks; commercial, service and tourism projects; and real estate projects such as housing and urban development, with the greatest weight on industrial-zone projects because the 2024 reforms bear most directly on them. It does not cover portfolio investment, residential property ownership by foreign individuals, or infrastructure concession arrangements as such. Transactions with households and individuals are considered only as a source of land for foreign-invested organisations.

METHODOLOGY

The study adopts a doctrinal legal methodology. Primary sources include the 2013 Constitution, the Civil Code 2015, the Land Laws of 2013 and 2024, the Law on Investment 2020, the Law on Real Estate Business 2023 and their implementing decrees [8], [9], [12]–[17]. Secondary sources comprise peer-reviewed economic and legal scholarship and published commentary by international and domestic law firms [1]–[3], [5]–[7], [10], [11], [18]. The analysis compares the 2013 and 2024 texts along three dimensions: access to land, transferability of rights, and security of tenure and financing.

Analytical approach. The study is descriptive and evaluative rather than causal. Whether the framework "facilitates" or "constrains" foreign investment is assessed against three doctrinal criteria: whether the law gives a foreign-invested organisation a clear route to acquire land (access); whether the resulting right can be transferred, mortgaged or contributed as capital (transferability and bankability); and whether those rights can be exercised through predictable procedures (certainty). Practitioner commentary is used to identify implementation problems, not to estimate effects on investor behaviour.

Operationalising constraints. Because "constraints" is a broad term, the study classifies each constraint it identifies into one or more of seven categories, defined by what the analysis looks for:

- **Legal and regulatory:** provisions that limit or condition the rights of foreign-invested users, or that conflict with or leave gaps relative to other provisions.
- **Administrative:** discretionary or unevenly applied decision-making by State agencies, including provincial implementation and administrative valuation.
- **Institutional:** fragmented responsibility among authorities and the state of supporting infrastructure such as land, investment and tax records.
- **Procedural:** the sequence, duplication and documentary requirements across land, investment, construction and real estate procedures.
- **Financial:** the cost and predictability of acquiring, holding, transferring and financing LURs, including land price, rent, taxes, fees and collateral value.
- **Land-access related:** the availability of land through lawful channels, including restrictions on sources of land, land-use purpose and planning.
- **Conflict and dispute related:** the risk of disputes over title, encumbrances or contracts, and the availability of effective dispute resolution.

Each constraint identified in the Discussion is assigned to one or more of these categories, and each reform direction is tied to at least one identified constraint (Table 3), so that recommendations follow from the analysis. Four limitations should be noted. First, the study does not use transaction-level data, so it cannot quantify the effect of the reforms on FDI inflows. Second, law-firm commentary reflects practitioner interpretation rather than judicial authority. Third, implementing regulations continue to evolve, and readers should verify the current text before relying on any provision. Fourth, because the assessment is doctrinal,

statements that a provision facilitates or constrains investment reflect legal analysis and practitioner commentary, not measured investor behaviour. Nothing in this paper constitutes legal advice.

RESULTS

Constitutional and Statutory Foundations

The legal position of foreign investors rests on a hierarchy of instruments. The Constitution fixes the principle of State-represented public ownership [12]. The Civil Code 2015 treats LURs as property rights that may be the object of civil transactions [14]. The Land Law 2024 identifies foreign-invested economic organisations as a distinct category of land users and sets out the forms in which they may acquire land [17]. The Law on Investment 2020 and its guiding decree govern market access and investment procedures [8], [15], while the Law on Real Estate Business 2023 regulates the transfer of real estate projects and related transactions [16]. Detailed implementation of the Land Law is provided by Decree No. 102/2024/ND-CP [9].

Channels of Land Access for Foreign-Invested Economic Organisations

Foreign-invested economic organisations cannot own land, but they may obtain LURs through several channels, which differ in the rights they confer. Table 1 summarises these channels. In general, rights are strongest where the investor has been allocated land with a land-use fee or leased land with a one-off payment of rent, and weakest where rent is paid annually [2], [10], [18].

