

POSITION PAPER OF AUTOMOTIVE WORKING GROUP

*Prepared by
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Vietnam Business Forum*

A. AUTOMOBILE BUSINESS'S POSITION

Firstly, we would like to highly appreciate Government efforts to improve business environment, which contributes significantly to automobile market development in recent years.

We strongly support Government direction to develop Vietnam automobile industry and its supporting industries so far. We do believe a good policy measure should ensure 3 following aspects as the same time:

1. Nurture automobile market expansion with stable growth
2. Support to reduce production cost of CKD & part suppliers
3. Develop automobile supporting industries with strong and applicable policies

1. Nurture automobile market expansion with stable growth

Market size and its stable growth are key factors to attract investment to develop local assembly as well as supporting industries towards a strong and competitive automobile industry of Vietnam. However, some policies namely Decree 116 and Ownership Tax implementation really make recent market unstable. Since Decree 116 is issued on Oct 17th 2017, the automakers and importers are actively working with our partners in exporting countries and had many meetings with MOIT, MOT and VR, however we still find some big difficulties without solutions in compliance with Decree 116. Meanwhile, business operation of some CKD& CBU business companies have been severely affected as some orders of importing automobile for the first months of 2018 have been cancelled. These cancelations are threatening the security of thousands of jobs across Vietnam, both those directly employed by distributors as well as in dealerships across Vietnam.

1.1. Decree 116

We would like to express our serious concern on some administration measures in Decree 116 as they are not compliant with international practice¹ and causes negative impact to both CBU and CKD operation at Vietnam.

a. For CBU: Overseas Vehicle Type Approval (VTA) requirement

As you know, each country's Government tests and certifies following local regulation for domestic-usage vehicles only, export vehicles are out of scope. Exporting vehicles are made with a purpose to meet the customer expectation and the specific regulation requirement in each importing country. There would be a difference between specifications of exporting vehicles and domestic-usage vehicles.

¹ For instance, for the American Automotive Policy Council (AAPC), Articles 6.12, 6.2 and 7 of Decree 116 breach the Agreement on Technical Barriers to Trade (TBT).

Even in this situation, some Government did issue VTA as their own efforts to maintain their national export benefit, however some countries cannot issue VTA as they apply another homologation method.

The retroactive nature of the effective date of Circular 03 guiding the implementation of Decree 116 hit both FDI and Vietnamese automotive companies leaving them no time to prepare. Six months worth of committed production and shipments were impacted. To solve the current storage bottleneck, critical financial situation of importers and Vietnamese dealers to avoid social and fiscal costs, we recommed that all CBU vehicles docked in Vietnam from January 1st to June 30th 2018 be treated as “en route” and exempted from Decree 116 and Circular 03.

Therefore, we propose Vietnam Government to consider remove overseas VTA requirement for CBU.

b. For CBU: lot by lot test requirement

Most of automobile enterprises are not able to comply with such burden of a same importing vehicle being tested again and again for emission and safety just due to different shipments. It is meaningless, just a waste of time and cost. According to our current statistics, in March 2018, a shipment was imported at Ho Chi Minh port and Hai Phong port, the time for emission testing and safety has extended up to 3 weeks. In the coming time, as the volume of imported vehicles increases (source from Thailand, Indonesia), this trial waiting time may be longer.

In the case of European CBU, not a single car could be homologated from January to April 2018. Euro Cham is deeply concerned that Decree 116 and Circular 03 lot by lot test requirements contradict completely EU and Vietnam’s commitment within EVFTA to accept ECE documents for vehicles, spare parts and components without any testing nor retesting.

Even when VTAs are available, each shipment of the vehicles even of the same model entering the port must be inspected to ensure they meet the standards. Meanwhile, new models produced in Vietnam only have to test once 36 months. This unnecessary and burdensome requirement for imported vehicles not being required for locally assembled vehicles constitutes a discrimination and is liable under WTO.

As a matter of fact, the lacking of vehicle supply from early 2018 is creating unstable situation for not only CBU but also CKD business and longer waiting time for customers. We are concerned that imported and locally assembled commercial vehicles which are usually a good reflection of a country industrial and commercial development decreased -31% overall in Vietnam since Decree 116 came into effect (according to VAMA data).

We would like strongly propose Vietnam Government and MOT/VR to revise regulation to apply emission and safety test for 1st shipment only, and accept the test report for next shipment as same as last year practice, so that no retest is required.

c. For CKD: new requirement of test course

According to article 7, clause 1, point a and article IV of annex I, CKD makers need to have a test road with 800m length, in which 400m straight by 17/4/2019. It means that many automakers need to seek for more land and more investment for construction of new or expansion test road, or to have a rental contract of a test road.

Many makers are impossible to comply with the requirement due to not enough land for accommodation of a new/expansion test road. To rent a test road is also very difficult due to high expenses for rental cost and logistic cost to and from factory to test road vice versa as Decree 116 required 100% CKD vehicles should be road tested.

