

CHAPTER 8 **TRANSPORTATION AND LOGISTICS**

OVERVIEW

Vietnam, with its favourable conditions in terms of geographic location, labour force, and stable political system, has seen strong growth of its manufacturing sector and corresponding import and export volumes.

High-quality logistics infrastructure, along with effective and efficient customs procedures, are two key goals Vietnam needs to achieve to continue attracting foreign direct investment; to increase its competitiveness in the region; to connect local companies into global supply chains; and to become a transportation hub for ASEAN.

I. INFRASTRUCTURE

Relevant authorities: Ministry of Finance (MOF), Ministry of Industry and Trade (MOIT), Ministry of Planning and Investment (MPI), Ministry of Transport (MOT).

EuroCham members fully support Decision 708 of MOIT approving Plans for the Improvement of Vietnam's Logistics Performance Index.¹ Transport infrastructure has been identified as one of the key factors the Government should address in order to reduce logistics costs. This decision has shown the determination of the Government to improve logistics infrastructure in the country.

We also appreciate Decision 1012.² This provides measures to develop the current transport–infrastructure system; modernise stations, ports and warehouses, plan land use; and ensure the sufficient use of land resources. The aim is to ensure favourable connections between logistics centres and manufacturing sites as well as consumer areas and traffic hubs, meeting the long-term development demand of logistics centres.

Our TLSC 2018 survey pointed out the issues that most businesses are concerned about when using the logistics infrastructure systems in Vietnam.³ We look forward to working with the relevant Ministries on building the Year 1 assessment on annual implementation. EuroCham members are willing to work on specific provisions in more detail. The below recommendations represent some specific current focus areas, but a similarly detailed analysis can be prepared for each and every objective/task that MOIT has outlined.

Issue description

MOIT's plans to improve the Vietnam Logistics Performance Index to address the majority of the concerns raised in our 2018 chapter. However, more could be done in the specific areas of environmental impacts and safety, as these points have received limited attention in the outlined plan.

Specifically, Decision 708 focuses, amongst others, on two critical areas where members of EuroCham would like to see accelerated progress and which will contribute to an improvement in Vietnam's Logistics Performance. The proposed focus areas in infrastructure are linked to infrastructure access to the main ports as well as the development of quality distribution and logistics centres. Together, the improvement in these areas will lead to reduced logistics costs and enable further growth in Vietnam, especially in the competitive export market to Europe and the US.

To achieve this, investment for renovation and upgrade of the access channels to the major ports complex needs to be accelerated. In the south, the access channel to Go Gia (Cai Mep) needs to be deepened from the current 14 metres to 15.5 metres of the Cai Mep-Thi Vai fairway. This has already been budgeted in the MOT 2021-2025 medium-term budget plan. So, no additional funding needs to be found. This upgrade will allow for larger vessels

¹ Decision 708/QĐ-BCT dated 26 March 2019 of the Ministry of Industry and Trade approving plans for improvement of Vietnam's Logistics Performance Index.

² Decision 1012/QĐ-TTg dated 3 July 2017 of the Prime Minister approving nationwide logistics center system development plan to 2020, vision to 2030.

³ EuroCham Whitebook 2019, Transportation and Logistics, pg. 113-114.

to call at the Cai Mep Terminals due to fewer tidal restrictions. This, in turn, will reduce vessel delays and allow for more cargo to be shipped to and from Vietnam. Furthermore, it will increase the availability of equipment and the connectivity of Cai Mep with the rest of the world. Similarly, development of the Lach District International Gateway Port (Hai Phong) will lead to improved connectivity for Northern Vietnam. Both improvements will allow larger vessels and increased capacity for importers and exporters in global markets.

A second major barrier to the logistics sector's development is the lack of availability of warehousing/logistics land to allow the development of quality distribution/logistics centres, especially surrounding Ho Chi Minh City and Hanoi. Vietnamese consumers are demanding higher quality, more variety, and quicker delivery. This brings the significant challenge of finding available space and locations for warehousing and distribution centre locations. For the metropolises of Ho Chi Minh City and Hanoi, there are significant challenges in meeting increases in demand. In the past two years, market prices for warehousing space (less than five-year-old warehousing) within one hour of Ho Chi Minh City have increased by around 90 per cent, with extremely limited capacity available.⁴ There are also significant challenges with some of the land sites as the landlords will not lease warehousing space only. They would like to operate all, or at least some, of the services within operations.