Table 1. Channels for foreign-invested economic organisations to obtain land in Vietnam

Channel	Rights regarding transfer	Typical projects	Key conditions
State allocation with land-use fee	LURs may generally be transferred, mortgaged or contributed as capital within the land-use term, subject to statutory conditions	Housing and urban development projects	Project approval; payment of land-use fee; compliance with planning
State lease with one-off (lump-sum) rent	LURs and attached assets may be transferred, mortgaged, leased out or contributed as capital	Manufacturing, commercial, service and tourism projects	Investment approval; rent paid for the whole lease term
State lease with annual rent	LURs cannot be transferred; a lease right may be transferred together with attached assets under conditions	Projects prioritising lower upfront cost	Rent re-determined periodically; limited collateral value
Transfer of LURs in industrial parks, industrial clusters and high-tech parks	The transferee receives the LURs and attached assets for the remaining land-use term	Factories, warehouses, logistics and R&D facilities	Transferor holds a valid certificate; use purpose consistent with zone planning
Indirect acquisition (capital contribution, share or project purchase)	LURs stay with the project company; control changes at company level	Mergers and acquisitions, joint ventures	Market access conditions under investment law; rules on transfer of real estate projects

Transfer of LURs from households and individuals to foreign-invested organisations outside these channels is tightly restricted, and agricultural land is subject to additional purpose-based

and planning controls. In practice, many foreign investors therefore enter the land market through industrial parks, through existing project companies, or through leases from the State.

Rights of Domestic and Foreign-Invested Land Users Compared

The Land Law 2024 does not create a wholly separate land regime for foreign investors: many rights depend on the method of allocation or lease and on the user's status as an economic organisation. Where land rent is reduced or exempted, domestic and foreign-invested economic organisations enjoy the same rights as those who pay rent upfront in full [2]. Differences arise mainly in three respects. First, foreign-invested organisations must satisfy market-access and project-approval conditions under investment law in addition to the land-law formalities [8], [15]. Second, the range of available land sources is narrower in practice, since transfers from households and individuals to foreign-invested organisations are tightly restricted. Third, as regards industrial zones, foreign-invested enterprises were under the 2013 law largely confined to leasing or subleasing, whereas the 2024 law allows foreign-invested economic organisations to receive transfers of LURs and attached assets there [10], [18]. The reform therefore narrows an earlier difference in treatment, but the conditions applicable to particular categories of user should be checked against the implementing decree [9].

Reforms introduced by the Land Law 2024

Table 2 contrasts the position of foreign-invested land users under the 2013 and 2024 laws. The most significant change for transfer rights is that foreign-invested economic organisations may now receive transfers of LURs and attached assets in industrial parks, industrial clusters and high-tech parks, whereas under the 2013 law they were largely confined to leasing or subleasing [10], [18]. Commentators also highlight a mechanism for changing the rent payment method, which improves cash-flow flexibility [2], [10]. For leases with annual rent, LURs still cannot be transferred or mortgaged, but the 2024 law introduces a lease right that may be transferred together with attached assets under certain conditions [2]. Where land rent is reduced or exempted, economic organisations, whether domestic or foreign-invested, enjoy the same rights as those who pay rent upfront in full [2].

Table 2. Key changes affecting foreign-invested land users

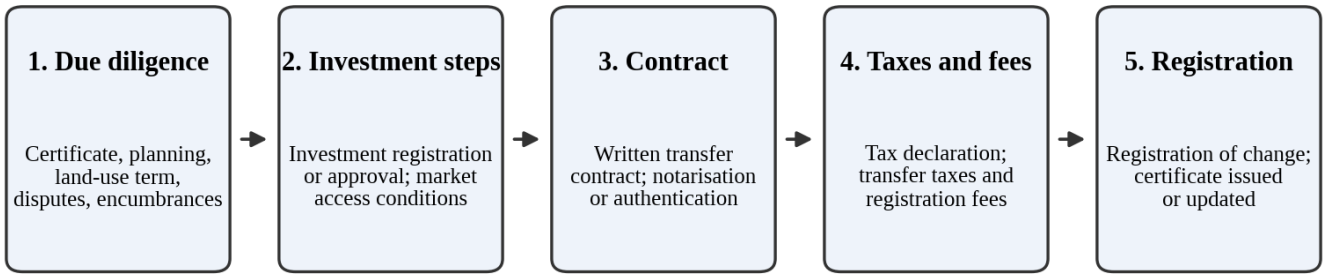
Issue	Land Law 2013	Land Law 2024
Terminology for foreign-invested land users	Referred to "foreign-invested enterprises"	Defines "foreign-invested economic organisations" more clearly as a distinct group of land users
Land in industrial zones	Foreign-invested enterprises could lease or sublease land	Foreign-invested economic organisations may also receive transfers of LURs and attached assets in industrial parks, industrial clusters and high-tech parks
Rent payment method	Method chosen at contract signing and in principle fixed	A mechanism exists to change the method in defined cases, including from annual to one-off payment with re-determination of the specific land price
Lessees paying annual rent	No separate transferable lease right	LURs cannot be transferred, but the lease right may be transferred with attached assets under conditions

