

Date: 01/07/2024

The Designated Authority,  
 Directorate General of Trade Remedies (DGTR),  
 4<sup>th</sup> Floor, Jeevan Tara Building,  
 5, Parliament Street, Patel Chowk,  
 New Delhi-110001

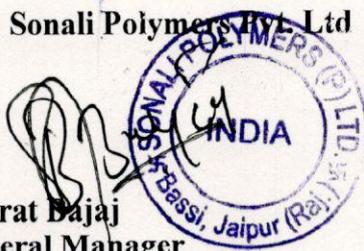
**Sub: Anti-dumping / Anti-subsidy investigation concerning imports of Masterbatches**

Dear Sir,

We are involved in manufacturing and selling of Masterbatches. This is to inform you that we fully support the application and request you to recommend antidumping and anti-subsidy duties on Masterbatches. Our company details w.r.t to Masterbatches are as under:

Serial No.	Particulars	Unit	2020-21	2021-22	2022-23	2023-24
1	Installed Capacity	MT				
2	Production Quantity	MT				
3	Sales Quantity Total	MT				
a	Domestic	MT				
b	Export	MT				
c	Captive	MT	-	-	-	-
4	Sales Value Total	Rs Lacs				
a	Domestic	Rs Lacs				
b	Export	Rs Lacs				
c	Captive	Rs Lacs	-	-	-	-

For: Sonali Polymers Pvt. Ltd



Bharat Bajaj  
 General Manager

**SONALI POLYMERS PVT. LTD.**

(An ISO 9001:2015 Certified Company)  
 CIN : U25191RJ2005PTC020546

MFRS. OF CALCIUM & TALC BASED FILLERS, COLOUR MASTERBATCHES, ADDITIVES & MODIFIERS  
 UNIT-I G-1/17, RIICO Industrial Area, Bassi, Jaipur-303301, Rajasthan India  
 UNIT-II H-21 & H-22, RIICO Industrial Area, Bassi, Jaipur-303301, Rajasthan India  
 ☎ +91 9001093913, 9928323709 ✉ jaipur@sonaligroup.in 🌐 www.sonaligroup.in





# SP. POLYMER

GSTIN No. : 09AIBPG5141M1Z8

Manufacturing of : White, Black & Colour Master Batches  
Calcium Carbonate Master Batches  
Additives and Compounding

Date: 25-06-2024

The Designated Authority,  
Directorate General of Trade Remedies (DGTR),  
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New Delhi-110001

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a	Domestic	MT				
b	Export	MT				
c	Captive	MT				
4	Sales Value	Rs Lacs				
a	Domestic	Rs Lacs				
b	Export	Rs Lacs				
c	Captive	Rs Lacs				

Thanks & Regards

For S. P. POLYMER

Proprietor

(ANIRUDH GUPTA)  
(PROPRIETOR)



# Speciality Masterbatches LLP

(QUALITY IS WHAT WE DO)

4-A, Circleview Apartment,  
169, Fatehpura, Near Sukhadia Circle,  
UDAIPUR-313 001 INDIA

Mobile : 91673 52275, 99280 21614  
Tel. : 0294 2427770-71  
E-mail : specialitymasterbatches@gmail.com

Date: 29.06.2024

The Designated Authority,  
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4<sup>th</sup> Floor, Jeevan Tara Building,  
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a	Domestic	Rs Lacs				
b	Export	Rs Lacs				
c	Captive	Rs Lacs				

  
**Kunal Chowdhary**  
Designated Partner



Factory : CP-5/8, M.I.A. MADRI, MORRIS GARAGE, UDAIPUR 313001 INDIA

Date: 05-07-2024

The Designated Authority,  
Directorate General of Trade Remedies (DGTR),  
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b	Export	Rs Lacs				
c	Captive	Rs Lacs				

**For Swastik Plastoalloys Pvt. Ltd.**

For Swastik Plastoalloys Pvt. Ltd.

*Amunh*  
(Alok Tibrewala)  
Director

(Alok Tibrewala)  
Director

**Factory:**

Swastik Plastoalloys Pvt Ltd  
Bengal Anmol South City Infrapark  
Plot No - B6 & B7  
Mouza - Jagdishpur, Howrah 711 115

**Corporate & Regd Office:**

Swastik Building, 5th Floor  
Nazrul Islam Avenue, VIP Road  
Tegharia, (Opp. Haldiram VIP)  
Kolkata 700 157

**M:** +91 33 2573 6028 / 1484 / 4061 9098  
**F:** +91 33 2573 4230  
**E:** swastikplastoalloys@gmail.com  
**W:** www.swastikplastoalloys.in



# JJ Plastalloy Pvt. Ltd.

Relationship through Intellect & integrity

Consignment stockist GAIL  
Mfr. Exporter of Plastic Masterbatches & Compound

Regd. Office :  
A-2, Badshah Bagh Colony  
Maldahiya, Varanasi - 221002 (U.P.) India

Phone No.: +91-542-2391915  
Fax No.: +91-542-2391913  
Mobile No.: 91+8808736600

Email : contact@jjpl.co.in  
Website : www.jjplastalloy.com

BO- Varanasi, Haridwar, Gurgaon, UAE  
Mfg Unit: Dahej (Gujarat), Varanasi  
Date: 27<sup>th</sup> July 2024

The Designated Authority,  
Directorate General of Trade Remedies (DGTR),  
4<sup>th</sup> Floor, Jeevan Tara Building,  
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New Delhi-110001

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1	Installed Capacity	MT				
2	Production Quantity	MT				
3	Sales Quantity	MT				
a	Domestic	MT				
b	Export	MT				
c	Captive	MT				
4	Sales Value	Rs Lacs				
a	Domestic	Rs Lacs				
b	Export	Rs Lacs				
c	Captive	Rs Lacs				

For J J Plastalloy Pvt. Ltd.

JJ Plastalloy Pvt. Ltd.  
Ravindra Sharma

Authorised Signatory  
(Ravindra Sharma)  
(Designation: -Legal Officer)

Date: 27<sup>th</sup> July 2024

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Prabhu Poly Color Ltd.



Director.

**Prabhu Poly Color Limited**  
**Siddharth Kakrania**  
 Director

## **ANNEXURE 3.1**

**\*\*\***

# **EVIDENCE OF LOCAL PRICES OF LIMESTONE LUMPS IN VIETNAM**

(Information in this annexure is business sensitive. Disclosure of the same will cause irreparable damage to the business interest of the company. Summarization of the same is not possible)

## **ANNEXURE 3.2**

**\*\*\***

# **VIETNAMESE LAW ON EXPORT TAXES ON LIMESTONE ALONG WITH CALCULATIONS OF SUBSIDY BENEFIT**

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom – Happiness**

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No. 26/2023/ND-CP

*Hanoi, May 31, 2023*

**DECREE**

**ON SCHEDULE OF EXPORT TARIFFS, SCHEDULE OF PREFERENTIAL IMPORT TARIFFS, TARIFF NOMENCLATURE, AND FIXED DUTIES, MIXED DUTIES, OUT-OF-QUOTA IMPORT DUTIES**

*Pursuant to the Law on Government Organization June 19, 2015; the Law on amendments to the Law on Organization of Government and the Law on Organization of Local Governments dated November 22, 2019;*

*Pursuant to the Law on Export and Import Duties dated April 6, 2016;*

*Pursuant to the Law on Tax Administration dated June 13, 2019;*

*Pursuant to the Law on Customs dated June 23, 2014;*

*Pursuant to Resolution No. 71/2006/QH11 dated November 29, 2006 of the National Assembly on ratification of Protocol on accession of the Socialist Republic of Vietnam to the Agreement establishing the World Trade Organization;*

*At the request of the Minister of Finance;*

*The Government promulgates a Decree on Schedule of Export Tariffs, Schedule of Preferential Import Tariffs, Tariff Nomenclature and fixed duties, mixed duties, out-of-quota import duties.*

**Article 1. Scope**

The Decree specifies Schedule of Export Tariffs, Schedule of Preferential Import Tariffs, Tariff Nomenclature and fixed duties, mixed duties, out-of-quota import duties.

**Article 2. Regulated entities**

1. Taxpayers under the Law on Export and Import Duties.
2. Customs authorities and customs officials.
3. Organizations and individuals with rights and obligations related to exports and imports.

**Article 3. Issuance of Schedule of Export Tariffs, Schedule of Preferential Import Tariffs under Nomenclature of Taxable Products, Tariff Nomenclature and fixed duties, mixed duties, out-of-quota import duties**

The following appendices shall be issued together with this Decree:

1. Appendix I - Schedule of Export Tariffs under Nomenclature of Taxable Products.
2. Appendix II - Schedule of Preferential Import Tariffs under Nomenclature of Taxable Products.
3. Appendix III - Tariff Nomenclature and fixed duties, mixed duties imposed on automobiles for the transport of 15 or fewer persons, used.
4. Appendix IV - Tariff Nomenclature and out-of-quota import duty rates imposed on goods subject to tariff-rate quotas.

**Article 4. Schedule of Export Tariffs under Nomenclature of Taxable Products**

1. Schedule of Export Tariffs under Nomenclature of Taxable Products specified in Appendix I issued herewith shall specify the tariff classification number, description, export duty rates imposed on each heading and each dutiable commodity. In case where any exported good is not named in the Schedule of Export Tariffs, the customs declarant shall enter HS code of the exported good corresponding to the 8-digit HS codes of commodities according to the Schedule of Preferential Import Tariffs specified in Section I of Appendix II to this Decree, and shall not need to enter duty rates in their export declaration.

2. The commodities under the heading 211 are commodities that satisfy both requirements below:

a) 1st requirement: Supplies, raw or input materials, semi-finished products (collectively referred to as goods) do not belong to the headings from No. 01 to No. 210 in the Schedule of Export Tariffs.

b) 2nd requirement: They are goods which are made directly from raw materials that are mainly natural resources or minerals and of which the aggregate value of such natural resources plus energy costs accounts for at least 51% of their production cost. The determination of the aggregate value of natural resources and minerals plus energy costs accounting for at least 51% of their production cost shall be subject to regulations laid down in the Government's Decree No. 100/2016/ND-CP dated July 1, 2016, detailing and guiding the implementation of a number of articles of the Law on Amendments and Supplements to several Articles of the Law on Value-Added Tax, the Law on Special Consumption Tax and the Law on Tax Administration and the Government's Decree No. 146 / 2017 / ND-CP dated December 15, 2017, amending and supplementing a number of articles of the Decree No. 100/2016/ND-CP and amendments (if any).

Exported goods that are exceptions specified in clause 1 of Article 1 in the Decree No. 146/2017/ND-CP dated December 15, 2017 do not belong to the heading No. 211 of the Schedule of Export Tariffs annexed to this Decree.

### 3. Codes and export duty rates of commodities in heading 211:

The taxpayer shall declare export duty rates of commodities with 8-digit codes and descriptions of commodities in headings 25.23, 27.06, 27.07, 27.08, 68.01, 68.02, 68.03 in the headings numbered 211 that are corresponding with their HS codes of headings numbered 211. Otherwise, the taxpayer shall submit the statement of ratios of value of natural resources and minerals plus energy cost to production cost of the exports according to Form No. 14 of Appendix II to this Decree while following customs procedures in order to prove that the aggregate value of natural resources and minerals plus energy costs is less than 51% of their production cost. In case the taxpayer is a trade enterprise that purchase goods from a manufacturer or from another trade enterprise for export but does not declare export duty rates of goods in the headings numbered 211, the taxpayer shall complete Form No. 14 in Appendix II according to information provided by the manufacturer in order to prove that the aggregate value of natural resources and minerals plus energy costs is less than 51% of their production cost. The taxpayers shall be legally responsible for their declaration.

Regarding exports in headings numbered 211 that do not have 8-digit codes and satisfy the requirements specified in Clause 2 of this Article, the taxpayer shall declare the 8-digit codes in the Preferential Import Tariff Schedule in Section I Appendix II hereof and declare the export duty rate of 5%.

## **Article 5. Schedule of Preferential Import Tariffs under Nomenclature of Taxable Products**

The Schedule of Preferential Import Tariffs of taxable products on the Nomenclature of Taxable Products given in Appendix II issued hereto, including:

1. Section I: Preferential import tariff rate on products in 97 chapters of the List of Vietnam's exports and imports. This section is divided into Parts, Chapter; Explanatory Notes; Explanatory Notes for subheadings; for Parts and Chapters; Import Tariff Schedule comprising the description of products, HS codes (8 digits) adopted according to the List of Vietnam's exports and imports and preferential import duty rates applied to taxable products.

In case where the List of Vietnam's exports and imports is amended or supplemented, customs declarants must use descriptions and HS codes according to the amended List of exports and imports, as well as duty rates on products with amended HS codes.

2. Section II: Chapter 98 on Tariff nomenclature and preferential import duty rates imposed on certain headings and commodities, including: Notes; classification of, requirements and procedures for imposition of preferential import duty rates prescribed in Chapter 98, and statement of use of commodities entitled to the preferential import duty rates prescribed in Chapter 98; Tariff nomenclature and preferential import duty rates.

a) The commodities named in the Tariff nomenclature and preferential import duty rates as specified in clause 3 Section II of Appendix II issued herewith are entitled to the preferential import duty rates prescribed in clause 3 Section II of Appendix II.

The classification of goods and preferential import duty rates in Chapter 98 on completely knocked down (CKD) kits of auto parts, incompletely knocked down (IKD) kits of auto parts, chassis fitted with engines and cabins of automobiles are specified in Clause 1.1 Section II of the Appendix II.

Alloy steels containing boron and/or chromium and/or titanium of heading 98.11; fillers, skin care commodities of heading 98.25; 1680/D/2 and 1890 D/2 nylon tire cord fabrics of heading 98.26; copper wires whose dimension of cross section is between 6 mm and 8 mm of heading 98.30; Polypropylene granules in primary form of heading 98.37; bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel of heading 98.39; Set top boxes of heading 98.46; Neoweb commodities of heading 98.47 are entitled to preferential import duty rates prescribed in Chapter 98 if such commodities meet standards and technical parameters stipulated in Clause Section II of Appendix II.

b) Classification of, requirements and procedures for imposition of preferential import duty rates that are specified in Chapter 98 and statement of use of commodities entitled to preferential import duty rates prescribed in Chapter 98 are prescribed in Clause 2 Section II of Appendix II.

c) Tariff nomenclature and preferential import duty rates in Chapter 98 imposed on certain commodities, including: Codes of heading; description thereof; respective codes of such heading prescribed in Section I Appendix II of Schedule of preferential import duties under Nomenclature of Taxable Products; and preferential import duty rates prescribed in Chapter 98.

c) The commodities which are entitled to both special preferential import duty rates in Chapter 98 and special preferential import duty rates under applicable regulations of laws may be applied to either of such above mentioned duty rates.

Regarding commodities which are classified into Chapter 98, in case of customs declaration, declarants shall specify codes of commodities in “Mã hàng tương ứng tại Mục I Phụ lục II” column (respective codes in Section I Appendix II) and write down codes of such commodities specified in Chapter 98 to the side.

## **Article 6. Preferential import duty rates imposed on machine tools**

Machine tools mentioned of headings from 84.54 to 84.63 are entitled to preferential import duty rates as follows:

1. Machine tools that cannot be manufactured in Vietnam are entitled to the import 0% duty. The abovementioned machines shall not be included in the list of machines and equipment that can be manufactured in Vietnam issued by the Ministry of Planning and Investment.

2. Machine tools that are not mentioned in Clause 1 of this Article are entitled to the preferential import duty rate imposed on commodities of headings from 84.54 to 84.63 specified in Section I Appendix II on Schedule of preferential import tariff under Nomenclature of Taxable Products issued herewith.

#### **Article 7. Import duties on used automobiles**

1. The fixed duty rates prescribed in Appendix III of this Decree shall be imposed on used automobiles for transporting up to 9 people of a cylinder capacity not exceeding 1,000 cc of heading 87.03.

2. Mixed duty rate prescribed in Appendix III of this Decree shall be imposed on used automobiles for transporting up to 9 people of a cylinder capacity exceeding 1,000 cc of heading 87.03 and automobiles for transporting from 10 to 15 people of heading 87.02.

3. The preferential import duty rate of 150% shall be imposed on used automobiles for transporting at least 16 people of heading 87.02 and used automobiles for the transport of commodities with the gross vehicle weight rating (GVWR) not exceeding 5 metric tons of heading 87.04 (except for refrigerated lorries (trucks), refuse/garbage collection vehicles having a refuse compressing device, bulk-cement lorries (trucks) and hook-lift lorries (trucks)).

4. Other used automobiles of headings 87.02, 87.03 and 87.04 are subject to duty rates equal to 1.5 times the preferential import duty rates imposed on new vehicles of the same category under same headings prescribed in Section I Appendix II of this Decree.

#### **Article 8. Preferential import duty rates imposed on imported auto parts of automobiles according to the tax incentive program for automobile manufacturing and assembly (hereinafter referred to as “the Program”)**

1. Preferential import duty rates of 0% imposed on imported auto parts of automobiles of heading 98.49 in Clause 3 Section II Chapter 98 Appendix II of this Decree shall be specified as follows:

a) At the time of customs declaration, the declarant shall declare and calculate taxes according to the ordinary import duty rate, preferential import duty rate or special preferential import duty rate in accordance with applicable regulations of law. The preferential import duty rates shall not be imposed on the commodities of heading 98.49.

b) The import 0% duty shall be imposed on auto parts of heading 98.49 in accordance with regulations in Clauses 2, 3, 4, 5, 6, 7, 8 of this Article.

#### **2. Regulated entities of the Program**

Enterprises that obtain certificates of eligibility for manufacturing and assembly of automobiles issued by the Ministry of Industry and Trade.

### 3. Eligibility requirements of the Program:

#### a) Imported auto parts shall meet the following eligibility requirements:

a.1) Auto parts named in heading No. 98.49 and classified as those which have not yet been manufactured domestically, and used for manufacturing and assembling automobiles within the period of consideration of grant of tax incentive (hereinafter referred to as consideration period) (including those in stock from the previous period which are used for manufacturing and assembling of finished vehicles in the succeeding period). The determination of components or accessories that have not yet been produced domestically shall be subject to the Ministry of Planning and Investment's regulations on the list of raw or input materials, supplies and semi-finished products that may be domestically produced.

a.2) Imported automobile components or accessories are directly imported or imported in trust or under authorization by automobile manufacturing and assembling enterprises.

a.3) In case an imported component kit (imported from multiple sources and shipments) has an auto body and an auto chassis, it must meet the following requirements:

The auto body must consist of at least the following assemblies: roof, floor, left flank, right flank, front, rear and associated arrays (if any) that are separate and have not been powder coated;

Auto chassis: imported ones with a length of less than 3.7 m, whether or not linked together, must not be powder coated; types with a length of 3.7 m or more, whether or not linked together, are allowed to be powder coated before being imported.

a.4) Imported auto parts not included in heading 87.07 (coachwork, including cabin).

b) For enterprises manufacturing and assembling electric, fuel-cell, hybrid, fully biofuel, and natural gas vehicles, enterprises shall not have to register vehicle makes when participating in the Program.

b.1) If enterprises that are not subject to the minimum output requirement at the first participation registration period and the next consecutive consideration period meet the provisions of clause 2, point a clause 3, clause 4, clause 6, clause 7, clause 8 of this Article, the 0% duty rate shall be applied to all of the imported components used for manufacturing and assembly of their products for which they have registered to participate in the Tax Incentive Program when these products leave the factory.

b.2) If enterprises that are not subject to the minimum output requirement at the first participation registration period and the next consecutive consideration period meet the provisions of clause 2, point a clause 3, clause 4, clause 6, clause 7, clause 8 of this Article, the 0% duty rate shall be applied to all of the imported components used for manufacturing and assembly of their products for which they have registered to participate in the Program when these products leave the factory.

c) Enterprises manufacturing and assembling gas and diesel vehicles:

c.1) Emission standards:

Automobiles and vehicles are manufactured or assembled to meet at least level 5 emission standards for the period from 2022, and vehicles that are issued certificates of technical safety and environmental protection before January 1, 2022 and remain effective in accordance with Decree No. 116/2017/ND-CP dated October 17, 2017 and amending documents (if any) must meet level 4 emission standards.

c.2) Vehicle make:

Enterprises manufacturing and assembling gas and diesel vehicles may register 01 (one) or more vehicle makes once participating in the Program. During the validity period of the Program, they may register any change or addition of vehicle makes or quantities of vehicles by registered makes. The production output of a vehicle make after such change or addition shall be added to the minimum general production output as a basis for consideration of tax incentives, but must still meet the minimum specific output requirement imposed in each consideration period. Makes of vehicles belonging to different headings of vehicles shall be regulated as follows:

Vehicles with the maximum capacity of 09 seats and the maximum cylinder capacity of 2,500cc that are classified into the same heading No. 87.03 are those meeting all of the following criteria: same engine criteria; cylinder capacity of 2,500 cc or less; same criteria for bodywork (or chassis); fuel consumption of under 7.5 liters/100 km. Fuel consumption criterion of below 7.5 liters / 100 km is based on the fuel consumption per a combined cycle specified in the fuel consumption certificate issued by the Vietnam Register;

Mini-buses (including passenger-carrying ones with the capacity ranging from 10 to 19 seats that are classified into the heading No. 87.02) and buses/passenger vehicles (including passenger-carrying ones with the minimum capacity of 20 seats that are classified into the heading No. 87.02) are those vehicles having the same engine and chassis criteria;

Vehicles classified into the truck heading (including motorized vehicles used for carrying cargo that belong to the heading No.87.04, and specialized motorized vehicles that belong to the heading No. 87.05) are those vehicles having the same engine criteria and cabin criteria.

