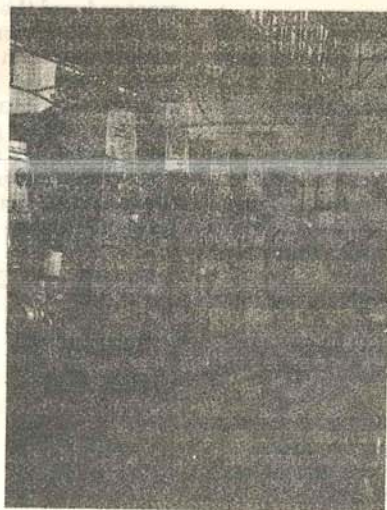


Since 1988, when the Government and Party adopted new economic policy which enabled non-public sectors to survive and develop, especially after the promulgation of Private Business Law and Company Law (1990), the private sector in HCMC has developed incessantly. According to the statistics, up to June 1995, in HCMC, there were over 20,000 family businesses making handicraft and small industry products, over 100,000 family businesses working in the service industry, 2,435 private enterprises, 2,950 limited companies and 68 joint-stock companies. In the past three years, around 100 businesses came into being every month on average.

Although the private sector has made good progress but this sector management of the Government is still a controversial and knotty problem. Before 1989, there was a system of Union of Co-operatives offices controlling small industry and handicraft business in every locality. The function of this office is to hold both administrative and business management. By early 1989, this system was dissolved. In my opinion, it's necessary to dissolve an office holding double management on businesses. However, the diverse development of the private sector since then, especially after 1990, and shortcomings in management mechanism of the Government have led to instability because of a lack of a development plan for all industries in HCMC.

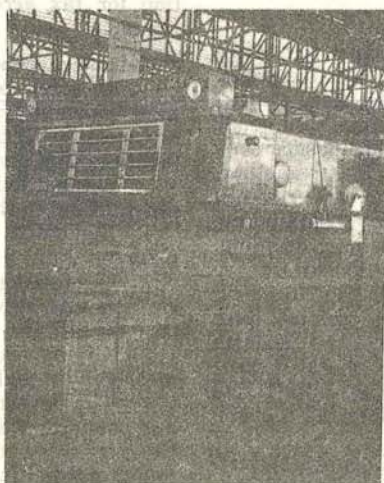
Too many related offices take part in researching and granting business licence. Coming into operation, a business is inspected by too many offices (according to a survey, there are over 10 ones carrying out inspection of a business), but no office is responsible for error if any. Many offices don't know that a certain business has put up its shutter or changed its address. We can understand that all offices think they are responsible for controlling private businesses, but nobody knows what problems should be controlled and how to control them, and there's no practical regulations about it.

A survey of the task of control-



REALITIES OF THE PRIVATE SECTOR MANAGEMENT IN HCMC

by Prof. Dr. NGUYỄN THỊ CÀNH



ling private businesses performed by over 30 offices of various levels shows that functions of all offices are defined very vaguely by legal regulations. Many offices have the same tasks, perform the same function and one office is under others' feet.

Realities of the private sector management show themselves in functions of managing offices. In HCMC, the functions of these offices from municipal to ward levels are as follows:

1. Main functions of the HCMC People's Committee's are:

- Granting licence to form a business: after managing offices received formal requests for forming business, changing form of ownership, opening branch or rep office, the HCMC People's Committee will consider and grant licence.

- Summing up business performance and other activities of all businesses operating in HCMC and adopting appropriate policies.

- Directing all subordinate offices to realize directives of municipal and central authorities on non-public sectors.

2. Main functions of managing offices at municipal level:

In the past, many city services were responsible for receiving formal requests for forming business. At present, the HCMC Planning Committee is the only office responsible

for this task. But in fact, a request for forming business will be under examination of various managing offices. If the field of activity of the said business is wide, it must secure seals of approval from many city services before submitting to the People's Committee.

After licences were granted, we lack clear regulations on controlling these non-public businesses. City services didn't have clear instructions to control legal actions of businesses while there are too many managing offices. It's worth noting that each office has set forth ways of managing of its own according to functions, responsibility and authority given by its statute. The co-ordination of the work of several offices is poor, loose and multiple. This is one of the causes of inefficiency of the government ma-

chinery in controlling the private sector in recent years.

3. Functions of managing offices at district level:

Formal requests for forming business should be approved by industrial and commercial managing office of the district. This office is named differently from one district to another: Commerce Office, Industry Office or Economy Office (controlling agricultural production also). In certain districts, the Finance Office is merged with the Economy Office. This shows that there is no uniformity in the task of controlling a field of activity at district level. This situation becomes a problem to the task of reforming local administration.

