FOREIGN TRADE CONTROL

AS SEEN BY THE GOVERNMENT AND ENTERPRISES

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1. The point of view of the government in the period of economic reform

The government controls the foreign trade by promulgating mechanism and policies on import and export, disseminating and checking the implementation of these mechanism and policies. During the past few years, the government has promulgated the following policies on import and export:

In 1986, at the 6th VCP Congress, the economic reform was launched. The reform in economic policy and mechanism, in general, comes first, and then the reform in trading and service sector does in particular. After 20 years of implementing the economic reform, the foreign trade has made important advances and contributed its part to the development of the country. The administrative role of the Ministry of Trade (now The Ministry of Industry and Trade) has been strengthened and thus, has created a broad legal channel aimed at giving enterprises more autonomy and limiting governmental intervention in enterprises' activities.

The Ministry of Trade then has advised the government and the PM to promulgate appropriate mechanisms and policies for each development phase and coordinated with other relating ministries to carry out policies on production, export, and the mechanism for regulating export and import activities. Policies and mechanisms regulating the foreign trade during the past 20 years have been reformed remarkably in successive periods 1986-1989, 1990-1992, 1993-1994, 1995-1998, 1999-2000, 2001-2005, and 2006-2010.

Many decrees and decisions on the mechanism for foreign trade control during 1986-2005 have failed to be stable and predictable as expected. Some examples are as follows:

- List of goods banned from import and export, list of goods imported and exported according to permits, and list of goods under specialized control changed every year and thus, caused difficulties for enterprises in working out business strategies and plans.

- Businesspersons' right to import and export is still limited and exports still have to correspond to catalogues of commodities listed on business license.

- Many measures and policies giving advantage to trading activities recognized by international organizations have not been mentioned in the decrees and decisions such as customs quota, anti-dumping and countervailing duties, absolute tax, and environment fees, etc. The decrees and decisions issued during 1986-2005 still prescribe measures and policies unsuitable for international trading conventions.

- The stipulation that a certain number of goods have to be imported or exported via state key enterprises has created unfair competition as well as monopoly and its abuse resulting in the weak competitiveness of the economy.

Meeting with such difficulties and urgent matters, many enterprises and trade associations have proposed that the government should urgently promulgate a new mechanism for foreign trade control that would insure the stability, consistency, and predictability as well as the orientation of governmental management and create favorable conditions for enterprises in production and trading. Moreover, this mechanism would also satisfy the needs of foreign business partners and international organizations including the World Trade Organization (WTO) because the general trend of international trade now is to ensure transparency and predictability of the management mechanism.

In order to solve the above-mentioned matters, the PM has issued Decision 46/2001/QĐ-TTg dated 04 April 2001 on the foreign trade control during 2001-2005, and Decree 44/2001/NĐ-CP dated Aug. 2, 2001 to amend some articles specified by Decree 57/1998/NĐ-CP dated July 31, 1998 on implementation of article in Commercial Law on export, import, subcontracting and trading agent service for foreign partner. The decree 46/2001/QĐ-TTg adjusted the list of goods banned from import and export to make them more appropriate, removed some imports from the list of goods imported and exported according to permits; fixed the itinerary to get rid of import licenses during 2001-2005; got rid of quota and monopolies in exporting rice, and importing fertilizer and alcohol; determined specialized control over foreign trade. It also put into operation new administrative measures in line with the WTO' s rules such as tariff quota, absolute tax, anti-dumping and countervailing duties, etc.

In order to carry out Decision No 46/2001QĐ-TTg dated April 4, 2001 on the foreign trade control in the years 2001-2005, the then Ministry of Trade issued Circular 11/2001/TT-BTM dated April 18, 2001. Other relating ministries and agencies also issued circulars providing guidelines on specialized control over foreign trade.