Engine criteria for a make of vehicle are determined on the basis of the cylinder capacity or type or engine capacity stated in the certificate of technical quality, safety, and environment protection for manufactured or assembled vehicles issued by the Vietnam Register. Body (or chassis), frame and cabin criteria are determined on the basis of basic technical specifications stated in technical design interpretations with “tested” marks granted by the Vietnam Register.

c.3) Minimum general output requirement (referring to the manufacturing and assembling output requirement applied to vehicles of each vehicle heading) and minimum specific output requirement (referring to the manufacturing and assembling output requirement applied to each participating vehicle).

Enterprises meeting the minimum general output requirement, or the minimum specific output requirement shall fall into the following cases:

c.3.1) If they meet the minimum general output requirement imposed on each of their vehicle headings and the minimum specific output requirement imposed on at least one vehicle make in each consideration period specified under the provisions of point a clause 5 of this Article, and meet regulations laid down in clause 2, point a, c.1, c.2 clause 3, clause 4, clause 6, clause 7 and clause 8 of this Article, the 0% duty rate shall be applied to all of the imported components used for manufacturing and assembly of products of which the prescribed requirement concerning the output are met by these enterprises when these products leave the factory within that period.

In case of manufacturing and assembling gas and diesel, electric, fuel-cell, hybrid, fully biofuel, and natural gas vehicles, when determining the minimum general output of the heading of vehicles using gas and diesel fuels, they may add the output of electric, fuel-cell, hybrid, fully biofuel and natural gas vehicles manufactured or assembled within the consideration period to the minimum general output of the same heading of vehicles using gas and diesel fuels during the process of consideration of grant of tax incentive.

c.3.2) If they have the actual manufacturing and assembling output of vehicles of the 01 (one) make of vehicles with the maximum capacity of 09 seats registered within a consideration period which is 1.3 times more than the minimum specific output of vehicles belonging to the heading of vehicles with the maximum capacity of 09 seats prescribed in point a clause 5 of this Article, and meet regulations laid down in clause 2, point a, c.1. c.2 clause 4, clause 4, clause 6, clause 7 and clause 8 of this Article, they shall be entitled to the 0% duty rate applied to their imported components already used for manufacturing and assembly of these registered vehicles of that make leaving the factory within that period.

c.3.3) If they have total actual manufacturing and assembling output of vehicles of the 02 (two) makes of vehicles with the maximum capacity of 09 seats registered within a consideration period which is 1.5 times more than the minimum specific output of vehicles belonging to the heading of vehicles with the maximum capacity of 09 seats prescribed in point a clause 5 of this Article, and meet regulations laid down in clause 2, point a, c.1. c.2 clause 4, clause 4, clause 6, clause 7 and clause 8 of this Article, they shall be entitled to the 0% duty rate applied to their imported components already used for manufacturing and assembly of registered vehicles of these two makes that leave the factory within that period.

c.3.4) If they register participation in the Program for 02 (two) headings of vehicles or more, have total actual manufacturing and assembling output of vehicles of all these makes of vehicles registered within a consideration period which is at least equal to total minimum general output of vehicles belonging to respective headings of vehicles according to point a clause 5 of this Article, and meet regulations laid down in clause 2, point a, c.1. c.2 clause 4, clause 4, clause 6, clause 7 and clause 8 of this Article, they shall be entitled to the 0% duty rate applied to all components imported for use in the manufacturing and assembly of vehicles belonging to registered headings of vehicles that leave the factory within that period.

c.3.5) In case the first tax incentive consideration period of an enterprise manufacturing and/or assembling motor vehicles using gas and diesel fuels specified in point c.3.1, c.3.2, c.3.3, c.3.4 of this clause is shorter than a full period (6 or 12 months), but the actual quantity of manufactured/assembled vehicles of the enterprise is not smaller than the average monthly minimum production multiplied by (x) the number of months of participating in the Tax Incentive Program in the period, and the actual quantity of manufactured/assembled vehicles of the registered make is not smaller than the minimum specific production multiplied by (x) the number of months of participating in the Tax Incentive Program in the period, and the minimum general production and minimum specific production of the next period are also achieved, then the number of components used for manufacturing and assembling vehicles in that first period shall be eligible for 0% duty rate provided the enterprise meets the requirements specified in clause 2, point a, c.1. c.2 clause 4, clause 4, clause 6, clause 7 and clause 8 of this Article. In case the number of days of participating in the Program in the first month is at least 15 days, it will be considered a full month. In case the number of days of participating in the Program in the first month is less than 15 days, that month will not count.

4. Consideration period

An enterprise may choose between a 6-month, or 12 month consideration period as follows:

a) A 6-month period is from January 01 to June 30 or from July 01 to December 31 every year.

In case the enterprise chooses to apply a 6-month tax incentive period, the overpaid tax on the quantity components used for manufacture or assembly of finished motor vehicles in the first 06 months has been settled but that of the last 06 months of the year is below the minimum quantity prescribed by the Tax Incentive Program, but the total quantity of the year is still satisfactory under the Program, tax incentives for the last 06 months are still considered and overpaid tax on the quantity of components used for manufacture or assembly of motor vehicles in the period will be settled if the requirements specified in Clause 2, Clause 3, Clause 6, Clause 7, Clause 8 of this Article are satisfied.

b) A 12-month period is from January 01 to June 30 to December 31 every year.

5. Production of manufactured and assembled vehicles of the Program

a) Gas and diesel vehicles:

*Unit: vehicle*

Vehicle group	2022 - 2027		
	6-month consideration period		12-month consideration period
	January 1 – June 30	July 1 – December 31	January 1 – December 31

<b>I. Vehicle for transport of not exceeding 09 people with cylinder capacity of not exceeding 2.500cc</b>			
1. Minimum general production	11500	11500	23000
2. Minimum general production of 1 make	4500	4500	9000
<b>II. Trucks of a GVW of not exceeding 05 tonnes</b>			
1. Minimum general production	3500	3500	7000
2. Minimum general production of 1 make or total specific production of 2 makes	2000	2000	4000
3. Minimum general production of 1 make satisfying EURO 5	1000	1000	2000
<b>III. Trucks of a GVW of exceeding 05 tonnes</b>			
1. Minimum general production	2500	2500	5000
2. Minimum general production of 1 make or total specific production of 2 makes	1000	1000	2000
3. Minimum general production of 1 make satisfying EURO 5	500	500	1000
<b>IV. Minibus</b>			
1. Minimum general production	330	330	660
2. Minimum general production of 1 make	165	165	330
<b>V. Bus</b>			
1. Minimum general production	445	445	890
2. Minimum general production of 1 make or total specific production of 2 makes	250	250	500

During the consideration period, if the vehicles manufactured or assembled by the enterprise satisfy both Level 4 (according to Point c.1 Clause 3 Article 8 of this Decree) and Level 5 emission standards, the production of both kinds of vehicle may be used.

As for the consideration period in 2023, enterprises participating in the Tax Incentive Program may use the total number of vehicles manufactured and assembled from January 1, 2023 to the effective date of this Decree for consideration of incentives if they meet the requirements of the Tax Incentive Program specified in the Government's Decree No. 57/2020/ND-CP dated May 25, 2020 and Decree No. 101/2021/ND-CP dated May 25, 2020 and Decree No. 101/2021/ND-CP dated November 15, 2021, the requirement pertaining to minimum degree of auto parts is not applicable.

b) Electric vehicles; battery-powered vehicles; hybrid vehicles; vehicles running on 100% biofuel; natural gas vehicles.

*Unit: vehicle*

Vehicle group	2022 - 2027		
	6-month consideration period		12-month consideration period
	January 1 – June 30	July 1 – December 31	January 1 – December 31
Minimum production of each vehicle group: vehicles for transport of not exceeding 9 people; trucks, minibuses, buses	125	125	250

6. Applications and procedures for participating in the Program.

a) An application shall consist of:

a.1) An application form for participation in the Program using the form No. 05 prescribed in Appendix II of this Decree: 1 original;

a.2) The certificate of eligibility for manufacture and assembly of automobiles: 1 certified true copy.

b) Procedures for participation: An enterprise shall submit its application at the customs authority premises where its head office or factory is located to participate in the Program, in person, or via electronic data system, or by post, after this Decree is signed or any time within the Program’s period. The enterprise may participate in the Program from the day on which the application is submitted onwards.

7. Customs declaration making procedures:

The customs declarant enters "A43 - Import of goods eligible for the Program" at “Type/Activity code” for imported automobile components or accessories with HS codes that belong to the No. 98.49 heading for manufacturing and assembly of vehicles in the heading registered for participation in the Program; enters "#&7a" at "Enterprise’s internal control number".

8. Application and documentation requirements and procedures for eligibility of vehicles in the No. 98.49 heading for 0% preferential tax rate

a) Documentation requirements, including:

a.1) Request form for application of 0% preferential tax rate to products in the No.98.49 heading, made by using the Form No. 06a of Appendix II hereto: 1 original;

a.2) Report on use of imported automobile components or accessories used for manufacturing and processing (assembling) of automobiles or vehicles leaving the factory within the consideration period, which is made by using the Form No. 06 of Appendix II hereto: 1 original;

a.3) Statement of declarations and import duty payment amounts, which is made by using the Form No. 07 of Appendix II hereto: 1 original;

a.4) Accounting vouchers or records proving the quantity of imported components or accessories already used for manufacturing and assembling of automobiles in the headings within the consideration period: 1 photocopy;

a.5) Pre-shipment check cards, made according to the form issued by the Vietnam Register: a copy with the exporter's seal affixed thereon (the number of copies corresponding to the number of vehicles manufactured and assembled within the consideration period);

a.6) Certificate of technical quality, safety, and environment protection of manufactured and assembled automobiles: certified true copy, or copy and the original thereof for verification purposes (the number of copies corresponding to the number of types of manufactured and assembled vehicles);

a.7) Explanatory notes on the technical design and technical drawings of automobile with the "tested" mark of the Vietnam Register: certified copy, or copy and the original thereof for checking purposes (number of copies corresponding to the types of manufactured and assembled vehicles).

b) Procedures for application of tax rates applied to products in the No. 98.49 heading:

b.1) Not later than 60 days after June 30 or December 31, the applicant enterprise sends the required application documents specified at point a of this clause to the customs authority that is authorized to receive application documents for registration for participation in the Program. In case of submitting application documents after 60 days, the customs authority receives and verifies submitted documents, and imposes any administrative fine regulated by the Government.

In case where the applicant enterprise has the consideration period, which is less than 06 months, the enterprise shall submit application documents specified at point a of this clause at the same time as submission of application for the 0% duty rate of the next consideration period.

b.2) Based on the application from the applicant enterprise, the receiving customs authority checks whether the enterprise is eligible for the Program and their conformance to requirements for eligibility for the Program specified in clause 2 and 3 of this Article. They will check the followings:

Quantity of vehicles determined based on the pre-shipment check cards issued within the consideration period.

Make or type of vehicles registered for participation in the Program, based on the certificate of technical quality, safety, and environment protection for manufactured or assembled vehicles, issued by the Vietnam Register.

The industrial consumption of imported automobile components or accessories (excluding those used but damaged or defective). This must match the quantity of actually manufactured and assembled vehicles with pre-shipment check cards within the consideration period and based on the report on use of automobile components or accessories eligible for preferential import duty, statement of customs declarations and import duty payment amounts according to each import customs declaration.

b.3) Based on the results of documentary inspection, the inspecting customs authority shall take the following actions:

In case where submitted application is not sufficient, they can request the applicant enterprise in writing to make any necessary amendment or supplementation. In case there is any doubt about the accuracy of the submitted application, they shall conduct inspections at their office or the taxpayer's office in accordance with tax administration law.

If all of the eligibility requirements for the Program are met, and the applicant enterprise has paid taxes on imported automobile components or accessories more than taxes to be paid at the duty rate applied to the No.98.49 heading, the customs authority shall issue its decision to refund and make a refund order for the overpaid tax amount to the applicant enterprise in accordance with the Law on Tax Administration and other instructional documents thereof. On the customs authority's order of refund of the state budget receipt issued by, the State Treasury shall refund the overpaid import duty amount to the applicant enterprise. Such refund of the overpaid duty amount shall be funded by the central government's state budget revenues from customs tariff.

In case of failure to meet all of the eligibility requirements for the Program, the customs authority shall send its written reply to the applicant enterprise.

**Article 9. Preferential import duty rates applied to materials, supplies and accessories used for manufacturing, processing (assembling) supporting industrial products prioritized for development of the automobile manufacturing and assembly industry to December 31, 2024 (hereinafter referred to as tax incentive program for automobile supporting industry)**

1. The Program prescribes that 0% preferential import tax rates will be levied on input or raw materials and accessories that have not yet been domestically made to manufacture, process (assemble) supporting products given priority for development of the automobile manufacturing and assembly industry (hereinafter referred to as automobile supporting products) to December 31, 2024 as follows:

a) At the time of registration of their declaration forms, customs declarants shall declare and calculate duties levied on imported raw materials, supplies and accessories at normal import duty rates or at preferential import duty rates or at special preferential import duty rates in accordance with the provisions while the 0% duty rate has not yet been applied.

b) Applying 0% preferential import duty rate to raw materials, supplies and accessories as prescribed in the Incentive Program for the automobile supporting industry shall be subject to Clause 2, 3, 4, 5, 6, 7 and 8 of this Article.

## 2. Entities of the Program

a) Automobile parts and accessories manufacturing and processing (assembling) enterprises;

b) Automobile manufacturing and assembling enterprises employing themselves to manufacture and process (assemble) automobile accessories and spare parts.

## 3. Eligibility requirements

a) Automobile accessories and spare parts manufacturing and processing (assembling) enterprises must meet the following requirements:

a.1) They have an agreement on purchase and sale of automobile supporting products with automobile manufacturing and assembling enterprises holding certificates of eligibility for automobile manufacture and assembly issued by the Ministry of Industry and Trade;

a.2) Their investment certificates or investment registration certificates or enterprise registration certificates or business registration certificates clearly state their project's objectives or business lines, including the manufacture of spare parts and components of automobiles and other motor vehicles.

a.3) They have the right to own or use manufacturing and processing (assembling) facilities, machinery and equipment at manufacturing and processing (assembling) workshops within the territory of Vietnam.

b) Automobile manufacturing and assembling enterprises employing themselves to manufacture and process (assemble) automobile accessories and spare parts must have Certificates of eligibility for automobile manufacture and assembly, issued by the Ministry of Industry and Trade.

c) Imported raw or input materials, supplies and accessories must meet the following requirements:

c.1) Imported raw or input materials, supplies and components or accessories (including raw or input materials, supplies and components or accessories imported from the effective date of this Decree which are still in stock to be carried forward from the previous periods of application of preferential duty rates for manufacture or processing (assembling) of automobile supporting

products in the following periods of application of preferential duty rates; excluding raw or input materials, supplies and components or accessories which are put to use, but broken or defective) are used for the manufacture and processing (assembly) of automobile supporting products named in the List of supporting industrial products given priority for development for the automobile manufacturing and assembly industry specified in Section IV of the Appendix to the Government's Decree No. 111/2015/ND-CP dated November 3, 2015 on development of the supporting industry and in amendment and supplementation documents (if any). In case where an automobile product is merely assembled with simple details, such as screws, bolts, nuts, rivets, and does not undergo any finished product manufacturing or processing stage, it shall not be entitled to the tax incentive program for the automobile supporting industry.

c.2) Raw or input materials, supplies, components, or accessories classified as those that cannot be domestically produced are directly imported by or imported under authorization given to enterprises referred to in clause 2. The determination of raw or input materials, supplies and components or accessories that have not yet been produced domestically shall be subject to the Ministry of Planning and Investment's regulations on the list of raw or input materials, supplies and semi-finished products that may be domestically produced.

If any enterprise prescribed in clause 2 of this Article meets regulations laid down in point a, b and c of this clause and clause 4, 5, 6, 7 and 8 of this Article, they shall be entitled to 0% preferential import duty rate applied to raw or input materials, supplies and components or accessories imported for manufacturing, processing (assembling) automobile supporting products within the period of consideration of grant of tax incentive.

#### 4. Consideration period

The maximum Consideration period shall be 06 months from January 1 to June 30, or from July 1 to December 31 each year.

#### 5. Documentation and application requirements for participation in the tax incentive program for the automobile supporting industry

a) Documentation and application requirements for participation in the tax incentive program for the automobile supporting industry, including:

a.1) Registration form for participation in the tax incentive program for the automobile supporting industry by using the Form No. 08 of Appendix II hereto: 1 original;

a.2) Investment certificate or investment registration certificate or enterprise registration certificate or business registration certificate (applicable to the cases specified at point a of clause 2 of this Article): 1 certified true copy;

a.3) Written notice of manufacturing and processing (assembling) facilities; machinery and equipment installed at manufacturing and processing (assembling) facilities, sent to customs authorities according to Form No. 09 of Appendix II hereto (applicable to the cases specified at point a of clause 2 of this Article): 1 original. Land use right certificates granted by competent

state agencies to enterprises or land use right certificates granted by competent agencies to landowners, land, premises or workshop rental or borrowing agreements if the applicant enterprise rents or borrows them to build their manufacturing facilities: 1 certified true copy;

a.4) Certificate of eligibility for automobile manufacturing and assembly granted by the Ministry of Industry and Trade (applicable to the cases specified at point b of clause 2 of this Article): 1 certified true copy.

b) Procedures for registration of participation in the tax incentive program for the automobile supporting industry

Applicant enterprises submit applications for registration for the tax incentive program for the automobile supporting industry directly or via the electronic data systems of customs authorities or by post to customs authorities at places where enterprises are headquartered, or their automobile manufacturing, processing (assembly) facilities are located to register their participation right after the effective date of this Decree or any time of the year. The participation in the tax incentive program for the automobile supporting industry shall start from the submission date of the registration form.

6. Customs declaration making procedures:

At the time of registration of the customs declaration, the customs declarant enters "A43 - Import of goods eligible for the tax incentive program" at "Type/Activity code"; enters "#&7b" at "Enterprise's internal control number"; enters "HS code" according to the List of Vietnam's Imports and Exports with respect to raw or input materials, supplies and components or accessories qualified for the Tax Incentive Program for the automobile supporting industry.

7. Inspection of automobile manufacturing and processing (assembling) facilities of enterprises participating in the tax incentive program for the automobile supporting industry.

