



POSITION PAPER OF JCCI AT THE MIDTERM VIETNAM BUSINESS FORUM 2018

In order to improve the investment environment, we would like to highlight three key measures and three key requirements of member businesses wishing the Government of Vietnam to take efforts on implementation.

【KEY MEASURES】

1. Administrative procedure reform

Considering specific concerns relating to administrative procedure simplification and acceleration, at midterm and annual meeting of the last year, we raised issues such as “lack of adequate understanding by officers”, “insufficient sharing and coordination among relevant ministries”, and “unclear interpretations and guidance” and put forwarded two recommendations as below.

- To establish a new organization across ministries which has an authorized power to strongly proceed to solve any problem under the Advisory Council for Administrative Procedure Reform (ACAPR).
- Perfecting procedures for prior confirmation relating to regulations and ordinances. To be more specific, to improve the current situation that “Official letter” is used without clear legal basis, and formulate a unified rule¹ and execute.

We highly appreciated that Mr. Mai Tien Dung, Minister/Chairman of the Office of the Government made a statement and agreed with the recommendation of JCCI at the annual meeting, and also mentioned in the meeting of ACAPR in the following day the need of further administrative procedure reform. Again, we highly appreciated the aggressive efforts of Vietnamese Government with strong leadership of the Prime Minister Nguyen Xuan Phuc and Government Office Chairman Mai Tien Dung to make the administrative procedure system more simple and speedy.

¹ The interiors of unified rule are, for example, the obligation to answer in writing to questions from enterprises, setting standard processing period, to publish the contents of reply after certain period of time; and clearly defining exceptions where non-reply is allowed.

Although we recognize that it's significant to establish a new organization which has an authorized power as we proposed at last year annual meeting, we also believe that a pilot project in specific sectors is needed in order to generate concrete outcomes in the reform process as early as possible.

Therefore, at this year, we would like to suggest "pilot project to accelerate the administrative procedure reform at specific ministries.

And, we think that General Department of Vietnam Customs (GDC) is appropriate agency to undertake this project. The reasons are 1) GDC positively works on improving administrative procedure, for example, they have adopted a "prior confirmation procedures" for HS code application. 2) Further improve of customs procedures is a common and urgent concern for foreign enterprises.

For instance, "prior confirmation procedures" which we mentioned above doesn't contribute yet to improve custom clearance due to the low usage. In that context, we would like to propose GDC to start the project to comprehend the problem of present system and make an improvement plan with Chambers of Commerce and Industry of each country.

We believe that GDC - Chambers of Commerce and Industry joint project will be soon started with the strong leadership of Prime Minister Nguyen Xuan Phuc, and also hope that the Prime Minister's aggressive support to improving plan which is comprehended through the project.

2. Review of fiscal balance

In last year annual meeting, we pointed out that Vietnam's public debt reaches approximately 65% of GDP, and it cause delay in payment of ODA projects. In addition, due to the high priority is given to deal with public debts, low interest rate and long-term ODA loans are not used efficiently and cause delays in building infrastructure project, in a result, the mid-long term economic growth could be impeded. Accordingly, drastic structural reforms on both the revenue and expenditure sides should be urgently undertaken.

We are worried to see no indications of improvement or resolution to this grave issue of government debt yet. We would like to propose continuously diversification of tax system and improvement of tax collection on the revenue side, and rationalization and optimization on the expenditure side.

Furthermore, we would like to put forward here suggestion that restructuring a portforio of government debt from scratch in terms of that if finances have been allocated to truly high-efficiency sectors in the context that the government debt touches 65% of GDP cap. It is a

need to restructure a portfolio of public debt from short-term with high interest loan to long-term with low interest commencing with ODA loan.

3. Environmental issues

Not only JCCI members but also many foreign companies in Vietnam concern with environmental issues including air pollution, water and soil contamination in Vietnam which are getting worse year by year.

While we appreciate Vietnamese government's efforts to improve environmental issues, several policies are not necessarily efficient, such as Article 100.5 of the draft Decree guiding the implementation of the Environmental Protection Law that is under discussion.

Japan used to face with serious waste disposal problems due to the fast industrialization and huge production, large-volume consumption, and large amounts of wastes with economic growth. However, we managed to handle the problems from the viewpoint of "Enhancing enterprises to undertake activity to protect environment" and "improving consumers' awareness for environmental protection".

For instance, based on the concept of "3R" – "Reduce, Reuse, Recycle" – to minimize the volume of wastes, Japan adopted policies to raise environmental awareness, such as offering tax incentives for environment-friendly electric products and cars, incentives in tax collection, tax rebate proportionately to the CO2 footprints of companies/households, using simple packaging, reducing plastic shopping bags and food waste, gathering and recycling used plastic bottles and containers.

Furthermore, in Japan, special committee was formed in December 2017 under the Prime Minister's office, led by the Prime Minister to direct the implementation of "Sustainable Development Goals (SDGs)" which was proposed by United Nations Summit in September 2015. This committee settled "Japan SDGs Awards" to commend companies and associations which contribute to achieve SDGs in Japan. Japanese Government is still working hard to conduct and promote environment-friendly efforts among enterprises.

We believe that it's significant to build the scheme to encourage enterprises and consumers to have good intention to environment protection, and hopefully Vietnamese Government will undertake strong action including utilizing the natural gas to power.

Lastly, we hope to play a more active role in this field by utilizing Japan's previous experience.

【SPECIFIC ISSUES PROPOSED BY JCCI'S MEMBERS 】

- **With respect to Decree 09/2016/ND-CP** which requires food manufacturers to fortify certain micronutrients to salt, wheat flour and certain Vegetable oil, there is a concern that this obligation will force a number of Japanese food processing enterprises to bear substantial and excessive costs for establishing and operating new facilities to implement this obligation. That is because these enterprises also export food products to countries which do not allow such micronutrients to be added to the food products, and in order to avoid the contamination of these micronutrients during the processing of such foods, multiple processing lines need to be constructed, established and separately operated. While we understand the importance of strengthening the health of Vietnamese people, we appreciate that Vietnamese authority take into the account this issue of imposing substantial and excessive costs.
- **With respect to the draft Decree which implement the provisions under Law on Environment Protection**, there are numbers of requirements dealing with the treatment of wastewater, including the requirement of establishing facilities to keep and pool wastewater. Due to our tragic experiences in Japan, we fully understand the importance of environment protection. However, as establishing huge facilities will force investors to bear unexpected substantial costs, the criteria for sorting out the entities which fall under these requirements, as well as the specifications of the facilities required to be established, should be objectively reasonable and plausible, and clear enough so as to secure transparent application and operation of this regulation and to avoid confusion. We hope that our concern has been taken into account in drafting the Decree.
- **With respect to the Circular 130/2016/TT-BTC**, the guideline of Decree 100/2016/ND-CP there had been two significant issues for many Japanese companies not being able to get the refund for the input VAT. The first one is for the goods imported then re-exported had become non-refundable. The second one is the export of natural resources that had become VAT exempt which caused input VAT non-refundable. On December 15th, 2017, the government issued Decree 146/2017/ND-CP regarding VAT. Thanks to the new decree, it allows the many Japanese companies to get the VAT refund again. However, the issue remains for VAT treatment during the period of 1st July 2016 to 1st February 2018 between the effective dates of Circular 130 and decree 146. Its impact is still outstanding for many Japanese companies not being able to get the refund during the time. On all the Japanese companies' behalf, I would like to request the HCMC people's committee to raise the issue to Ministry of Finance to consider the Decree 146 to become effective retroactively from 1st July, 2016.