



## **REPORT**

### **Export and Import policy**

#### **ACTIVITY CODE: ICB-15**

#### **“Revision of the Commercial Law of Viet Nam”**

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***Prepared by: Trinh Thanh Thuy - PMU Expert 4***

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## **Export and Import policy**

### **I. General Policy on the export and import of goods**

Trade policies not only heavily depend on the economic development and trade situation in each period but they are also taken into account in relation with fiscal and monetary policies. They are also affected greatly from the proactive regional and international economic integration. The two major goals in Vietnamese existing trade policy are to encourage export and try to limit imported goods that can be locally produced.

Since Congress passed the Commercial Law amended in 2005, the Government of Viet Nam promulgated Decree No. 12/2006/ND-CP dated 23 January, 2006 detailing the Commercial Law regarding international sales and purchase of goods. Afterwards, Decree 23/2007/ND-CP of the Government detailing the Commercial Law regarding the purchase and sales of goods of foreign direct investment enterprises was issued in the early of 2007. Next, Decree No. 90/2007/ND-CP of the Government was promulgated to regulate export and import rights of the last object which is foreign traders without presence in Viet Nam. These were the main three Decree of the framework for export and import activities in Viet Nam for a long time from 2006. Recently, Decree 12/2006/ND-CP was amended and replaced by Decree No. 187/2013/ND-CP.

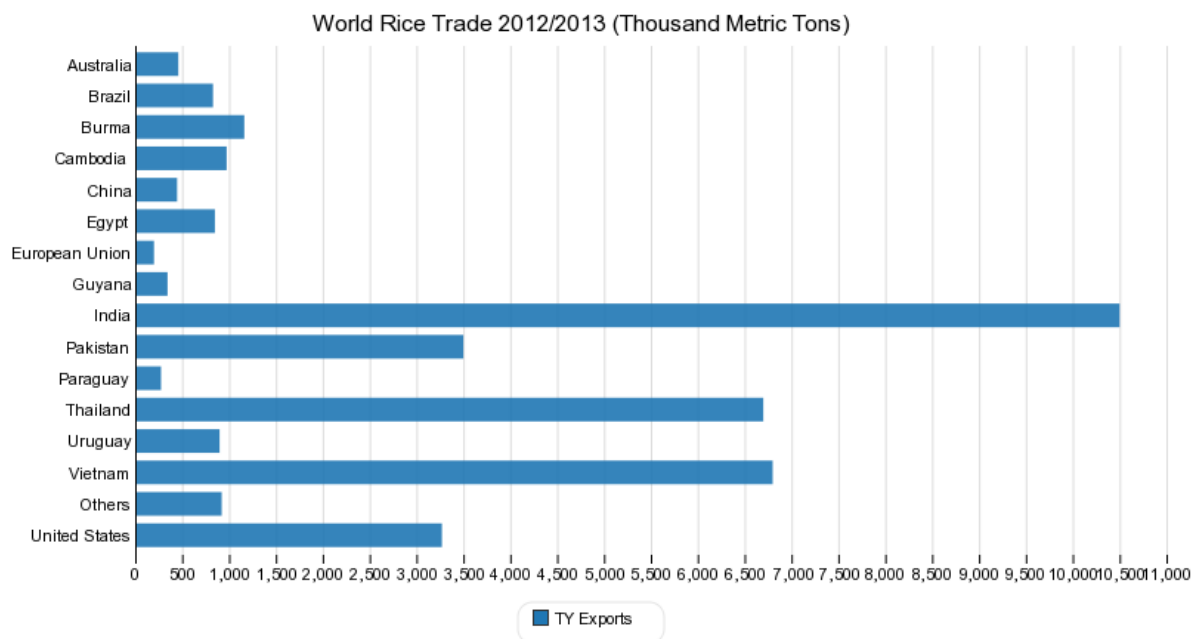
Indeed, the current export-import policy of Viet Nam relatively completed to meet the requirements of development and ensure Viet Nam's commitments to be implemented. Trade management mechanism is quite stable, transparent creating the most favorable conditions for enterprises to promote export-import operations.

### **II. Policy items**

#### **1. Export policies for rice/paddy**

##### ***1.1 Overall observation***

Viet Nam is a country in Southeast Asia with the longstanding rice civilization. Nowadays, Viet Nam has been one of the largest rice producer and exporter in the world. According to statistics of the USDA, compare to other countries all around the world, Viet Nam has just been the second largest rice exporter in the year 2013.