After receipt of the registration application for participation in the tax incentive program for the automobile supporting industry, the customs authority shall carry out the inspection of the manufacturing and processing (assembling) facilities of the applicant enterprise; conduct the inspection of machinery and equipment at automobile manufacturing and processing (assembling) facilities that the enterprise has notified to the customs authority. The customs authority shall issue a decision on the inspection of these manufacturing facilities using the Form No. 09a of Appendix II enclosed herewith and send it via the electronic data system of the customs authority or by the registered mail or fax to the applicant customs declarant within 03 working days from the signing date. The inspection shall commence 5 business days after the date of issuance of the inspection decision. The maximum duration of each inspection must be 5 business days. Inspection's objectives:

a) Conducting the physical inspection of automobile manufacturing and processing facilities to verify information that enterprises have notified to customs authorities, investment certificates or investment registration certificates or enterprise registration certificates or business registration certificates, land use right certificates granted by competent state authorities to enterprises or

land use right certificates granted by competent state authorities to land owners and land, premises or workshop rental or borrowing agreements in case enterprises leases or borrows them to build manufacturing and processing facilities.

b) Conducting the physical inspection of machinery and equipment at the manufacturing or processing facility to check conformance to customs documentation on imported goods, invoices, evidence, machinery and equipment rental and borrowing agreements (in case of renting and borrowing of machinery and equipment); conducting the inspection of the manufacturing and assembling processes, scale, manpower condition, machinery and equipment condition to determine whether the applicant enterprise's manufacturing capacity is conformable to products registered for participation in the tax incentive program for the automobile supporting industry.

After completion of the physical inspection, the customs authority must make a report on results of the physical inspection of the automobile manufacturing and assembling facility by using the Form No. 09b of the Appendix II hereto.

Within 05 working days from the day on which the inspection report is signed, the customs authority shall notify the inspected enterprise in writing whether or not they meet manufacturing and processing (assembling) facility, machinery or equipment requirements specified at point a.3 of clause 3 of this Article by using the Form No. 09c of Appendix II hereto.

During the period of participation in the tax incentive program for the automobile supporting industry, if the participant enterprise has any change in their address of manufacturing and processing facility, their rights to own or use machinery and equipment at the manufacturing and processing (assembling) facility, they must notify such change in writing to their supervisory customs authority within 5 working days after the change-making date. After receiving the notification of change from the enterprise or when detecting any suspicious sign that the enterprise changes information about their manufacturing and processing facility, machinery and equipment without prior notice to the supervisory customs authority, or according to risk management principles, the customs authority shall carry out the inspection of the manufacturing and processing (assembling) facility, or the inspection of machinery and equipment installed at the manufacturing and processing (assembling) facility.

8. Application and documentation requirements and procedures for application of 0% preferential tax rate

a) Documentation requirements, including:

a.1) Automobile parts and accessories manufacturing and processing (assembling) enterprises:

Request form for grant of 0% preferential tax rate under the tax incentive program for the automobile supporting industry by using the Form No. 10a of Appendix II hereto: 1 original;

Investment certificate or investment registration certificate or enterprise registration certificate or business registration certificate (except when the applicant enterprise already submits the

registration form for participation in the tax incentive program for the automobile supporting industry): 1 certified true copy;

Agreement on purchase and sale of automobile supporting products with the automobile manufacturing and assembling enterprise holding the certificate of eligibility for automobile manufacturing and assembly issued by the Ministry of Industry and Trade: 1 original;

Processes for manufacturing and processing (assembly) of automobile supporting products (enclosing interpretation or explanatory notes): 1 original;

Statement of declarations and import duty payment amounts with respect to raw or input materials, supplies, components, or accessories used for manufacturing, processing (assembling) of automobile supporting products eligible for participation in the tax incentive program for the automobile supporting industry by using the Form No. 10 of Appendix II hereto: 1 original;

Report on use of raw or input materials, supplies, components, or accessories used for manufacturing, processing (assembling) of automobile supporting products already registered for participation in the tax incentive program for the automobile supporting industry by using the Form No. 11 of Appendix II hereto: 1 original;

Statement of value-added tax invoices corresponding to the quantity of automobile supporting products already sold under sale agreements by using the Form No. 12 of Appendix II hereto: 1 original;

Accounting vouchers or records proving the quantity of imported raw or input materials, supplies, components, or accessories already used for manufacturing and processing (assembling) of automobile supporting products: 1 photocopy.

a.2) Automobile manufacturing or processing (assembling) enterprises employing themselves to manufacture and process (assemble) automobile components, accessories, or spare parts

Request form for grant of 0% preferential tax rate under the tax incentive program for the automobile supporting industry by using the Form No. 10a of Appendix II hereto: 1 original;

Processes for manufacturing and processing (assembly) of automobile supporting products (enclosing interpretation or explanatory notes): 1 original;

Statement of declarations and import duty payment amounts with respect to raw or input materials, supplies, components, or accessories used for manufacturing and processing (assembling) of automobile supporting products, which is made by using the Form No. 10 of Appendix II hereto: 1 original;

Report on use of raw or input materials, supplies, components, or accessories used for manufacturing and processing (assembling) of automobile supporting products, which is made by using the Form No. 11 of Appendix II hereto: 1 original;

Statement of value-added tax invoices corresponding to the quantity of automobile supporting products already sold to the automobile manufacturing and assembling enterprise holding the certificate of eligibility for automobile manufacturing and assembling, issued by the Ministry of Industry and Trade using the Form No. 12 of Appendix II hereto: 1 original;

Report on use of automobile supporting products already manufactured or processed (assembled), which is made by using the Form No. 13 of Appendix II hereto: 1 original;

Certificate of eligibility for automobile manufacturing and assembly granted by the Ministry of Industry and Trade (except in case of already being submitted when registering participation in the tax incentive program): 1 certified true copy;

Accounting vouchers or records proving the quantity of imported raw or input materials, supplies, components, or accessories already used for manufacturing and processing (assembling) of automobile supporting products: 1 photocopy.

b) Procedures for application of 0% preferential tax rate:

b.1) Not later than 60 days after June 30 or December 31 every year, the applicant enterprise sends the required application documents specified at point a of this clause to the customs authority that is authorized to receive application documents for registration for participation in the tax incentive program for the automobile supporting industry. In case of submitting application documents after 60 days, the customs authority receives and verifies submitted documents, and imposes any administrative fine regulated by the Government.

b.2) Based on the application for grant of 0% preferential tax rate and the results of the inspection of the manufacturing and processing (assembling) facility, machinery and equipment of the applicant enterprise, the receiving customs authority checks whether the enterprise is eligible for the tax incentive program and their conformance to requirements for eligibility for the tax incentive program for the automobile supporting industry, and may choose to take the following measures:

In case where submitted application is not sufficient according to regulations in force, the customs authority can request the applicant enterprise in writing to make any necessary amendment or supplementation. In case there is any doubt about the accuracy of the submitted application, the customs authority shall conduct inspections at the office of the customs authority or the taxpayer in accordance with tax administration law.

In case of meeting all of the eligibility requirements for the tax incentive program for the automobile supporting industry, the customs authority shall issue its decision to refund and make a refund order for the overpaid duty amount to the applicant enterprise in accordance with the Law on Tax Administration and other instructional documents thereof. On the customs authority's order of refund of the state budget receipt issued by, the State Treasury shall refund the overpaid import duty amount to the applicant enterprise. Such refund of the overpaid duty amount shall be funded by the central government's state budget revenues from customs tariff.

In case of failure to meet all of the eligibility requirements for the tax incentive program for the automobile supporting industry, the customs authority shall send its written reply to the applicant enterprise.

**Article 10. The lists of commodities and import duty rates imposed on commodities subject to tariff-rate quotas**

1. The list of commodities subject to tariff-rate quota includes certain commodities of heading prescribed in Appendix IV of the Decree and commodities subject to tariff-rate quotas in international treaties to which the Socialist Republic of Vietnam is a signatory (international treaties).

2. Annual import tariff-rate quotas on the commodities shall comply with regulations issued by the Ministry of Industry and Trade.

3. In-quota tariff rates on imports are specified as follows:

If the commodities are imported within the annual import tariff-rate quotas prescribed by the Ministry of Industry and Trade, they will be entitled to preferential import duty rates prescribed in Section I Appendix II of the Decree or special preferential import duty rates prescribed in the special preferential import duty schedules (if they satisfy all conditions for entitlement to special preferential import duty rate) issued together with the Government's Decrees on promulgating special preferential import duty schedule for implementation of international treaties).

If the Government's Decrees on promulgating special preferential import duty schedule for implementation of international treaties stipulate requirements for application of in-quota special preferential import tariff rates, the requirements shall prevail.

4. Out-of-quota tariff rates on imports are specified as follows:

a) The commodities prescribed in Clause 1 of this Article whose imported quantity exceeds the annual import quotas prescribed by the Ministry of Industry and Trade will be subject to out-of-quota tariff rates prescribed in Appendix IV of this Decree.

b) If international treaties to which the Socialist Republic of Vietnam is a signatory contain import quotas and/or out-of-quota tariff rates imposed on the commodities mentioned in Clause 1 of this Article, the Government's Decrees on promulgating special preferential import duty schedules for implementation of these international treaties will be applied. If the out-of-quota tariff rates prescribed in international treaties are greater than those prescribed in Appendix IV of this Decree, the out-of-quota tariff rates specified in Appendix IV will be imposed.

**Article 11. Responsibilities for implementation**

1. The Ministry of Finance shall conduct the inspection, supervision, price consultation and trade fraud combat according to regulations on goods taxed at high import duty rates and goods with considerable risk on customs valuation.

2. The Ministry of Planning and Investment shall issue the list of domestically manufactured goods; review and update the list to ensure it remains relevant to practical conditions.
3. The Ministry of Industry and Trade shall:
  - a) grant certificates of eligibility for automobile manufacture and assembly regulated by the Government's regulations on eligibility conditions for automobile manufacture, assembly, import and provision of vehicle warranty and maintenance services in accordance with law;
  - b) Promulgate regulations to internalize the provisions on the amount of tariff quotas in the international treaties to which Vietnam is a contracting party.
4. Competent state authorities shall issue investment certificates, investment registration certificates or investment policy decisions, enterprise registration certificates and business registration certificates to enterprises strictly according to regulations of law.
5. Relevant ministries and local governments shall, according to their functions and tasks, conduct the examination and control activities to ensure due implementation of policies and anti-fraud practices.
6. Ministers, heads of ministerial-level agencies, heads of Governmental agencies, heads of related agencies, Presidents of People's Committees of provinces and centrally affiliated to cities, and relevant organizations and individuals shall implement this Decision.

#### **Article 12. Entry in force**

1. This Decree comes into force as of July 15, 2023.
2. This Decree replaces the following Government's Decrees: Decree No. 122/2016/ND-CP dated September 1, 2016, Decree No. 125/2017/ND-CP dated November 16, 2017, Decree No. 57/2020/ND-CP dated May 25, 2020, Decree No. 101/2021/ND-CP dated November 15, 2021, Decree No. 51/2022/ND-CP dated August 8, 2022.
3. From October 1, 2022 to the effective date of this Decree, the requirement pertaining to the minimum degree of completeness of auto parts according to Point b Clause 3.1 Article 7a specified in Clause 3 Article 2 and point b.5 clause 3 Section II Chapter 98 Decree No. 57/2020/ND-CP dated May 25, 2020 of the Government.

In case an enterprise has participated in the Tax Incentive Program but has not yet been refunded the import duty paid from October 1, 2022 to the effective date of this Decree, it will be entitled to a tax refund equivalent to the number of auto parts that have been imported if the requirements specified in the tax incentive program are satisfied, the requirement pertaining to minimum degree of auto parts is not applicable.

If an enterprise imports CKD and IKD kits of auto parts for manufacturing and assembly, even if it is an authorized importer, entrusted importer under an entrustment contract, or an importer

under a sales contract with an auto manufacturing and assembly enterprise, from October 1, 2022 to the effective date of this Decree, and it chooses to impose duties on each auto part or component or under heading 98.21, it must meet the requirements laid down in Decree No. 57/2020/ND-CP dated May 25, 2020, the requirement pertaining to minimum degree of auto parts is not applicable.

4. Preferential import duty rates for imported auto parts of heading 98.49 specified in Article 8 of this Decree shall be applied until December 31, 2027. Enterprises that have registered to participate in the Tax Incentive Program before the effective date of this Decree must re-register with the customs authorities as prescribed in this Decree.

If, after enrolling in the Tax Incentive Program, the enterprise adds or changes vehicle groups, makes, or the number of vehicle makes registered in the Tax Incentive Program, they must re-register with the customs authority.

5. Preferential import duty rates for raw materials, supplies and components for the manufacturing, processing (assembly) of supporting industry products prioritized for development for the automobile manufacturing and assembly industry prescribed in Article 9 of this Decree shall be applied until December 31, 2024. Enterprises that have enrolled in the Tax Incentive Program for the automobile supporting industry specified before the effective date of this Decree must re-register for the Automotive Support Industry Tax Incentive Program and enjoy incentives under this Decree.

**ON BEHALF OF THE GOVERNMENT  
PP. PRIME MINISTER  
DEPUTY PRIME MINISTER**

**Le Minh Khai**

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**ANNEXURE 3.3**

**\*\*\***

**MASTER PLAN FOR DEVELOPMENT OF  
VIETNAM'S PLASTIC INDUSTRY**



... the type of legal risk, grasp the opportunity to get rich ...

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- Được hỗ trợ tra cứu trực tuyến
- Tra cứu Mẫu hợp đồng, Bảng giá đặt
- ... và nhiều Tiện ích quan trọng khác

**Đăng ký**

MINISTRY OF INDUSTRY AND TRADE

SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness

No. : 2992 / QD-BCT

Hanoi, June 17, 2011

**DECISION**

APPROVING THE PLANNING ON DEVELOPMENT OF VIETNAM'S PLASTER INDUSTRY UP TO 2020, WITH A VISION TO 2025

**MINISTER OF INDUSTRY AND TRADE**

*Pursuant to the Government's Decree No. 189/2007 / ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade; Pursuant to the Decree No. 92/2006 / ND-CP of September 7, 2006, and Decree No. 04/2008 / ND-CP of January 11, 2008, amending and supplementing a number of articles of Decree No. 92/2006 / ND-CP dated September 7, 2006 of the Government on the formulation, approval and management of the master plan for socio-economic development; At the proposal of the director of the Light Industry Department,*

**DECISION:**

**Article 1.-** To approve the planning on development of Vietnam's plastics industry up to 2020, with a vision toward 2025, with the following principal contents:

**1. Development viewpoint:**

- a / To develop Vietnam's plastics industry in line with the master plan on socio-economic development and the overall planning on development of Vietnam's industry, in line with the international economic integration trend and roadmap. Vietnam in the context of globalization, gradually joining the global production chain.
- b) To develop the Vietnamese plastic industry on the basis of bringing into full play the potentials and strengths of each region and each locality, creating a balanced development among regions and at the same time creating cooperation and support for the promotion of Harmonized with other industries.
- c / To develop the Vietnamese plastic industry along the direction of specialization and modernization, creating high labor productivity, attaching importance to the quality of growth and added value of industrial production.
- d / To develop Vietnam's plastics industry to ensure its efficiency, stability and sustainability associated with the protection of the environment and environment.

**2. Objectives:**

a) General objective:

- To develop Vietnam's plastics industry into a strong economic sector with a high and sustainable growth rate. To step by step build and develop the synchronous plastic industry from raw material production to final product processing, processing of plastic waste and processing into raw materials, gradually increasing the proportion of domestic raw materials to become industries. It has the ability to integrate into the regional economy and the world.
- To develop Vietnam's plastics industry into an advanced industry, producing high-quality and diversified products of various types and models with high competitiveness and environmental compatibility. The demand of the domestic market, the ability to export high value added products with increasing production, so that the Vietnamese plastic industry develops to the same level in the region and in the world.

b) Specific objectives:

- The industrial production value of the plastic industry at constant 1994 prices will reach VND 78,500 billion by 2020 and VND 181,577 billion by 2020 and VND 390,000 billion by 2025. The growth rate of industrial production value in the period of 2011-2015 is 17.56%; In the period of 2016 - 2020, it will reach 18.26% and the period of 2021 - 2025 will be 16.52%.
- The added value of plastic at constant prices from 1994 to 2015 is VND10,908 billion, by 2020 it will reach VND19,319 billion and by VND20,254 billion by 2025. The growth rate in the period 2011 - 2015 is 12.75%; In the period 2016 - 2020, it will reach 12.11% and the period 2021 - 2025 will reach 10.81%.

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- To strive to achieve the proportion of the plastic industry to 5% by 2015 and 5.5% by 2010 and 6.0% by 2025.
- To restructure the group of plastic products in the direction of reducing the proportion of the group of plastic packaging and household plastic products, gradually increasing the proportion of the group of plastic products for construction materials and plastics. By 2015, the group of plastic packaging products accounts for 36%; 20% household plastics; construction materials 23% and engineering plastics 21%. By 2020, the proportion of product groups is 34.0%; 18.0%; 25.0% and 23% respectively. By 2025, the proportion of product groups is 31.0%; 17.0%; 27.0% and 25.0% respectively.
- The output of plastic products will reach 7.5 million tonnes by 2015 and 12.5 million tonnes by 2020.
- The export turnover will reach USD 2.15 billion by 2015 and USD 4.3 billion by 2020. The growth rate in the period of 2011 - 2015 is 15.43%; The period from 2016 to 2020 is 14.87%.

**3. Development orientation:**

- a / To develop Vietnam's plastics industry towards modernization, stepping up automation, step by step removing technologies and equipment, replacing with advanced and modern equipment of the world, using materials technology. To ensure the quality, safety and hygiene standards, meeting the environmental standards prescribed by Vietnam and international.
- b / To invest in the development of the plastics industry directly into advanced technologies, clean technologies and energy saving in order to create high-quality, high-value and low-cost products. Paying on domestic and foreign markets, ensuring ecological environment.
- c / Mobilizing all domestic and foreign resources to invest in factories producing raw materials, semi-finished products, chemicals and additives for the plastics industry. In addition, encourage the investment in the production of molds, spare parts and equipment for the plastics industry, encouraging the development of the industry of waste treatment and waste plastics.

**4. Development planning**

a / Planning on development of groups of plastic products:

In order to achieve the objectives of industrial production value, output and structure of product groups, the investment in each sector is as follows:

In the 2011-2015 period:

- To invest in the construction and expansion of the existing production capacity so that the production capacity of plastic packages will increase by 1,218,000 tons. Total estimated investment capital is 13,885 billion dong.
- To invest in the construction and expansion of the existing production capacity so that the production capacity of building materials will increase by 927,000 tons. Estimated investment capital is VND7,898 billion.
- To invest in the construction and expansion of the existing production capacity so that the capacity of producing household plastics is increased by 702,000 tons. Estimated investment capital is VND 6,571 billion.
- To invest in the construction and expansion of the existing production capacity so that the capacity of technical plastics production will increase by 853,000 tons. Total estimated investment capital is VND15,354 billion.

Period 2016 - 2020:

- To invest in building and expanding the existing capacity of existing production establishments so that the capacity of producing plastic packages increases by 1,550,000 tons. Total estimated investment capital is VND 15,810 billion.
- To invest in the construction and expansion of the existing production capacity so that the capacity of producing construction materials resin will increase by 1.4 million tons. Estimated investment capital is VND 10,752 billion.
- To invest in the construction and expansion of the existing production capacity so that the capacity of producing household plastics is increased by 750,000 tons. Estimated investment capital is VND4,480 billion.
- To invest in the construction and expansion of the existing production capacity so that the capacity of technical plastics production will increase by 1,300,000 tons. Total estimated investment capital is VND 20,280 billion.

b / Planning on development of raw materials and chemicals for plastic industry

In the 2011-2015 period:

To invest in the construction of factories producing PE resin, PS resin and Melamine resin. (See Appendix 1 attached to this Decision).

Period 2016 - 2020:

To invest in the construction of factories producing polyvinyl chloride E (PVC - E), PE, PS and PP. (See Appendix 1 attached to this Decision).

c / Planning on development of the mechanical engineering industry and molds for the plastics industry

In the 2011-2015 period:

Construction of a large mold factory in the North and two factories in the South with a total investment of \$ 5 million per factory. (See Appendix 2 attached to this Decision).

Period 2016 - 2020:

- To build 03 big mold factories in the North and 05 factories in the South with a total investment capital of \$ 5 million / factory. (See Appendix 2 attached to this Decision).

