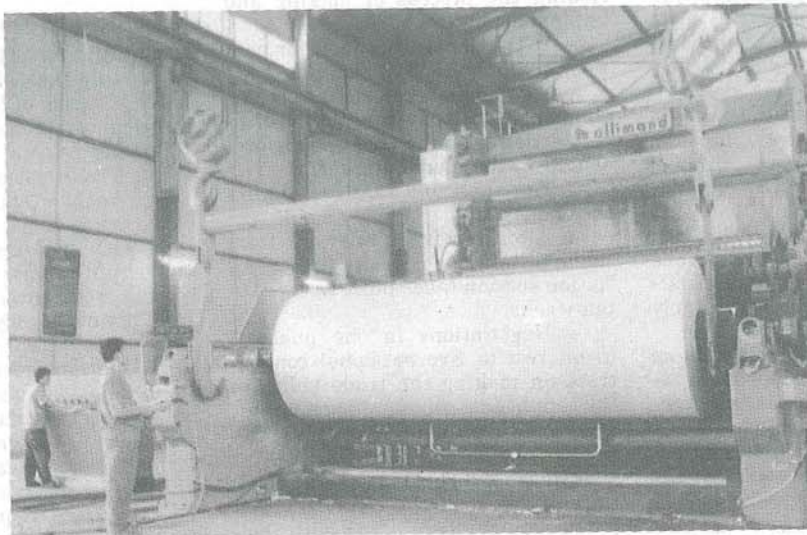


VIETNAM ON THE WAY TO THE WTO

by Dr. NGUYỄN PHÚ TỰ



By the early 1990s, the world witnessed many great events: the end of the Cold War pushed political problems towards the secondary position and made economic issues in international relations become more important. In December 1987, Vietnam made the Law on Foreign Investment and Technology Transfer, opening a new page of its history: integration into the world economy. After joining the ASEAN (1995), APEC (1998) Vietnam has actively negotiated for the WTO membership.

At present, as required by the AFTA, Vietnam committed itself to cut tariffs and open its market by 2006. As a member of the APEC, Vietnam is forced to implement liberal trade requirements which come into effect for developing countries as of 2020. The economic reform since the early 1990s has produced important results: the growth rate stayed high for years; per capita GDP reached US\$360; HDI index was 0.56 (ranking 122 among 174 surveyed countries); increasing export value helped reduce the trade gap (it fell to

US\$113 million in 1999). But Vietnam is still one of the world's poorest countries.

In such a situation, the Resolution 4 by the VCP Central Executive Committee of 8th term dated Dec. 29, 1997 affirmed that principles of Vietnam's integration into the world economy are "to carry out the policy to attract foreign investment with a view to developing internal resources", "to enter and expand actively its export markets", "to prepare necessary conditions in terms of human resource, legal infrastructure and product competitiveness for the integration into the regional and international market", "and at the same time, to conduct negotiations with the U.S for a trade agreement and with the WTO." In October 1995, Vietnam officially made an application to join the WTO with a view to obtaining external conditions favorable for the tapping of internal resources needed for its economic development; making Vietnamese trade and companies approach international standards and improving their competitiveness.

1. Requirements of principle for Vietnam in negotiating for WTO membership

- WTO trade rules demand removal of discrimination, tariff barriers, quotas and state trading, restraints on trade in services, requirements on investment and intellectual property; perfection of legal framework; and establishment of a level playing field as a basis for negotiations for WTO membership.

- Transparency of foreign trade policies: Exact information about foreign trade policies and their implementation should be available for other WTO members.

- Market access and trade barriers: The WTO requires Vietnam to limit application of tariffs and non-tariff instruments to imports from WTO members.

- Liberal trade in services: The WTO will ask Vietnam to open its market for services (especially financial, insurance and telecommunications services). Vietnam should negotiate for liberating services with high

competitiveness first with a view to protecting infant services.

- Protection of intellectual property: In Vietnam, the trade mark legislation came into effect in December 1982, copyright legislation in November 1986 and industrial design legislation in May 1988. The enforcement of these laws, however, hasn't been effective enough. In negotiations, the WTO will require Vietnam to reform intellectual property laws and supervise strictly their enforcement.

- Safeguards: Vietnam is allowed to apply safeguards to prevent commercial injury to domestic industry.

- Developing country status: Article XXVIII, Part 4 of GATT provides preferential treatment for developing countries when joining the WTO in order to protect their infant industries.

- Opt-out clause: Article XXXV of GATT and Article XIII of WTO Charter allow a contracting party to choose not to have a treaty obligation relationship with the other at one time if the party finds it unsatisfactory. The opt-out clause will apply through negotiations.

- Trade-related problems such as environment, labor standards or human rights: These are social problems but they are connected to trade policy by developed countries in order to raise new barriers against developing countries.