Source: United States Department of Agriculture (USDA)

However, changes in world rice markets have not been good for export in recent years. In the world today, the major rice-consuming countries are also the largest producers of rice. Due to the need to ensure food security, these countries are particularly interested in promoting and expanding production to self-serve for their food demand. Furthermore, many importing countries have adopted measures not favorable like tax policy, quotas... Especially, the barriers of technical quality standards for imported rice were considered to apply to restrict the rice importation.

There are some fierce competition exporters have to face with to keep market share of the rice. Exporters mainly are in the same region with the similar condition of climate. Moreover, in order to promote the production and export of rice, some countries spend large budget to buy rice at high prices to support producers such as Thailand and China. Some countries are endowed with soil, geographical location near markets, making freight load low to keep more competitive price in the market.

In recent year, rice supply has risen leading to the increase in inventory in exporting countries. This also leads to changes in supply-demand relation. World rice prices tend to sharply decline since 2012, and particularly the second quarter in 2013.

### ***1.2 Legal provisions for rice in Viet Nam***

#### *a) First regulations on exporting rice*

Regarding the legal framework for the production and trading of rice in Viet Nam, Decree No. 12/2006/ND-CP contains some provisions on the issue of the export of rice<sup>1</sup>. The goal and principles for rice exports were regulated in the Decree as “to ensure food

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<sup>1</sup> Article 10 of Decree 12/2006/ND-CP

security; rice prices to ensure farmers to get benefit, and other suitable premises for commodity prices in the country”. Furthermore, the Decree abolished the quota for rice exports applied for a long previous time. Traders of all economic sectors are engaged in exporting rice.

The Prime Minister has specific guidance annually. He identifies target orientation in export volumes based on the forecast of grain output and domestic demand, based on which the Ministry of Industry and Trade and Ministry of Agriculture and Rural Development will provide guideline on the export of rice.

The Viet Nam Food Association takes part in the managerial activities in the aspect of rice export contracts to control the prices no less than the floor prices under the Association rules.

#### **- Registration of rice contract**

Derived from practical requirements and to achieve management objectives, the Viet Nam Food Association has been proposed to guide for registration of contracts. There are two major purposes for rice export registration: i) it is crucial to gather statistics and control the amount of rice exported to actively and timely regulate activities for export, ensuring consistent resources, price's stability in domestic market as well as the general price; ii) minimum floor price is seen as a technical measure against market dumping situation, contributing to improve the efficiency of export prices of Viet Nam's rice. This is a mechanism to prevent the dumping of export enterprises and reduce the purchase price from farmers

#### **- The implementation of concentrated contracts**

Decree 12/2006/ND-CP stipulates that the centralized contracts shall be assigned to the business association members to ensure that the contract is unified and completed properly under the Government's commitment. In fact, the Association allocates quotas to perform the contracts and is responsible for implementing this kind of contract even in unfavorable condition of the market world.

There remain some obstacles for traders involving in rice export. Allocation criteria for businesses to participate in the contracts sometimes were not reasonable due to lack of scientific and appropriate criteria. The second problem lies on management mechanism which is no transparent one for healthy competition among exporters leading to price pressure and dumping.

#### *b) Recently regulation on exporting rice*

In the late of 2010, the Government promulgated Decree No. 109/2010/ND-CP on the export of rice. There are some new regulations assessed as new transparent management of the Government.

### **- Conditions for rice traders are required<sup>2</sup>**

- (i) Setting up and having business registration in accordance with law.
- (ii) At least 01 specialized storage capacity of at least 5,000 (five thousand) tons of paddy
- (iii) At least 01 base grind, grinding grain, rice minimum capacity of 10 tons of paddy / hour to be conformed to regulations of Ministry of Agriculture and rural Development.

Depots, base grind, grinding grain owned by traders must lie in the province, city directly exporting rice or having international port.

### **- Rice export certification is crucial for exporting**

The right to export rice is asserted in Article 3. However, only traders owning rice export certification issued under the above conditions can perform the activity. The provisions of this clause are to eliminate the business which does not have real power, not long-term investments in service and export activities.