Potential gains/concerns for Vietnam

For private and foreign logistics service providers, the issue of land lease described above creates a major obstacle. It reduces the real competition in the market, as warehousing and operation options are limited and controlled by a limited number of players. Meanwhile, the running of operations is the core value delivered by logistics service providers. The lack of competition in a rapidly-growing market like Vietnam will lead to service prices remaining high.

Now the EVFTA has entered into force, facilitating trade and logistics to support export and import activities to ensure Vietnam reaps the full benefits of this agreement should be ensured by the Government.

In our view, the Government's supervision role is emphasised not only to ensure the effective allocation of resources, but also to ensure the safety and environmental sustainability of these constructions. This would also contribute to the trust of business and society, as well as elevate the image of Vietnam for further investment.

Furthermore, it is important to accelerate the availability of clearly designated warehousing zones for direct development, or co-development with a recognised industrial developer. In this light, clear segregation of licencing of industrial park owners vs service provider business should be achieved to ensure competition in the market for warehousing and service solutions. Clear zoning within one hour's drive of metropolises would allow rapid service delivery to meet consumer demand, especially for E-commerce solutions. Finally, it is important to open market conditions ensuring land prices do not become or remain too expensive.

In order to achieve these objectives, relevant Ministries and localities should issue the implementation documents of Decision 1012. This would contribute to the domestic production and consumption of goods, facilitate import-export, and promote socio-economic development. Meanwhile, the Government should have a facilitation role in order to ensure a sound infrastructure and supporting policies to create transparency and fair competition in the logistics sector.

Recommendations

We would like to make the following recommendations:

- Strengthen the supervision and facilitation role of the Government to ensure the effective allocation of resources, as well as the safety and the environmental sustainability of these constructions while creating transparency and fair competition in the logistics sector.
- Implement the suggestions set out before with regard to warehousing zones, land prices, and industrial park owners vs service providers.
- Issue implementation documents of Decision 1012.

⁴ Compilation of market data and industry's report, such as Cushman & Wakefield's Marketbeat report Quarter 4/2019. Available at <www.cushmanwakefield.com/en/vietnam/insights/ho-chi-minh-city-marketbeat>, last accessed 23 January 2020.

II. CUSTOMS

Relevant authorities: Ministry of Finance (MOF), General Department of Customs (GDC)

Issue Description

Since market access has been significantly opened for more foreign investment and the import of goods of preferential and non-preferential origin, importers need to assess risks and protect their benefits at the customs gate. Customs valuation remains one of the most crucial elements of customs-related matters.

1. Latest updates to the regulations of customs valuation

Vietnam is a World Trade Organisation (WTO) member and, therefore, applies the WTO Agreement on Customs Valuation.⁵ This agreement states that the customs value of imported goods should be determined on the basis of the transaction value as the primary method.

When customs authorities have reasonable doubts that the declared transaction value does not represent the total amount paid or payable by an importer, they are entitled to require additional information and supporting documents. If the doubts are not dispelled, customs authorities may decide to refuse the application of the transaction value method and determine the value of the goods by applying, in succession, the secondary methods.

Vietnam implements the custom valuation agreement with Circular 39⁶. In 2019, Circular 39 was amended by Circular 60⁷. With several amendments to the legal frameworks of customs valuation, on the one hand, Circular 60 provides clarifications to the grey areas of customs valuation regulations such as the customs valuation of machine-equipment with unlocking fees.

On the other hand, despite exhaustive efforts in promulgating clearer provisions, Circular 60 does not yet provide the specific mechanisms of how to protect the application of transactional value methodology and the preferential tariff by the importers, especially when there is an incorrect or an improper declaration at the import gate.

Customs valuation of software products

However, Circular 60 does provide a clearer policy of valuation for customs purposes with a focus on software imports. This Circular addresses most of the main challenges of applying valuation principles to the various products that include software, such as software on media and pre-installed software on machines/equipment. The valuation of software on physical media, like CD/DVDs or tape cartridges, is the simplest case as opposed to software installed on other devices, such as a personal computer, a server, a new operating device or a smartphone. These devices are not considered carrier mediums, by definition. While the medium is the tangible good crossing the border, the content - the software - is the true purpose of the media shipment.