The 2024 law also broadens the scope for granting security interests over land and attached assets and moves land pricing towards a system of land price lists issued by provincial authorities, which is intended to make valuation more consistent with market conditions [9], [17]. Whether this objective is achieved depends largely on local implementation.

Procedure for transferring land use rights

A transfer to a foreign-invested economic organisation typically follows the sequence shown in Figure 1. Because the transferee is foreign-invested, investment procedures under the Law on Investment 2020 must be satisfied in addition to the land-law formalities [8], [15].

Figure 1. Typical procedure for transfer of land use rights to a foreign-invested economic organisation



At the due-diligence stage, the transferee verifies that the transferor holds a valid certificate, that the land is within its term and consistent with approved planning, and that it is free of disputes, enforcement measures and other encumbrances [17]. After the contract is concluded in the required form, the parties declare and pay transfer-related taxes and registration fees, and the competent land registration office records the change and issues or updates the certificate.

DISCUSSION

Why Transfer Rights Matter for Investors

Transferability is expected to affect foreign investment through three channels; these are analytical propositions drawn from the institutional literature and practitioner commentary, not empirical findings of this study. First, it supports exit: an investor who can sell the LURs and attached assets together can recover capital without dissolving the project company. Second, it supports financing, because transferable and mortgageable rights are more acceptable to lenders [3], [5]. Third, it supports the development of a secondary market in serviced industrial land, which lowers entry costs for later investors. These effects are consistent with the broader institutional literature, which links secure property rights to investment and long-run performance [1], [3]. Vietnam's approach resembles other systems in which the State retains ownership but grants time-limited, tradable rights; the credibility of such a system depends less on the formal label of the right than on the predictability with which it is enforced [7].

Extent of Facilitation and Constraint

Assessed against the criteria set out in the Methodology, the 2024 framework facilitates foreign investment most clearly in three respects. On access and transferability, foreign-invested economic organisations may now receive transfers of LURs and attached assets in industrial parks, industrial clusters and high-tech parks [10], [18]. On bankability, the scope for security interests over land and attached assets has widened [9], [17], and reduced or exempted rent no longer places economic organisations at a disadvantage against upfront payers [2]. On flexibility, the rent payment method may be changed in defined cases [2], [10]. The framework constrains investment most clearly where rent is paid annually and LURs cannot be transferred or mortgaged [2], where the permitted land use does not match the project, and where certainty depends on local valuation and procedures. The framework is therefore best described as conditionally facilitative: the strength of the right depends on the channel chosen and the type of project. Because the study uses no transaction-level data, this is an assessment of the framework's design, not evidence of its effect on investment decisions.

Remaining Constraints

Despite the reforms, several constraints limit the attractiveness of the regime. Using the categories set out in the Methodology, they can be summarised as follows. Legal and regulatory constraints: the inability to transfer LURs under annual-rent leases reduces the exit value of such investments [2]. Land-access constraints: transfers from households and individuals are tightly restricted, and restrictions linked to land-use purpose and planning mean that a transferable right is valuable only where the permitted use matches the investor's business plan. Financial constraints: land pricing remains a source of uncertainty, since the amount payable for allocation, lease or change of purpose may be re-determined through administrative valuation, and annual-rent leases carry limited collateral value. Procedural and institutional constraints: procedures under land, investment, construction and real estate legislation overlap, responsibility is spread across several authorities, and land, investment and tax records are not yet integrated. Administrative constraints: approvals may be sequenced differently across provinces, and land price lists are issued at provincial level. Dispute-related constraints: where disputes over title, encumbrances or contracts arise, the investor depends on the effectiveness of dispute resolution. The sources reviewed give limited detail on this category, so it is treated more tentatively than the others.

