



## **Annual Vietnam Business Forum 2016**

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### **INVESTORS FEEDBACK**

*Presented by  
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Chairman*

Government leaders, business representatives, ladies and gentlemen, The Nordic Chamber of Commerce – Nordcham, appreciates this opportunity to share its views on the business climate in Viet Nam.

As a small Nordic business community with a long history in Viet Nam we would like to share our view on a few specific areas which Nordic investors focus on.

#### **I. POWER AND ENERGY**

Government deserves credit for Power Development Plan #7 with reductions of new imported coal plants, the implementation plan for the Paris Agreement on Climate Change, and recent Prime Minister Decision on Solar development.

The Nordic Chamber of Commerce in collaboration with the Vietnam Business Forum presented the Made in Vietnam Energy report to outline the advantages of greater emphasis on cleaner domestic solutions for Vietnam's future energy needs and to demonstrate the advantages of prioritizing domestic (hydro, gas, coal, wind and solar) energy vs. imported (coal) energy resources with respect to Vietnam's social, economic, energy security goals, Vietnam's global and domestic environmental commitments, and to attract private sector investment. The report also provides key policy and regulatory measures that could help move Vietnam towards these goals.

MVEP proposes that greater use of direct power purchase agreements (DPPA) between power producers and large power consumers should be allowed, as have shown to be extremely effective in other similar countries like Vietnam. FDI's in Vietnam and other multinational corporations have publicly made global commitments to work towards using energy from renewable energy efficient projects. But policies in Vietnam today do not yet allow for DPPA. A change in this policy - allowing enterprises and consumers to have access to clean energy will attract additional investment and global brands that will help carry Vietnam up the manufacturing value chain. If Government approves DPPA 500 MW of wind power and additional solar power can be added to the grid by 2020, costing Government nothing in capital costs and/or guarantees, Government will benefit from wheeling fees and CIT of profitable wind farms.

MVEP recommends a Power Price Road-map using Market Based Pricing to 2020 with a vision to 2025, including definition of variable pricing between the three main tariff groups – residential, commercial and industrial. The provision of actual cost information can empower consumers and investors as to the most effective way to invest in higher efficiency equipment and processes. Energy efficiency investment and innovation is not occurring in high volume now because consumers believe power prices will remain subsidized by the Government. Presently Vietnam has the lowest energy price in ASEAN.

MVEP supports the enhancement of EVN creditworthiness. Increasingly international donors support for renewable and cleaner energy development and procedures to assist the cost of guaranteeing that EVN will pay for power supplied under a PPA for renewable and clean energy projects in Vietnam, wind, solar, biomass, waste to energy and natural gas. The credit enhancement of EVN would aid the Government of Vietnam to reach energy and agreed climate change goals and help encourage developers to consider Vietnam for financial investment and bankable commercial debt.

MVEP encourages the Government to work with the private sector to develop the off-shore gas reserves and infrastructure, and encourage additional exploration to bring additional gas on line as soon as possible and reduce the need for imported coal.

NordCham supports the Government implementation plan for the Paris Agreement on Climate Change, especially meeting Vietnam's Environmental Protection Laws, solar and wind decisions, moving towards cleaner transport, ie electric motorbikes, energy efficiency. **NordCham can cooperate with MOF, MPI** to create an achievable budget for implementation calling for private sector investments. **Engage NordCham and it's members** industries, in energy savings, bench marks, permits in during drafting such issues.

## **II. ENVIRONMENT**

Viet Nam like the Nordic Countries share thousands of years of habitation in areas close to sea level which has produced a share relationship of our love for clean environment. Protecting the natural resource from climate change and pollution is a high priority in Vietnam and Nordic countries. Viet Nam today is seen taking proactive action on industrial polluters and in the reduction of CO<sub>2</sub>; however penalties for polluters are low compared to income of these industries. Our earlier industrialization of Nordic countries has allowed us to developed proven technological know-how in pollution reduction. When Nordic companies invest overseas, they are obliged to follow the same strict environmental rules as applied in their respective Nordic countries.

We recommended that you continue your vigilance on Environment issues and be selective, and choose only investors that want to accept to work within Viet Nam using the highest environmental standards, especially in waste water treatment and CO<sub>2</sub> reduction.

Vietnam has in place adequate Environmental laws and regulations to protect the environment. Sadly we have seen firms able to by-pass these laws and regulations. The Government needs to enforce these laws, fines, have firms implement their environmental plans and have polluters pay for damage.

## **III. CUSTOMS CLEARANCE PROCESS**

Anti-facilitation or corruption is now a policy that most of multinational and Nordic companies in particular, applied with the aim to have a clear and fair business environment.

Currently the applications are often indefinitely and/or long delayed in customs clearance procedure for unclear/unspecified reasons, and Customs officials sometimes require many unnecessary documents during the time of clearance process.