From the practitioner's view, the existing policy lacks the principles of customs valuation applicable to software on hi-tech devices, apart from the ones on physical media or carrier medium. In particular, software provided with an activation pin code or by downloading from websites or clouds has not been taken into account in the current regulations. This causes confusion in customs declaration and valuation.

Wrong declaration of special relationship and application of transactional value methodology

"Be responsible for your self-declaration" is a fundamental principle of the Customs Law. In other words, customs declarants must be responsible for (i) the authenticity and truthfulness of their statements and information declared and documentary evidence submitted to the authorities; and (ii) the information consistency between the dossiers kept at their companies and the dossiers submitted to the authorities. This is the formal obligation of fulfilling all requirements of writing, sealing, declaring, and registering as provided by law. Customs valuation will

⁵ Agreement on Implementation of Article VII of The General Agreement on Tariffs and Trade 1994, World Trade Organisation, 1994.

⁶ Circular 39/2015/TT-BTC dated 25 March 2015 of the Ministry of Finance on customs value of imported goods and exported goods.

⁷ Circular 60/2019/TT-BTC dated 30 August 2019 of the Ministry of Finance amending a number of articles of the Circular 39/2015/TT-BTC dated 25 March 2015 by the Minister of Finance on customs value of exported goods and imported goods.

be made based upon the declaration made by the importers unless there is a doubt raised or a fault discovered by customs authorities.

However, importers sometimes forget to check the box “special relationship” when they declare their imports. This causes the transactional value methodology to be rejected by the customs authorities. In principle, in determining whether the transaction value is acceptable, even though the buyer and the seller are related, this shall not generally - in itself - be grounds for regarding the transaction value as unacceptable on the condition that the relationship between the two companies does not influence the price. Therefore, the wrong declaration of special relationship will not connote the automatic rejection of transaction value methodology.

According to the WTO Customs Valuation Agreement and the current regulations, in such cases, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship does not influence the price.

Circular 60 provides new regulations which state that customs authorities shall determine the customs value given that (a) there is enough evidence/basis to reject the customs value declared by a declarant and (b) there is evidence to conclude that the declarant’s declared customs value is unsuitable. In addition, Circular 60 also provides that, if the customs declarant did not declare “special relationship” in the customs declaration and declaration of customs value (if any), an additional declaration will be requested by customs authorities. If the special relationship between buyer and seller is suspected to affect the transaction value of imported goods, customs authorities must compare this transaction value with the values as prescribed by law. Also, Circular 60 provides that, if there is not enough evidence to confirm whether the special relationship affects the transaction value, the declared customs value of the declarant shall be accepted by customs authorities.

Nevertheless, customs authorities often reject the application of transaction value due to the lack of a good declaration of a special relationship. The fallback method is automatically applied to determine the customs valuation and, in order to protect the application of transaction value, the importers shall always provide evidence and documents proving the proper application of transaction value methodology.

Monopoly positions in the market are an additional challenge for importers. Many international corporations follow a closed circle of business operation where they manufacture, provide, and distribute their products through the structure of their subsidiaries in countries around the world, including Vietnam. In many cases, the importers fail to protect themselves from the application of fallback methodology because they have a monopoly in Vietnam causing the absence of comparative analysis required by customs authorities.

Improper declaration and application of preferential tariffs

There are several kinds of preferential tariffs and the procedure applicable to each varies. In practice, importers may not be very well prepared for applying different tariffs corresponding to each imported good and unintentional mistakes may happen during goods clearance.

In some cases, changes to the imported goods also lead to a different tariff being applied. For example, materials imported for manufacturing exported goods are exempted from import tax. If importers would like to domestically consume these materials rather than using them for manufacturing, tax exemption is not applied. Instead, another preferential tariff may be applied to such materials. However, this becomes complicated when the Certificate of Origin (C/O) of materials expires or the importer has unintentionally provided an incorrect declaration when changing the use purpose of materials. According to the guidelines of customs authorities, in these cases, a preferential tariff will not be applied and the importer is subject to penalties.

