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Background Brief:

Billionaire Launches Suit Against the Vietnamese Government

August 16, 2022

We are working on a story about a Vietnamese investor – former National Assembly Deputy, Dang Thi Hoang Yen (aka Maya Dangelas)– who initiated a multi-billion-dollar lawsuit against the government of Vietnam regarding Vietnam's decision to force the Tan Tao Group to initiate bankruptcy proceedings. Earlier, in 2019, Maya Dangelas sued the Vietnamese government and former Prime Minister Nguyen Tan Dung for cancelling Kien Luong power projects which involved the Tan Tao Group.

In an interview with VOA-Vietnamese, Maya claims Vietnam's court was unreasonable to force her business to file for bankruptcy. She also claims that the system is corrupt and Nguyen Tan Dung's behind-the-scenes influence is the cause of that unfair decision. We request your assessment of the following issues:

Q1. What is your evaluation of Maya Dangelas' claims?

ANSWER: Maya Dangelas resorted to legal action against the Vietnamese government after years of highly complex legal proceedings arising from a contract dispute between a subcontractor, the Quoc Linh Construction Service Trading Company Ltd. (Quoc Linh Company), and a third party, the Vietnam Urban Development Joint Stock Company (VietNam Land), which drew into the dispute her company, the Tan Tao Investment and Industry Joint Stock Company (ITA).

The Quoc Linh Company defaulted on a payment of U.S. \$900,000 to VietNam Land. The Quoc Linh Company then requested the People's Court of Ho Chi Minh City to open bankruptcy proceedings against ITA to compel it to pay for the debt. The People's Court of Ho Chi Minh City ruled in January 2018, that there was no legal basis for these proceedings and returned the case for re-trial at the first instance level. But a district court upheld ITA's liability and ordered ITA to sell company assets, reportedly valued in the billions of U.S. dollars, to pay off the debt.

In September 2019, Maya Dangelas (Dang Thi Hoang Yen), Chair of Tan Tao Energy Corporation, filed a notice of arbitration against former Prime Minister Nguyen Tan Dung for investment and profit losses in excess of U.S. \$1.5 billion related to the Kien Luong Thermal Power Project complex. The arbitration proceedings were made under the regulations of the United Nations Commission on International Trade Law (UNCITRAL), with arbitration heard at the Tribunal Judiciaire de Paris.

In April 2021, after an absence of eight years, Dang Thi Hoang Yen personally attended the annual Tan Tao Investment and Industry Corporation shareholders' meeting in the United States where she was introduced as Maya Dangelas. Her new legal name was now included on documents and resolutions issued by the ITA Board of Management.

In July 2022, Maya Dangelas' Tan Tao Investment and Industry Corporation initiated a billion dollar arbitration proceeding against the Socialist Republic of Vietnam under UNCITRAL.

On the face of it, Maya Dangelas' claim has a basis in international law. ITA provided financial records to the Ho Chi Minh City Stock Exchange and the State Securities Commission demonstrating that it was solvent with a balance sheet far in excess of the debt.

Q2. Are there any political reasons behind these cases as Dang Thi Hoang Yen is a former National Assembly Deputy who was controversially dismissed from office?

ANSWER: From the very moment Dang Thi Hoang Yen's nomination to run as a candidate for election to the National Assembly in May 2011 was approved, rumours began to circulate that she had paid bribes to local officials and had committed violations of the law in her commercial activities between 1998 and 2010. Yen was blamed for failing to pay adequate compensation to families displaced by the Kien Luong Thermal Power Plant in Kien Giang province.

Rumours also alleged that Yen had the support of influential political leaders, such as then President Truong Tan Sang, and photos appeared on the internet suggesting she had salacious relations with high-ranking officials. These and other accusations were posted on the websites of the Veterans' Association of Vietnam and the Vietnam Association of the Elderly. In September 2011, *Cựu Chiến Binh* and *Người Cao Tuổi* newspapers filed a petition with the National Assembly Standing Committee to investigate her qualifications for membership.

As a National Assembly deputy Yen sharply questioned the Governor of the State Bank of Vietnam about its handling of "black credit", criticized rampant corruption and waste by state-owned enterprises under Prime Minister Nguyen Tan Dung, and called for equitable treatment for the private sector and foreign investors.

As an elected National Assembly deputy Yen continued to be criticized and pilloried in the media. In November 2011, the head of the Office of the National Assembly Nguyen Hanh Phuc stated that accusations posted on some websites against Deputy Yen were groundless and that investigations confirmed she had a good record. Nevertheless, in March 2012, the National Assembly's Standing Committee moved to verify Yen's qualifications to serve as deputy. In response, on April 17, 2012, the Long An province Fatherland Front voted to dismiss Yen from the National Assembly and passed their resolution to the National Assembly's Standing Committee.

In April 2012, Yen submitted a letter of resignation as deputy. The National Assembly Standing Committee rejected it. National Assembly officials then asked provincial authorities to investigate allegations against her. On April 18, 2012, the Vietnam Fatherland Front recommended that she be dismissed from the National Assembly because of irregularities on her election nomination form. Two issues were uncovered. First, Yen was charged with failing to disclose on her election curriculum

vitae that her membership in the Vietnam Communist Party had lapsed. Second, Yen failed to mention that she was divorced and that her ex-husband Jimmy Tran, a Vietnamese-American, had an outstanding warrant against him for fraud.

On May 26, 2012, 457 National Assembly deputies out of 500 voted to approve a Standing Committee resolution to remove Yen from office.

In February 2013, Yen responded to official calls to comment on proposed amendments to the state Constitution by sending a letter to the National Assembly advocating multiparty democracy, respect for human rights, freedom of expression and religion, and an end to the state's monopoly on land ownership.

With this track record, Yen would have alienated many people either because of her personal wealth (she was ranked Vietnam's 37th wealthiest person in 2011) or her political views.

Q3. How should the Vietnamese government respond if lawsuits from foreign investors keep increasing?

ANSWER: The Government of Vietnam and the United States are a signatory to a Trade Agreement that includes provisions for arbitration of commercial disputes. The Vietnamese Government has no recourse but to respond. There are two aspects that should be addressed. First, ensure that the Government retains highly qualified lawyers to deal with these suits. Second, as a long-term measure, ensure that Vietnamese companies understand and apply their legal obligations to the letter.

Suggested citation: Carlyle A. Thayer, "Billionaire Launches Suit Against the Vietnamese Government," *Thayer Consultancy Background Brief*, August 16, 2022. All background briefs are posted on Scribd.com (search for Thayer). To remove yourself from the mailing list type, UNSUBSCRIBE in the Subject heading and hit the Reply key.

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