- To build 02 equipment manufacturing factories for the industry, with a total investment capital of USD 50 million per one factory. (See Appendix 2 attached to this Decision).

d / Planning on recycling of plastic waste:

In the 2011-2015 period:

- Building a plastic recycling plant in the North.
- Construct one industrial complex to process and recycle plastic waste in the South.
- Call for investment 01 plastic waste recycling plant in the South.

Details are in Appendix 3 attached to this Decision.

Period 2016 - 2020:

- Call for investment (or expansion) of a plastic recycling plant in the North.
- Call for investment (or expansion) of a plastic recycling plant in the south.

Details are in Appendix 3 attached to this Decision.

d) Spatial planning

Development zoning: The spatial distribution of plastics is based on the following requirements:

- Around three centers of three regions: North, Central and South;
- Associated with the market to produce products to save transportation costs;
- To increase new investment in areas where there are no markets;
- Associated with three plastic material areas: Nghi Son, Dung Quat and Ba Ria - Vung Tau;
- Focus on concentrated industrial parks specialized in plastics or other industrial parks to reduce service costs, increase mutual support and reduce environmental pollution.

Product structure in three regions:

- By 2015, the structure of plastic products in the three regions is as follows: the North accounts for 14.8%; Central 2.7% and South 82.5%.
- By 2020, the structure of plastic products in the three regions will account for 16.6%; 3.1% and 80.3%.

#### 5. Demand for investment capital

Total investment capital is VND 175,530 billion, of which:

The 2011-2015 period is VND 88,624 billion, including:

- The demand for investment capital for plastic production projects is VND 43,708 billion.
- The demand for investment capital for plastic material production projects is 16.6 trillion dong.
- The demand for investment capital for mechanical equipment manufacturing and plastic molding is 300 billion VND.
- The demand for investment capital for plastic waste recycling projects is 2,600 billion VND

The period from 2016 to 2020 is 152.442 billion VND, including:

- The demand for investment capital for plastic production projects is VND 53,322 billion.
- The demand for investment capital for plastic material production projects is 55,000 billion VND.
- The demand for investment capital for mechanical engineering and plastic molding is 2,800 billion VND.
- The demand for investment capital for plastic waste recycling projects is 1,200 billion VND

#### 6. Solutions and policies

a) Major solutions

Capital solution:

- To mobilize and efficiently use investment capital sources such as the own capital of enterprises, domestic credit capital, joint venture capital, government preferential loans and foreign investment capital sources.

The accumulated capital of the enterprise is expected to meet 28-30% of the capital demand (49,148 billion VND), focusing on investment in new construction or expansion of production, technological renewal and human resource development. Force for the industry.

Domestic credit loans are estimated at VND 24,574 billion (12-14%).

Calling for joint venture capital (with corporations and corporations) is estimated at VND31,595 billion (18-20%) and calls for foreign investment is estimated at VND52,659 billion (30 - 32%), focusing on the construction of new projects for production of products to be transferred to industry and construction (such as construction plastics and engineering plastics), raw material production projects plastic, mechanical manufacturing equipment and molds, plastic recycling projects.

Preferential loans from the Government are expected to mobilize around VND17,553 billion (10-12%), focusing on investment in the development of plastic materials (from petrochemical refineries).

- Encouraging domestic and foreign investors to invest in finance and gray matter to produce spare parts for spare parts and components, which must be imported from existing or existing factories.
- To study and set up a development investment support fund to coordinate and provide financial sources for priority projects.

Market solutions:

## For the domestic market:

- Strengthen the quality inspection of imported and circulated goods in the domestic market to combat smuggled and inferior quality goods in order to protect consumers' interests.
- Implementing the campaign "Vietnamese people give priority to using Vietnamese goods", promoting propaganda and guiding consumers to evaluate the quality and selection of Vietnamese plastic products when purchasing goods. Encourage enterprises to expand their distribution systems in rural, remote and isolated areas.
- To increase investment in investigation, research, market forecasting and trade promotion so as to have accurate and timely data on the market and objectives of the manufacturing enterprises. This helps businesses in collecting and processing information about the market through electronic portals and other media.
- Strengthen and create favorable conditions for enterprises to participate in trade promotion programs, domestic fairs and exhibitions, advertising programs for enterprises to introduce and advertise their products.
- Have specific strategies to expand and master the domestic market. In the immediate future, we will focus on big buying markets such as Ho Chi Minh City, Hanoi, Da Nang and the Mekong Delta.
- To build technical barriers such as the application of technical standards on quality of imported products, import taxes, anti-dumping lawsuits, environmental taxes, etc., in order to protect production bases, country.

## For export markets:

- Strengthening trade promotion activities in foreign countries, stepping up research on export markets, including traditional markets and potential markets, creating the basis for promoting the comparative advantages. Compared with the needs of key markets. Increased access to direct contacts, gradually reducing the intermediary stage.
- Closely linked with the regional plastic associations, plastic associations in the world through exhibitions, forums and conferences to cooperate and develop the market.
- Setting up branches and representative offices abroad to sell products, market research. Establishment of regional and global information systems in various forms (information centers, computer networks ...) in order to regularly and rapidly update market demand in the region and in the world.
- Organizing investment consultancy centers for investment in technology products and technologies, capable of well analyzing and accurately forecasting issues of concern by manufacturers.

## For Businesses:

- Enhancing the application of information technology in market work, implementing e-commerce: advertising on websites, sending e-mails (e-mails), e-transactions.
- Developing market strategies for each type of product, ensuring compliance with the contents of agreements and international commitments in order to make full use of Vietnam's advantages while not violating the oranges. . Promote research to market new products, diversify products and improve quality to increase the competitiveness of products and businesses.
- To attach importance to the building and development of the agency system and consumption of products, bringing into play the role of the branches in order to increase the initiative in business.
- Enterprises actively detect frauds and unfair competition in the market, in combination with state management agencies to develop preventive measures. With export activities, avoid unfair competition within the industry leading to general damage.

## Product Branding Solutions:

- Businesses plan and strategy to develop their brands based on the traditions and habits of Vietnamese consumers.
- Having a long-term development strategy for famous and prestigious Vietnamese trademarks on the basis of expanding production in order to maintain and develop market share, improve product quality, and constantly improve Designing, diversifying product types, consolidating and developing the product consumption system to ensure reliability, convenience and prestige to customers.
- To attach importance to the elaboration of product standards such as bar codes and stamps for anti-counterfeit goods, trade fraudulent goods and illegally imported goods.
- Strengthening monitoring and protection of trademarks, labels, designs, designs, combating smuggled goods and inferior quality goods to ensure the interests of enterprises and consumers.
- Researching, selecting and announcing the brand name "Vietnam's typical plastic" every year according to the unified criteria to encourage enterprises to improve product quality and branding.

## Investment solution

- To continue perfecting the legal system and mechanisms related to attracting FDI in a more liberal and attractive manner, yet ensuring the strictness and conformity with international practices. Facilitate investors interested in investing in the plastics industry to learn, promote and sign investment contracts with the most favorable conditions.
- Promulgating the list of plastic products to encourage investment in order to orient and create transparent information for domestic and foreign investors.
- No investment certificate for investment projects with technology, equipment smuggled.
- Encourage enterprises to invest in production expansion in combination with renewing technologies and equipment, applying energy saving solutions.
- To study and formulate policies to deploy measures to encourage the investment in the production of high-tech plastics products in order to satisfy the demand of hi-tech sectors of the national economy.



- Research, production and manufacture of molds from new materials, high quality that Vietnam has not yet replaced import.

Solutions on human resource development:

- In parallel with the intensive training in professional schools, enterprises need to have reasonable expenses to re-train the contingent of technicians and workers who can be trained abroad. To use effectively the system of equipment and advanced production technologies with high product quality and low production costs.
- Develop a comprehensive program and plan in the training of staff and managers. The training should be carried out in accordance with the motto of expanding the width in order to meet the immediate requirements, but at the same time have to plan to train a team of skilled workers to develop the industry in the future.
- Strengthen the training capacity of universities, colleges and vocational schools to train talented managers and skillful workers to meet the increasing labor demand of the plastic industry.
- Building a fostering and vocational training center for the plastic industry. The operation center is sponsored by domestic and foreign enterprises and organizations and has the task of coordinating with specialized units to develop long-term, short-term, specialized training programs. To update the knowledge and disseminate latest information at home and abroad for students.

b) Mechanisms and policies

In finance and taxation:

- Investment projects for the production of molds and equipment for the plastic industry should be eligible for investment incentives as for the key mechanical engineering industry (loans for investment credit are 85% of the total investment).
- To adopt mechanisms and policies to encourage and support the construction of infrastructure for industrial clusters specialized in classifying and recycling plastic wastes such as support for the construction of waste treatment works; supporting the application of clean technology, low fuel consumption and environmentally friendly.
- Supporting budget for propaganda and encouraging people to sort out waste water at the same time and requiring administrative measures to compel people to self-sort waste in order to reduce the amount of waste to the environment to create a source of raw materials for Plastic recycling plants.
- To formulate policies to encourage the collection of domestic plastic waste in order to form a large modern collection system contributing to environmental protection and supply of raw materials for the plastics processing industry.
- To adopt financial and tax incentives for short-term training courses on the plastics industry for training centers.

About the capital

- Expenditures for training technicians for the industry should be partly supported by the State through the cooperation program with foreign countries.
- Commercial banks guarantee priority for organizations and individuals to invest in material facilities, renew technologies and train human resources for the development of plastic branches.

#### Article 2. Organization of implementation

1. The Ministry of Industry and Trade shall assume the prime responsibility and coordinate with the concerned ministries and branches as well as the People's Committees of the provinces and centrally-run cities in directing the development of the plastics industry according to the approved plannings,

a / To guide, propagate and coordinate with localities in jointly implementing and elaborating concrete steps according to the orientations stated in the master plan; To monitor the implementation of the master plan.

b / To propose the Government to adjust the mechanism and policies and adjust the import tax rates on raw materials and finished plastic products to suit the practical situation in order to boost the development of the plastics industry.

2. Ministries, Departments of Planning and Investment, Finance, Science and Technology, Natural Resources and Environment, Education and Training shall, according to their functions, assume the prime responsibility and coordinate with the Ministry of Industry and Trade in : calling for and attracting foreign investment into the development of the plastics industry; investment support for specific industries for the production of raw materials and molds for the plastic industry; to support enterprises in the field of activities, research and innovation, technology transfer; To increase investment in training and vocational training to raise the quality of human resources for the plastics industry.

3. The People's Committees of the provinces and cities directly under the Central Government shall concretize the plannings for development of the plastics industry in the provinces and cities; To join ministries and branches in inspecting and supervising the implementation of the master plan so as to ensure synchronism with the master plan on socio-economic development of the locality.

4. Vietnam Plastics Association shall coordinate with the Ministry of Industry and Trade and localities in organizing the propagation and dissemination of the Planning; To guide enterprises in the association to abide by the Planning and other relevant provisions of law.

Article 3.- This Decision takes effect from the date of its signing.

Article 4.- The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decision.

MINISTER

**Recipients:**

- Central Party Secretariat;
- Prime Minister, Deputy Prime Ministers (for reporting);
- Government office;
- Ministries, ministerial-level agencies, agencies attached to the Government;
- People's committees of provinces and cities under central authority;
- Website of Ministry of Industry and Trade;
- Minister and Vice Minister of Industry and Trade;
- Departments, Departments, Research institutes of CLC under the MOIT;
- Save: VT, CNN (5).

Vu Huy Hoang

**ANNEX 1**

## LIST OF PLASTIC INDUSTRY PLASTIC PROJECTS

(Promulgated together with Decision No. 2992 / QĐ-BCT of June 17, 2011 of the Minister of Industry and Trade)

STT	Name of project	Place	Capacity (ton / year)	Total investment (million USD)	Year completed
STAGE 2011 -2015					
1st.	PE factory	Dung Quat - Quang Ngai	350,000	320	two thousand and thirteen
2.	PS / m production PS	Dung Quat - Quang Ngai	60,000	70	2012
3.	Melamine Production Plant	Phu My - Vung Tau	30,000	140	two thousand and thirteen
	<b>total</b>			<b>530</b>	
THE 2016-2020 PERIOD					
4.	N / m PVC-E	Nghi Son - Thanh Hoa	120,000	100	
5.	N / m PE	Nghi Son - Thanh Hoa	450,000	600	
6.	N / m PS	Nghi Son - Thanh Hoa	60,000	100	
7.	Group of plastic resin workshop	BA Ria Vung Tau	- PXSX HDPE resin 400,000 tons / year - PXSX 250,000 tons of LDPE resin per year - PXSX PP plastic 800,000 tons / year	1,500	
8.	PP Factory	South	60,000 tons / year	200	
	<b>Total:</b>			<b>2,400</b>	

**ANNEX 2**

## LIST OF SOME PROJECTS FOR MANUFACTURE OF EQUIPMENT AND MOLD

(Promulgated together with the Minister of Industry and Trade's Decision No. 2992 / QĐ-BCT of June 17, 2011)

Unit: Million USD

Name of project	Place	2011 - 2015		2016 - 2020	
		Number of projects	Investment	Number of projects	Investment
Mold factory	South	02	ten	05	25
	Northern	01	5	03	15
Factory manufacturing equipment	South			01	50
	Northern			01	50
<b>Total (million USD)</b>			<b>15</b>		<b>140</b>

## ANNEX 3

## LIST OF RECYCLING RESOURCES FOR PLASTIC INDUSTRY

(Promulgated together with Decision No. 2992 / QĐ-BCT of June 17, 2011 of the Minister of Industry and Trade)

TT	Name of project	Place	Capacity (tons)	Total investment (million USD)	Year completed
<b>STAGE 2011 -2015</b>					
first	Plastic Recycling Plant	Northern Vinaplast	100,000	30	two thousand and thirteen
2.	The industrial park combines the processing and recycling of plastic waste	Southern - Saigon Technology Corporation SG Plastic Joint Stock Company	150,000	50	two thousand and thirteen
3.	Plastic Recycling Plant	South	150,000	50	2015
	<b>total</b>			<b>130</b>	
<b>THE 2016-2020 PERIOD</b>					
4.	Plastic Recycling Plant (or plant expansion already existing)	Northern	100,000	30	
5.	Plastic Recycling Plant (or plant expansion already existing)	South	100,000	30	
	<b>total</b>			<b>60</b>	

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 Chịu trách nhiệm chính: Ông Bùi Tường Vũ



## **ANNEXURE 3.4**

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# **DETAILS RELATED TO EACH CLAIMED PROGRAM FOR SUBSIDIES IN VIETNAM**

**VIETNAM – ONE PAGER SCHEME DETAILS**

- Program - 1** Supply of limestone at Less Than Adequate Remuneration (“LTAR”)
- Program - 2** Master Plan for Development of Vietnam’s Plastic Industry
- Program - 3** Exemption on corporate income tax for enterprises
- Program - 4** Import duty exemption on reimbursement for raw material
- Program - 5** Preferential lending for investors
- Program - 6** Export Promotion Program
- Program - 7** Preferential lending to the exporters
- Program - 8** Interest rate of investment credit loans
- Program - 9** On investment support on foreign investors who invested on establishing small and medium scale enterprises
- Program - 10** Export credits from the Vietnam Development Bank
- Program - 11** Financial Guarantees by Vietin Bank
- Program - 12** Provision for Natural gas /electricity/coal for power consumption to LTAR
- Program - 13** Government provision of land for less than adequate remuneration and exemptions or reductions from land and water rents

Documents pertaining to each program is being provided as part of Annexure 3.5

**Program – 1: Supply of limestone at Less Than Adequate Remuneration**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Government of Vietnam
2.	Nature of Program	Supply of limestone at Less Than Adequate Remuneration by way of imposing Export Tax on exports of Limestone.
3.	Legal Basis	Decree No. 26/2023/ND-CP <sup>1</sup>
4.	Secondary Evidence	WTO Trade Policy Review of Vietnam <sup>2</sup>
5.	Eligibility	Entities purchasing limestone domestically in Vietnam.
6.	Financial Contribution	Provision of raw material at less than adequate remuneration
7.	Benefit	By virtue of imposition of export taxes on limestone, the Government of Vietnam has made available the limestone at less than adequate remuneration to local purchaser, which constitutes a benefit. FOB export price of limestone from Vietnam proposed as benchmark for assessing adequate remuneration. Comparison period suggested: June 2022 to July 2024, due to substantial increase in export taxes from July 2022. Average FOB export price of limestone lumps from Vietnam during the period: USD 70 per MT. Average local price of limestone lumps in Vietnam during the same period: USD 25 per MT.
8.	Specificity	Specific to enterprises purchasing limestone who are the producers of PUC.
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Difference between FOB export price and domestic limestone /CaCO <sub>3</sub> prices in Vietnam.

<sup>1</sup> Refer Appendix I of Article 3 of the Decree.

Source: [https://www.customs.gov.vn/index.jsp?pageId=25&Id=25210000&check=XK.EVFTA\\_XK&cid=1201](https://www.customs.gov.vn/index.jsp?pageId=25&Id=25210000&check=XK.EVFTA_XK&cid=1201)

<sup>2</sup> Refer Para 16 (Page 9) of the Trade Policy Review (Full Report - WT/TPR/S/410)

Source: [https://www.wto.org/english/tratop\\_e/tp\\_r\\_e/tp510\\_e.htm](https://www.wto.org/english/tratop_e/tp_r_e/tp510_e.htm)

**Program – 2: Master Plan for Development of Vietnam’s Plastic Industry**

S. No.	Parameter	Particulars
1.	Administering Authority	Government of Vietnam
2.	Nature of Program	Master Plan for Development of Vietnam’s Plastic Industry with a plan to step by step build and develop the synchronous plastic industry from raw material production to final product processing.
3.	Legal Basis	Master Plan
4.	Secondary Evidence	USDOC’s final determination in countervailing duties on laminated woven sacks <sup>3</sup> .
5.	Eligibility	Entities engaged in manufacturing plastic products.
7.	Financial Contribution & Benefit	<p>a. Preferential loans from the Government.</p> <p>b. Set up a development investment support fund to coordinate and provide financial sources for priority projects.</p> <p>c. To increase investment in market forecasting and trade promotion to have accurate data of manufacturing enterprises.</p> <p>d. Strengthening trade promotion in export market – research on export market.</p> <p>e. Set up technology development support fund</p> <p>f. Investment projects for the production of plastic industry should be eligible for investment incentives as for the key mechanical engineering industry (loans for investment credit are 85% of the total investment).</p> <p>g. Various Financial and Tax Incentives</p> <p>h. Expenditures for training technicians for the industry should be partly supported by the State through the cooperation program with foreign countries.</p> <p>i. Commercial banks guarantee priority for organizations and individuals to invest in material facilities, renew technologies and train human resources for the development of plastic branches.</p> <p>j. Adjust the import tax rates on raw materials and finished plastic products to suit the practical situation in order to boost the development of the plastics industry.</p> <p>k. Investment support for specific industries for the production of raw materials and molds for the plastic industry.</p>
8.	Specificity	Specific to enterprises engaged in plastic and allied industries.
9.	Recurring or non-recurring	Recurring

<sup>3</sup> USDOC case number C-552-824

**Program – 3: Exemption on corporate income tax for enterprises**

S. No.	Parameter	Particulars
1.	Administering Authority	Ministry of Finance and Ministry of Commerce, Government of Vietnam
2.	Nature of Program	Exemption on corporate income tax for enterprises
3.	Legal Basis	a) Decree No. 218/2013/ND-CP dated December 26, 2013- detailing and guiding the implementation of law on corporate income tax (Decree No. 218); b) Decree No. 12/2015/ND-CP dated February 12, 2015- elaboration of the law on amendments to tax laws c) Law no. Sô: 14/2008/QH12, of 03/06/2008- Law on Enterprise Income Tax
4.	Eligibility	The new established enterprise, which has been performing in a socio-economic extreme zone, economic zone or a high technology industrial park and has attained a taxable income.
5.	Secondary Evidence	a) CRS 2018 IN, Cold-Rolled Steel Statement of Reasons; b) US- Laminated Woven Sacks 2018 <sup>4</sup>
6.	Financial Contribution	Revenue Foregone
7.	Benefit	The program provides a full exemption of taxable income for the first 4-year operations of the newly established enterprise and a 50% reduction of tax payable for the subsequent nine years thereon
8.	Specificity	Specific to newly established enterprise.
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Taxable income and income tax paid.