According to these documents, lists of goods banned from import and export, and goods imported and exported according to permits by the then Ministry of Trade and other ministries were fixed constantly and stably along with clear schedules. This has prevented overlapped guidelines and legal normative documents. The abolishment of foreign trade monopolies; quotas of rice exported and fertilizer imported; approval and distribution of natural wood quota for producing wooden products as exports; and licenses to import wood as raw materials... have really created an open, fair and effective legal infrastructure for foreign trade.

The control over rice export and fuel import has produced positive effects despite fluctuations in prices on both international and local markets. This effort ensured that the rice output was sold at a favorable price for peasants enough supply of fuel without causing price hikes. The ask-and-give mechanism was reduced; and most imports or exports required simple customs formalities at ports and were only regulated by tax. Non-tariff measure was applied to a very few commodities.

This is the first time the mechanism of specialized control over import and export was established to prevent arbitrary practices in granting import and export licenses. The stable mechanism of import and export for a 5-year period helped create favorable conditions for the making of business plans and strategies and state control.

2. Entering into full integration as a WTO member

During the time Vietnam was about to integrate into the world economy as an official WTO member, the then Ministry of Trade reviewed foreign trade policies and mechanisms in order to enhance their positive aspects and remove negative ones, prepared a Commercial Bill based on WTO rules and submitted it to the Government and NA. On June 14, 2005, it was passed by the NA to replace the 1995 Commercial Law. Decree 12/2006/NĐ-CP was issued on Jan. 23, 2006 to provide guidelines on implementation of the Commercial Law about international trade, selling and purchasing agent service, and subcontracting and goods transit. Circulars on implementation of this Decree were also issued by related ministries.

The 2005 Commercial Law, related legal normative documents and Ordinances of national treatment, safeguard, anti-dumping and anti-subsidy constitute a system of documents that is relatively consistent and appropriate to international practices and Vietnam's commitments, serves as a basis and legal infrastructure for foreign trade control, removes irrational barriers, reduces government intervention, and provides fair and transparent treatment to exporters and importers. The said mechanism is assumed to be stable and long lasting except amendments as allowed by the 2005 Commercial Law when necessary.

Main contents of the mechanism for foreign trade control as set forth by Decree 12/2006/NĐ-CP are as follows:

- Right to do export/import:

Vietnamese businesspersons with no foreign direct investment have right to export/import goods without being limited by their business licenses, except for goods in lists of permanently- or temporarily- banned from import/export. Their branches also have a right to export/import as delegated.

Businesspersons with foreign direct investment, foreign companies and branches of foreign companies have rights to export/import as allowed by the Decree and track appropriate to international agreements signed by Vietnam. Ministry of Industry and Trade has publicized schedule and scope of operations of businesspersons with FDI in Decision 10/2007/ QĐ-BTM dated May 21, 2007, and Circulars 09/2007/TT-BTM dated July 17, 2007 and 05/2008/TT-BCT dated April 14, 2008.

- Exports/imports policy dealing with:

+ Goods banned from export/import: Goods related to national defense, national assets and environmental protection according to international practices (weapons, poisonous materials, antiques as national assets, and wild/precious species, etc.).

+ Imports/ exports subject to permits from Ministry of Industry and Trade: Goods controlled by permits and quotas.

+ Exports/imports under specialized control: At present, there are nine lists of goods under specialized control by seven ministries and governmental agencies (Ministries of Agriculture and Rural Development, of Post and Telecommunication, of Culture and Information, of Public Health, of Industry and Trade, of Natural Resources and Environment, of Transport; and SBV).

Lists of exports/imports subject to ministerial permits are made by related ministries. The principle behind the control over such goods is: no limit on quantity apart from standards and conditions for export/import except for items that are of limited use or new to Vietnam or cannot be put under any standard or condition.

- Other export/import activities and trading services:

These include regulations about temporary import for re-export, transit, selling and purchasing agent services, subcontracting, and goods transit.

Companies are main entities that implement export/import policies and directly cooperate with related agencies in perfecting foreign trade mechanisms and policies. Companies always demand that mechanisms and policies be fair and transparent. And they have contributed considerably to the making of foreign trade policies in the past few years.

