

Reorganizing the Saigon Trading Corporation Into a Holding Company With its Subsidiaries

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I. FAVORABLE PRECONDITIONS

The Saigon Trading Corporation (STC), like many others, faces various obstacles to its development in the market economy. It has a form of a small-size group of companies at the initial stage of development with its establishment based on a decision from the Government. STC has no investments in its associate members but all of them receive working capital from the State, and as a result, they suffer a lot of interventions from governmental bodies.

Mechanisms and policies on the development of businesses are increasingly perfected, which makes the form of state-owned corporations obsolete. That is why their

transition to holding companies becomes more urgent.

1. Objectives

As directed by the Resolution 3 of the VCP Central Executive Committee (9th term), the reorganization of STC aims at "carrying out the pilot scheme to change state-owned corporations into holding companies with their subsidiaries, in which the holding company invest in its subsidiaries – as one-member limited or joint stock companies, and in companies in other sectors if need be."

The long-term objective is to develop groups in various industries that are strong enough to enhance the competitiveness and business performance and accelerate the modernization of their industries in

preparation for international integration.

2. Requirements

- Ensuring the capital accumulation needed for development of capacity and reinvestment according to the plan for HCMC economic growth from now to 2020.

- Enhancing the competitiveness of the HCMC economy in preparation for integration into the world market.

- Improving the organization of the corporation in order to good relations between corporation and its associate members in terms of investment and interests.

- Diversifying the ownership and product lines of the corporation and members.

- Taking part in the capital and money markets

in order to mobilize capital from other sources.

3. Legal infrastructure for the holding-subsidiary model

- The Resolution 3 of the VCP Central Executive Committee (9th term) gives support to the development of this model.

- The Government also adopt a plan to transform associate members of corporations into other forms of company in 2001-05 by issuing Decree 64/2002 on June 19, 2002 on the transition to joint stock companies for state-owned ones; Decree 63/2001 on Sep. 14, 2001 on the transformation of companies run by political and civic organizations into one-member limited companies. The Amended State-owned

Companies Law was also made in 2003.

The PM issued Decision 128/2003/QĐ-TT on June 26, 2003 to approve the Plan to reorganize state-owned companies in HCMC.

In fact, STC has established relations and cooperation with its associate members in both public and private sectors. The following are some facts:

+ STC and many members have bought shares from other companies in different sectors.

+ After privatization of some associate members, STC has become a holding company when it controlled the better part of their share capital.

Thus, preconditions for the transition to the holding-subsidiary model by STC are favorable enough.

II. DIRECTIONS FOR THE TRANSITION

1. Reorganization of the corporation

a. Overall directions:

- To realize a model free from any governing body, STC is under direction of the HCMC government and related governmental bodies.

- STC is a corporation invested by companies and established under the 2003 Amended State-Owned Companies Law.

- In STC, business autonomy and rights of representatives of owners; along with rights and duties of the board of directors and director-general are separated clearly.

- The board of directors is responsible directly to the body that makes the decision to form STC appoints directors, and to the law. The director-general is responsible to the board and law for his/her duties and rights.

- STC is organized into a holding company while associate companies become its subsidiaries. Their roles determine relations between them.

INDEPENDENT SUBSIDIARIES

A. One-member limited companies

1. Vietnam Kỹ Nghệ Súc Sản (Vis-san)
2. Công Ty TNHH Thực Phẩm Công Nghệ
3. Công Ty TNHH Dịch Vụ Dầu Khí Saigon
4. Công Ty Dịch Vụ Cơ Quan Nước Ngoài (FOSCO)

B. Limited companies

1. Công Ty TNHH May Xuất Khẩu Tân Châu
2. Công Ty TNHH 2 Thành Viên Saigon-An Giang

C. Joint stock companies

1. Công Ty Cổ Phần Thương Mại Dịch Vụ Saigon
2. Công Ty Cổ Phần Vật Tư Tổng Hợp Thành Phố
3. Công Ty Cổ Phần Nông Sản Thực Phẩm Xuất Khẩu
4. Công Ty Cổ Phần Phát Triển Kinh Tế Duyên Hải
5. Công Ty Cổ Phần Kinh Doanh Thủy Hải Sản
6. Công Ty Cổ Phần Chế Biến Hàng Xuất Khẩu Cầu Tre
7. Công Ty Cổ Phần Bao Bì Saigon

b. Directions for the holding-subsidiary model:

- The organization of STC into holding and subsidiary companies is based on current policies and laws, characteristics of their own, and experience

STC (HOLDING COMPANY)

1. Management Body (Board of Directors, Supervision Board)
2. Directorate
3. Specialized Departments
4. Dependent Subsidiaries (companies running supermarkets and trading centers; companies manag-