<sup>4</sup> USDOC case number C-552-824

**Program – 4: Import duty exemption on reimbursement for raw material**

S. No.	Parameter	Particulars
1.	Administering Authority	Ministry of Finance, Government of Vietnam
2.	Nature of Program	<p>a) Law No. 45, Chapter IV, import duty exemptions are provided for “raw materials and supplies used for manufacture of equipment and machinery”</p> <p>b) (Article 16.6(d)) and article 16.9 “Raw materials, supplies and accessories imported for production activities of investment projects on the list of domains where investment is particularly encouraged or the list of geographical areas meeting with exceptional socio- economic difficulties”</p> <p>c) Under 16.4 of Law No. 45, raw materials may be imported duty-free while Article 19 provides for reimbursement of duties on raw materials or supplies imported for the production of export goods, for which import tax has been paid. Because the receipt of import duty exemptions on raw materials are contingent upon export performance as one or more criteria, Commerce</p> <p>d) Corporate income tax (CIT) rates were reduced to 20 percent as of 1 January 2016. Preferential CIT has been set at 10 percent for a 15-year period for new investment projects in areas with difficult socio-economic conditions, in economic zones, and in high-tech zones</p>
3.	Legal Basis	<p>a) Law No. 107/2016/QH13- dated April 6, 2016, on export and import duties (Law No. 107);</p> <p>b) Decree No. 134/2016/ND-CP- dated September 1, 2016, on guidelines for the law on export and import duties (Decree No. 134)</p> <p>c) Law No. 45/2005/QH-11 (Law No. 45) and Decree No. 87/2010/ND-CP (Decree 87). Law No. 45 Chapter IV</p>
4.	Secondary Evidence	<p>a) Vietnam Key Economic Regions <a href="http://www.vietnam-briefing.com/news/the-guide-to-understanding-vietnams-industrial-zones.html/">http://www.vietnam-briefing.com/news/the-guide-to-understanding-vietnams-industrial-zones.html/</a></p> <p>b) CRS 2018 IN, Cold-Rolled Steel Statement of Reasons</p> <p>c) US- Steel Wire Garment Hanger<sup>5</sup></p>
5.	Eligibility	Enterprises which are located in geographical areas which are listed under encouraged list of enterprises are eligible for the said benefit.
6.	Financial Contribution	Revenue Foregone
7.	Benefit	Exemption on raw materials imports duty on exports
8.	Specificity	Export specific, Enterprise Specific.
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Total procurement of raw material and total export sales.

<sup>5</sup> USDOC Case Number C-552-813



**Program – 5: Preferential lending for investors**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Ministry of Finance, Government of Vietnam
2.	Nature of Program	<p>Article 4 of the Decision states the Functions and tasks of the Development Bank: Establish and receive capital from domestic and foreign investors to implement the state development bank which would allow for the executing the Investment credit policy:</p> <ul style="list-style-type: none"> <li>• Granting loans for development investment;</li> <li>• Post-investment support;</li> <li>• Investment credit guarantee.</li> </ul> <p>Article 6 of the Decree on investment credit (Decree No. 75/2011/ND-CP) states lending conditions to be followed in order to attain the export credit. some of them are as follows:</p> <ul style="list-style-type: none"> <li>• Investors prove their debt payment capabilities and should have an effective production plan;</li> <li>• The investor must have 20% of the capital to be contributed to the project;</li> <li>• Investors provide the loan security;</li> <li>• The investor must be a borrower as defined under Article 5</li> </ul>
3.	Legal Basis	<p>a) Decision No.: 108/2006 / QD-TTG; b) Decree No. 75/2011/ND-C</p>
4.	Secondary Evidence	<p>a) CRS 2018 IN, Cold-Rolled Steel Statement of Reasons; b) US-Certain Steel Nails<sup>6</sup></p>
5.	Eligibility	The bank has been formed to provide export credit for Vietnamese enterprises and economic organizations that are exporting goods to Vietnam. To be eligible the enterprise would have to take a loan from the bank for the same purpose.
6.	Financial Contribution	Revenue Foregone
7.	Benefit	The benefit provided under this subsidy is the credit/ loan provided towards the export of goods and services. The amount of credit/loan provided towards the project is 70% at most and for the investor @ 15% of the actual charter capital of VDB.
8.	Specificity	Export specific.
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Total Export Sales

<sup>6</sup> USDOC Case Number C-552-819

**Program – 6: Export Promotion Program**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Ministry of Trade; Ministry of Finance and other relevant ministries and agencies
2.	Nature of Program	Providing funds for trade promotion is overseen by the Evaluation Council,
3.	Legal Basis	National Trade Promotion program was established by Decision 279 and is governed by Decision 80
4.	Secondary Evidence	US-Laminated Woven Sacks 2018 <sup>7</sup> Canada-Cold Rolled Steel 2018
5.	Eligibility	Article 9 of Decision 279 specifies the types of trade promotion schemes that are eligible for support (e.g., hiring domestic and foreign experts to advise on development of export and designing of models and products to raise the quality of goods and services). Article 10 of Decision 279 specifies the level of support that is available for each of the eligible schemes in Article 9 (e.g., the GOV will cover 50 percent of the expenses associated with hiring domestic and foreign experts to advise on development of export and designing of models and products to raise the quality of goods and services).
6.	Financial Contribution	Revenue Conferred
7.	Benefit	Direct Transfer of Funds
8.	Specificity	Export specific.
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Total Export Sales

<sup>7</sup> USDOC case number C-552-824

**Program – 7: Preferential lending to the exporters**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Ministry of Finance ,State Agencies ,State Bank of Vietnam and Other Commercial banks ,State capital investment corporation (SCIC); Vietnam Bank (SOE Bank),Vietnam Development bank
2.	Nature of Program	a) Banks provides loans to enterprises for the post-investment interest rate supported by Vietnam banks to implement state policies on development investment credit and export credits. b) Further low interest loans which are granted by some state owned commercial banks in Vietnam as the banking sector in Vietnam is controlled by State –owned where 50% of loans which are provided by major banks in Vietnam. c) State bank of Vietnam sets maximum interest rates
3.	Legal Basis	a) Resolution No .02/NQ –CP (Government 07 January 2013) b) Official letter no.2667/NHNN-Vp (State Bank of Vietnam,17 April 2014) c) Decree No 75/2011/ND-CP from 30 August 2011, which replaces the Decree No 151/2006/ND-CP, d) Circular No 102013/TT-NHNN, Article 1.2(b),(c) & (d) e) Decree No 106/2008/ND-CP f) Decree 106/2004 ND-CP
4.	Secondary Evidence	a) European Union – PSF 2014; b) Canada CRS- 2018; c) US- Certain Frozen Warmwater Shrimp <sup>8</sup>
5.	Eligibility	Limited for those enterprises that are exporting specific products
6.	Financial Contribution	Revenue Foregone
7.	Benefit	In form of concessional loans and export credits to exporters
8.	Specificity	Export specific., Enterprise Specific
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Total Export Sales

<sup>8</sup> USDOC case number C-552-838

**Program – 8: Interest rate of investment credit loans**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Ministry of Finance, Government of Vietnam
2.	Nature of Program	The interest rate of the investment credit loans granted by the State of Vietnam
3.	Legal Basis	Circular No. 76/2015/TT-BTC
4.	Secondary Evidence	US- Certain Steel Nails <sup>9</sup>
5.	Eligibility	The interest rates, being this low indicate that the enterprise has an incentive to opt for these types of credit based schemes. The present enterprise can acquire a loan with the current rate of interest.
6.	Financial Contribution	Revenue Foregone
7.	Benefit	Interest rate form of subsidy granted to certain enterprises under the guidance of the State Bank of Vietnam.
8.	Specificity	Enterprise Specific
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Credit Cost

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<sup>9</sup> USDOC Case Number C-552-819

**Program – 9: On investment support on foreign investors who invested on establishing small and medium scale enterprises**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Ministry of Finance, Government of Vietnam
2.	Nature of Program	<p>Article 7 of the Decree provides that the “financial assistance” shall be created and provided for SME’s for the following activities :</p> <p>Production Premises (Article 8);            Innovation, technological capacity, technical level (Article 9);            State shall form an agency for the State Management of Business Development Support SME’s (Article 15) in order to provide more transparency in the development of small businesses in Vietnam.            Foreign investors, who have new investments on establishing small and medium scale enterprises in Dong Nai, if have the agreement with the provincial business unit on establishing project investment application, receive these supports:</p> <ul style="list-style-type: none"> <li>- Support on 30% fee of establishing application for investment certification;</li> <li>- Support on 100% fee of making rubber stamp and tax number;</li> <li>- Support on 30% fee of establishing application for environmental projection commitment approval.</li> </ul>
3.	Legal Basis	Decree No. 56/2009/ND-CP
4.	Secondary Evidence	US- Certain Steel Nails <sup>10</sup>
5.	Eligibility	<p>To be eligible for the same subsidy scheme the foreign investor must allow the SME’s to be provided with all forms of assistance, including financial assistance. The SME receiving the benefit can utilize the same in order to develop its own infrastructure or other resources.            The textiles and garment industry has been reliant on many SME’s enterprises for its development and thus, this subsidy provides an undue advantage to those enterprises.</p>
6.	Financial Contribution	Revenue Conferred
7.	Benefit	<p>Support on 30% fee of establishing application for investment certification;</p> <ul style="list-style-type: none"> <li>- Support on 100% fee of making rubber stamp and tax number;</li> <li>- Support on 30% fee of establishing application for environmental projection commitment approval.</li> </ul>
8.	Specificity	Enterprise Specific
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	SME status

<sup>10</sup> USDOC Case Number C-552-819

**Program – 10: Export credits from the Vietnam Development Bank**

S. No.	Parameter	Particulars
1.	Administering Authority	Ministry of Finance, Government of Vietnam and Vietnam Development Bank
2.	Nature of Program	<p>1. Providing loans for investment projects and contracts on export/import of Vietnamese goods which directly recover capital and prove their effectiveness and solvency.</p> <p>2. To get loans, investment projects and export/import contracts must have financial plans and loan repayment plans appraised by the Vietnam Development Bank.</p> <p>3. Loan-taking investors, exporters and overseas importers shall use loans for proper purposes; fully and timely repay loan principals and interests under signed credit contracts; fulfill all contractual commitments and comply with this Decree.</p> <p>4. The Government shall issue the list of projects eligible for investment credit and the list of goods eligible for export credit. Chapter III Article 15 of the decree provides export credits.</p> <p>5. Article 15. Forms of export loans</p> <p>i. Provision of loans to exporters, including provision of loans before or after goods delivery.</p> <p>ii. Provision of loans to overseas importers</p>
3.	Legal Basis	<p>a) Decision No. 108/2006/QD-TTg</p> <p>b) Decree No 75/2011/ND-CP of August 30,2011 on state investment credit and export credit</p>
4.	Secondary Evidence	<p>a) US Final finding on Certain Steel Nails from the Socialist Republic of Vietnam<sup>11</sup>;</p> <p>b) Vietnam Development Bank- <a href="https://en.vdb.gov.vn/VDB/products--services/export-credit">https://en.vdb.gov.vn/VDB/products--services/export-credit</a></p> <p>c) Canada- Cold Rolled Steel 2018</p>
5.	Eligibility	As per Article 5 of the Decree list of enterprises which are eligible for the said credit loans.
6.	Financial Contribution	Revenue Conferred
7.	Benefit	<p>a) As per Article 10(1) The investment loan interest rate must not be lower than the average interest rate for capital sources plus operating expenses of the Vietnam Development Bank.</p> <p>b) As per Article 10 (4) The overdue debt interest rate for each disbursed amount equals 150% of the loan interest rate within the loan term for such disbursed amount.</p> <p>c) Article 18. Loan amounts</p> <p>1. A loan amount must not exceed 85% of the value of a signed export/import contract or the value of an L/C in case the loan is provided before goods delivery, or the value of a lawful bill of exchange in case the loan is provided after goods delivery; at the same time a loan amount for an exporter or overseas importer must not exceed 15% of the actual charter capital of the Vietnam Development Bank</p>
8.	Specificity	Enterprise Specific



9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Total Export Sales

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<sup>11</sup> USDOC Case Number C-552-819

**Program – 11: Financial Guarantees by Vietin Bank**

S. No.	Parameter	Particulars
1.	Administering Authority	Ministry of Finance
2.	Nature of Program	<p>Guarantee Issuance:</p> <ul style="list-style-type: none"> <li>• Vietin Bank commits in writing with the Guaranteeing Party to fulfill the financial requirements on behalf of the Guaranteed Party in case the guaranteed party do not meet or only partially meet the commitments with The Guaranteeing Party. Vietin Bank provides the following re-guarantee forms: letter of guarantee, guarantee contract, standby L/C.</li> <li>• VietinBank receives, verifies and advises on Guarantees/ Amended Guarantees issued by domestic and international banks for Beneficiaries of the guarantees.</li> <li>• It receives invoice claims according to Guarantees and supports the Guaranteeing Party in receivables collection, credits directly to the account of the Guaranteeing Party once the payment is made.</li> </ul> <p>Re-Guarantee issuance:</p> <ul style="list-style-type: none"> <li>• Once a bank commits to corresponding guarantee, Vietin Bank issues a guarantee policy in which Vietin Bank commits in writing with the Guaranteeing party to fulfill the financial requirements on behalf of the Guaranteed party in case The Guaranteed Party do not meet or only partially meet its commitments with the Guaranteeing Party. Vietin Bank provides the following re-guarantee forms: letter of guarantee, guarantee contract, standby L/C.</li> </ul>
3.	Legal Basis	<a href="https://www.vietinbank.vn/web/home/en/corporate/trade-finance/export/guarantee/#">https://www.vietinbank.vn/web/home/en/corporate/trade-finance/export/guarantee/#</a> Vietin Bank;
4.	Secondary Evidence	US- Certain Steel Nails <sup>12</sup>
5.	Eligibility	To be eligible for the same subsidy scheme the Corporate investor must state in writing to the bank regarding its desire to seek assistance, including financial assistance. The corporation receiving the benefit can utilize the same in order to develop its own infrastructure or other resources.
6.	Financial Contribution	Revenue Conferred
7.	Benefit	<p>a) Leverage the reputation of VietinBank to ensure fulfillment of financial obligations as agreed with the Guaranteeing Party which will allow the Guaranteed party to meet the pre-requisite to conduct its basic transaction;</p> <p>b) Corporates can fully trust the authenticity of the Guarantees advised and confirmed by VietinBank. VietinBank provides advice on unfavorable terms of the guarantees to reduce risk and save cost for Customers;</p> <p>c) Leverage the reputation of VietinBank to ensure fulfillments of financial obligations as agreed with the Guarantee bank, which will allow the Customers (Guaranteed party) meet the pre-requisite to conduct its basic transaction;</p> <p>Increased credibility with the corresponding Guarantee banks, increased chance of meeting the requirements of the Guaranteed party</p>



8.	Specificity	Enterprise Specific, Export Specific
9.	Recurring or non-recurring	Recurring

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<sup>12</sup> USDOC Case Number C-552-819

**Program – 12: Provision for Natural gas /electricity/coal for power consumption to LTAR**

<b>S. No.</b>	<b>Parameter</b>	<b>Particulars</b>
1.	Administering Authority	Ministry of Industry and Trade (MIT), Ministry of Natural Resources and the Environment (MONRE), The Ministry of Industry and Trade and Office of PMO
2.	Nature of Program	<p>The petroleum industry is directly controlled by the Office of the Prime Minister due to its important relationship with the national economy. The Ministry of Industry and Trade is responsible for the preparation of approval documents or coordinating the drafting of strategic documents relating to the petroleum industry, such as the Gas Master Plan and Energy Master Plan.</p> <p>MOIT is also responsible for coordinating submissions to the Prime Minister for his approval: petroleum contracts; investment projects, and field development plans. Via its Energy and Petroleum Department, this government agency therefore has direct influence on the development of natural gas policy.<sup>1</sup></p> <p>National Strategy on Energy Development (NSED) up to 2020 was issued by the Prime Minister. This document describes the overall objectives for the petroleum sector and summarizes the Government's energy policies in four main areas: 1) energy supply; 2) energy prices; 3) utilizing energy economically and efficiently</p>
3.	Legal Basis	<a href="https://www.brookings.edu/wp-content/uploads/2016/06/09-vietnam-gas-industry-hai.pdf">https://www.brookings.edu/wp-content/uploads/2016/06/09-vietnam-gas-industry-hai.pdf</a>
4.	Eligibility	Enterprises who are the producers/manufactures are eligible for consumption of electricity for LTAR .
5.	Financial Contribution	Provided at LTAR
6.	Benefit	Difference between market price and international price
7.	Specificity	Enterprise Specific
8.	Recurring or non-recurring	Recurring
9.	Basis of determination of benefit	Total Sales

**Program – 13: Government provision of land for less than adequate remuneration and exemptions  
or reductions from land and water rents**

S. No.	Parameter	Particulars
1.	Administering Authority	State Government of Dong nai; Civic Authorities
2.	Nature of Program	Article 19 of the Decree briefly states the following: land rent and water surface rent shall be exempted for the whole rent in case projects use land to build houses for the workers of the industrial zones which is approved by the competent authorities; 3 years of exemption from the date of completion and commissioning on the List of domains entitled to investment incentives; 11 years of exemption with regard to the investment projects on the List of domains entitled to special investment incentives; Land rent for the land leased by a cooperative to be used as business and production premises shall be reduced by 50%. Rent for the land or water surface leased to serve the purposes of agricultural production, forestry, aquaculture and salt making shall be reduced by a corresponding rate if less than 40% of its yield is damaged by disaster or conflagration.
3.	Legal Basis	a) Decree No. 46/2014/ND-CP dated 15/5/2014; b) Decree No. 123/2017/ ND-CP dated 14/11/ 2017; c) Land used for production and business purposes is governed by Law No. 45/2013/QH13
4.	Secondary Evidence	a. CRS 2018 IN, <b>Cold-Rolled Steel</b> Statement of Reasons; b. US- Certain Frozen Warmwater Shrimp <sup>13</sup>
5.	Eligibility	To be eligible for the subsidy the enterprise must be engaging in the investment project connected the provisions of the Article mentioned above. Thus, the enterprise can be qualified for the exemption if the same is in lieu of the criteria set in the Decree.
6.	Financial Contribution	Revenue Conferred
7.	Benefit	Land rent for the land leased by a cooperative to be used as business and production premises shall be reduced by 50%. Rent for the land or water surface leased to serve the purposes of agricultural production, forestry, aquaculture and salt making shall be reduced by a corresponding rate if less than 40% of its yield is damaged by disaster or conflagration; exempted if 40% or more of its yield is damaged in such year
8.	Specificity	Enterprise Specific
9.	Recurring or non-recurring	Recurring
10.	Basis of determination of benefit	Geographical Location

<sup>13</sup> USDOC case number C-552-838



**ANNEXURE 3.5**

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**DOCUMENTS RELATING TO PROGRAMS**

# **PROGRAM-1**



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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

VIET NAM

This report, prepared for the second Trade Policy Review of Viet Nam, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Viet Nam on its trade policies and practices.

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Document WT/TPR/G/410 contains the policy statement submitted by Viet Nam.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Viet Nam. This report was drafted in English.