### **- Registration of export contracts is still stipulated in the Decree**

The Decree reserves the responsibility for registration of export contracts in the Viet Nam Food Association. However, the criteria for registration of export contracts include: (i) the price agreed in the contract price shall not be lower than the export floor price oriented by the Ministry of Finance in collaboration with the Ministry of Agriculture and rural Development, Ministry of Industry and Trade, the Viet Nam Food Association; (ii) having a minimum inventory of rice equivalent to 50% of the rice exported in the contract registration.

It seems to reveal the essential criteria for healthy export performances. This provision is also to promote traders buy rice from farmers after harvesting to actively participate in export contracts resulting from having compulsory inventory.

### **- Concentrated contracts**

Concentrated contracts are signed under the agreement between competent authorities of the Vietnamese Government and foreign governments or foreign territories and other rice export contracts signed under the direction of the Prime Minister<sup>3</sup>.

The Decree not only has mechanism for the coordination of some relevant ministries, but also reveals criteria to allocate the volume of concentrated contracts for traders<sup>4</sup>. Based on the criteria, the implementation of concentrated contracts is quite clear and unarguable.

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<sup>2</sup> Article 4 Decree 109/2010/ND-CP

<sup>3</sup> Paragraph 1 Article 16 Decree 109/2010/ND-CP

<sup>4</sup> Paragraph 4 Article 16. Allocation concentrated contracts is based on the following criteria:

## **- Handling violation provisions**

Some administrative solutions were regulated to handle the violation of traders in implementing rice exports like suspension of registration of export contracts in 3 months, 6 months and revocation of certificate of eligibility rice export business for merchant.

The Ministry of Industry and Trade has specified some Articles of the Decree. Conditions and criteria for registration rice export contracts and as well as the responsibilities among traders, competent agencies are more transparent in Circular No. 44/2010/TT-BCT dated December 31, 2010 detailing Decree No. 109/2010/ND-CP dated 04 December 11, 2010 of the Government on rice export business. In which, the Ministry of Trade and Industry has closely followed the market situation and price movement of domestic grain and commodity export prices. In the case of rice prices on commodity markets in the trend of decline, affecting profits in consumption and production activities, the Ministry of Industry and Trade in coordination with the special Task Force which gathers official from relevant ministries make recommendations to the Prime Minister and the related ministries in the application of specific measures to strengthen procurement activities, temporary storage, maintain grain commodity prices in the country with the purpose of benefiting rice farmers avoiding losses.

### ***1.3 Management situation***

In general slowdown of the global economy, the country still faces many difficulties, not enough to balance the budget consumption of whole rice for the production of goods. In cases of some difficulties in the market, the Government had decided to purchase rice for stockpiling, which has a positive impact on commodity prices. However, rice exports only account for a small portion (approximately from 25-28 %) in the total production of rice harvested over the country.

Moreover, the quality of rice needs to be considered due to its effect in the world export market. In reality, the quality is affected by the production methods which mainly are small scale with not high technical processing and production. Beside that, the adverse conditions of nature, climate, and weather may leave negative impact on rice quality making harder to building export brand.

### ***1.4 Experiences from foreign countries***

#### ***a) Thai land***

Thailand has historically been known as one of the South East Asia countries successfully producing and exporting rice. Rice was mainly produced by farmers in central Thailand who were well protected by the Government. However, rice production was

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a) Rice export performance in the previous 06 (six) months.

b) The responsibility of performing the contract already allocated.

c) Amount of paddy, rice available in stocks.

d) How much do the traders buy paddy under the direction of the competent agencies.

modest only self sufficient in the early of the 20 century.

From the 1950s onwards, rice production was increased remarkably due to new policies of the Thailand's Government. The rice industry also took advantages of new technologies in the world called green revolution. The area of paddies was expanded in Northeast. By the mid of the 1960s, Thailand rapidly became the world leading rice exporter and maintained that for decades.

The Thailand Government is always interested in food staples like rice. They have plans to buy rice from farmers at a generous premium to market prices. Farmers sometimes were paid the gap between market prices and floor rates. Some reckon this will be agricultural subsidies that may distort the world market.

### **Case study: The rice policy of Yingluck Shinawatra's Government<sup>5</sup>**

Prime Minister Yingluck Shinawatra has committed to purchasing rice from farmers, as much as possible, in order to boost their incomes. It seems to be overwhelming rural support, The price for unmilled paddy rice has been set at \$500 a ton, compared to \$271 a ton in July. This makes it more attractive to sell to government agencies than to Thai exporters, who ship around 10m tons a year.