Recommendations

We would like to make the following recommendations:

- Provide a more widely-defined coverage of software container or activation for easier classification and customs value declaration for the customs value of software.
- Apply the corresponding methodology of customs valuation.
- Design a correct basis on which the customs authorities may raise doubts about and reject a declared value.

- Provide the list of necessary documents that should be provided in cases where customs declarants submit documents proving that the special relationship does not affect the price.
- Do not allow the import and distribution monopoly position of a company to exclude the application of transaction value, given that this company can prove the good faith of all transactions and define them clearly in current regulations.
- Distinguish the application of preferential tariffs from the penalty applicable to a breach of the law.
- Do not cancel the enjoyment of preferential tariffs if an administrative error, such as an incorrect declaration in customs declaration sheets, is made.

2. Customs valuation: The impact of transfer pricing

In the application of Article 1 of the WTO, implemented in Article 6 of Circular 39, a transfer price can be used for transaction value purposes provided that the relationship between the buyer and the seller has no influence on the import value declared.

Assessment of transactional value reliability

Article 7 of Circular 39 states that the special relationship between seller and buyer does not affect the transaction value if the sale is carried out in a manner similar to the sale transaction of the same imported goods where buyer and seller are not related. To assess the similarity, Vietnamese authorities recommend checking whether:

- The commercial contract was agreed in a way consistent with the pricing negotiation and agreement practices the seller holds with non-related parties; or
- The price of imported goods is inclusive of overall costs and profit corresponding to overall costs and profit from the sale of goods of the same class or category.

If the above conditions are not met, the importer can still justify the acceptability of the transfer price as transaction value. This requires the transaction value to be approximate to the customs value of identical/similar imported goods sold to other importers that have no special relationship with the seller. This will be determined on the basis of the deductible value method or the computed value method.

Management of transfer pricing adjustments

The transaction price of imported goods can be impacted by transfer pricing adjustments made at the end of a given period of time (month or year). Those retrospective adjustments, which can be upwards or downwards, can impact the import value of certain goods. This topic is particularly significant and was enhanced by the reorganisation of the supply chains of internationally-operating businesses in Southeast Asia following the U.S. government putting additional taxes on Chinese-originating goods. This had an impact on the transfer pricing policies for many of these groups.

Another challenge for operators declaring a transfer price at importation is to preserve the benefit of preferential tariffs. Indeed, in situations where the adjustment results in the customs declaration being considered improper, the risk of losing the tariff preference is high, as described in Section 1(iii) above.

Customs authorities should inspect the way the price is established. Practical experience shows that, when doubting the reliability of a transfer price, customs authorities require - at rather short notice - the communication of various commercial information and industrial production data (e.g. SKUs cost breakdowns or extract of transfer pricing documentation). It is good practice for operators declaring a transfer price at import to anticipate any discussion with authorities and prepare in advance the bundle of information needed to justify the reliability of the said price. However, the Government should guarantee a reasonable period for operators asked to provide further information in view of transaction value reliability assessment.

Despite the examples above, Vietnamese regulations are not generally well designed for the clear mechanism related to managing the impact of transfer pricing adjustments on customs valuation. As a result, there is, at this stage, no legal way in Vietnam to guarantee the application of an adjustment rate added to the transaction value declared at the time of customs clearance. Also, there is no risk-free price adjustment mechanism (in the sense that reporting a change in customs value because of a price adjustment can lead to the imposition of penalties).

Recommendations

We would like to make the following recommendations:

- › Encourage customs authorities to inspect the way the price is established.
- › Guarantee a reasonable period of time for operators asked to provide further information in view of transaction value reliability assessment.
- › Consider promulgating a mechanism of price adjustment dealing with the intense desire of transfer pricing adjustments of international corporations investing and operating in Vietnam.
- › Guarantee that the practice of transfer price adjustments cannot, in principle, be used to reject preferential tariffs for goods imported under an adjusted transfer price.

3. Customs valuation advance rulings

Vietnam is a member of the WTO and has signed the WTO Trade Facilitation Agreement (TFA).⁸ This contains several measures which could help authorities and companies facing customs valuation issues at import in Vietnam.

Article 3 of the TFA states that each WTO Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information.