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## SUMMARY

1. Over the past 30 years, Viet Nam sustained high GDP growth rates, which transformed the country into a lower-middle-income emerging economy; the poverty rate declined sharply from above 70% in the early 1990s to below 6% in 2019. The economy grew at an average rate of 6.6% per annum between 2014 and 2018 and reached a 10-year high of 7.1% in 2018. In 2019, real GDP grew by 7%, with GDP per capita reaching over USD 2,700. Preliminary data showed that GDP growth in 2020 slowed down to 2.5%, reflecting the impact of the COVID-19 pandemic.
2. Viet Nam pursues export-oriented trade policies and recognizes international economic integration as a key driver for its institutional improvement, economic growth, and development. In the Strategy on Exports and Imports for 2011-20, Vision to 2030, Viet Nam set trade-related targets such as a double-digit annual growth rate of exports, a slower growth rate of imports than of exports, and a gradual reduction of the trade deficit, until reaching a surplus in the next decade.
3. The country's economic expansion in recent years was underpinned by robust domestic demand and manufacturing exports. Since its last Review in 2013, Viet Nam further integrated into the world economy, with its ratio of trade to GDP increasing from 165% in 2013 to 210% in 2019. Reflecting strong economic fundamentals, the real effective exchange rate of the Vietnamese dong appreciated by 4% on average each year. In August 2015, the floating band of exchange rates increased to 3%, from 1% previously.
4. During the review period, merchandise trade grew at a double-digit rate annually, in real terms. This reflected its active participation in global value chains (GVCs), emerging as a manufacturing centre for apparel and consumer electronics, particularly smart phones. In 2019, about 85% of imported electronic products were intermediate goods, slightly half of which were supplied by the Republic of Korea and China; 44% of exports of electronic products were final consumer goods, half of which were shipped to the United States, the United Arab Emirates, and Austria. Viet Nam maintained a surplus in trade in goods and services, as well as in remittances.
5. Foreign direct investment (FDI) plays a key role in Viet Nam's economic transformation, representing 20% of GDP and generating 5 million jobs in 2019. FDI is also the main driving force of the country's productivity improvement. More than 17,000 foreign investment projects with total registered capital of USD 143.1 billion were approved during the review period; processing and manufacturing accounted for around 62% of the total foreign capital invested in the country.
6. Given its deep integration into the global economy, Viet Nam suffered from the COVID-19 pandemic due to weakened demand and reduced trade. However, preliminary evidence indicates that Viet Nam's merchandise trade based on GVCs in 2020, particularly in the consumer electronics and garment sectors, appeared not to be losing momentum, compared with those sectors' performance in 2019, partly reflecting the Government's proactive measures.
7. Since January 2016, Viet Nam has implemented fiscal consolidation, strictly limiting the issuance of government guarantees and stabilizing the state budget deficit; this policy enabled Viet Nam to lower government and public debts in relation to GDP, creating some fiscal space to deal with short- or long-term structural challenges, such as the ones that have arisen from the COVID-19 pandemic, contingent liabilities of both state-owned enterprises (SOEs) and banking sector, and climate change. Facing the COVID-19 pandemic, Viet Nam introduced a series of fiscal measures and incentives to replace lost income and boost growth, including a fiscal support package equivalent to 3.6% of GDP, fee cuts, tax payment deferrals and deductions, and financial incentives for employers and employees. Consequently, the general government deficit and the public-debt-to-GDP ratio in 2020 are expected to increase to around 5% and 57%, respectively.
8. Viet Nam considers that its WTO membership plays a central role in its international integration strategy. Viet Nam submitted its instruments of acceptance for the WTO Agreement on Trade Facilitation in December 2015, and for the amendment of the TRIPS Agreement in January 2017. It participates in the Information Technology Agreement (ITA), but not in the Agreement's expansion (ITA 2). During the review period, Viet Nam submitted more than 350 notifications to various WTO committees, and 5 complaints to the WTO dispute settlement body.

9. As at January 2021, Viet Nam was a signatory to 15 regional trade agreements (RTAs), 6 of which were signed during the review period, including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership.

10. Viet Nam's investment regime was substantially updated by revising both the Enterprise Law and the Investment Law in July 2015. The legislation aims to attract FDI by equalizing business conditions for SOEs, foreign-invested enterprises, and the domestic private sector. The number of restricted activities was reduced, compared with that in the previous framework. The general cap of 49% for foreign acquisition of public companies operating in unconditional sectors was abolished in 2015; however, foreign participation in some sectors remains capped at levels between 30% and 51%. Moreover, the number of eligible fields for the implementation of public-private partnership (PPP) projects was increased in 2018. On 1 January 2021, a revised Enterprise Law, a revised Investment Law, and a new Law on Investment in the Form on Public-Private Partnership entered into force. Viet Nam signed five bilateral investment agreements during the review period.

11. Viet Nam continued to reform its policies and measures on customs procedures based on its Customs Development Strategy to 2020. In line with this Strategy, it adopted or revised relevant legislation, including the Customs Law and the Law on Export Tax and Import Tax. Customs units at all levels implement risk management. Customs uses an automatic customs clearance and national single-window mechanism.

12. All tariffs are bound, and mostly in the 0%-40% range. The simple average applied MFN rate for all goods was 11.9% in 2020, up from 10.4% in 2013, mainly due to the change from the HS12 to the HS17 nomenclature and the splitting of several tariff lines. Only second-hand motor vehicles are subject to applied non-*ad valorem* rates. The highest tariffs include 135% for five tariff lines concerning cigarettes. In 2020, the average bound rate was 14.7%. The simple average applied MFN tariff was 18.1% for agricultural products (WTO definition) and 10.9% for non-agricultural products. The difference between bound and applied MFN rates leaves some scope for flexibility in Viet Nam's tariff policy. Tariff rate quotas regulate imports of eggs, sugar cane, tobacco, and salt.

13. Excise tax is levied on certain goods and services, including cigarettes, alcoholic beverages, motor vehicles, motorcycles, and gasoline. No distinction is made between domestically produced and imported goods. Excise tax is levied on the import-duty-inclusive price for imports on a c.i.f. basis. The environmental protection tax continues to be applied on petroleum products, coal, hydrogen-chlorofluorocarbon liquids, plastic bags, and various pesticides and herbicides; this list has remained unchanged since Viet Nam's previous Review. Value-added tax, which is levied at a general rate of 10%, constitutes almost one third of the Government's total tax revenue, while import and export duties account for about one tenth.

14. Viet Nam prohibits the importation of, *inter alia*, certain chemicals, weapons, right-hand drive vehicles, and certain used consumer goods; this list has not changed since 2013. Import restrictions may also be applied to comply with international treaties and conventions to which Viet Nam is a party. Goods subject to import restrictions administered by various ministries entail import licensing requirements. The licensing requirement is also employed to administer importation of goods subject to tariff quotas. Exports and imports can also be temporarily suspended in exceptional circumstances, such as war, natural disasters, epidemics, or environmental incidents; products causing serious effects on health and the environment; and balance of payment reasons.

15. The Law on Foreign Trade Management is the main legislation governing anti-dumping, countervailing, and safeguard measures. Viet Nam notified laws and regulations pertaining to anti-dumping, countervailing, and safeguard measures to the WTO in 2018 and 2020; it also responded to detailed questions on its anti-dumping regime in 2019. Between 2013 and 2019, Viet Nam had five anti-dumping measures in place and four cases under investigation; it also had four safeguard measures in place. The main products covered by these measures include steel, aluminium, and fertilizer.

16. Viet Nam levies export taxes on certain products, such as fish, minerals, coal, rubber, and raw hides and skins. The export tax rates changed frequently during the review period. The country also levies royalties (severance tax) on natural resources, such as basic metals and minerals, timber, water, crude oil, and natural gas used in domestic production or exported. Viet Nam enforces a

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number of export prohibitions, restrictions, and licensing in accordance with the Law on Foreign Trade Management and relevant regulations.

17. As at June 2019, Viet Nam had four export processing zones. Preferential export and import taxes apply to companies, both domestic and foreign, located in the zones.

18. Viet Nam provides investment incentives, mainly through tax reductions, for projects in geographical areas with difficult socio-economic conditions or in industrial zones. Specific supports, such as access to credit, lower taxes and land rents, and exemption of import duties, are also accorded to some selected activities and sectors, such as fishery products, small- and medium-sized enterprises, supporting industries, or renewable energy. Investors participating in significant PPP projects may benefit from additional incentives, such as guarantees on land use and foreign currency availability. Following the onset of COVID-19 pandemic, Viet Nam introduced a series of measures and incentives, alleviating the impact on enterprises; these measures included an extension of time limits for tax payments, a reduction of corporate income taxes, and temporary discounts in electricity bills.

19. The overall regulatory framework for standards and technical regulations remained largely unchanged. According to the authorities, 60% of Vietnamese standards were harmonized with international, regional, or foreign standards in 2020, up from 40% in 2013. Goods classified as "capable of causing unsafety", whether imported or domestically produced, are subject to conformity assessment as set forth in the relevant technical regulations. Requirements concerning conformity assessment must be fulfilled before the product is circulated in the market. A new decree pertaining to labelling requirements entered into force in April 2017. During the review period, Viet Nam submitted 152 notifications, covering a large variety of products, to the WTO TBT Committee, and four specific trade concerns (STCs), concerning alcoholic beverages, inspection on imported vehicles, cybersecurity regulations, and electronic products, were raised in the Committee.

20. The Government implemented a national food safety strategy for 2011-20 with the aim of controlling food safety over the entire food supply chain by 2020. Food-inspection laboratories and facilities were operational in provinces by 2020, and according to the Strategy, all food production, processing, and trading establishments are expected to meet food safety conditions by 2030. In line with this objective, Viet Nam modernized its regime concerning sanitary and phytosanitary requirements. The relevant legislation covers issues such as food safety for imported food, quarantine requirements, fertilizer and pesticide management, and maximum residue levels of pesticides on food. These regulatory changes were notified to the WTO through 84 notifications to the SPS Committee. Since 2013, eight STCs have been raised at the SPS Committee, and two of them have been reported as resolved or partially resolved in 2017.

21. Viet Nam modernized its institutional framework for competition. With the enactment of the Law on Competition and its implementation decrees, the National Competition Commission (NCC) was created as the enforcement authority. The creation of the NCC was expected to address some issues of regulatory deficiencies that were identified with the previous regime. The NCC is responsible for investigating and adjudicating anti-competitive acts, monitoring economic concentration, and settling complaints about its decisions. Since July 2019, 20 claims have been filed with the NCC, of which 11 were related to unfair trade practices, and 9 to anti-competitive agreements and abuse of a dominant market position; the NCC has also completed 60 economic concentration reviews.

22. Viet Nam maintains price controls on certain goods and services. According to the authorities, price controls are primarily achieved in an indirect manner. The Ministry of Finance at the national level and the Department of Finance at the provincial level are the competent authorities for implementing price management. The authorities note that price stabilization is currently applied only to refined petroleum products. It is estimated that continuing price liberalization would add about 2 percentage points to the Consumer Price Index.

23. Viet Nam notified to the WTO its state trading enterprises concerning cigarettes, cigars, newspapers, journals, and periodicals. Viet Nam also submitted replies to questions posed in the Working Party on State Trading Enterprises. As at 31 December 2018, SOEs employed 1.13 million workers, accounting for 7.6% of the employees of the corporate sector. The number of 100% SOEs fell from 1,309 at the end of 2011 to 487 at the end of 2019. Concerning the governance and management of SOEs in Viet Nam, a number of laws and regulations were issued during the review

period, including the 2014 Enterprise Law and the 2014 Law on Management and Use of State Capital Invested in Production and Business Activities.

24. The government procurement regime was revised to expand the scope of application, covering: (i) development investment projects and procurements of which at least 30% of the project value is financed through the state budget; and (ii) investment projects by SOEs. Government procurement may be conducted through domestic bidding or international bidding. In the case of domestic bidding, only domestic tenderers are allowed to participate in a tender. In general, foreign suppliers must have a partnership with domestic contractors or be sub-contractors of domestic contractors when participating in an international bid, unless domestic contractors do not have full capacity to participate in a bidding. Preference for 25% of domestic value is maintained in the procurement system, regardless of whether it is a domestic or international bidding. Viet Nam is not a signatory to the Agreement on Government Procurement (GPA). In two recently signed RTAs, i.e. the CPTPP and the European Union-Viet Nam Free Trade Agreement, Viet Nam made its first commitments to open its government procurement to foreign suppliers bidding directly from abroad. The government procurement chapters of both Agreements are based, to a large extent, on the legal text and market access schedule structure of the GPA.

25. With regard to intellectual property rights (IPRs), the Law on Intellectual Property was amended in June 2019. The amendment aims to implement commitments under the CPTPP. On 1 July 2018, the Law on Technology Transfer was revised. The revised Law requires disclosure of technology secrets under certain circumstances, such as on the ground of national security, national defence, social welfare, and other interests of the State and society. Viet Nam has a regime of international exhaustion; therefore, parallel imports are not considered to infringe on IPRs. Counterfeiting and piracy remain the major IPR infringements. IPR enforcement is primarily practised through the imposition of administrative penalties; civil and criminal remedies are rarely or ineffectively used. To address the issue of IPR enforcement, Viet Nam established a National Steering Committee against Smuggling, Counterfeiting and Trade Fraud in March 2014.

26. In 2019, agriculture, forestry, and fisheries contributed 15.5% to GDP (down from 20.0% in 2013) and 34.5% to employment (down from 46.7% in 2013). The main agricultural products include rice, coffee, and rubber. In 2019, Viet Nam had a deficit in agricultural trade. Both imports and exports of agricultural products increased between 2013 and 2018; in 2019, they both declined. The main exports included coconuts, rice, and coffee; the main imports included cotton and maize. The main agricultural policy development was the adoption of various laws, such as the Laws on Irrigation, Animal Health, Animal Husbandry, and Crop Production, and relevant regulations.

27. Fisheries represented 2.3% of merchandise exports in 2019 (down from 3.8% in 2013). In 2018, the fishery catch amounted to 3,590 tonnes, an increase of 6% compared with 2017. Viet Nam had a trade surplus in fisheries products. The fisheries policy is included in the Master Plan on Fisheries Development through 2020, Vision to 2030, which sets objectives for turning fisheries into a highly competitive, large community production sector. The Fisheries Development Policies provide support measures to the sector, such as credits for new vessels, subsidized accident insurance, and tax exemptions between 2015 and 2018.

28. The Government set targets for efficiency and conservation of energy until 2030 and promoted the development of renewable energy; however, adverse climate conditions in the country increased its reliance on coal, oil, and gas for energy production. Viet Nam became a net importer of coal in 2019; with the operation of a second oil refinery in 2018, Viet Nam reduced its exports of crude oil as well as its imports of refined oil. The regulatory framework of the energy sector remained largely unchanged, except for a revision in royalty rates in 2015. The Government promoted the restructuring and equitization of subsidiaries of main SOEs in the sector, and the ownership role of the State in large conglomerates was transferred to the recently established Commission for the Management of State Capital in Enterprises. Viet Nam runs a Price Stabilization Fund for different petroleum products.

29. Some segments of the electricity market shifted towards increased competition between service providers; three state-owned generation corporations underwent equitization and two other corporation are expected to complete similar procedures in coming years. The wholesale market for electricity started operations in 2019, and a fully operational retail electricity market is planned for 2024. The State continues to hold a monopoly in transmission, management of the national electricity system, and construction and operation of "large" electricity plants. The Government

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regulates retail electricity prices that vary between consumer groups, time of consumption, and voltage levels.

30. Viet Nam seeks to continue developing its manufacturing sector, and its national strategy prioritizes some selected subsectors. During the review period, manufacturing exports more than doubled and foreign-invested enterprises accounted for nearly 70% of total merchandise exports in 2019. Some subsectors witnessed a notable performance in recent years, while the overall impact of policies in other subsectors is still to be seen. For example, domestic production and exports of footwear and garments substantially increased during the review period, and Viet Nam aims to attract foreign investment for the development of its pharmaceutical industry through regulatory changes. Lower labour costs and a supply of relatively skilled workers are drivers behind the recent increase of inward FDI in manufacturing. Investment incentives and tariff protection are other policy tools used for the development of some industries.

31. Services are the main sector in the economy. In 2019, the share of services in GDP was 46.2%, up from 43.1% in 2013. Most services are oriented to serve the domestic market. Viet Nam committed to some further liberalization of its services sector in recent bilateral and regional trade agreements.

32. The banking sector is dominated by state-owned commercial banks; the State reduced its participation in some of them. The review period was marked by consolidation among commercial banks, in most of cases, to support weak banks. The State Bank of Viet Nam also intervened in commercial banks through compulsory acquisitions. Compliance with Basel II requirements, reduction of cross-ownership, and handling of non-performing loans were the main objectives decided by the Government for the banking system; some progress in achieving these objectives was observed. Other financial services (insurance and securities) are expected to continue to grow rapidly, as their coverage and use expand among the population.

33. The telecommunications market is expected to expand in coming years, reflecting the development of IT-related activities. Mobile communication is the main, as well as the fastest-growing, segment and the commercialization of 5G started in December 2020. Three SOEs dominate the market, while the State plans to reduce its participation in two of them through equitization. The policy framework regulating the sector has remained largely unchanged since the last Review. Interconnection rates are controlled by the Government, while operators are free to determine retail tariffs for other services. Viet Nam operates a public fund for the development and provision of public utility telecommunications services.

34. The overall integration of infrastructure projects in the transport sector remains a challenge for resolving some multi-modal bottlenecks and for supporting the country's transformation. PPPs are considered as a key source of funding for transport development in coming years. Foreign firms dominate the overseas cargo shipping market, and no domestic support measure is applied by the Government; only ships flying the national flag are entitled to inland sea transport. Maritime cargo is concentrated around a few seaports, and some ports operate near or at their capacity. Since 2017, private investment in ports is allowed. The authorities applied reductions in fees to promote the use of new infrastructure. Viet Nam Airlines, the national flag carrier largely controlled by the State, remains a key player for air transport and related services. The first airport developed under a PPP project became operational in 2018; caps on foreign capital apply in air transport services. Renovated and new airport infrastructure attracted foreign carriers to the international passenger transport market. The liberalization through the ASEAN Open Skies policy in January 2015 and granting reductions in service fees on new routes or for carriers entering the market are expected to further increase competition in the air transport market. As for land transport, funding mobilization and budget allocation are limited compared with the demand for road infrastructure. The Government aims to densify road infrastructure, notably expressways, and to upgrade existing routes through PPPs. The development of railway infrastructure is lagging, despite the update of its legal framework in 2017. Foreign investment is not present in this segment.

35. The number of supermarkets, shopping centres, and convenience stores is on the rise, and competition has pushed retailers to consolidate in the past five years. Economic needs tests for retail outlets are under the responsibility of provincial authorities. Since 2015, wholly foreign-owned companies have been allowed in almost all distribution services; however, trading rights and distribution rights are separately granted. Viet Nam reduced the list of forbidden products by foreign-invested distributors.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Main Features of the Economy

1.1. The economy of Viet Nam is a "socialist-oriented market economy", as defined by Viet Nam's constitution. It is characterized by economic dualism combining government planning with free-market incentives.<sup>1</sup> Extensive market reforms have been carried out since the dawn of the Doi Moi era in 1986<sup>2</sup>; however, the structural transformation is not yet complete, with an uneven playing field between the State and the private sector.<sup>3</sup>

1.2. Viet Nam sustained high growth rates that transformed the country from one of the poorest to a lower-middle-income emerging economy over the past 30 years. More than 45 million people were lifted out of poverty (measured as USD 3.2/day in purchasing power parity); the poverty rate declined sharply from above 70% in early 1990s to below 6% in 2019.<sup>4</sup> GDP per capita reached over USD 2,700 in 2019.

1.3. The services sector is the largest sector in terms of contribution to both GDP (46.2% in 2019) and employment (35.4% of the labour force). Within services, "wholesale and retail trade; repair of motor vehicles" is the largest subsector, accounting for 12.4% of GDP and 13.3% of employment in 2019. Financial services, though employing only 0.9% of the labour force, was the fastest-growing subsector, with an annual growth rate around 8% since 2016, accounting for almost 6% of GDP in 2019. Manufacturing has been the fastest-growing sector, recording double-digit annual growth rates since 2015; it accounted for about 18.3% of GDP and some 69% of the total value of merchandise exports in 2019. Agriculture and related activities remain an important sector; despite the decline in its share of GDP to 15.5% in 2019, it employed almost 35% of the workers (Table 1.1).