This policy is highly unpopular with Thai exporters who want to stay competitive. Vichai Sriprasert, CEO of Riceland International, told the Foreign Correspondents Club of Thailand (FCCT) that the guaranteed prices are "way above market levels" and could price Thailand out of world markets. He calculated that at \$500 a ton, overseas buyers could expect FOB export prices of \$830 a ton. This compares to current prices of \$629 a ton, which is already on the upswing since it became clear that Thailand was serious about jacking up crop prices.

How high could it go? In April 2008, as oil prices soared skyward, a rally in rice pushed over \$1,000 a ton, sparking panic in rice-importing countries. An alternative explanation is that it was the export bans and protectionist policies of countries like India that fueled the price-spike. Rice is a thinly traded commodity that comes in many shapes and sizes, so local factors are hard to untangle from bigger trends. Either way, the market eventually corrected, though not to the lows of previous years.

Chanchai Rakthananon, a rice miller told the FCCT that farmers needed the government's support as the cost of inputs made it hard to earn a decent wage. Not so fast, said Ammar Siamwalla, an eminent economist, who brandished a report into a past rice-guarantee scheme that cost \$628 million, of which only 37% went into the pockets of farmers. Moreover, some

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<sup>5</sup> Thailand's rice policy gets sticky, East Asia Forum, 13 June ,2012 at <http://www.eastasiaforum.org/2012/06/13/thailand-s-rice-policy-gets-sticky/>



of these farmers had sizeable incomes so weren't quite so deserving of taxpayer subsidies. Such is the folly of politically driven subsidies in agriculture: look no further than the European Union's stockpiles.

Thailand has plenty of rice in its own stockpiles, and the government's generous scheme will fill its warehouses or those of private contractors (hmm, I see a business opportunity). At some point, it may have to dump its expensive rice before it spoils, driving down world prices.

Think again. Yingluck Shinawatra's government recently introduced a new rice policy that will cause a hemorrhaging of Thailand's public funds at a time when its economy desperately needs to improve its international competitiveness by increasing public investment in education, transport and energy.

The new policy, which was rolled out in 2011, guarantees the purchase of rice from farmers at 15,000 baht (US\$472) a ton for white unmilled rice and 20,000 baht (US\$630) for 'jasmine' rice — 50-60 percent above the prevailing market price. This new program departs from previous rice-buying schemes because of its high price, and because it fails to set any limit on government purchases. If anyone is prepared to sell, the government is duty-bound to buy.

The policy has made the government the world's largest rice trader overnight, dealing with virtually the entire marketable surplus of rice in the country. Rice stocks have climbed by 12.5 million tons — well over the amount that Thailand exports in a normal year — and the amount keeps rising.

Some might argue that these costs are worth paying because the new program helps poor rice farmers. Another problem with the new rice policy is corruption. Unfortunately, less than a fifth of the subsidy is estimated to reach poor farmers. Farmers are required to sell their rice to millers, who have enough local market power to reduce the procurement price they offer to farmers, and at the same time receive compensation from the government at the procurement rate. The rest helps millers, corrupt bureaucrats and large farmers who have surplus rice production they can afford to sell.

Previously, the Thailand Government set the policy of guaranteeing minimum price slightly below the prevailing market price. This scheme was not perfect, but it was fiscally sustainable, helped ensure a guaranteed minimum price for farmers, and allowed the Thai rice market to operate in accordance with market forces.

#### *b) India*

It is said that the Indian Government chose the right policy for developing the rice industry. As the result, India has become the world leading exporter in 2013. This is the

great effort of the government to keep the stable export policy to benefit the agriculture sector.

Since it gained independence in 1947, India has pursued a policy of food self-sufficiency particularly in the periods of Pre-Green and Green revolution the 1950s, 1960s. In fact, there were some changes in institution and development of irrigation as well as the abolishment of landlordism. Furthermore, the new technology was applied through adopting high-yielding varieties, expanding irrigation, and increasing fertilizer leading to the initial result of self-sufficiency. Cropped area has also increased steadily as expansion in irrigation has boosted multiple cropping and cropping intensity.

Aside from that, the Indian Government also had supportive output price and input subsidy policies. India's major policy instruments for domestic agriculture include minimum support prices for major crops; input subsidies for fertilizer, power, and irrigation water; and a Targeted Public Distribution System that provides subsidized food staples—primarily wheat and rice—to food-insecure segments of the population. Minimum support prices are set annually and, if necessary, defended through market procurement by central and state government agencies.

