



KEY POINTS FROM EUROCHAM Annual Vietnam Business Forum

Ho Chi Minh City, dated 24th October 2016

EuroCham is pleased to acknowledge the recent efforts that the new Vietnamese Government has made to further improve the business environment and increase Vietnam's competitiveness in by issuing Resolutions 19 and 35. The year 2016 has been a significant year for Vietnam and its relationship with its European counterparts.

Moreover, since 2016 a number of new laws and regulations governing foreign investment, enterprises, real estate and foreign ownership limits have come into effect, such as new Law on Investment and Law on Enterprises. There have been also intensive discussion and works on the revisions of a number of regulations to conform with these laws.

With the coming into effect of several international trade agreements and more particularly, the EVFTA, the AEC and the TPP, EuroCham members are looking forward to the positive changes that will be implemented and that will further business incentives as well as contribute to Vietnam's growth. Nevertheless, some concerns remain among European companies. This paper aims to identify those issues and propose solutions to further improve the business climate in Vietnam.

I. INCREASING THE LIVELIHOOD OF THE PEOPLE

1. Safe medical access and pharmaceuticals

Following the successful conclusion of the EVFTA and TPP negotiations, and thanks to determined action by the Vietnamese Government, there has been a number of positive progress in the healthcare industry, in particular the adoption of the new Pharma Law, which is expected to significantly increase patient access. Over the coming months, Vietnam will be finalizing the regulatory framework that will guide the pharmaceutical landscape for the foreseeable future. Pharma Group believes that the resolution of a number of remaining issues, which are consistent with the spirit of trade liberalization and pertinent to the international commitments, will bring great value to patients, the Vietnamese healthcare system and to industry – both local and foreign.

1.1 Fast access to innovative pharmaceuticals for Vietnamese patients

Effective elimination of local clinical trial requirements for drugs, biologics and vaccines approved by stringent international authorities, a further optimized and timely drug registration process is key to improving patient access.

1.2 Sustainable patient access: Government Procurement and Reimbursement

Ensuring a holistic approach to Government Procurement, building on doctor choice of high-quality medicines and optimizing the reimbursement system will be key in meeting the demands of a modern and innovative universal healthcare system.

1.3 Legal presence and developing local industry

Clear and practical guidelines for foreign investors to establish Foreign Invested Enterprises (FIEs) with all associate rights granted under WTO, EVFTA and TPP commitments, and adapted incentives provides Vietnam with the opportunity to position itself as an ASEAN hub for innovative pharmaceutical manufacturing.

1.4 Intellectual Property Rights protection

A cornerstone of innovation which if implemented provides local companies confidence to develop patentable medicines over time and encourages the innovative pharmaceutical industry to invest in local industry, including technology transfer in the short term.

EuroCham Pharma Group remains wholeheartedly committed to working with the Vietnamese Government to attain the objective of improving the health of Vietnamese patients by ensuring fast and sustainable access to high quality, safe and innovative medicines.

2. Food safety

The Food, Agri, Aqua Business Sector of EuroCham Vietnam underlines some solutions for food safety improvement: through application of risk-based assessment, better and stricter enforcement of existing regulations and creation of a reliable and up-to-global standards' laboratory network. Furthermore, to keep – or improve – its current position as agricultural producer and exporter Vietnam needs not only increase food safety but also needs to develop a sustainable agricultural production and supply chain.

II. INCREASING CONSUMER'S CHOICE

1. Wine and Spirits

With the EU-VN Free Trade Agreement (EVFTA) being expected to enter into force from 1st January 2018, EuroCham Wine & Spirits Sector Committee emphasizes the implementation of some EVFTA commitments related to wine & spirits industry such as: tariffs liberalization over a 7-year period, the rules of origin agreement, EU Geographical Indications, licensing, framework for cooperation, regulatory discussion and a dispute settlement mechanism.

The Wine & Spirits Sector Committee also provides some recommendations regarding Decree 108/2015/NĐ-CP dated 28th October, 2015. In which, the introduction of key changes on the taxable price of imported products has resulted in a sharp increase of the tax burden and impacted the retail prices of imported products, making them even less affordable for Vietnamese consumers. This may in turn result in substantial loss of sales of legally imported products, thereby negatively impacting government revenues.

2. Automotive

2.1 Euro 4 fuel and emission

Commercial vehicles makers propose 1 year delay of Euro 4 emission for commercial vehicles together with condition of Euro 4 fuel being supplied nation-wide before the implementation of Euro 4 emission for diesel engines.

2.2 Circular 20/2011/TT-BCT stipulating additional procedures for imported cars from 09 seats or less

Under the revised Law on Investment effective from 1st July, 2016, Circular 20 might be no longer valid. Because of the importance of traffic safety for vehicles running on the road EuroCham has sent the petition to the Vietnamese Government to maintain the content of Circular 20. We would like to follow-up with Government on this.