2. Process and schedule of negotiations for WTO membership

a. Procedures for joining the WTO

Observer status: A country seeking for the WTO membership doesn't necessarily spend a period being an

observer. Most countries, however, accept this status before starting negotiations in order to have time to access and get more understanding of WTO rules and activities, thereby establishing closer relations with WTO members in preparation for negotiations for WTO membership. Vietnam received this status in June 1994. The negotiation process is as follows:

- Phase 1 (Transparency of policy) includes the following steps:

- + Applicant country submits a memorandum about its trade policy. The policy should be clear and expressed in the WTO language, including the process of making and implementing the policy.

- + WTO General Council forms a work team for each applicant.

- + WTO members raise questions about matters they concern with in connection with the trade policy presented in the memorandum.

- + The applicant country answers these questions.

- + After receiving answers from the applicant country, the first negotiation session takes place in eight to ten weeks.

- + Negotiations in the phase 1 (from two to five sessions) concentrate on making the trade policy of the applicant country transparent. They will be multilateral negotiations.

- Phase 2 includes bilateral negotiations between the applicant and particular members along with multilateral ones aiming at making the applicant's trade policy come nearer to WTO rules and institutions.

When conditions are favorable enough, that is, the applicant's trade policy meets requirements posed by

negotiating parties, the work team has a meeting with the WTO Secretariat and representatives from negotiating parties to pass documents that provide official membership for the applicant.

Generally and technically, these negotiations aim at examining the trade policy of the applicant country to decide whether it is suitable to existing multilateral agreements under WTO rule and principles; discussing the access to market for goods between the applicant and each member; and negotiating about trade in services on a bilateral basis.

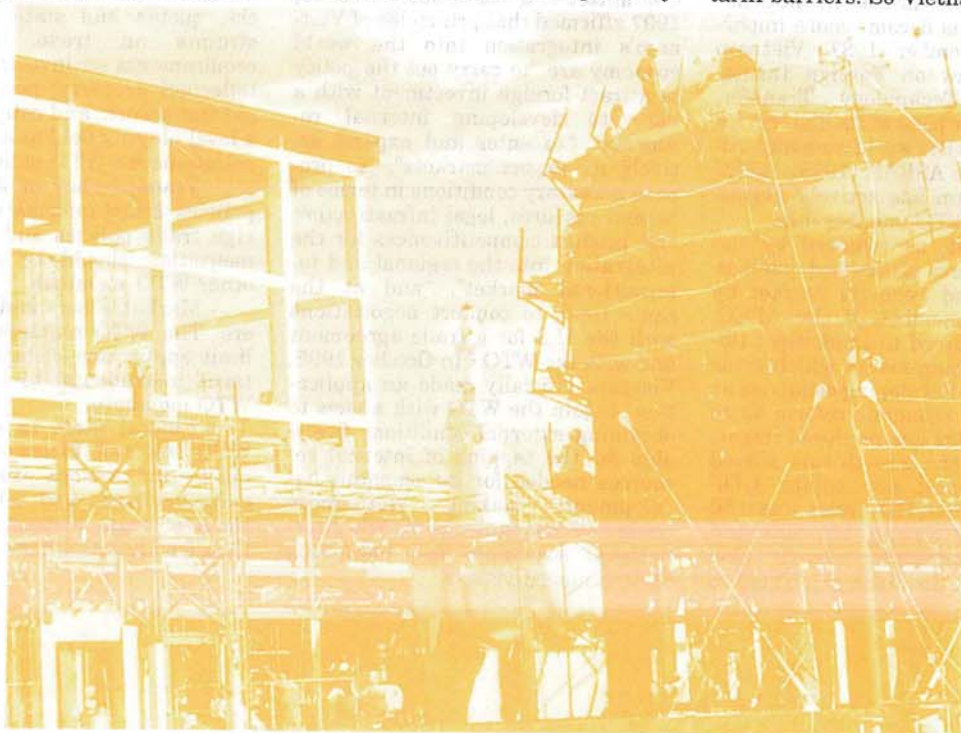
3. Basic problems in Vietnam's negotiations for WTO memberships

To join the WTO, Vietnam should solve a series of legal, economic and political problems focussing on the following points:

- a. Trade rules and implementation: Vietnam should implement all WTO trade rules, therefore it has to deal with such issues as discrimination, high tariffs, import and export quotas, restraints on trade in services, transparency of trade mechanism, intellectual property, etc.

- b. Vietnam's foreign trade mechanism: Vietnam should supply necessary information about its trade policies, such as customs institutions and formalities, standards of trade mark and origin of goods, etc. Vietnam has just met these requirements to a certain extent and should make more laws and regulations of foreign trade and investment.

- c. Market access and trade barriers: The problem of market access relates to tariff schedules and non-tariff barriers. So Vietnam has to re-



duce tariffs on imports from WTO members and limit the use of non-tariff barriers (quota, licenses, etc.)

d. Liberation of trade in services: Vietnam, in negotiations, should present measures to ensure market access for WTO members, that is, Vietnam should open its market for services. This is one of difficulties to Vietnam because its service industry is weak.

e. Intellectual property: This issue is new to most Vietnamese people. In the near future, Vietnam should make laws on intellectual property and enforce them more strictly.