➤ **We suggest the following solution:**

- Time line to have 01 shipment cleared must be stipulated somewhere officially that Customs officials must follow.
- Notification about number of docs and type of docs required for customs clearance should be made public at Customs office door and Customs website so that importers have a reference to follow, and Customs officials should then not ask for other documents than those on the requested official list.

#### **IV. FERTILIZER IMPORT/DISTRIBUTION ISSUES**

Several of our members are active in the fertilizer production/trade/import and some are leading international fertilizer producers with a wide and valuable international experience.

Vietnam being a large food producer it is also import to have professional Nordic/European companies to participate in the development of the important agriculture sector.

Recently there have been a number of new regulations issued which have caused a number of issues, and have been quite challenging to conform with, summarized below in points 1-4, with proposal for solution.

##### **1. One-time Licensing process to import fertilizers**

Circular 35/2014/TT-BCT of MOIT dated October 15<sup>th</sup>, 2014 regulating automatic import license applicable to fertilizer.

##### ➤ **Outstanding problems/obstacles**

- Company have now to apply every time for a one-time license for each lot of fertilizer imported. Since company already has business license of importing and trading fertilizer in Vietnam. This requirement only adds complication to the actual process.
- There is an additional requirement for issuing of the one-time license which is that importers should have a confirmation from a specific bank at the time of the import, although many of these imports are purchased on credit terms. It is therefore unreasonable as companies are uncertain what bank they will select for payment to supplier at the time of importation. The choice would depend on the competitiveness of banks and exchange rates when payment to supplier is due.

##### ➤ **Proposal for solution**

- Should not apply “one-time license” requirement to companies that already have import rights in their business license.
- There is no need for confirmation letter from the bank in order for companies to obtain permission to import fertilizer to Vietnam.

##### **2. Acknowledgment by Lot from BR-VT DOIT**

Circular 41/2014 by MARD, Article 11, point 2. B said: “Each kind of Fertilizer needs to be announced conformity **only one time**.”

Circular 29/2014 by MOIT said in Article 21 point 1 as: Before the circulation of inorganic fertilizer on the market, manufacturers or importers must make the declaration of conformity.

No official documents today says that Conformity announcement must be made for **every single shipment**.

But currently with every shipment, Conformity announcement is required to be submitted. Even 20 shipments of the same products are imported in these months, 20 similar set of Conformity

announcement dossiers must be submitted to DOIT, and wait from 5-7 working days of each for their acknowledgement.

➤ **Proposal/solution**

DOIT can acknowledge the conformity declaration 01 time for 01 product for a specific period (i.e. 1 year), after that importers can submit dossier to extend this effectiveness. Or once there is any change in content of conformity declaration, importers will submit the revised conformity declaration for that product. (as stipulated in Article 11, point 2. B, Circular 41/2014 by MARD). There is then no need to concern about the conformity because if the importers do not get Conformity Certificate from accredited Lab for the imported shipment, that shipment cannot be cleared customs then cannot be released for sales.

**3. Regulations to apply for importing inorganic fertilizer**

As recent changes, MOIT has been in charge of inorganic fertilizer. However when importers make customs declaration, Customs officials still base on most of circular/decrees/Decisions by MARD instead of the ones issued by MOIT. But the regulation about one matter is not the same between MOIT & MARD. This is creating a big challenge for the importers.

*For example:*

With Circular 29/2014 by MOIT, Article 15, point 1 said: “Papers and documents for import of inorganic fertilizers:

In addition to the papers and documents prescribed by law for the import of goods, importers of inorganic fertilizers must present the following papers and documents to the Customs Authority:

1. The case of import for manufacturing and trading inorganic fertilizers

a) A copy of Certificate of Enterprise registration or Investment certificate or Certificate of Business registration which includes fertilizer business granted by competent agencies. These are only presented at the first import.

b) A copy of certificate of conformity of the batch of imported fertilizer granted by an assigned certification body”

while in Circular 04/2015 by MARD, Article 27, point 2 said: “Import without permits:

The importer of the following fertilizers is exempt from a Permit:

a) Fertilizers included in the List of fertilizers permitted to produce, trade and use in Vietnam issued by the Ministry of Agriculture and Rural Development from August 9, 2008 to November 27, 2013.

b) Fertilizers included in the List of fertilizers subject to declaration of conformity issued by the Ministry of Agriculture and Rural Development and the Ministry of Industry and Trade.”

Due to the vague and overlapped nature of regulations, the customs request documentation partly covering both regulations which makes it difficult for importer to know exactly which regulation finally will be applied/approved.