At present, upon receiving formal requests for forming private business, district authorities will give opinions about relations between the formation of the said business with the district planning, the local environment and other requirements. District authorities have also the rights to grant licence to businesses belonging to the collective sector (co-operative or production group) according to the Decree No 28.

At present, there is no clear regulation on controlling and inspecting legal actions of private businesses, so district authorities could, or needn't, perform this task at their own sweet will. Their controlling ways are also different from one another. This district office could carry out inspection for violations of regulations of all kinds once a quarter, another district could do it once in a while. This district keeps files on businesses, the other doesn't. In fact, some district managing offices didn't learn what business has moved in or out.

In the past, as to trading business, district offices performed mainly the task of market control in co-ordination with related agencies. At present, the market control agencies at district level are combined together to form inter-district market control agency. The district commerce office stopped controlling trading businesses on its area. The managing role of the commerce offices became vaguer.

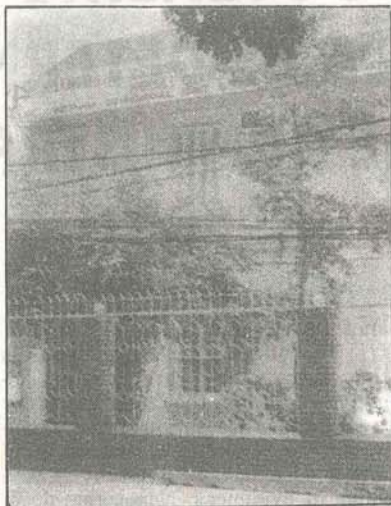
4. At ward level

According to many surveys, most of ward authorities thought that their powers in controlling the private sector weren't stipulated clearly. This situation shows that there are many vague problems and poor co-operation between one superior office and its subordinate ones, or between offices of the same level (police, market control agency, tax agency, etc.). At present,

ward authorities are responsible for certifying some documents in the dossier petitioning for business formation.

Because of the above-mentioned shortcomings in the government mechanism for managing the economy, the managing offices can't deal with fast development of the private sector. For example, in trading business alone, an inspection of 519 trading private companies carried out by the HCMC Commerce Service as required by the Decision No 790/QĐ.UB of the HCMC People's Committee revealed that:

- 221 companies were making losses (42.88%). Total losses amounted to VNĐ7,710.65 million. Thirteen companies have lost over



75% of their registered capital (as ruled by law, they should make a petition for bankruptcy)

- 102 companies (20.7%) didn't keep business accounts, or kept incorrectly.

- 83 companies didn't make entry for each business deal.

- Most of companies didn't sign labor contract with employees.

- Many companies operate with foreign capital invested by their relatives living in foreign countries, while Vietnam law didn't allow foreigner to form private business according to Private Business Law and Company Law. This makes difficulties for the Government management, because the government can't control their activities. These companies usually have business deals which are bigger than their registered capital and didn't declare in order to avoid tax.

The mobilization of foreign investment should be made according to the law, whereas the managing

offices are scattered and badly functioned.

Moreover, some private businesses have lost their ability to do business but the Government couldn't intervene because no regulation allowed such an intervention. These companies can become defaulters, or go bankrupt and cause more troubles to the situation which has already been much disordered.

In such a situation, there must be an administrative reformation carried out on a large scale. But in this article, we could only give some opinions about the task of controlling the private sector in HCMC.

By studying law documents concerning this task and surveying activities of managing offices, we could see that these offices should fulfil the following functions:

- Controlling formation, dissolution and registration of private businesses, and changes in form of ownership.

- Planning and setting orientation of development.

- Making statistics and supplying economic information.

- Carrying out regulating policies.

- Enforcing the law.

- Controlling activities of businesses.

- Dealing with businesses' violation of the law.

These functions could be divided into two groups, and managing offices could be divided accordingly.

Group 1 includes the following functions: planning and orienting development, summing up information. This group of functions is performed by professional offices acting as advisors to the HCMC People's Committee. These offices hardly have contacts with people and they grasp the situation by gathering information, statistics and reports.

Group 2 includes functions such as helping private persons form business according to the law, controlling legal actions in doing business (registration, inspection, settlement after dissolution of a business), or in short, controlling and supervising a business from its formation to dissolution. Each function in this group will be performed by an independent office. The Government can combine many offices to form a new one which will perform many related functions. The offices performing functions of this group will usually have contacts with businesses.

Basing on these functions, the HCMC authorities had better re-determine duties and rights of each managing office at every level ■