4. Vietnam negotiating process

Vietnam, on the way to WTO membership, has completed the following steps:

- Achieving the GATT observer status in June 1994.

- The WTO Secretariat received the application for membership from Vietnam on Jan. 4, 1995.

- Vietnam's memorandum of Vietnamese foreign trade system was submitted to the WTO Secretariat and other members on Aug. 26, 1996.

- In April, an interdepartmental working party for WTO negotiations was formed. This party consists of representatives from industries and ministries most related to WTO negotiations.

- Vietnam receives 655 questions from WTO members in May 1997.

- On May 7, 1997, the PM appointed a negotiating delegation for WTO membership.

- On July 13, 2000, Vietnam signed the U.S. - Vietnam Trade Agreement, the first bilateral trade agreement based on WTO principles, rules and language.

5. Challenges and benefits from the WTO membership

Joining the WTO is a process that brings about both opportunities for economic development and challenges to Vietnam. For the time being, Vietnam should meet many requirements of principle posed by the WTO: non-discrimination, MFN clause, transparency of trade policy, liberation of trade on goods and services, reduction in tariffs, etc. These requirements are also designed to be suitable to both Vietnam's conditions and international practices but they still are challenges to Vietnam.

a. Challenges:

To extend non-discrimination and MFN treatment to one another, Vietnam has to reduce tariff and non-tariff barriers to imports from other

members and offer equal treatment to both domestic and foreign companies. This requirement forces Vietnam to stop giving preferential treatment to state companies and ensure equal opportunities for all sectors. This is a difficulty for Vietnamese infant industries in facing competition from foreign companies with more advantages. Closure of less competitive companies and removal of protection for certain industries will lead to social unrest, and then, to political dissidence.

- Liberal trade and reduction in tariffs not only affect Vietnamese protectionism but also reduce the national budget income. If the structure of industry isn't improved by developing export-oriented industries and tapping comparative advantages, Vietnam will lose its domestic market to foreign companies and suffer deficit balance of trade and of payments because of falls in export earnings.

- The transparency of trade policy requires Vietnam to change all protectionist measures into tariffs, remove non-tariff barriers and quantitative restrictions, publicize and simplify customs formalities and make all import regulations suitable to international practices. As for such professional services as insurance, banking, financial, legal and auditing ones, Vietnam will face great challenges because local companies supplying these services are less competitive. To improve their competitiveness requires a process of training skilled laborers and adopting new technology and equipment that consume a lot of time and money.

- The WTO membership also means less freedom of policy choice. Vietnam can't decide its policy and ways of implementing it at will. On the other hand, it has to pay more attention to WTO obligations and rules.

b. Benefits:

- The WTO membership allows Vietnam to avoid discrimination and restrictions by trading partners and enjoy more opportunities to promote trading relations with other members.

- Vietnam can export more rice because quantitative restrictions by importing countries will be changed into tariffs (which are cut according to the WTO Agreement on Agriculture).

- Vietnam can benefit from cuts in tariffs, especially those on goods from labor-intensive industries in Vietnam.

- The removal of the Multi-Fiber Arrangement means that Vietnam, in ten years after becoming a WTO member, will be free from restrictions by other members on clothing exports.

- The WTO Agreement on Trade-Related Investment Measures provides Vietnam with international guarantee and encourages foreign investment in Vietnam.

- The WTO membership allows Vietnam to enjoy more favorable status in dispute-settlement process in relations with economic powers.

- Vietnam can enjoy the WTO preference for developing countries (the use of subsidies for example), thereby protecting and developing its infant industries.

- The WTO membership forces Vietnam to accelerate its reforms with a view to creating a more favorable investment climate for foreign companies.

- Development of trade under WTO rules will help Vietnamese gain higher growth rate when local companies can compete against foreign counterparts, take part in international division of labor and absorb foreign experience.

- The WTO membership helps enhance Vietnam's position in foreign relations. International integration is a chance for Vietnam to take part in building international "playing rules" in order to keep pace with new development trends and adjust its trade policy accordingly with a view to making the most of new opportunities.

- International integration creates conditions for Vietnam to ensure its national security because economic strength plays a leading role in national security and sovereignty.

In short, to join the WTO is a right decision when Vietnam is trying to integrate into the world economy. Although many challenges are in store for us, the most decisive problem to Vietnam is how to improve the competitiveness of local companies. An urgent task posed by this problem is to increase investment in technology that aims at changing the structure of industry and modernizing the production of goods and services as well.

In addition, the Government should adopt more progressive policies, adjust old mechanisms with a view to making them more suitable to both international practices and local conditions and meet requirements posed by the WTO. ■