**Table 1.1 GDP, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
Current GDP (VND trillion)	3,584.3	3,937.9	4,192.9	4,502.7	5,006.0	5,542.3	6,037.3
Current GDP (USD billion)	171.2	186.2	193.2	205.3	223.8	245.2	261.9
GDP per capita (USD)	1,898.4	2,041.6	2,095.2	2,201.3	2,373.4	2,570.8	2,714.7
<b>GDP by economic activity at current basic prices (%)</b>							
Agriculture, forestry, and fishing	20.0	19.7	18.9	18.1	17.0	16.3	15.5
Mining and quarrying	12.2	12.0	10.7	9.0	8.3	8.2	7.5
Manufacturing	14.8	14.7	15.2	15.9	17.0	17.8	18.3
Electricity, gas, and water supply	4.1	4.6	5.0	5.2	5.4	5.6	5.9
Construction	5.7	5.7	6.0	6.2	6.4	6.5	6.6
Services	43.1	43.4	44.2	45.5	45.8	45.7	46.2
Wholesale and retail trade; repair of motor vehicles	10.5	10.9	11.3	11.7	11.9	12.1	12.4
Transportation and storage	3.2	3.2	3.0	3.0	3.0	3.0	3.1
Accommodation and food-service activities	4.2	4.2	4.1	4.2	4.3	4.2	4.2
Information and communication	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Financial, banking, and insurance activities	6.1	5.8	6.1	6.1	6.1	5.9	5.9
Real estate activities	5.9	5.7	5.6	5.6	5.3	5.1	5.0

<sup>1</sup> Dualism in Viet Nam consists of a large state sector and a private sector. The state sector easily attracts investment, disproportionate to its productivity or its job creation, compared with the private sector. It enjoys a wide range of administrative facilities, in addition to the protection provided for them. Dualism in Viet Nam also features its economic development transforming from an agricultural economy to one dominated by manufacturing and services sectors, as observed through the lack of connection between the foreign-invested sector and the domestic economic sector. For details, see UNDP (2013), *Viet Nam's Economy: Success Story or Weird Dualism?* Viewed at:

[https://www.vn.undp.org/content/vietnam/en/home/library/poverty/viet-nam\\_s-economy--success-story-or-weird-dualism-.html](https://www.vn.undp.org/content/vietnam/en/home/library/poverty/viet-nam_s-economy--success-story-or-weird-dualism-.html); also Baum (2020), *Vietnam's Development Success Story and the Unfinished SDG Agenda*, IMF Working Paper WP/20/31, Viewed at: <https://www.imf.org/~media/Files/Publications/WP/2020/English/wpia2020031-print-pdf.ashx>.

<sup>2</sup> Doi Moi ("rejuvenation") is the process that dismantled the largely planned economy (beginning with agricultural reforms), opened a closed economy to international markets and trade, and initiated pro-business reforms. Agricultural collectives were abolished, and the land was distributed among small farmers with 20-year leases. At the same time, price controls on agricultural goods were removed, as farmers and industrial producers were allowed to sell their goods at market price for a profit.

<sup>3</sup> IMF (2019), *Vietnam: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Vietnam*, IMF Country Report No. 19/235.

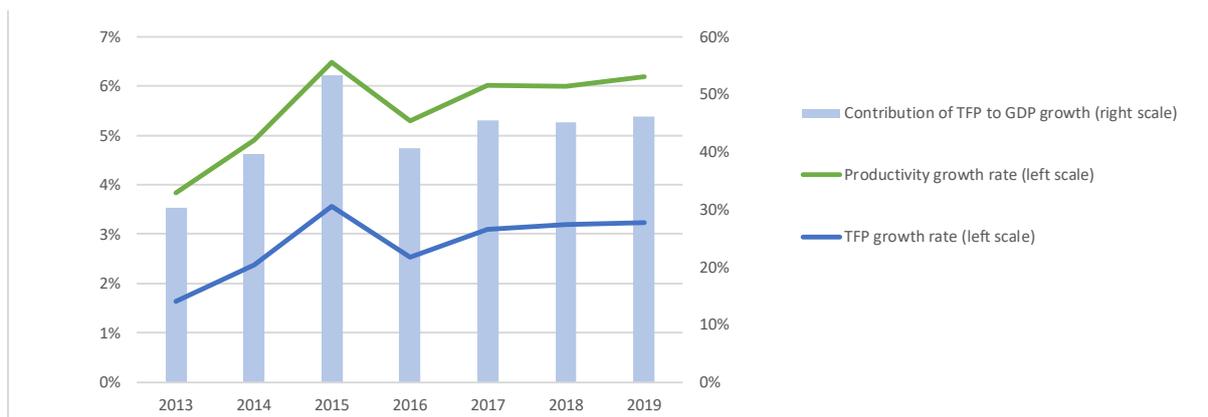
<sup>4</sup> World Bank, *The World Bank in Vietnam*. Viewed at: <https://www.worldbank.org/en/country/vietnam/overview>.

	2013	2014	2015	2016	2017	2018	2019
Professional, scientific, and technical activities	1.5	1.4	1.5	1.5	1.4	1.4	1.4
Administrative and support service activities	0.4	0.4	0.4	0.4	0.4	0.4	0.4
State management & national defence; compulsory social security	2.9	3.0	3.0	3.1	3.1	3.0	3.0
Education and training	3.3	3.4	3.6	3.8	3.9	4.1	4.2
Human health and social work activities	1.8	1.9	1.9	2.4	2.9	3.0	3.1
Other services	2.6	2.7	2.7	2.8	2.8	2.7	2.7
<b>Share of sector in total employment (%)</b>							
Agriculture, forestry, and fishing	46.7	46.3	43.6	41.6	40.0	37.6	34.5
Mining and quarrying	0.5	0.5	0.4	0.4	0.4	0.4	0.4
Manufacturing	13.9	14.1	15.9	17.0	17.8	18.4	20.7
Electricity, gas, and water supply	0.5	0.5	0.5	0.6	0.5	0.6	0.7
Construction	6.3	6.3	6.2	7.2	7.6	7.9	8.4
Services	32.0	32.4	33.4	33.3	33.8	35.1	35.4
Wholesale and retail trade; repair of motor vehicles	12.6	12.6	12.7	12.7	12.8	13.4	13.3
Transportation and storage	2.9	2.9	3.1	3.0	3.2	3.2	3.6
Accommodation and food-service activities	4.2	4.4	4.6	4.6	4.6	5.0	5.0
Information and communication	0.6	0.6	0.7	0.6	0.6	0.6	0.6
Financial, banking, and insurance activities	0.6	0.7	0.7	0.7	0.7	0.8	0.9
Real estate activities	0.3	0.3	0.3	0.4	0.4	0.5	0.6
Professional, scientific, and technical activities	0.5	0.5	0.5	0.4	0.5	0.5	0.6
Administrative and support service activities	0.5	0.5	0.6	0.5	0.6	0.6	0.7
State management & national defence; compulsory social security	3.1	3.2	3.2	3.2	3.2	3.0	2.7
Education and training	3.5	3.5	3.5	3.5	3.7	3.9	3.6
Human health and social work activities	0.9	0.9	1.0	1.1	1.0	1.1	1.1
Other service activities	2.3	2.3	2.6	2.5	2.5	2.6	2.8

Source: General Statistics Office of Viet Nam, and data provided by the authorities.

1.4. Viet Nam has a young population. In 2019, the population was 96.2 million, with a median age of 31. Around 67% of the population is of working age (i.e. between 15 and 64), with a 77% labour participation rate, and around 62% of the labour force is between 25 and 49. This stable age structure (i.e. the ratio of pensioners and students to workers) facilitates fiscal policy formulation, in terms of taxation and allocation of government spending, as it allays the concerns that are present in economies with aging populations.

**Chart 1.1 Productivity and total factor productivity (TFP), 2013-19**



Note: Productivity is measured as GDP per worker.

Source: Information provided by the authorities.

1.5. Trade integration is central to Viet Nam's reform efforts (Section 2.2.1). During the review period, Viet Nam integrated quickly into the world economy, with its ratio of trade to GDP increasing from 165% in 2013 to 210% in 2019 (Table 1.2). Viet Nam recently updated its trade regime, including modernizing its customs legislation and procedures (Sections 3.1 and 3.2). Trade

integration facilitated Viet Nam's participation in global value chains (GVCs), first as an exporter of low-tech manufactured goods and later of more complex high-tech goods. Since acceding to the WTO in 2007, Viet Nam has subscribed to 15 regional trade agreements (RTAs), 7 of which were signed during the review period (Section 2.3.2). Against the background of Viet Nam's efforts towards international integration, there were productivity gains, which were important contributors to GDP expansion (Chart 1.1 and Table 1.2).

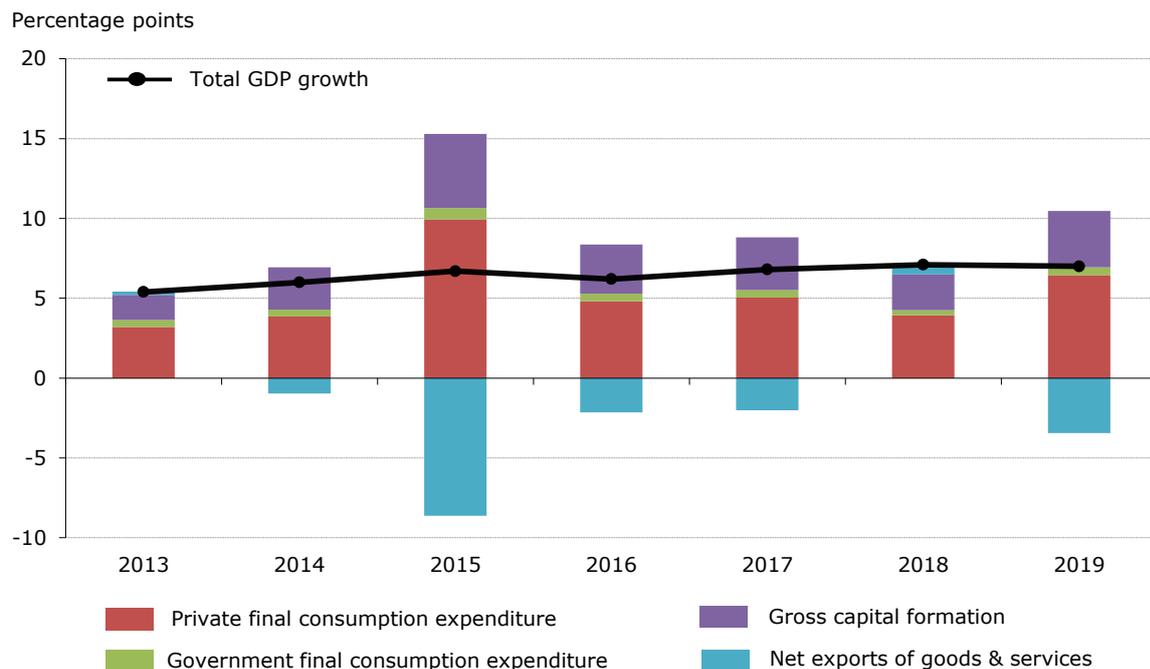
1.6. To keep up with total factor productivity (TFP) growth, and despite considerable effort in recent years (see below), further investment is likely to be needed, as the economy is running close to capacity. According to the IMF, the output gap in 2018 was 0.6%.<sup>5</sup> Apart from increased investment, further structural reforms, including tackling the dualism in Viet Nam's twin transition from a planned to a market economy and from farms to factories and services, are much needed to raise the potential growth path. Viet Nam is also expected to promote growth by exploiting rapid digital innovation and reshaping its participation in supply chains.

## 1.2 Recent Economic Developments

### 1.2.1 Overview/background

1.7. During the review period, Viet Nam's economy demonstrated fundamental strength and resilience; it grew at an average rate of 6.6% per annum between 2014 and 2018 and reached a 10-year high of 7.1% in 2018. Manufacturing surged and direct investment inflows remained strong. In 2019, preliminary data indicated that real GDP grew by 7% (Table 1.2).

**Chart 1.2 Expenditure component contributions to GDP growth, 2013-19**



Source: Information provided by the authorities.

1.8. The economic expansion was supported by robust domestic demand and export-oriented manufacturing (Chart 1.2). Domestic demand was fuelled by strong growth in final consumption and investment, both of which grew at faster paces than GDP (Table 1.2). Investment, in terms of gross capital formation, has been growing between 8% and 10% each year since 2014, which contributed 50% of total growth in 2019. Of the 7% of GDP growth in 2019, 6.5 percentage points were

<sup>5</sup> IMF (2019), *Vietnam: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Vietnam*, IMF Country Report No. 19/235.

attributed to private consumption. Both strong capital formation and private consumption reflected the massive infrastructure investment and the loose credit supply in the last decade.

1.9. Economic growth in recent years was also driven by strong performance of imports and exports, reflecting Viet Nam's active participation in GVCs (Section 1.3.1.2). Although net exports mostly had a negative contribution to GDP growth during the review period, the external current account balance reversed its deterioration trend in 2018 and continued. (Section 1.2.4).

**Table 1.2 Selected macroeconomic indicators, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
<b>National accounts</b>							
Current GDP (VND trillion)	3,584.3	3,937.9	4,192.9	4,502.7	5,006.0	5,542.3	6,037.3
(real growth rate)	(5.4)	(6.0)	(6.7)	(6.2)	(6.8)	(7.1)	(7.0)
Consumption	2,566.8	2,838.0	3,115.1	3,379.4	3,731.6	4,103.7	4,505.2
(5.4)	(6.2)	(9.1)	(7.3)	(7.3)	(7.2)	(7.2)	(7.2)
Private consumption	2,346.2	2,591.3	2,849.5	3,086.3	3,405.8	3,745.1	4,115.2
(5.2)	(6.1)	(9.3)	(7.3)	(7.3)	(7.3)	(7.3)	(7.4)
Government consumption	220.6	246.7	265.5	293.1	325.8	358.6	390.1
(7.3)	(7.0)	(7.0)	(7.5)	(7.3)	(6.3)	(6.3)	(5.8)
Gross capital formation	956.1	1,056.6	1,160.4	1,196.7	1,330.7	1,470.6	1,620.7
(5.4)	(8.9)	(9.0)	(9.7)	(9.8)	(8.2)	(7.9)	(8.3)
Gross fixed capital formation	847.5	938.5	1,033.8	1,066.2	1,190.5	1,321.9	1,463.0
(5.3)	(9.3)	(9.4)	(9.9)	(10.2)	(8.7)	(8.3)	(8.3)
Exports of goods and services (XGS)	2,997.4	3,402.5	3,764.3	4,215.6	5,085.7	5,865.5	6,447.6
(17.4)	(11.6)	(12.6)	(13.9)	(16.7)	(14.3)	(6.7)	(6.7)
Imports of goods and services (MGS)	2,920.0	3,273.5	3,731.2	4,100.3	4,945.5	5,679.5	6,255.0
(17.3)	(12.8)	(18.1)	(15.3)	(17.5)	(12.8)	(8.3)	(8.3)
XGS/GDP (%)	83.6	86.4	89.8	93.6	101.6	105.8	106.8
MGS/GDP (%)	81.5	83.1	89.0	91.1	98.8	102.5	103.6
Unemployment rate (%)	2.2	2.1	2.3	2.3	2.2	2.2	2.2
Urban	3.6	3.4	3.4	3.2	3.2	3.1	3.1
<b>Productivity</b>							
Labour productivity growth rate (based on number of employment)	3.8	4.9	6.5	5.3	6.0	5.9	6.3
Contribution of TFP to GDP growth	30.3	39.7	53.3	40.7	45.6	45.2	47.0
TFP growth rate	1.64	2.4	3.6	2.5	3.1	3.2	3.24
<b>Prices and interest rates</b>							
Inflation (CPI % change)	6.6	4.1	0.6	2.7	3.5	3.5	2.8
Lending rate (%)	10.4	8.7	7.1	7.0	7.1	7.4	7.7
Deposit rate (%)	7.1	5.8	4.7	5.0	4.8	4.7	5.0
<b>Exchange rate</b>							
VND/USD (annual average)	20,933.4	21,148.0	21,697.6	21,935.0	22,370.1	22,602.1	23,050.2
Nominal effective exchange rate (end-period)	88.3	93.9	97.6	97.7	91.2	93.1	..
Real effective exchange rate (end-period)	116.2	124.7	129.8	134.4	126.2	131.0	..
<b>Money and credit (% change, period average)</b>							
Broad money (M2)	21.4	19.7	14.9	17.9	14.3	12.7	13.6
Total domestic credit	13.9	15.5	20.1	17.2	12.6	10.6	9.3
Credit to private sector	12.7	13.8	18.8	18.8	17.4	12.8	12.8
<b>Fiscal sector – Central Government (% of GDP)</b>							
Total revenue and grants	23.1	22.3	23.8	24.6	25.8	25.7	25.7
Total revenue	22.8	22.0	23.5	24.4	25.7	25.6	25.6
Current revenue	21.5	20.8	21.8	22.1	23.1	22.9	23.0
Taxes	19.1	18.2	18.0	17.9	18.3	18.5	18.8
Grants	0.3	0.3	0.3	0.2	0.2	0.1	0.1
Total expenditure and net lending	28.1	27.0	28.1	28.6	29.2	29.2	29.1
Total expenditure	28.8	26.4	28.2	26.8	27.1	29.2	29.1
Current expenditure	21.2	20.1	20.8	20.2	19.6	19.9	19.2
Net lending	7.6	6.3	7.4	6.6	7.4	7.4	7.3
Current balance	-0.6	0.6	-0.1	1.8	2.2	0.0	0.0
Overall budgetary balance	0.3	0.7	1.0	1.9	3.5	3.0	3.8
Central Government debt	42.6	46.3	49.2	52.7	51.7	49.9	48.5
Public debt	54.5	58.0	61.0	63.7	61.4	58.3	55.0
<b>Saving and investment (% of GDP)</b>							
Gross national saving	31.2	31.7	27.5	29.5	28.7	29.0	28.5
Gross domestic investment	26.7	26.8	27.7	26.6	26.6	26.5	26.3
<b>External sector (% of GDP, unless otherwise indicated)</b>							
Current account balance	4.5	5.0	-1.1	0.3	-0.7	2.4	5.0
Net merchandise trade	5.1	6.5	3.8	5.4	4.8	6.7	8.2
Exports	77.1	80.7	83.8	86.0	96.1	99.4	100.9
Imports	72.0	74.2	80.0	80.6	91.3	92.6	92.7
Services balance	-1.8	-1.9	-2.5	-2.1	-1.8	-1.5	-0.9
Exports	6.3	5.9	5.8	6.1	5.8	6.0	6.4
Imports	8.1	7.8	8.3	8.2	7.6	7.5	7.2
Capital account	0.0	0.0	0.0	0.0	0.0	0.0	0.0

	2013	2014	2015	2016	2017	2018	2019
Financial account	0.5	1.5	-3.6	-1.1	-3.3	-1.0	1.5
Direct investment, net	-4.1	-4.3	-5.5	-5.7	-6.1	-6.1	-6.0
Balance-of-payments	0.3	4.5	-3.1	4.1	5.6	2.5	8.9
Goods exports (% change in USD)	15.3	13.8	7.9	9.0	21.8	13.3	8.4
Goods imports (% change in USD)	16.5	12.0	12.0	7.0	23.4	11.2	6.8
Service exports (% change in USD)	11.3	2.4	2.6	11.1	4.6	13.2	12.5
Service imports (% change in USD)	25.1	4.9	10.4	4.6	2.0	8.0	2.8
Foreign exchange reserve (USD billion)	25.9	34.2	28.3	36.5	49.1	55.5	78.3
in months of prospective goods and services imports	2.1	2.5	1.9	2.2	2.5	2.5	..
Total external debt (USD billion)	63.5	71.0	80.9	91.4	109.2	112.1	122.8
% of GDP	37.1	38.1	41.8	44.5	48.8	45.7	46.9
Debt service ratio (% of exports of goods and services)	4.3	4.1	4.0	3.9	6.1	7.0	5.9

.. Not available.

Source: General Statistics Office of Viet Nam; Ministry of Finance; IMF; ADB; and data provided by the authorities.