So far, all existing makers must comply all Vietnam technical regulation before they can sell vehicles to customers. Therefore we believe they can continue to do so. We would like to propose the Government and MOIT does not apply retroactively this requirement for existing automakers.

d. For CKD: Automobile parts, components must be tested in Vietnam

Most of the national technical regulations in Vietnam are based on the ECE standard. Parts, components, assemblies if meet ECE standards: testing, evaluating the manufacturer's quality management system (COP evaluation), and obtaining ECE certification, will not be necessary to carry out testing in Vietnam, avoid wasting and cut unnecessary procedures.

Therefore, we would like to propose related authority to accept overseas Test reports, Type Approval for parts & components and COP certificates as current regulation which have been applied since 2001 (Circular 30 and Circular 54 issued by the Ministry of Transport).

On top of that, for the overall purpose of support and enhance CKD competitiveness, we propose to eliminate unnecessary cost and time for CKD production as above mentioned.

1.2. Issues of Ownership Tax implementation (under Decree 140/2016/ND-CP)

a. Updating price of existing cars only when price change $\pm 20\%$

We would like to express our concern on 20% of car price is big amount of money, rarely except for the case of having a big change of auto tax policy. It means that taxable car price list will be kept unchanged for a long time. That actually leads to many complaints from customers and unstable market when they purchase at lower price but ownership tax is remained high.

Besides in case if price increase over 20%, it take a long time for updating price list and it has been making bad impact on business operation of enterprises and customers as well

We would like to propose the Government to revise Decree 140 to remove 20% price change criteria and replace by frequency of price list update such as 1 time a month. The price update should be based on price notice by car makers/authorized importers.

b. Late updating the price of newly-introduced car into MOF's Price list

When a makers/importers introduce a new car to market, the price should be updated immediately to MOF's Price list. However currently, the new price will be updated by each local/province tax office; then it takes several months to be updated to MOF's Price list. During that period, it is very critical for customers as they cannot pay OT and register the cars. Also, there is no unified car price nationwide.

We would like to propose MOF to make update the price list nation-wide shortly basing on price notice by car makers/authorized importers.

2. Support CKD to make CKD/CBU cost gap reduction

Vietnam current market is still very small, and vehicle production volume is very low. Due to (1) small production; (2) fluctuated vehicle market in the past and (3) clear roadmap of 0% import duty for CBU from 2018, it has been very difficult for suppliers to decide in producing parts that requires high investment (especially machine, die and jig), because there could be no future market for CKD parts or if they invest, it would result in high depreciation per part unit and make the local part itself less cost competitive vs. imported part.

As a result, not so many suppliers can sustain their business in Vietnam and provide parts for automobile assemblers². Without local part availability, bigger component makers and CKD vehicle assemblers need to import most of materials and parts, which includes logistics and packaging cost, and import duty. Those additional expenses even widen the existing ex-factory production cost gap between Vietnam CKD vehicles and Asean CBU vehicles; leading to an overall cost gap of approximately 10 - 20%. Before 2018, the presence of Asean import duty for CBU did offset the cost gap, but it doesn't exist further. Therefore, besides each maker's cost reduction efforts, we would like to seek for Government support and incentives to eliminate the cost gap:

- Incentive policies should be consistent to ensure a stable development of automobile industry and supporting industries. All related Government bodies should work on the same direction towards stable market growth and supporting industries development.
- Ensure a transparent, fair treatment for all players, suitable implementation roadmap and in alignment with Vietnam's international commitments so that all existing automakers in Vietnam can have an equal chance to get incentives.
- Government incentives can be reduced step by step and phased out in future in line with market expansion and development of automobile industry and its supporting industries.

3. Develop automobile supporting industry

3.1. Quality/Cost/Delivery capability of suppliers

Automobile industry has complex and multi-layered supply chains (Tier 1, Tier 2, Tier 3, and raw material suppliers) consisting of many suppliers in each tier. Tier 2-3 suppliers are required to strictly adhere to production requirements such as Quality/Cost/Delivery (QCD), while for Tier 1 suppliers, R&D requirements such as parts development and proposal capabilities are necessary in addition. Therefore, development of suppliers requires much effort, time and investment. However, as a matter of fact that not many local suppliers meet required QCD standards to participate global supply chains. Also it requires copywriting permit and/or technology transfer or licensing agreements from genuine part suppliers to local suppliers in Vietnam

3.2. Existing policies for automobile supporting industry cannot solve the structural issue of small production volume and CBU Import duty 0% from 2018

Even several Decision or Decree for supporting industry development has been issued. However practically not so many suppliers can enjoy the policy because it cannot solve the structural issue

² Some suppliers in Export Process Zone (EPZ) produce part for exports; but to purchase parts from EPZ, assemblers pay similar import duty as overseas import, making higher part cost.

of small production volume and CBU import duty 0% from 2018. At the same time, the application procedure is rather complicated. We would like to propose:

a. For Government:

- Vietnam Government should offer investment incentives for makers and suppliers to purchase machinery, die and jig to localize automobile parts, which somehow help neutralize the negative impact of small production volume.
- Invite key suppliers to join automobile dialogue and hold frequent meetings with clear discussion points, and then report to Prime Minister more frequently to improve workability of policies.

b. For suppliers:

- Local supplier tier 2 & 3 should not aim to “leapfrog” to become tier 1 in the short term, but ensure to meet the requirement of QCD.
- Besides, suppliers should take part in auto part supplier databases and business matching programs and create attractive business profile.

c. For automobile makers:

- We would continue share our supplier criteria, list of auto parts that we expect to localize for potential suppliers’ consideration. We are open to recruit suppliers regardless those suppliers are local or foreign-invested.
- Furthermore, some of makers can help potential suppliers to increase their QCD capability and obtain know-how via their supplier enhancement programs.

4. Other issues

4.1. Special Consumption Tax (SCT) cap for imported CBU passenger cars

Due to the limited volume of imported CBU passenger cars, the SCT cap deducted from the taxable price should be increased from 7% to 15% in order for the importers and dealers to be able to maintain sustainable business operations. Also, the definition of ‘related parties’ applied to SCT calculation has been changed over time. It remains unclear and this creates uncertainty for the importers on the tax liabilities.

We recommend that the SCT cap deducted from the taxable price should be increased from 7% to 15%. SCT should become a standard calculation applicable to all regardless of the distribution channels, integrated ownership and unrelated parties’ relationship. Tax liabilities generated by unclear or changing definitions of related parties should not be subject to late payment penalties and should be waived.

4.2. Management of imported materials for export production

Imports are based on the production plan. However, in practice, the production plan and the actual production do not match exactly. There will always be changes in usage purposes for E31 and/or A12 in most enterprises using the scheme of importing materials under both E31 and A12. Hence, it is very complicated and difficult for enterprises to manage materials and to track by import sources to comply with the law in a timely fashion and to declare the change in usage purposes and pay taxes for E31, which creates risk. If the enterprise wants to avoid that risk, it must import all materials as taxable under A12 and then ask for a tax refund when it is used in a

good which is exported. This leads to significant cash flow/workload/financial cost burdens for the enterprise.

We propose that the Government considers revising the current customs rules in order to enable the simplification of the management process required for enterprises who import both under E31 and A12. It is important to encourage exports in line with the recent policy of the Vietnamese Government on administration/tax procedure reform.

B. MOTORCYCLE BUSINESS'S POSITION

1. Driving license for electric motorbikes:

Recently, the use of electric motorbikes has become increasingly popular, especially for students from junior and high schools level due to the convenience and reasonable price. However, in the current Road Traffic Law, there is a lack of age regulation on driver's license, resulting in unsafe conditions for vehicle users.

Therefore, we propose the Government to consider addition to Chapter V, the Road Traffic Act 2008 stipulates the minimum age allowed to drive electric bicycles, electric motorcycles; Additional regulations for driving licenses for electric motorcycles.

2. Updating price of existing vehicles only when price change $\pm 20\%$:

Currently, motorbikes are still the main means of transport for Vietnamese. In most cities and rural areas, people use motorcycles as a means of transportation for their livelihood. Owning a motorcycle means a lot to the people. Manufacturers, importers always try to bring to the product quality, reasonable price as well as the best after-sales service for customers. However, there are inadequate in taxable price list. The price of vehicles depend on many factors such as market demand, socioeconomic conditions of each region, distributors, as well as changing taxes policy. When changing, it takes a long time to update due to the complicated process. Therefore, the determination of the actual selling price as ownership tax price that applies in nationwide, it make many difficulties for customers and tax office.

We would like to propose the Government to revise Decree 140 to remove 20% price change criteria and replace by frequency of price list update such as 1 time a month. The price update should be based on price notice by makers/authorized importers.

3. Multi-purpose 3-wheel vehicles for the Vietnamese market

European countries are considering 3-wheel tilting vehicles (MP3 concept) as a potential future key for urban mobility as it succeeds in conjugating typical 2-wheel bike agility with a higher level of safety thanks to the stability during braking and emergency conditions. However, this type of vehicle cannot currently be sold in Vietnam because the distance between the front wheels of an MP3 is $d=465\text{mm}$. According to Circular 67/2015/TT-BGTVT³, if $d>460\text{mm}$, a vehicle is not classified as one motorcycle in the L3 category and is not approved by the Ministry of Transport.

We propose that the Government considers revising the current customs rules in order to enable a new kind of vehicle, like MP3, to enter the Vietnamese market as it could represent a very interesting alternative and safe solution to cars for large towns affected by traffic congestion.

³ Circular 67/2015/TT-BGTVT of Ministry of Transport dated 6 November 2015 on National technical regulation on safety and Environmental protection for motorcycles and mopeds.