Vietnamese regulations include a sort of customs valuation advance ruling mechanism in Decree 08.⁹ This states that customs authorities may deliver a binding ruling that would secure the imports made by the ruling application in the future. However, the scope of application of this mechanism remains limited to certain cases where goods are imported for the first time in Vietnam or whose price is affected by a substantial or unexpected change. In practice,, currently no general customs valuation advance ruling mechanism has been implemented in Vietnam, which could help businesses secure the import of goods for which legal issues arise (determination of the relevant valuation methodology, duty liability of assists, and price adjustments).

Recommendation

We would like to make the following recommendation:

- › Implement a general customs valuation advance ruling mechanism.

4. Custom Valuation - Price Consultation

Issue description

In 2020, following the Prime Minister's Directive 11¹⁰, most Post-Clearance Audits (PCA) conducted at taxpayers' offices were postponed. At the same time, we observed an increase in the number of desktop checks being performed at the border points and a more aggressive stance in the performance of those checks. Of particular note was the increased frequency of price consultations – initiated by Customs to determine the appropriateness of values declared for goods imported into Vietnam.

During those price consultations, Customs will typically refer to their own databases of values, which are used to challenge the veracity of the values declared by the importer. Importers are frequently requested to provide explanations for the gap between Customs' reference prices and those declared. If the importers cannot explain, then declared values are being uplifted to match Customs' database values – despite Customs assurances that the databases values are only a reference point.

When importers, during the price consultation, requested Customs to provide the supporting rationale behind reference prices¹¹ this was refused.

8 Trade Facilitation Agreement, dated 22 February 2017 of the World Trade Organisation.

9 Decree 08/2015/ND-CP dated 21 January 2015 of the Government providing specific provisions and guidance on enforcement of The Customs Law on customs procedures, examination, supervision and control procedures.

10 Directive 11/2020/CT-TTg dated 4 March 2020 of the Prime Minister on urgent objectives and solutions for assisting businesses facing difficulties and assurance of social welfare amid COVID-19 pandemic.

11 For example. what was the relationship between buyer/seller; how were the prices negotiated; trading model; volume of business; specific types of goods etc.

In our view, the refusal to provide the importer with the rationale behind the used Customs' reference prices, undermines the principle of "consultation"; creates unnecessary disputes and results in a lack of trust in the objectivity of the price consultation process.

Since the introduction of Decision 1304¹² on the scheme 'one-time price consultation for multiple uses', few importers have applied for the scheme, and only a small percentage of applicants have received an approval.

Recommendations

We would like to make the following recommendations:

- Let Customs officers, who conduct price consultations, hold the supporting rationale behind the values on the database, and authorise them to disclose that information to importers enabling a more transparent and effective price consultation process.
- Conduct more promotion activities to encourage companies to apply for the 'one-time price consultation for multiple uses' scheme. including detailed guidance of execution.
- Ensure that the price consultation process will be valid for a 12-month period provided declared values in the 12-month period do not move outside an acceptable threshold (e.g. +/- 5 per cent), then no further price consultation should be required.

5. Transfer price adjustments

Issue description

Corporate tax transfer pricing methodologies, used in the determination of prices of goods when traded between entities/affiliates within a Group, may require importers or exporters in Vietnam to make annual adjustments to historically declared values/invoiced values - based on pre-determined criteria.

Prevailing Customs regulations do not provide guidance on whether or not, such adjustments require amendments to customs declarations. It creates uncertainty.

Importers and exporters have voluntarily disclosed price adjustments to local Customs and have been advised subsequently that such adjustments will be treated as errors in the original declarations. Accordingly, unless the customs declaration amendments are made within 60-days from the original declaration date, the companies are subject to customs administrative penalty – and often a downgrading of their customs compliance status. Such actions by Customs are discouraging for companies, willing to comply with customs compliance requirements. It would also be in line with practices adopted by Customs authorities in the region.

Recommendations

We would like to make the following recommendations:

- Publish guidance on how importers and exporters could handle retroactive transfer price adjustments, including whether previously registered import or export declarations are required to be re-declared.
- Allow for bulk declaration due to transfer pricing adjustment if re-declaration is required.
- Adapt the customs systems to accept bulk adjustments.
- Allow importers and exporters to make voluntary disclosures of adjustments.
- Not to impose penalties on voluntary declarations of transfer price adjustments.

