

Dealing with the Barriers in International Trade in Vietnam Today

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ABSTRACT: It's been considered to be a tough time for the domestic business community in recent years due to the change in the Trans-Pacific Partnership Agreement, the outbreak of anti-globalization trend, the US interest rate hike, and the upcoming fourth industrial revolution. Those factors can lead to the reversal of international trade and investment, highly affecting young economies of high attraction, which, as those in Vietnam, consider exports and foreign investment as growth drivers. As the matter stands, a large number of Vietnamese enterprises have been suffering from unfair trade disputes and anti-dumping lawsuits on the way to global integration. That the enterprises lack considerate understanding of commercial legality and the spirit of solidarity to cope with trade barriers leads to such expense. Therefore, the author wishes to evaluate the ability of Vietnamese businesses to deal with the international trade barriers; and thereby make recommendations which could help those enterprises effectively respond to such barriers under the circumstance of global integration.

KEYWORDS: Trade Policy, International Trade Policy, International Trade Barriers, Response to International Trade Barriers

INTRODUCTION

Modifications in Vietnam's trading policy since 1986 have offered not only Vietnamese enterprises access to international markets, but also foreign businesses opportunities to enter Viet Nam's market. In 2007, Viet Nam joined WTO, marking the primary achievement in the international economic integration plan. Viet Nam has been building trade relations with nearly 200 countries and territories, being recognised as one of the Asian strongest export-oriented economies and also an economy of high openness. WTO is the largest trading organisation in the world. Being a member in this organisation proves that Viet Nam has taken part in the common competition with developed countries, extensive and hard-to-please customers, under fair and equal rules for all members. Each year, Vietnam is reported to have involved in nearly 100 anti-dumping lawsuits and commercial disputes on average, where Vietnamese enterprises found themselves disadvantaged inferior. From 1995 to 2015, there have been a total of 73 trade remedies which investigated Vietnam's exported goods, of which they were subject to 43 anti-dumping lawsuits, 15 cases of self-defense, 5 cases of anti-subsidy, and 10 cases of anti-tax evasion. Vietnam's leading exported products of twelve categories are reported to have increasing possibility of being exposed to anti-dumping lawsuits, being listed as seafood, plastics, rubber, paper, textiles, footwear, electrical equipment, machinery and spare parts, electronic components, furniture, measurement, steel products and metals. A great number of Vietnamese businesses are now unaware that they have been suffering from certain challenges by trade barriers. Many found

themselves lost in approaching commercial laws in such countries that Vietnam is a signatory to. It is believed to be crucial challenges for Vietnam's enterprises to clearly identify trade barriers and technical measures set by partners, and to disclose the origin of exported goods.

THEORY OF INTERNATIONAL TRADE BARRIERS

International trade is defined as the activity of exchanging goods and services (tangible and intangible) among nations, under the regulations of equal exchange to bring benefits to the parties. The term "*trade barriers*" was first and officially introduced in the Agreement on Technical Barriers to Trade of World Trade Organisation. However, this term has not been identified but recognised as a promise: "Should no country be prevented from taking essential measures to ensure the quality of their goods exports, or to protect the life or health of the human, animals and plants, or to protect the environment, or to prevent fraudulent activities, to the extent that the country appreciates; and to ensure that these measures must not be conducted in any manner that is likely to cause arbitrary or unjustifiable discrimination among nations under similar conditions or to create disguised restrictions on international trade; in other words, they must be consistent with the provisions of this Agreement." Therefore, barriers in trade can be recognised as any movements or measures conducted to prevent international trading.

Trade barriers are technical barriers arranged by importing countries in order to support domestic production, which specify standards on food hygiene, packaging, and chemicals prohibited in food products. Due to the impact of the global economic crisis, countries all over the world looked forward

to applications to restrict imported goods and protect domestic production.

According to documents of the World Trade Organisation (United Nations Forum on Trade and Development – UNCTAD – 1994), the system of trade barriers can be classified as tariff and non-tariff barriers.

Tariff barriers, the traditional and the most common barriers in international trade, are identified and classified on the basis of such tax rates applied to imports and exports as non-minimum duties, favored-nation tax, generalized preference tax, etc. Currently, owing to the contrary between these tariff barriers with the trade liberalization process, this type of barrier is increasingly being exposed to restriction in trade relations. As a result, the primary issue as well as the criteria for countries to agree on in both multilateral and bilateral negotiations is cutting, gradually reducing and eliminating tariff barriers.