➤ **Proposal/solution**

One clear instruction/decision from MOIT directs to Customs departments, that, from definite time, they must apply only regulations by MOIT on importing inorganic fertilizer, or at least limit borrowed regulations from MARD in this subject so that importers can have clear basis to work with Customs officials in customs procedure.

**4. Fertilizer Imports – Quality of Testing Laboratory**

Upon requirement of Conformity Announcement for all kinds of fertilizers, Fertilizer entrepreneurs have to sign contract with the testing Labs accredited by MOIT/MARD. However

recently we have received some Decision from MOIT to close some Labs, who have been doing conformity tests for most of Fertilizer companies in VN:

- Decision #2466/QĐ-BCT to repeal the Decision granted to testing Labs (TTKKNPBVNB & Vinacert) on testing and issuing conformity certificates for inorganic fertilizers.
- Announcement #8288/BCT-HC to force all Fertilizer companies to RECALL all products certified by above mentioned Labs which were already sold to the market and RE-DO the conformity test for all re-called products at other accredited Labs.

One noticeable issue is that companies importing from Europe, where the most modern methods in quality control is applied, every shipment before loading are tested by international standard Labs to make sure the quality is well controlled. The products being sold in Vietnam have exactly the same high quality requirement as with products being sold in Nordic markets and around the world.

➤ **Problem**

- Decision of repealing licenses of testing Labs is authority's (MOIT's) decision, but recall all products which were on the market is unfair & impossible. Obviously when signing contract with TTKKNPBVNB we trusted that, this organization belongs to MARD and had been assigned by MOIT to do inorganic fertilizer test. (Decision no. 8788/QĐ.BCT granted by MOIT on Oct 02, 2014). We relied on this fact when deciding to use TTKKNPBVNB as the service provider for our products.

Before selling products, we did all necessary steps of required conformity announcement with BR-VT DOIT's acknowledgement. Therefore, the rejection all conformity certificates and request to recall all products will cause a heavy cost and sales lost, and as a result, it will affect badly to our prestige toward customers.

- Quality testing method is also an issue of concern as the appointed laboratories releases different results for the same products, whenever the result has a little different from CoA (like some micro supplemented elements) – which is often the case - the Certificate will not be issued and the shipment cannot be released; the test has to be repeated 2 or 3 times until it finds that the product's quality is on specs. Such repeated issues and mistakes at import level create delays, lost for sales and revenue.

➤ **Proposal/solution**

- Allow the importers to keep selling the products used the conformity seal by TTKKNPBVNB which have already been sold to the market.
- They have done re-test for all products stored in their warehouse with Vinacontrol (nominated by MOIT under Decision 2005/QĐ-BCT). The old conformity seal on the full/empty bags will be erased and replaced by Vinacontrol's seal as requested on letter 8288/BCT-HC.
- Testing results of import products issued by International Laboratories or Inspection companies at load port should be accepted for customs clearance and conformity announcement.

## **V. LOGISTICS/TRANSPORT/PORT SITUATION**

Many of our member companies are still experiencing great problems due to increased transport and logistic cost as a result of port congestion and lack of handling capacity in the major

Vietnamese ports. In order for Vietnam to remain competitive compared with its neighboring countries it is important to improve the cargo handling capacity and cost.

Present ports need to be improved and new ports need to be built, this applies both for container terminals and bulk-steel cargoes. We recommend that in order to accelerate investment in this important sector the policy is eased to allow 100% foreign shareholding in transport and port investment projects.

The new trucking rules regarding maximum weight trucks can carry have sharply added transport cost and are quite different from international standard. Furthermore the rules and regulations are continuously changed/amended making difficult to even follow what the current regulations are. We agree that maximum weight has to be applied, and we do in general fully support this new measure, however it is today not always applied equally between ports and regions. Furthermore a fully loaded 20 feet container can be transported on a 20 feet trailer in loading ports around the world, but in Vietnam it can now only be transported on a 40 feet trailer. We therefore suggest that relevant rules and regulations are modified to apply international standard so that particularly containers can be transported in a more efficient and safe way.

Finally we have noted that as per WTO commitment as from January 2014 foreign companies should be able to operate in the logistic field as fully foreign invested companies, however the regulations on how to apply the new rules have not been issued.

We recommend that comprehensive regulations are issued without further delay enabling foreign companies to make needed investment in the logistic field, which will make the logistic services more competitive and reduce exporter and importers cost.

From Nordcham's perspective, our members are confident about their investment in Vietnam which is based on a long term view. Several new Nordic companies have increased their present investments and new companies have been established during the past year.

We appreciate this opportunity to participate in the Vietnam Business Forum and thank for this opportunity to exchange views and enhance understanding between the Government of Vietnam and the business community.

We wish good health to the Minister, representatives of business associations, and the diplomatic corps, and all the representatives here today.

Thank you.