Gaps, Inconsistencies and Implementation Challenges

Three types of weakness can be distinguished. A gap exists where the law creates a right but leaves its exercise unsettled: the lease right that may be transferred together with attached assets under annual-rent leases is introduced, but the conditions for its transfer and use as collateral remain to be clarified [2]. An inconsistency arises where several statutes regulate parts of the same transaction: land, investment, construction and real estate legislation each impose procedures, and these overlap rather than form a single sequence [8], [15], [16], [17].

An implementation challenge arises where a sound rule is applied unevenly: provincial land price lists and approvals, and the incomplete integration of land records, mean that the same provision may produce different outcomes in different localities [9], [17].

POLICY RECOMMENDATIONS

The analysis suggests the following reform directions. Each is derived from a constraint, gap, inconsistency or implementation problem identified above, as mapped in Table 3, and is therefore directed at a specific defect in the framework rather than at investment promotion in general.

Table 3. Constraints, identified weaknesses and derived reform directions

Constraint category	Identified constraint, gap or inconsistency	Derived reform direction
Legal and regulatory	LURs cannot be transferred under annual-rent leases; conditions for the transferable lease right and its use as collateral are unsettled	Clarify the conditions for transfer and collateral use of the lease right
Administrative	Land price lists and approvals are issued and applied at provincial level, with uneven implementation	Consistent guidance to provinces; model contracts and checklists
Institutional	Responsibility is fragmented and land, investment and tax records are not integrated	Integrate and digitise databases
Procedural	Land, investment, construction and real estate procedures overlap and are sequenced differently across provinces	Single-process due diligence and registration

Financial	Land price may be re-determined by administrative valuation; annual-rent leases have limited collateral value	Transparent price lists and clear rules on specific valuation
Land-access related	Transfers from households are restricted; permitted use and planning may not match the project	Confirm permitted use and planning consistency at project approval
Conflict and dispute related	Disputes over title, encumbrances or contracts depend on effective dispute resolution (limited evidence)	Specialised mediation and arbitration channels

- Publish transparent and predictable land price lists and valuation methods, with clear rules on when specific valuation is required (responding to price uncertainty, a financial and administrative constraint).

- Complete the digitisation and integration of land, investment and tax databases so that due diligence and registration can be completed through a single process (responding to overlapping procedures and fragmented records, a procedural and institutional constraint).

- Issue consistent implementation guidance to provincial authorities and publish model contracts and checklists for transfers in industrial zones (responding to uneven provincial implementation, an administrative constraint).

- Clarify the conditions under which the lease right under annual-rent leases may be transferred and used as collateral (responding to a legal and regulatory gap).

- Require confirmation of permitted land use and planning consistency at the project-approval stage, before the investor commits to a transfer (responding to purpose-based and planning restrictions, a land-access constraint).

- Strengthen specialised dispute-resolution channels, including mediation and arbitration, for land-related investment disputes (responding to dispute-related constraints, for which the evidence reviewed is limited).

CONCLUSION

The Land Law 2024 moves Vietnam's regime for foreign-invested land users in a more investor-friendly direction. By allowing the transfer of LURs and attached assets in industrial parks, industrial clusters and high-tech parks, introducing flexibility in rent payment and a transferable lease right, and widening the scope for security interests, it improves the liquidity and bankability of land-based investments. The framework is, however, conditionally facilitative.

Its constraints are concentrated in the legal treatment of annual-rent leases, land-use purpose and planning restrictions, uncertain land pricing, overlapping procedures across several statutes, uneven provincial implementation and, more tentatively, dispute resolution. The reform directions proposed above are tied to these specific weaknesses. The practical value of transfer rights depends on transparent pricing, coherent procedures and consistent local implementation. Future research should test the effect of the reforms on FDI inflows and on the volume and price of industrial land transactions using transaction-level data.

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