With the subsidy policy said above, some economists suggested that there should be direct cash transfer to farmers to minimize corruption, the big problem in many developing countries.

Recently, some raises another problem of the fertilizer subsidy declared as essential one by the Indian Government. India has accorded high priority to use of fertilizer resulting in a steep increase in consumption making it deplete soil health causing decline in crop.

### ***1.5 Some recommendations and solutions***

It is undeniable that legal framework for rice has been remarkably completed. However, there are some regulations need to be reviewed and amended.

**First**, to handle the complex relationship among partners in exporting rice, there should be reasonable mechanism timely adjusted to harmonies relationship of business' interest, farmers producing rice, traders purchasing, processing, supplying and exporting as well as farmers.

Besides that, to enhance the capacity and competitiveness of enterprises exporting rice, the Government must continue to implement the reorganization team merchants, traders and need to require a plan of specific route enhancing the technical requirements repository, base grinding, grinding of traders exporting rice to meet the competitive requirements of preserving the ability to temporarily store and substance rice exports. On the other hand, competent agencies need to research appropriate policy support to traders to limited inventory pressure, release of goods sold to repay bank debt maturity. In the long term, there should be fiscal policy, appropriate credit to traders obtain the financial resources needed for

investment and business productivity tools especially rice purchasing goods for the production and stockpiling, can actively market evolutions.

**Second**, application of scientific advances in production need to be required to improve the quality of preservation, processing rice, step by step branding Viet Nam rice on the world market.

**Third**, strengthen the capability of forecasting information on the production, harvest at the local level to take the appropriate measures to administer, more flexible; as well the information and forecasts of demand, changes in market conditions and foreign rice to produce the business plan and production business more efficiently .

**Fourth**, further boosting trade promotion, search, expand export markets.

## **2. Importation of Automotives**

### ***2.1 Legal framework for the importation of automotive***

The importation of automobiles was stipulated in Decree No 187/2013/ND-CP detailing regulations of the commercial law on international purchasing products as follows:

*“1. Automobile imports:*

*a) the types of cars used only if the importer to ensure conditions: type used no more than 5 (five) years from year to year imported produce.*

*b) Pursuant to the requirements of each management period, the Government assigned the Ministry of Industry and Trade to import passenger cars, from 9 (nine) seats”.*

Besides that, circular No 20/2011/TT-BCT of the Ministry of Industry and Trade on additional provisions and procedures for importation car form 9 seats:

#### *Article 1. Additional import procedures*

*Traders importing cars from 09 seats to import procedures, in addition to the implementation of the current regulations, must submit the following additional documents to the state agency authorized:*

*1. Certificate or power of attorney appointed as importer, distributor of major manufacturers, including automotive business type or contract agent of the manufacturer, type of automotive business that has been organ Viet Nam diplomatic representatives abroad legalized under the provisions of law 01 (a) certified copies and stamped certified true copy of the trader.*

*2. Certificate base warranty, automobile maintenance eligible by the Ministry of Transportation grant: 01 (a) certified copies and stamped certified true copy of the trader.*

*Banned imports of automobile parts and assembled cars, not used cars with forged, closed chassis number, engine number in all cases and in all forms.*

## *2.2 Learning experiences from other countries*

### a) Malaysia

Since the establishment of Proton in 1985, Malaysia has succeeded in developing integrated capabilities in the automotive industry, which include local design and styling capability, full scale manufacturing operations and extensive local participation in the supply of components. Today, Malaysia is the ASEAN largest passenger vehicle market with more than 500,000 vehicles sold annually with 90% of that manufactured or assembled domestically.

Indeed, the domestic automotive industry has been facilitated by NAP policies that have promoted local vehicle manufacturers. The overall objective of the (National Automotive policy) NAP is generating sustainable economic value creation. This will maximize the long term contribution of the automotive sector to the national economy and at the same time ultimately benefit the Malaysian consumer. The need to create economic value entails that the industry will continue to require supportive Government policies in order to become fully competitive internationally.

The NAP therefore aims to facilitate the required transformation and optimal integration of the national industry into regional and global industry networks. The urgency of the transformation is driven by an increasingly liberalized and competitive global environment.

The Government will continue to nurture and support the development of the domestic automotive sector via a comprehensive package of grants and incentives. Such Government support and incentives will be aimed at optimizing sustainable economic contribution, namely the scale of operations, extent of industry linkages...