3. Motorcycle

3.1. Special Consumption Tax

Members in Motorcycles industry raises some concerns the industry faces. One of which is the Special Consumption Tax rate for motorcycles with a capacity of over 125cc being 20%, according to Law of SCT No. 27/2008/QH12 and Law No. 70/2014/QH13 amending some articles of Law of SCT. This has had a significant negative impact on manufacturers, which offer over-125cc motorcycles and limits consumers' choice.

3.2. Management of the manufacture, homologation, registration and circulation of electric bikes and electric motorcycles

Since the past few years, electric bikes/motorcycles have been increasingly popular, however the current non-strict control has created big risks to consumers in particular and society in general. Therefore to ensure safety and social order and minimize negative impacts on the environment, members in Motorcycles industry recommend relevant authorities to strengthen law enforcement against the manufacture, homologation, registration and circulation of electric bikes and electric motorcycles.

4. Nutritional Foods

The EuroCham Nutritional Foods Group (NFG) presents some issues and recommendations with the hope to promote science-based, effective policies and practices, and which will nurture a responsible, sustainable market for milk and nutritional products in Vietnam. The recommendations of NFG include:

4.1. Improving the Implementation of Regulations on Marketing for Nutritional Products for Young Children

NFG provides recommendations to some legal regulations concerning the advertisement and marketing of nutritional products for young children. Specifically, the Law on Advertisement of 2012 and Decree 100/2014/ND-CP regulating the trade and use of nutritional products for young

children, feeding bottles and artificial dummies have extended the advertising ban on “breast-milk substitute milk products” for children up to 24 months of age. It has also introduced more restrictions on the advertisement and marketing for nutritional products for young children, potentially limiting access to information by parents and caregivers. Because of the lack of basic product information, Vietnamese consumers have few other official sources of information through which to assess product quality and learn about usage instructions.

4.2 Price Stabilisation of Milk Products for Children under 6 Years of Age

Under Decision 1079/QĐ-BTC dated 20th May, 2014 detailing the imposition of price stabilisation measures for milk products for children under 6 years of age and Decision 857/QĐ-BTC dated 12th May, 2015 amending and supplementing some articles of Decision 1079, price ceilings will be imposed on milk products for children under 6 years old from 1st June, 2014 through 31st December, 2016 inclusive.

NFG is concerned the State’s interventions in the business activities of enterprises through administrative measures such as price ceilings run counter to the Government’s aspirations to achieve a full market economy, and thus not only impacting the business performance of enterprises in the short- to medium-term, but also affecting long-term trade and investment prospects in general.

NFG provides some recommendations, including proposal to remove the price ceiling, allow for a return to market-based pricing and refrain from imposing any extensions of existing price ceilings or additional controls.

4.3. Harmonization with international best practices of local food regulations and laboratories testing

In light of the conclusion of various FTAs, it is especially important to harmonise with international best practice of local food quality regulations. Tolerance for nutrient values declared on a food label is the one angle that needs to be harmonised.

Another related issue is to have an assessment of its main laboratory capabilities vs. global benchmark, and make a plan to upgrade testing methods and facilities to be in accordance with international standards, ensuring accurate, quick, impartial and fair testing result.

III. INCREASING VIETNAM’S COMPETITIVENESS

EuroCham Tax & Transfer Pricing Sector Committee proposes some solutions on tax to remove difficulties and barriers, to promote enterprises’ development as below:

- 1- Waiver of late payment interest/ penalties from tax re-audit/ re-inspection

- 2- Reduction of personal income tax liabilities for the employees who are working for garment-textile, leather and footwear
- 3- Postponing the application of the increased base to calculate compulsory insurance contributions

CONCLUDING REMARKS

European Chamber of Commerce in Vietnam would like again to thank the Government for the efforts made to increase the competitiveness and attractiveness of Vietnam as an investment destination for European companies. We, therefore, invite and encourage the Vietnamese Government to address the issues outlined in this Position Paper and to comfort the expectations of the European business community in Vietnam. Please note that our suggestions in this Position Paper are made on behalf, and in the interest of our Members, the European business community in Vietnam. However, it is clear that in the vast majority of cases these suggestions are clearly in the long-term interests of the Vietnamese Government and the Vietnamese people.

We sincerely hope that our suggestions in this Position Paper will help the Vietnamese Government to reach its goals and EuroCham will continue to assist the Government and as much as possible. We are therefore looking forward to working with the Government, authorities and all our Members and partners, both Vietnamese and European, continuing having more regular dialogues and follow-up meetings through VBF to enhance Vietnam's competitiveness and attractiveness.