6. HS Code classification: Rulings/Notifications

Issue description

We recognise the efforts in driving consistency in applying HS codes nationally, such as the issuance of Decision

¹² Decision 1304/QĐ-TCHQ dated 29 April 2020 of the General Department of Customs approval one-time consultation pilot project, use consultation results many times.

583, which regulates export and import goods at risk of classifying and applying tax rates.¹³ However, there is still concern over the lack of specification of supporting rationale and legal reference sources chosen for making HS code classification decisions. We believe that the additional information will ensure greater transparency in the decision-making process. It will enable companies to self-assess applicable HS codes of goods imported into and exported from Vietnam; reducing the burden on the issuance of guidance on the HS code classification.

Recommendations

We would like to make the following recommendations:

- › Specify the applied supporting rationale behind the HS code classifications provided.
- › Continue publishing all legal reference sources of classification online in Vietnamese and English those that were listed and committed to be published in Article 6 of Circular 14 but preferably within the last five years.¹⁴

7. Manufacturing/processing for export

Issue description

After nearly 5 years of implementation, Decree 134¹⁵ seems not to achieve what it was issued for because it seems to be unclear. Decree 18¹⁶ has given more guidance for the enterprises operating export manufacturing and processing activities.

Furthermore, Official Letter 879¹⁷ was issued to provide guidance on the customs duty treatment of raw materials/supplies/components imported to produce finished goods for export, and in which the manufacturing of the finished product involves outsourcing of some production activities.

Accordingly, in case the enterprise has been subject to customs duty imposition for the materials/supplies/components (which are imported since 01 September 2016) delivered to third parties for outsourcing activities, then:

- › The decision of Vietnam Customs on imposition shall be amended, supplemented or suspended; and
- › The imposed amount (including duty collection, late payment interest and administrative penalties) might be entitled to Duty refund.

However, OL 879 and Decree 18 do not provide detailed procedures for the enterprises (subject to customs duty imposition) to apply for the amendment/ supplementation/ suspension of Customs' Decisions on Imposition, and then receive the Duty refund; and the possibilities to apply the Duty refund scheme for the enterprises, which had actively conducted the re-purposed declaration and paid the duties for the materials/supplies/components delivered to other parties for outsourcing.

Recommendations

We would like to make the following recommendation:

- › Provide detailed guidance specifying the step-by-step procedures for the enterprises to apply for the Duty refund.

III. RULES OF ORIGIN UNDER THE EVFTA

Relevant authorities: Ministry of Finance (MOF), General Department of Customs (GDC)

13 Decision 583/QĐ-TCHQ dated 22 March 2019 of the General Department of Customs on the List of export and import goods at risk of classifying and applying tax rates, valid since 1 April 2019.

14 Circular 14/2015/TT-BTC dated 30 January 2015 of the Ministry of Finance providing guidance on classification of goods, and analysis for classification of goods; analysis for quality inspection, food safety inspection for food for exported and imported products.

15 Decree 134/2016/ND-CP dated 1 September 2016 of the Government on the guidelines for the law on export and import duties.

16 Decree 18/2021/ND-CP dated 11 March 2021 of the Government amendments to some articles of the Government's Decree 134/2016/ND-CP dated 1 September 2016 elaborating the Law on export and import duties

17 Official Letter No. 879/TCHQ-TXNK dated February 23, 2021 of the General Department of Customs on tax treatment of imported goods for export and outsourcing.

As in any other free trade agreement, the chapter on rules of origin is crucial for operators. Under the EVFTA, for a product to be qualified for a lower or zero preferential tariff, it must meet specific requirements related to origin. Circular 11¹⁸ regulates the rules of origin under the EVFTA and the Protocol regarding rules of origin (the Protocol).¹⁹

Potential challenges/opportunities for Vietnam

Sometimes companies receive mixed shipments which consist of products of EU- and non-EU origin and it is not always clear what the company should do. In order to facilitate the benefits of EVFTA application, some improvements should be made.