Besides that, the excise duty structure has been streamlined resulting in an overall reduction in the effective tax rate on most motor vehicles and a reduction in the tax differential between the different categories of motor vehicles (e.g. cars, MPVs, 4WD and between the different engine capacities). It is intended that the streamlining of the tax structure will promote greater transparency in pricing. It is also Malaysian priority to promote free and prosperous international trade. Under the FTA, Malaysia is committed to gradually remove or reduce its import duty. With the integration of the ASEAN automotive industry, Malaysia will reduce the ASEAN CEPT import duty to 5% for qualifying vehicles. While this will expose the domestic industry to greater competition, it is consistent with the policy thrust for rationalization of models and increasing scale through exports.

To further promote greater transparency, the Government will gazette the values of imported cars for the purposes of duty computation. With the cooperation of the industry and the general public, it is expected that the incidence of tax under declaration will be

significantly addressed. At the same time, the Government will step up enforcement measures against tax under declaration.

However, recently, new manufacturing licenses will only be issued after over-capacity in the domestic automotive sector is resolved. In the meantime, vehicle assemblers will not be allowed to use or make available their existing excess capacity to third parties to assemble new makes or models that compete directly with those produced by national car manufacturers.

The current system of Approved Permits (APs), primarily used as a monitoring and data collection measure, will be phased out by 31 December 2010. In the interim, APs will be made available based on economic contribution. Priority will be given to vehicle assemblers that have committed to a significant increase in production volume (with significant exports) in a particular model and require APs to import models that complete their product range for the Malaysian market. APs will be made available for a limited number of vehicles not assembled in Malaysia in order to ensure a sufficient choice of products for Malaysian consumers.

Vehicle Type Approval (VTA) processes and procedures will be implemented comprehensively, in order to prevent the import and sale of sub-standard vehicles. The VTA process will ensure strict compliance with roadworthiness, safety and emissions standards. The VTA process will be implemented by the Road Transport Department (RTD) and other relevant agencies.

- ***Importation of second – hand cars***

The importation of second hand cars (other than individual personal imports) will be progressively phased out culminating in a total ban in 2010, in order to stimulate demand for locally manufactured and assembled vehicles. Before this time, cars in excess of 6 years old are subject to the verification and approval by Ministry of International Trade and Industry.

b) India

- ***The import of new cars***

India has huge market for imported luxury cars. Some regulations were set to control automobile importation. Chapter 87 of HSN/ITC issued under the provisions of FTD (R&C) Act, 1992, as a part of EXIM Policy 2009-2014 prescribes the policy requirements of import of automotives. In this Act, the definition of a new car was released as (i) has not been manufactured/ assembled; (ii) has not been sold, leased or loaned prior to importation into India and (iii) has not been registered for use in any countries. Then, the conditions for importing new cars as follows:

- Have a speedometer indicating the speed in Kilometers per hour;
- Have right hand steering, and controls;

- Have photometry of the headlamps to suit “keep-left” traffic; and
- Be imported from the country of manufacture.

There are six customs ports permitted to import automotive namely Nhava Sheva, Kolkata, Chennai, Cochin, ICD-Tughlakabad and Delhi Air Cargo, Mumbai Port.

- ***The import of second-hand cars***

There is also a great demand for second-hand cars in India. Quantitative restrictions on the import of second-hand cars were lifted make it easier for Indian to access old cars. However, the regulations for importing second-hand cars are quite stricter than some for new ones. The requirements for some technical requirements like importing new automobiles are applied. Besides that, the cars must not be older than 3 years from the date of manufacture. A certificate certifying testing before shipment at the time of importation must be presented. Roadworthiness must be required to assure for providing service facilities within the country during the five year period. Specifically, the import shall be allowed only through the customs port at Mumbai.

***2.4 Recommendations***

Developing local automotive industry should be paid attention to due to the large need of the vehicles. Therefore, some objectives should be priority for strengthen the national automotive sector:

- To promote a competitive and viable domestic automotive sector, in particular the national car manufacturers
- To promote a sustainable level of economic value added and enhance domestic capabilities
- To promote a higher level of exports of vehicles as well as components and parts that are competitive in the global markets

Based on the objectives, some new regulations should be taken into consideration.