4. Conclusion

Above-mentioned policies on foreign trade show that the foreign trade control in recent years have played an important role in implementation of the socioeconomic development targets, especially when Vietnam is integrating more and more active into the world market after its accession to the WTO. During the industrialization and modernization in which trade control is adjusted to the trend of international integration and liberation of trade, Vietnam has reformed and made its policies on trade in general, and foreign trade in particularly, more appropriate to international practices and the trend of liberation. This effort has helped import – export business gain remarkable achievements, and foreign trading companies in all sectors develop quickly in recent years. Export value represents a big share in the GDP and becomes a major source of foreign exchange needed for import of raw materials, machines and technologies to meet the increasingly high demand of the economy, thereby ensuring markets for local production, and supplying jobs to millions of laborers. Production of exports of high quality and competitive prices has accelerated the industrialization and modernization.

In the economic reform, the Government and VCP always consider export promotion as a strategic task. It not only increases revenue in foreign exchange needed for import of equipment and raw materials to serve the industrialization and modernization but also ensures market for local products. Reform in foreign trade policies has contributed a lot to the effort to promote the export. During the administrative reform, the foreign trade policies have gained the following achievements:

Firstly, the centrally-planned mechanism for production and foreign trade has been basically removed. A legal infrastructure for foreign trade based on market mechanism has come into being, which tapped effectively creativity and proactiveness of companies of all sectors for export promotion.

Secondly, the foreign trade has become a remarkable source of revenue for the national budget, and saved the public fund from a large subsidy spent annually since the 1980s in covering losses caused by foreign trade.

Thirdly, the foreign trade helped solve effectively the socioeconomic crisis, and control and cut the inflation in the 1980s. After the collapse of the USSR and Eastern Europe bloc, major supplies of both capital and consumer goods, along with aid and loans to Vietnam, were cut, but the Vietnamese foreign trade developed timely to ensure import of raw materials and machinery needed for local production and numerous goods for improvement in living standard.

Fourthly, local businesspersons changed from doing import and export of goods allowed by the Ministry of Trade (Ministry of Industry and Trade now) to importing and exporting all kinds of goods except for the ones banned from export/import or subject to certain conditions. Most of them only require some customs formalities.

Fifthly, from 2007 till now when Vietnam faced great difficulties in the world economy (wide fluctuations in prices of gold, crude oil, and food) and suffered its consequences (higher inflation rate and lower growth rate), the Government has taken bold measures appropriate to WTO rules to encourage local production, promote the export to control the trade gap and inflation, and achieve goals of export promotion. Measures related to foreign trade were: making monetary and financial policies more flexible, creating favorable conditions for local production and export, granting import licenses automatically or electronically for certain goods, encouraging the production of import substitutes, struggling against smuggling and speculation, and encouraging thrift among business circles, etc.

Sixthly, experience of economic integration, especially after Vietnam's accession to the WTO, allowed Vietnam to make the best use of comparative advantages and tap its full potentials for the integration process. Wider bilateral cooperation led to more markets for locally-made goods. In addition, political stability and Vietnam's improved position in the international arena served as a basis for mobilization of internal and external resources for economic growth.

Seventhly, the army of businesspersons in foreign trade activities has developed well after they were officially allowed to engage in the foreign trade instead of waiting for license for each shipment. Up to early 2005, the number of companies registered for foreign trade business was 35,714, an increase of 965 times compared with 1986 (there were only 37 companies then). Of this number, 4,296 were state-run ones, and the rest were from private and foreign sectors. From 2006 on, local companies without foreign direct investment were allowed to export and import any goods without being restricted by their business licenses, except for goods included in lists of permanently or temporarily banned from export and import.

Eighthly, the export value rose quickly. In 2005, it was about US$31.5 billion , 40 times higher than the 1986 export value. In 2010, it was estimated at US$68.5 billion increasing by some 80 times in comparison with 1986 figure■