Non-tariff barriers consist of such practices as prohibition measures, quotas on the quantity or value permitted to be imported or exported in a given period, import – export license, customs procedures, technical barriers to trade (TBT), sanitary and phyto-sanitary measures (SPS), regulations on services, intellectual property and environmental protection, etc.

The adoption of different types of barriers for political purposes, national security, job protection, consumer protection, etc. depends on the diversity in the level of integration of the countries; therefore, they are applying the two types of barriers interchangeably. However, the extent differs and becomes increasingly flexible and sophisticated. The barriers could be applied at the border or inland; they could be either administrative measures or technical measures; or they could be imperative or liberated measures. While trade barriers used to be regulated mainly in goods trading and were administrative and tariff measures, they have been widely adopted for services, trading investment, intellectual property, at multinational level.

THE SITUATION OF COPING WITH INTERNATIONAL TRADE BARRIERS IN VIET NAM AT PRESENT TIME

Taking a look at the international trade situation over the past time, Vietnam’s trade balance has experienced a remarkable growth in both export and import turnover. The initial differences on the overall trade balance should be outlined as follow:

According to preliminary statistics of the General Department of Customs in December 2018, the country’s total import and export turnover of goods reached US dollars 40.08 billion, down by 7.5% as compared to that in November. In which, exports reached US dollars 19.64 billion, down by 9.7% over the previous month (equivalent to US dollars 2.11 billion reduction); imports reached US dollars 20.45 billion, down by 5.3% (equivalent to US dollars 1.15 billion reduction).

The total import-export turnover of the country was USD 480.17 billion in 2018, up by 12.2% (equivalent to USD 52.05 billion), as compared to the previous year. In which, the value of export goods was USD 243.48 billion, up by 13.2%, and that of import goods was USD 236.69 billion, up by 11.1%.

In December 2018, Vietnam was in trade-in-goods deficit of USD 0.81 billion. However, at the end of 2018, Vietnam’s trade balance enjoyed a surplus of USD 6.8 billion.

Merchandise exports of FDI enterprises totaled USD 13 billion in the month, down by 17% as compared to the previous month, promoting the value of export turnover of this sector in 2018 to 171.53 billion USD, up by 12.4% as to the previous year. In the opposite direction, the value of import turnover of FDI enterprises was USD 11.67 billion in December 2018, up by 10.8% as compared to the previous month, boosting the import value of this sector in 2018 to USD 141.68 billion, up by 10.8% as compared to 12 months of 2017.

Calculations by the General Department of Customs show that the trade balance of goods of FDI enterprises had a surplus of USD 1.33 billion, producing a trade surplus of this sector in the year of US dollars 29.85 billion.



Figure 1: Turnover, export and import growth rate, and trade balance in 2011-2018 period (Source: General Department of Customs)

By the end of December 2018, increase in the country’s total import value (11.1% - USD 236.69 billion equally) was reflected by upturn in computers, electronic products and components (USD 4.42 billion), crude oil (USD 2.27 billion), plasticizer materials (USD 1.48 billion), fabrics and metals (USD 1.39 billion), chemicals (USD 1.04 billion).

2018 was the third year in a row that witnessed a surplus in Vietnam’s trade balance. Specifically, according to public preliminary statistics on January 10, 2018 by the General Department of Customs, Vietnam recorded a surplus of record of nearly USD 6.8 billion in 2018, USD 2.11 billion in 2017, and USD 1.78 billion. In 2018, Vietnam had trade balance surplus with 150 partner countries and territories, and trade balance deficit with 85 countries and territories.

Under the circumstance that international trading is turning a lot more sophisticated, together with such rises of anti-globalization agendas as the current US – China trade sanctions policies, or retaliatory measures from other countries, the increase in the number of bilateral and regional free trade agreements (FTA) makes it complicated for the enterprises to find ways to cut cost of tariff.

In recent years, authorities in Asia have been aiming at tightening regulations on tariffs and customs inspection procedures for imported and exported goods. Enterprises are now fighting off certain challenges created by the increase in inspection frequency and the determination of the authorities. At the same time, technology and digital data have been positively applied to identify enterprises subject to investigation and inspection.

On the contrary, Vietnam has been adopting measures to promote free trade, such as signing FTAs to open up opportunities for businesses. Take Indonesia and Australia signing a bilateral FTA in March 2019 as an example. This FTA allows for the removal or cut-off of import tariff on 99% of Australian exports into Indonesia, and for the elimination of import tariff on 100% of exports from Indonesia to Australia’s market. However, this FTA requires a close supervision.