**III. Free trade zones**

**1. Overall observation**

Economic zones have played an important and strategic role in economic development policy in Viet Nam. Ba Ria economic zone in Vung Tau province had been given number of preferential policies in the early 1990. Afterwards, in Central area, the two zones namely Dung Quat and Chu Lai have been determined as special economic zones. Then, a number of projects on economic zones had constructed such as "The Plan for developing border economic zones in Viet Nam to 2020" as well as "The Plan for the development of coastal economic zones of Viet Nam in 2020". As the result, a series of

economic zones have been formed like border - gate economic zones, coastal economic zones.

However, on the one hand to meet the demand for developing the strategic areas, on the other hand to take advantage of international relationship with some Asian countries, some special trade and economic zones as Lao Bao, Cau Treo and Tay Ninh were built under Decision No. 01 11/2005/QĐ-TTg dated on January 12, 2005 of the Prime Minister, Decision No. 162/2007/QĐ-TTg dated on October 19, 2007 and Decision No. 140/2007/QĐ-TTg respectively.

## **2. Legal framework**

In the first period, the preferential policies were not entirely similar among zones due to the different establishments of the economic zones. Since 2008, Vietnamese Government promulgated will be established under the individual decision of the Prime Minister should have, causing difficulties for complex operating and design policies for all areas. So Decree No. 29/2008/ND-CP of the Government dated 14 May 2008 03 regulations on industrial zones, export processing zones and economic zones were timely response needs of a common legal framework for all the economic zones of Viet Nam.

In Decree No. 29/2008/ND-CP of the Government's economic zone hospitality « space areas separate economic environment and business investment especially favorable for investors, there defined geographical boundaries, was formed under the conditions, sequences and procedures specified in this Decree. The economic zone is organized into functional areas including: tax-free zone, export processing zones, industrial parks, entertainment, resort, urban, residential areas; administrative areas and other functional areas in accordance with the characteristics of each region ». According to this decree, border gate economic zones and economic zones are referred to as economic zones.

The economic zone is a combination of multiple functional areas in the region that can be divided into 2 categories function as non-tariff zones (or free trade zones) and the tariff. The policy applies to the tariff area (including industrial parks, export processing) shall comply with current regulations. In contrast, the policy applies to non-tariff areas have been shaped in the Regulation issued together with the Decision on the establishment of the Prime Minister separately stating the non-tariff zone is " site geographic area defined by the boundary fence hard to ensure separation of activities in non-tariff areas with functional areas in economic zones and inland Viet Nam , has put port and the customs station to monitor , inspection, customs procedures for goods out on . " but there are common basic framework of policy but the specific preferences may differ between the non-tariff area located in economic zones this area lies in the economic zones . In addition, the preferential policies for the non-tariff area can be applied to an entire region for just economic or functional areas in the economy.

For non-tariff areas, relations between the regions and other areas or inland (understood as the rest of the territory) is related import and export.

For the gate economic zones in general, in addition to the tax incentives related to business income, individual, land, infrastructure ..., the incentives related to foreign trade include:

i) Provide tax incentives, import and export:

+ ) Goods imported from non-tariff zones of border-gate economic zones overseas export or import from abroad in non-tariff areas of border economic zones and only used in non-tariff areas, bringing goods from the tariff to non-tariff areas other than export tax, import tax.

Goods manufactured, processed, recycled or assembled in non-tariff areas of border economic zones for export to foreign countries are exempt from export duties.

+ ) Raw materials and supplies imported for production of investment projects in border-gate economic zones are exempt from import duties for a period of 05 (five) years from the date of commencement of production. The detailed classification of raw materials is a basis for tax exemption under the guidance of the Ministry of Industry and Trade.

Semi-finished products which cannot be imported to produce for production of investment projects in border-gate economic zones are exempt from import duties for a period of 05 (five) years from the date of commencement of production. The determination of semi - finished products which cannot be produced as a basis for tax exemption shall comply with the list published by the Ministry of Planning and Investment issued.

Goods manufactured, processed, recycled or assembled in non-tariff areas using raw materials, components and semi-finished products imported from overseas when domestic imported into Viet Nam are exempt import duty; case of the use of materials, supplies, components, semi-finished products imported from foreign countries, when imported into Viet Nam domestic tax payable on imports of raw materials, supplies, components, semi-finished imports constituted in such goods. The determination of the tax payable on imported raw materials, supplies, components, semi-finished products imported from foreign countries constituting domestic goods imported into Viet Nam shall be as follows:

a) In cases where organizations and individuals in the local importer has registered with customs offices on the list of imported goods used as materials , supplies, components , semi- finished products imports and norms on domestic raw materials , components and semi-finished products used for the manufacture of imported goods before entering into inland Viet Nam , the determination of import duties to be paid based on the number of tax rates taxable interest and cost of raw materials , supplies, components , semi-finished products imported from abroad constituted in goods .



b ) Where no tax is determined as specified in the import clause is the import tax is calculated at the tax rates and the taxable value of goods produced , processed , recycled or imported assembly into inland Viet Nam at the time of opening the customs declaration .