Recommendations

We would like to make the following recommendations:

- Issue guidelines on making customs declarations on both EU-origin and non-EU origin goods imported into Vietnam in the same shipment.
- Issue guidelines on making customs declarations on EU exported goods but from a non-EU seller basing in a third country (a non-member country).
- Provide clarifications on using the REX code in terms of GSP and the EUR.1 to choose the most preferential tariff in respect of the goods exported to EU.
- Speed up the completion of the self-declaration system for the exporters to the EU.

IV. SUSTAINABILITY

Relevant authorities: Ministry of Industry and Trade (MOIT), Ministry of Planning and Investment (MPI), Ministry of Transport (MOT), Ministry of Natural Resource and Environment (MONRE)

The following represents the EuroCham Transport and Logistics Sector Committee's focus on sustainability and related subjects. Together with EuroCham's Green Growth Sector Committee, some initial steps were agreed in outlining the strategies and interventions necessary to progress towards sustainable transport and logistics infrastructure.

Issue description

Many multi-national businesses have made commitments to sustainability goals covering all aspects of their business including upstream sourcing and downstream supply, end of product life, etc. In the particular context of logistics, the main goals are CO₂ reduction as the primary measure. Meanwhile, the long-term goal is to achieve carbon neutrality which is net-zero carbon dioxide emissions (generally by the year 2050).

Initial improvements can be renovative (involving maintenance or improvement). But, longer-term, this requires a shift to innovative solutions and more radical adaptations at both business and governmental levels.

Progress to date is relatively limited. However, many multi-national businesses are making commitments that local subsidiaries will be required to follow. International customers, consumers, and representative groups (NGOs, certifying agencies, investment funds etc.) are expecting greater transparency and action.

A stakeholder forum to review opportunities and permit input into a roadmap for logistics sustainability would be an ideal next step. This could identify specific actions such as: the maximisation of fleet and asset utilisation (creating a pre-competitive environment to facilitate more environmental transport) to increase fill/load utilisation; the use of equipment fit for purpose; reduce empty return trips/optimize back-haul etc. For example, the design and authorised use of larger trailers, or dog trailers for long-haul road journeys should be supported to reduce the number of vehicles on the road. Furthermore, transport modes should be improved, rail and river/sea freight

¹⁸ Circular 11/2020/TT-BCT dated 15 June 2020 of the Ministry of Industry and Trade on rules of origin in the EVFTA

¹⁹ Protocol concerning the definition of 'originating products' and methods of administrative cooperation.

should be increased, and multi-modal transport should be optimised while air freight should be reduced.

The Government's commitment to higher engine efficiency standards is appreciated as is its continued commitment to achieving Euro V and VI equivalent standards by 2030 and Material Handling Equipment (MHE) such as forklift trucks and warehousing utilising renewable energy (RE).

Furthermore, optimal use of land-plots would lead to less total land required for residential/commercial/logistics and industrial activities and allow the safeguarding of more land for "green" purposes.

Longer-term plans will need to be more radical. For example, they could take direction from the EU's commitment to move to much lower/or zero emission vehicles and greater fuel economy²⁰; and include a detailed roadmap for the development and transition of these vehicles in Vietnam by 2030. This will require consideration of the impact on city and town planning, refuelling solutions, access, end-of-life solutions, and a commitment to nationwide enforcement of plans and timelines, etc.

These plans will also need to include Biogas (generation 2 & 3); Electric RE fleet (short haul/urban planning as the priority, then towards long-haul planning); hydrogen-based fuel, renewable thermal energy, etc.

Besides, it is also important to identify incentives and policies to guide businesses to future requirements and redundancies. Again, these policies should address both transport and logistics infrastructure. For example, incentives could be given to companies doing business in a sustainable way through having a certain percentage of the fleet being green, a certain percentage of energy consumption being green, and a certain percentage of water used being recycled. Incentives could also be given to turn brownfield projects into more sustainable buildings.

We also believe that it is important to prepare a roadmap to sustainability (in the context of transportation and logistics) and to identify the key stakeholders within both central government and provincial authorities. This should include a timeline to reach net-zero carbon and what steps must be taken to reach this goal. Finally, businesses' support should be obtained and measures prepared to collaborate with central and provincial authorities to navigate through the changes required to deliver the triple bottom-line (people, profit, and planet).