With the Trade Facilitation Agreement (TFA) of the World Trade Organisation (WTO) being implemented in many countries, enterprises may look forward to simpler and more reconcilable import-export procedures among countries. All member countries of the Association of Southeast Asian Nations (ASEAN) have ratified the TFA. However, the progress of implementing the commitments varies in countries. For instance, Malaysia’s current implementation rate is around 94%, while that of Vietnam is around 26%. There are certain customs clearance provisions and progressive regulations that enterprises can take advantage of to enhance their business operations.

Businesses can also employ evolving digital technologies, such as trading data analysis and robotics, to uncover commercial opportunities, as well as to improve production efficiency.

Vietnam has been actively and positively implementing commitments on trade liberalization in three main ways: (i) enforcing the right of businesses of all economic sectors to participate in export activities; (ii) liberalizing tariffs and non-tariffs; (iii) expanding international economic integration and conducting international commitments.

Tariff measures have been gradually adjusted accordingly to international practices and tariff regime. Goods imported into Vietnam used to be subject to high tax rates and discrimination between domestic enterprises and foreign enterprises. Vietnam has gradually cut off tariffs according to bilateral and multilateral trade agreements that Vietnam has signed or joined.

Vietnam has committed to abolish non-tariff barriers in a number of international agreements, amongst which the elimination of quantitative and qualitative restrictions and the expansion of the right to conduct import-export business are the most considerate implementations. In addition, the taxing of non-tariff measures and the reduction of goods which requires import and export permits are also brought into practice. Vietnam has initially developed a number of regulations on import management which have been approved in accordance with international practices, such as tariff quotas, anti-dumping laws, standards and technical regulations, etc.

However, the applied tariff barriers are simple and incomplete. Although import-export tax law and tax documents have been developed according to the list of goods classification of the International Customs Organisation, absolute tax, seasonal tax and other specified tariffs currently implemented by developed countries have not been employed. Besides, Vietnam’s tariff system lacks stability which results in frequent change in tax rates; the tax administration system lacks efficiency which is reflected in high tax rates and a large number of non-tariff barriers. Vietnam’s average tax rate (15.2%) is higher than that of many developing countries which are members of the WTO, whose typically average tax rate is 10-12%. Although the tariff system is established on the principle of protection, price subsidies, discrimination between domestic and foreign enterprises does exist, specifically in agriculture and aquaculture industries and such other production industries as automobile manufacturing and assembling in a variety of forms. In addition, consideration for industries to be protected appears inadequate; criteria for identifying subject of protection lacks considerate consistence.

Vietnam is assessed as a country of low competitiveness, science – technology level, and enterprise development level as compared to its partners. Moreover, due to limited business management skills, outdated technology, unqualified labour,

Vietnam is exposed to low possibility to participate in global chain. Currently, 96% of the enterprises are small and medium businesses, of which, micro enterprises account for 70%.

In updated FTAs, regulations on sustainable development as well as those on technical barriers, sanitary and phytosanitary measures are being more stringently imposed, whose short-term implementation should have an impact on the enterprise's expenses and costs. That the countries are managing to take full use of these measures as last protection resort when tariff barriers are almost removed has been recognised as troublesome issue. Once tax-cutting policy remains in sensitive list of commodity, including agricultural and aquatic products, technical barriers are the hindrance facing Vietnam to overcome. Vietnamese enterprises had better improve their competitive edges and capability to cope with technical barriers than participate in FTAs and reduce tariff barriers, as this should be highly cost-consuming in comparison to the margin of the tariff to be enjoyed.

In fact, Vietnam's system of technical standards has not met the requirements in import-export management and goods circulation. In the presence, only about 1,200 out of 5,600 current national standards are identified compatible with the corresponding international standards. Particularly in the region, Vietnam has approved only 56 of the 59 standards of the ASEAN harmonization program. Vietnam is currently short of a specialized management system. As a result, a great number of specified and appropriate regulations on such items subject to functional administration as toxic chemicals, fertilizers, pesticides have not been brought into practice. The management of imported goods under testing permits has not been taken into due consideration and consequently, there have been no in-time handling measures for uncertified imported goods.