+ ) Goods imported into non-tariff zones of border-gate economic zone for leftover production and trade is still worth were sold in Viet Nam domestic and import taxes payable as prescribed .

+ ) For goods manufactured , processed, recycled or assembled in non-tariff areas located in gate economic zones if eligible to apply import duty or import tax preferential special offers then apply import duty under the provisions of tax laws export , import tax .

29/2008/ND-CP

2. Export Processing Zone is specialized in manufacturing industrial exports , performed services for the production of export goods and export activity, have determined geographical boundaries , was formed under the conditions , sequences and procedures applicable to industrial zones specified in this Decree.

Industrial parks, export processing zones are referred to as industrial parks, except where specified.

3. Economic zone is an area of space with separate economic environment and business investment is particularly advantageous for investors, has defined geographical boundaries, was formed under the conditions, process and procedures specified in this Decree.

Economic zone is organized into functional areas including: non-tariff zones, bonded zones, export processing zones, industrial parks, recreation areas, resorts and urban areas, residential areas, administrative areas and other functional areas in accordance with the characteristics of each economic area.

4. The gate economic zones and economic zones established in the land border or international border gate and the main gate was formed under the conditions, sequences and procedures specified in this Decree.

Economic zones and border economic zones are referred to as economic zones, unless otherwise specified.

#### **IV. Preferential mechanisms:**

**1. Managing Board shall comply with the provisions of law and as directed or authorized by the ministries**

b) Registration of investment; verification and issuance, amendment, revocation of investment certificates for the projects under their jurisdiction;

c) grant, amend, supplement and extend permits established representative offices of commercial organizations and foreign traders based in the industrial zones and economic

zones; business license for the sale and purchase of goods and activities directly related to the purchase and sale of goods for business investment abroad and foreign investors first invest in industrial parks, economic Zone after obtaining the written approval of the Ministry of Industry and Trade;

e) To issue certificates of origin of goods produced in industrial zones, economic zones and permits, certificates and other relevant certificates in industrial zones and economic zones;

## **2. Management and legal problems**

- The establishment of the economic zone law in the context of increasingly supplemented and perfected, so mechanisms, incentives and organizational models and management for the EZ must be adjusted accordingly and many times should change affecting the development of the EZ and investment activities of investors in the country and abroad. Also, due to the mechanism, incentives for EZ longer bound by the provisions of law so that the frame can only study the mechanism applies, the highest incentives in the legal framework current to the EZ.

- Some ministries still tends vertical direction or reference documents, legal professional should perform some of the functions of state management for EZ has not materialized or difficult to implement in practice, especially in the areas such as labor management, environmental, commercial, construction, tourism, inspection, testing, handling administrative violations ...

- Qualifications and experience of staff of some civil servants Economic Zone Management Board is not limited to planning, developing orientation plans to deploy long-term strategic synchronization functions and tasks have been assigned. At the same time, the ministries also not interested in education and professional training for staff officers of the Management Board.

- No building and implementing a marketing program and national investment promotion for coastal EZ overseas large-scale and systematic. At the same time the absence of a strategy to attract investment projects are motivational, have important implications for the development of industries and sectors in the EZ.

- Most of the EZ will be established in the provinces with economic development - social difficulties and in areas where infrastructure systems essential techniques have not been uniform construction investment should developing infrastructure systems of the EZ primarily rely on funding from the central budget. However, due to funding from the central budget is very limited in the number of EZ was established capital should increase support for the EZ was established in the last 3 years and only tends to decrease meet the needs of limited local capital investment support infrastructure - the EZ society . According to preliminary estimates , the total funds targeted support from the central budget , Government bonds , leaving revenues , ODA has issued from 2004 through 2009 for the EZ only meet a

part of the total investment needs to develop infrastructure systems of the EZ has been established ( by the end of 2015 ). With this demand, the ability to ensure the balance of power from the state budget is very difficult.