Potential gains/concerns for Vietnam

Vietnam's position as a preferred location for the world's production chains remains well understood, and would be further enhanced by a progressive, clear, and transparent roadmap towards sustainability in logistics and related activities.²¹ Vietnam's Green Growth Strategy (VGGs) and Sustainable Development Goals (SDGs) explicitly link development, environmental, and climate planning, bringing conformance to the Kyoto Protocol and the Paris Agreement.²²

There are many secondary benefits to such a progressive approach, in synergizing with future health benefits, attracting premium tourism, reducing the environmental impacts and potential future costs and generally raising the quality of life, particularly in Vietnam's metropolitan regions. Ultimately, mitigating and addressing climate change is of particular importance to Vietnam with its large population living in coastal and low-lying regions.

With this perspective and timescale in mind, and tackling priority impacts first, we can see the short, medium and long-term actions that are necessary – and begin to fit this into a proposed framework, as illustrated in the following diagram.

20 "A European Strategy for low-emission mobility", European Commission. Available at: <https://ec.europa.eu/clima/policies/transport_en#tab-0-0>, last accessed 18 May 2021.

21 "Vietnam brings cement sector into new climate submission to the UN", Climate Home News, dated 14 September 2020. Available at: <www.climatechangenews.com/2020/09/14/vietnam-brings-cement-sector-new-climate-submission-un/> last accessed on 13 April 2021.

22 "Aligning Near- and Long-Term Planning in Vietnam to Meet the Goals of the Paris Agreement". Available at: <www.wri.org/climate/expert-perspective/aligning-near-and-long-term-planning-vietnam-meet-goals-paris-agreement> last accessed on 13 April 2021.

Figure 6: Vietnam Logistics Strategy and Interventions

2020 – 2025: Priority interventions		After 2025	
MAINTAIN AND IMPROVE...		SHIFT TO...	
Fleets & assets are shared and used to the max	Transport modes are smartly used and combined	Fleets & assets are energy efficient	Fleets & assets use lowest emissions energy source feasible
<ul style="list-style-type: none"> • Increase vehicle fill • Fit for purpose • Reduce empty back haul • Synergies, multi drop points • Combine with others industry partners 	<ul style="list-style-type: none"> • Increase use of rail and ocean / water transport • Optimize multi-modal • Reduce Air transport 	<ul style="list-style-type: none"> • Shift to EURO IV, V & VI • MHE using lower emission fuel or 100% electric (RE) • Renewable Electricity (RE) for DC's 	<ul style="list-style-type: none"> • Biogas (gen2 & 3) • Electric short haul • Electric long haul • Hydrogen • Renewable Thermal Energy (RThE) for DC's
<ul style="list-style-type: none"> • Drive a pre-competitive approach • Reduce empty back haul • Multi-load/multi-drop 	<ul style="list-style-type: none"> • Improve multi-modal connectivity / infrastructure • Investment in rail / sea / river / ports 	<ul style="list-style-type: none"> • Shift to EURO IV, V & VI • Renewable Electricity (RE) for DC's & MHE 	<ul style="list-style-type: none"> • AVAILABILITY / ACCESS / INCENTIVES / SUPPORT & INFRASTRUCTURE • Vision and Roadmap

Recommendations

We would like to make the following recommendations:

- Set up a forum with all stakeholders to support a review of opportunities and to permit input into a roadmap for logistics sustainability.
- Prepare longer-term plans which need to be more radical to move to much lower/or zero emission vehicles and greater fuel economy.
- Design a detailed roadmap for the development and transition of these vehicles in Vietnam by 2030.
- Identify incentives and policies to guide businesses to future requirements and redundancies.
- Create a roadmap to sustainability (in the context of transportation and logistics).
- Identify the key stakeholders within both the central Government and provincial authorities.
- Prepare a timeline to reach net-zero carbon and identify what steps must be taken to reach this goal.

Obtain businesses' support and instigate measures to collaborate with central and provincial authorities to navigate through the changes required to deliver the triple bottom-line (people, profit, and planet).

ACKNOWLEDGEMENTS

EuroCham Transportation and Logistics Sector Committee.

FOR MORE CUSTOMS-RELATED ISSUES, PLEASE ALSO READ

- > Chapter 14 Automotive Section II. Homologation Requirements for Automotive Business 3. Product composition declaration at customs clearance