COOPERATED COMPANIES

A. Joint Ventures with Foreign Partners

B. Joint Stock Companies (with half the share capital held by STC)

1. Công Ty Cổ Phần Kho Vận Giao Nhận Ngoại Thương
2. Công Ty Cổ Phần Nhiên Liệu Saigon
3. Công Ty Cổ Phần Hợp Tác Kinh Tế Và Xuất Nhập Khẩu
4. Công Ty Cổ Phần Vật Liệu Xây Dựng Và Trang Trí Nội Thất
5. Công Ty Cổ Phần Xnk Hàng Tiêu Thủ Công Nghiệp
6. Công Ty Cổ Phần Bánh Kẹo Vinabico
7. Công Ty Cổ Phần Xnk Tổng Hợp Và Đầu Tư (Imexco)
8. Công Ty Cổ Phần Kinh Doanh Thương Mại Xnk Thiên Nam
9. Công Ty Cổ Phần Thương Mại Nam Saigon
10. Công Ty Cổ Phần Thương Mại Và Dịch Vụ Cẩn Giử
11. Công Ty Cổ Phần Mỹ Phẩm Saigon
12. Công Ty Cổ Phần Nhà Rộng
13. Công Ty Cổ Phần Cung Ứng Tàu Biển
14. Công Ty Cổ Phần Dịch Vụ Thương Mại Thành Phố
15. Công Ty Cổ Phần Thương Mại Tổng Hợp Saigon
16. Công Ty Cổ Phần Rau Quả Thành Phố
17. Công Ty Cổ Phần Bách Hóa Điện Máy Thành Phố
18. Công Ty Cổ Phần Xuất Nhập Khẩu Hàng Công Nghiệp (Inexim)
19. Công Ty Sản Xuất Thương Mại Dịch Vụ Bình Chánh
20. Công Ty Sản Xuất Kinh Doanh Xuất Nhập Khẩu Quận 8

from other trading corporations at home and abroad.

- The formation STC according to this model is also based on willingness of its members. The STC operates in various indus-

tries but concentrates in foreign trade.

- STC members base their relations on investments and business contracts. The STC Board of Directors, as the owners, is responsible for manage-

ment and control of STC activities.

- The holding company and subsidiaries have their own legal entity and accounting books, and inherit legitimate rights, interests and obligations of their predecessors.

- The establishment of STC according to the holding-subsidiary model must ensure the leadership of the VCP. This model must make it free from unnecessary increases in its workforce and management machinery or sudden changes that produce bad effects on its operation.

- The establishment of STC according to the holding-subsidiary model must follow a specific plan. Based on the model of organization approved by the authorities, the Board of Directors will be responsible for directing the commission for reorganization and development of corporation to carry out the plan.

- c. Organization of the STC as a corporation:

Besides the holding company and its dependent and independent subsidiaries, the STC could include companies where the holding company holds half, or more than half, the share-capital, and they agree to join the STC as cooperated companies.

Figure 1: STC according to the holding-subsidiary model

2. The model applied to STC

- a. Holding company:

The STC (holding company) is a state-owned company with its own legal entity. Its legal capital is provided by the State at the time of transformation plus the additional capital supplied by the State and proceeds from the privatization of its subsidiaries. Main tasks, among others, assigned to the STC are as follows;

- Receiving capital from the State, investing it in subsidiaries, send representatives to take part in

the managing bodies in subsidiaries and ensuring contributions to the public funds as required by laws.

- Researching and making predictions of market trends, helping subsidiaries enter new markets, securing large orders or bidding for large projects and subcontracting them to subsidiaries.

- Keeping a close watch on its stakes in subsidiaries as required by laws and articles of incorporation.

- Training necessary workforce for subsidiaries.

- b. Managing machinery in the holding company:

- Board of Directors: This board is the representative of the State in the holding company and responsible for controlling the company, solving issues relating to interests and objectives of the company (not including issues relating to tasks not assigned by the State), and carrying out duties stated in the Amended State-Owned Companies Law (2003).

The Board includes from five to seven members who are appointed, dismissed, awarded or disciplined by the State, as the owner. These members must meet standards stated by the above-mentioned law.

- Supervision Board: This board helps the board of directors ensure legitimacy, accuracy and honesty of management and operations of the company,

and see to it that all decisions by the Board of Directors are carried out properly. Rights and duties of this board are stated in the 2003 State-Owned Companies Law.

This board consists of three members, one of them is also a member of the Board of Directors and the other two are appointed by the Board.

- Directorate and the director-general: The director-general is the legal representative who runs daily business of the company. This person is appointed and dismissed by the Board of Directors with approval from the body that establishes the company. Director-general has rights and duties stipulated by the 2003 State-Owned Companies Law.

The Directorate includes the director-general and vice-directors who carried out tasks assigned by the director-general and are responsible to him/her. Vice-directors are appointed, dismissed, awarded and disciplined by the Board of Directors.

Helping hands for the directorate are the chief accountant, heads of specialized departments and leaders of the VCP, trade union and youth league units.

- Dependent units: They are totally controlled by the holding company and specialized in producing and trading staple

products of the holding company. They will be re-organized into companies running supermarkets, managing marketplaces and supplying various services.

- c. Subsidiaries:

They are legal entities independent from the holding company that holds the whole, or more than half, the share capital. They could be:

- One-member limited company owned by the holding company operates according to the Companies Law. They are former members of the corporation that are not included in the privatization program.

- Joint stock company that has been privatized with the holding company as one of the founders; or two-member limited company in which the holding company holds the best part of the share capital. They are regulated by the Companies Law.

- Joint ventures in which the holding company holds more than half the share capital operates according to the Foreign Investment Law.

- Cooperated company in which the holding company holds less than half the share capital agrees to join the corporation.

- d. Cooperated companies: They are companies in which the holding company doesn't hold important stakes.

In short, the STC is a state-owned company that plays an important role in HCMC. It operates as a group of companies but need more improvements to become a strong one. The Government should ensure the legal infrastructure for the operation of such groups while the corporations have to reform their managing machinery and organization in order to establish good relations between members of the corporation before transforming into the holding and subsidiary companies. ■