According to the statistics by World Bank, a number of nine primary types of non-tariff measures have been employed; among which animal and plant quarantine measures are most frequently adopted, accounting for 37.5%; employment of technical barriers to trade accounting for 37.5%; and goods inspection before shipping procedures accounting for 1.3%. Domestic enterprises are evaluated to have low capability to respond to non-tariff barriers in international trade while they have been increasing in number. Moreover, domestic enterprises have been majoring in indirect export and outsourcing production. Consequently, although Vietnam's export turnover is considerably large, the return value is rather low. This can be inferred that Vietnamese enterprises are being exposed to limitation on identifying and coping with non-tariff barriers. These barriers have been facing Vietnamese enterprises whenever they export to such major markets as the US, Japan, South Korea, which significantly have an impact on their business outcomes. At the presence, Vietnamese enterprises are experiencing a number of limitations on coping with non-tariff barriers which are imposed on the three key export groups: textile to the US,

footwear to the EU, and seafood to Japan. Under this circumstance, it's vital for Vietnamese enterprises to have deep understanding and be able take measures to tackle the non-tariff barriers set by particular foreign government, industry and enterprises. However, what remains is the size of a large number of Vietnamese enterprises which is recorded relatively small, which shows their incompetence to understand the hindrance caused by the non-tariff barriers in international trading.

RECOMMENDATIONS

Firstly, Vietnam should formulate a coherent and deliberate policy of trade to fully exploit its comparative advantages through international trade relations to dominate and expand Vietnam's regional and global markets. When participating in international trade and exchange, countries should be able to produce and export goods that can reflect their comparative edges and be able to import products of their lowest production capacity. At the same time, some of our products have absolute advantages in the international market that needs promotion in exports.

Secondly, Vietnam should take action on perfecting the legal framework for commercial conducts in both domestic and foreign markets. This is considered essential for the healthy development in domestic market, being the foundation for the development in foreign markets. The sustainable domestic development acts as initial conditions to expand to foreign market, proactively enforce exports and imports. On the contrary, the development of overseas market will offer favorable conditions for domestic market to grow, better facilitating production and people lives.

Thirdly, under the volatile circumstance, not only the State's support policies but also the businesses need proper consideration; and they would place the issue of risk identification and risk assessment at the planning level. Besides, on the perspective of the transformation of production and business, looking for market partners has a positive impact on that it will urge businesses to shift to restrict risks, particularly in the medium term. Vietnam needs to get used to the new normal, where uncertainties in global trades have been soaring. This can be inferred that both short-term efforts to recover the economy and structure renovation should be conducted at the same time to counteract with the new trend, referring to managing risks, limiting uncertainty, implementing economic recovery measures, accelerating structure transformation and institutional reform.

Fourthly, the authorities should identify and analyze the barriers in details for the enterprises to understand and be able to implement effectively. The Government should kindly assist enterprises to implement traceability criteria for export products, particularly agricultural products, provide specific information on foreign markets, provide access to funding sources, branding facilities, etc. That information on Vietnamese goods to foreign markets is limited; production capacity of domestic enterprises is considerably low; updates,

evaluation, and analysis on the market cannot meet the requirements of trading; goods is transported from other countries to Vietnam to inherit tax incentives, are apparently problematic concerns. Therefore, along with the efforts of the authorities, Vietnamese enterprises should actively provide information related to appeals and lawsuits. They should also update information of trading, diversify their export markets, approach the Commercial Counselor to search for potential market, and prevent themselves from dependence on one or a few certain markets.

CONCLUSION

Through international trade, countries conduct exchanges to maximize their competitive advantages and overcome the limitations of their economies. However, participating in international trade does not mean participating in a completely equal trading game, as all countries do their best to magnify their potential to gain most benefits but at the same time protect the market for domestic enterprises at all times. In order to bring this into practice, governments have set up barriers, either tangible or intangible, to prevent goods and services from abroad from penetrating and competing with domestic products. Countries with developed economies have been applying these measures to goods from developing and underdeveloped countries. Even under the circumstance of trade liberalization and internationalization of economic life, trade barriers have been turning increasingly sophisticated. If they used to exist in the form of tariff protection measures or import bans and restrictions, they apparently come in practice in a variety of forms and measures. Over the past decade, Vietnam has been integrating into the economy worldwide. Vietnam is now a member of the Association of Southeast Asian Nations (ASEAN), with the ASEAN free Trade Area (AFTA), the Asia-Pacific Economic Cooperation Forum (APEC), and the WTO, etc. Accordingly, Vietnam will have to fulfil commitments on opening markets in accordance with the general regulations of the organization. Vietnam needs understanding and good grasp of barriers in international trade to tackle the barriers and to boost exporting activities.

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