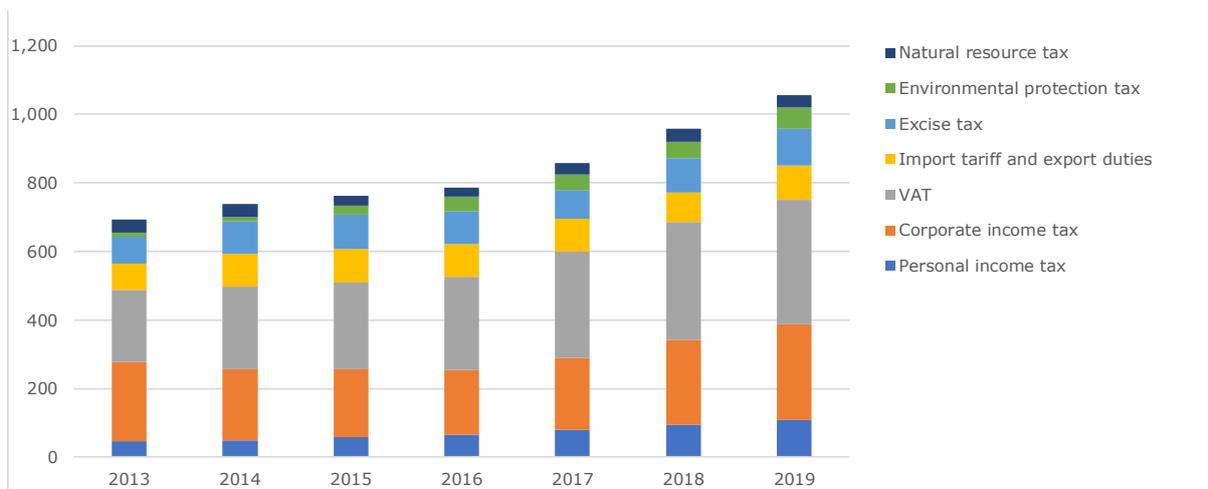
## 1.2.2 Fiscal policy

1.10. Viet Nam's growth performance was underpinned by significant infrastructure development. Over the past decade, government capital spending averaged almost 8% of GDP annually. In addition, state-owned enterprises (SOEs), including large infrastructure providers (e.g. Viet Nam Electricity), invested an equivalent of about 5% of GDP annually. This high level of investment resulted in a rapid expansion of infrastructure stocks and supported basic infrastructure access for Viet Nam's fast-growing industrial and manufacturing base.

1.11. A strong economy and improved revenue administration had a positive effect on revenues. Total government revenue almost doubled during the review period. Tax revenue was equivalent to 18.8% of GDP, and accounted for 70.4% of total government revenue in 2019. Trade-related taxes are not a major contributor to the Government's income (Chart 1.3). The share of tax revenue sourced directly from trade, such as import tariffs and export duties<sup>6</sup>, in total tax revenue decreased during the review period, from 11% in 2013 to 9% in 2019. The authorities consider that the tax revenue sourced from trade would decline further in coming years, as Viet Nam fully implements the regional trade agreements to which it is a signatory, such as the ASEAN Trade in Goods Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Section 2.3.2).

**Chart 1.3 Tax revenue by source, 2013-19**

(VND trillion)



Source: Information provided by the authorities.

<sup>6</sup> No data are available on internal taxes (i.e. VAT, excise, and environmental protection tax) collected at the border on imported goods.

1.12. Since January 2016, Viet Nam has implemented fiscal consolidation, strictly limiting the issuance of government guarantees and stabilizing the state budget deficit. Public debt as a share of GDP declined to 55.0% in 2019, down from 63.7% at its peak in 2016 (Table 1.2); it was still, however, slightly higher than the 54.5% of GDP registered in 2013. Although social and infrastructure spending needs, such as on health, pensions, and public investment, are still large, the authorities plan to continue their fiscal consolidation<sup>7</sup>; they are confident in their ability to increase revenue further, with measures to strengthen tax policy and administration, and to broaden revenue bases.

1.13. The countercyclical fiscal policy implemented in recent years enabled Viet Nam to lower government and public debts in relation to GDP, creating some fiscal space to deal with short- or long-term structural challenges, such as the ones that have arisen from the COVID-19 pandemic, SOEs' and banking sector contingent liabilities, and climate change. The authorities maintain a strong revenue mobilization (26% of GDP at the state budget level in 2019, and 21% in 2020). It is expected that Viet Nam will lower the statutory public and publicly guaranteed debt ceiling from 65% of GDP currently to 47.5% in 2025.

### 1.2.3 Monetary policy

1.14. The policy statement of the State Bank of Viet Nam (SBV, the central bank) indicates that it manages monetary policy in a proactive and flexible manner in close association with fiscal policy to control inflation, stabilize the macro-economy, support economic growth, and ensure the liquidity of credit institutions.<sup>8</sup> The SBV operates its monetary policy mainly through managing the credit growth target.<sup>9</sup>

1.15. Before 2012, excessive credit growth and low loan quality, including lending to SOEs and a property boom fed by credit, left Viet Nam with the twin legacies of a high bank credit-to-GDP ratio and elevated non-performing loans (NPLs). During the review period, Viet Nam modestly tightened its monetary and credit policies, and implemented prudential measures<sup>10</sup> to contain real estate and consumer lending. In recent years, the authorities gradually brought down the credit growth, from a peak of 18.8% in 2015 to around 13% in 2019.<sup>11</sup> At the same time, the authorities resolved large quantities of NPLs (Section 4.4.4).<sup>12</sup> Moreover, they constrained real estate lending by imposing higher risk weights and limiting short-term funding for long-term projects. The SBV also sought to limit consumer lending by introducing a cap on the share of cash loans and prohibiting lending to high-risk borrowers. The authorities note that they plan to lower credit growth further, to close to nominal GDP growth.

<sup>7</sup> For example, infrastructure investment would be raised from private funding via public-private partnership (PPP) agreements. Also, the Government considers that growing reliance on non-debt-creating deficit financing, lengthening of debt maturities, and low interest rates should help contain debt service costs.

<sup>8</sup> SBV, *Monetary Policy Objectives*. Viewed at: [https://www.sbv.gov.vn/webcenter/portal/en/home/sbv/mpolicy/mpobjectives?\\_afLoop=5301275690739297#%40%3F\\_afLoop%3D5301275690739297%26centerWidth%3D80%2525%26leftWidth%3D20%2525%26rightWidth%3D0%2525%26showFooter%3Dfalse%26showHeader%3Dfalse%26\\_adf.ctrl-state%3Dz62666p6j\\_54](https://www.sbv.gov.vn/webcenter/portal/en/home/sbv/mpolicy/mpobjectives?_afLoop=5301275690739297#%40%3F_afLoop%3D5301275690739297%26centerWidth%3D80%2525%26leftWidth%3D20%2525%26rightWidth%3D0%2525%26showFooter%3Dfalse%26showHeader%3Dfalse%26_adf.ctrl-state%3Dz62666p6j_54).

<sup>9</sup> As assessed by the IMF, the interbank rates are too volatile to be an operational target of monetary policy. The IMF suggested to the SBV to, first, stabilize the interbank market rate within a narrow band by paying interest on reserves, and then, phase out credit growth targets and start using an interbank rate as a main operational target for monetary policy. The authorities maintain a cautious, gradual approach to modernizing their monetary framework; they also consider that the modernization will take between six and eight years.

<sup>10</sup> The SBV is still involved in the commercial banking segment through the control or ownership of some commercial banks. The Basel II standard has been applied to the SBV since January 2020. According to the authorities, the SBV intends to replace administrative allocation of credit with market-based mechanisms over the medium term.

<sup>11</sup> The authorities are of a view that Viet Nam prudently implemented its monetary and credit policies during the review period, and deployed prudential measures to ensure sufficient credit to the economy while improving credit quality.

<sup>12</sup> The issue of high corporate debt (140% of GDP) and private external debt (25% of GDP) remain to be addressed.

1.16. As part of the monetary policy, the SBV sets inflation<sup>13</sup> at 4% as its domestic nominal anchor<sup>14</sup>; however, its monetary policy is not based on inflation targeting. In addition, the SBV announces daily the target exchange rate of the Vietnamese Dong (VND) *vis-à-vis* the US dollar (USD) as an external nominal anchor. To keep the exchange rates within the predetermined band around the target, the SBV intervenes in the market through its reserve accumulation/decumulation, in addition to adjusting interest rates in the interbank market.

#### 1.2.4 Exchange rates and balance of payments

1.17. According to the IMF, Viet Nam's exchange rate is *de facto* stabilized (or *de jure* managed floating). The SBV manages the VND within a 3% band around the target value; this floating band was widened from the previous 1% band in August 2015, while the central parity was devalued by 1%. In January 2016, the SBV announced the central VND/USD rate would be adjusted daily based on: (i) the previous day's weighted average VND/USD exchange rate; (ii) a weighted average of movements in VND exchange rates *vis-à-vis* seven other trading partners' currencies; and (iii) domestic macroeconomic conditions.<sup>15</sup> Viet Nam does not maintain any foreign exchange (FX) restrictions on payments and transfers for current international transactions, except for those on the grounds of security reasons.

1.18. Viet Nam's nominal FX rates experienced a depreciation trend during the review period (Table 1.2), despite interventions by the SBV. Without the SBV's interventions, Viet Nam would have experienced significantly greater FX volatility. As estimated by the IMF, Viet Nam's exchange rate was undervalued by 8.4% in 2018 (in nominal terms).<sup>16</sup> The SBV actively responds to depreciations by intervening in the market through reserve decumulation. In the IMF's view, the effects of the SBV's interventions on the real FX rate were small and short-lived, probably due to a high pass-through in Viet Nam.<sup>17</sup>

1.19. In fact, despite the nominal depreciation, VND was on an appreciation trend in real terms. The real effective exchange rate (REER) appreciated from low levels in 2005 by an average of 4% each year until 2016.<sup>18</sup> In 2017, the REER depreciated by 4.4%, as VND remained pegged to a weakening USD. The trend reversed in 2018, and the REER appreciated by 3.5% through the year (Table 1.2), reflecting depreciation of the Chinese renminbi (CNY).

1.20. To a large extent, the real effective appreciation of VND reflects Viet Nam's strong economic fundamentals and the results of its export-oriented manufacturing sector, where many foreign-invested firms actively participate in GVCs (Section 1.3.1.3). The appreciation of the REERs in Viet Nam goes hand in hand with the productivity growth of the manufacturing sector.<sup>19</sup> The difference between the real and nominal FX rate is accounted for by the inflation differential between Viet Nam and its trading partners, which averaged at an annual rate of around 8% for the last two decades.

1.21. After a short period (2015-17) of deterioration in the current account balance, including a deficit in 2015 and 2017, the current account regained its surplus in 2018, and reached USD 13 billion in 2019. During the review period, Viet Nam maintained a surplus in trade in goods and services, as well as in remittances. The continuous increase in private external disbursements

<sup>13</sup> The policy aim of inflation is set annually. The SBV proposes a new aim to the Government, which then submits it to the National Assembly for approval.

<sup>14</sup> According to the IMF, continuing administered price liberalization is expected to add about 2 percentage points to the Consumer Price Index (CPI).

<sup>15</sup> Before 2016, the SBV did not announce the central rate; instead, it announced the average interbank exchange rate on the interbank foreign currency market.

<sup>16</sup> The authorities responded that the valuation of a currency is sensitive to the estimate methods; the evaluation result may differ when choosing a different method.

<sup>17</sup> IMF (2019), *Vietnam: 2019 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Vietnam*, IMF Country Report No. 19/235.

<sup>18</sup> The real FX rate against USD appreciated by more than 60% in the last two decades.

<sup>19</sup> An IMF study shows the Balassa-Samuelson effect in the case of Viet Nam: a cointegration exists between the real FX rate and the relative productivity growth for the tradable goods sector. The study also shows more than half of real FX fluctuations can be explained by internal shocks, including a TFP shock to the manufacturing sector, via the Balassa-Samuelson effect. The other half is mostly explained by the shock to the real FX rate. In the case of the nominal FX rate, while the internal shock is still a main driver, its contribution is much smaller than that of the real FX rate, and the FX intervention and monetary policy shock significantly influence its fluctuations.

(i.e. dividends and withdrawals from foreign investment), which stood USD 15 billion in 2019, may be an indication of Viet Nam's engagement in GVCs through increasing foreign investment (Section 1.3.2). Foreign direct investment (FDI) and portfolio investment doubled during the review period, reaching USD 15 billion and USD 3 billion, respectively (Table 1.3).

**Table 1.3 Balance of payments, 2013-19**

(USD million)

	2013	2014	2015	2016	2017	2018	2019
<b>Current account</b>	7,745	9,359	-2,041	625	-1,649	5,899	13,101
Goods and services balance	5,604	8,596	2,609	6,784	6,816	12,860	19,143
Goods balance	8,713	12,126	7,374	11,042	10,846	16,540	21,494
Exports	132,032	150,217	162,017	176,581	215,119	243,697	264,189
Imports	123,319	138,091	154,643	165,539	204,273	227,157	242,695
Services balance	-3,109	-3,530	-4,765	-4,258	-4,030	-3,680	-2,351
Credit	10,711	10,970	11,250	12,500	13,070	14,791	16,637
Debit	13,820	14,500	16,015	16,758	17,100	18,470	18,988
Primary income, net	-7,336	-8,844	-12,151	-14,144	-16,993	-15,818	-15,283
Credit	281	323	399	650	745	1,615	2,237
Debit	7,617	9,167	12,550	14,794	17,738	17,433	17,520
Secondary income, net	9,477	9,607	7,501	7,985	8,528	8,857	9,241
Credit	10,027	10,307	8,586	9,125	10,031	10,869	11,609
Debit	550	700	1,085	1,140	1,503	2,012	2,368
<b>Capital account</b>	0	0	0	0	0	0	0
<i>Balance on current and capital account</i>	7,745	9,359	-2,041	625	-1,649	5,899	13,101
<b>Financial account</b>	837	-5,571	-967	-10,727	-20,028	-8,466	-19,374
Direct investment	-6,944	-8,050	-10,700	-11,600	-13,620	-14,902	-15,635
Assets	1,956	1,150	1,100	1,000	480	598	485
Liabilities	8,900	9,200	11,800	12,600	14,100	15,500	16,120
Portfolio investment	-1,466	-93	65	-228	-2,069	-3,021	-2,997
Assets	-80	0	0	-180	0	0	-2
Liabilities	1,386	93	-65	48	2,069	3,021	2,995
Other investment	8,690	2,572	9,668	1,101	-4,339	9,457	-742
Assets	12,874	7,559	14,412	5,149	9,603	11,143	7,790
Deposit-taking corporations	2,913	20	4,630	-2,056	4,068	4,449	4,346
General government	30	-88	53	-81	47	339	-292
Other sectors	9,931	7,627	9,729	7,286	5,488	6,355	3,736
Liabilities	4,184	4,987	4,744	4,048	13,942	1,686	8,532
Deposit-taking corporations	610	-1,442	-666	1,461	3,084	-268	2,743
General government	3,453	4,239	3,116	2,663	1,976	1,440	586
Other sectors	121	2,190	2,294	-76	8,882	514	5,203
Reserve assets	557	8,375	-6,032	8,390	12,545	6,035	23,258
Net errors and omissions	-6,908	-6,555	-4,958	-2,962	-5,834	-8,330	-9,217

Source: IMF, *Balance of Payments and International Investment Statistics*. Viewed at: <http://data.imf.org/regular.aspx?key=62805740>.

1.22. During the review period, Viet Nam's international reserves grew three-fold in USD terms, and they reached USD 78 billion in 2019 (30% of GDP), corresponding to 3.6 months of imports of goods and services (Table 1.2).

### 1.2.5 Impact of the COVID-19 pandemic

1.23. Given its deep integration with the global economy, Viet Nam suffered from the COVID-19 pandemic due to weakened demand and reduced trade (Section 1.3.1). Since the onset of the pandemic, domestic demand, evident by the purchasing managers' index, has dropped more than 25 percentage points. Yet, the impact of the outbreak was not as severe in Viet Nam as in other countries due to proactive measures at the national and local levels.

1.24. In addition to adopting swift reactive measures to contain the spread of the virus and to counter the negative effects of the pandemic, Viet Nam introduced a series of fiscal measures and incentives to replace lost income and boost growth (Box 1.1). They include a fiscal support package equivalent to 3.6% of GDP, fee cuts, tax payment deferrals and deductions, and financial incentives for employers and employees. Consequently, due to the pandemic's impacts, the general government deficit and the public-debt-to-GDP ratio in 2020 are expected to increase to around 5% and 57%, respectively.

### Box 1.1 Fiscal measures introduced to support the economy and counter the effects of the COVID-19 pandemic

#### Fiscal measures

The Government introduced a fiscal support package (Decree No. 41/2020/ND-CP of 8 April 2020 on Extending the Deadlines of Tax and Land Rental Fee Payments for Companies, Individuals, and Business Households (Taxpayers) Affected by COVID-19). The main measures include:

- deferring the payment of VAT and corporate income tax obligations and land rental fees by five months and deferring personal income tax payment to year-end 2020 (estimated amount of deferred payments is VND 67 trillion);
- cutting by 30% the corporate income tax rate for small and micro firms;
- raising the personal income tax deduction;
- lowering land rental fees by 15%;
- deducting 30% of the environmental protection tax on jet-fuel from August to December 2020; and
- cutting or exempting various fees and charges.

Decree No. 41/2020/ND-CP applies to companies, individuals, and business households, particularly small and medium-sized enterprises (SMEs), to alleviate the cash flow shortages caused by the economic effects of the COVID-19 pandemic.

Beneficiaries are SMEs and eligible taxpayers that have production activities in: agriculture, forestry, and aquaculture; food production and processing; key mechanical products; textiles and clothing; leather and related products; wood and products of wood and cork; furniture; products of straw and plaiting materials; paper and paper products; rubber and plastics products; non-metallic mineral products; basic metals; machinery; treatment and coating of metals; electronic products, and computer and optical products; automobiles and other motor vehicles; construction; and manufacturing of products belonging to the list of prioritized supporting industries.

Taxpayers that have business activities in transportation and storage; accommodation and catering services; education and training; health and social support services; real estate activities; labour services and employment activities; travel agency, tour operator, and support services; art, entertainment, and creation; libraries, archives, museum, and other cultural activities; sports and recreation; and cinema may also benefit, as may credit institutions and branches of foreign banks that provide support to their customers in accordance with the SBV during the COVID-19 pandemic.

The National Assembly passed several resolutions to address the impacts of the pandemic.

- Resolution No. 954/2020/UBTVQH14 of 2 June 2020 on Adjusting to Increase the Family Deduction of Taxpayers and Dependents to Reduce Tax Obligations for Individuals. The forgone revenue from personal income tax is estimated to be about VND 10.8 trillion per year.
- Resolution No. 107/2020/QH14 of 10 June 2020 on Continuing to Exempt Agricultural Land Use Tax until the End of 2025. The forgone revenue from exempting the agricultural land use tax is estimated to be about VND 7.5 trillion per year.
- Resolution No. 116/2020/QH14 of 19 June 2020, providing a 30% reduction of corporate income tax payable by 2020 for enterprises, cooperatives, non-business units, and other organizations.

Other measures to promote growth include:

- tax exemptions for medical equipment;
- one-year exemption of business registration tax for newly established household businesses;
- exemption of business registration tax for SMEs during the first three years of operation;
- streamlined tax and custom audit and inspection at firms; and
- deferral for up to 12 months of firms' and workers' contributions to the pension fund and to the survivorship fund without interest penalty.

#### Support measures

Resolution No. 42/NQ-CP of 9 April 2020 on Measures to Help People Meet the Difficulties Caused by the COVID-19 Pandemic introduced a number of support measures, including a three-month (April to June 2020) cash transfer package worth VND 36 trillion (about 0.5% of GDP) for affected workers and households.

Source: IMF, *Policy Responses to COVID-19*. Viewed at: <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>. Vietnam Briefing, *COVID-19: How to Implement Decree 41 on Deferring Tax Payments*. Viewed at: [https://www.vietnam-briefing.com/news/covid-19-how-to-implement-decree-41-deferring-tax-payments.html/#:~:text=On%20April%208%20the%20government,%20affected%20by%20COVID%2D19](https://www.vietnam-briefing.com/news/covid-19-how-to-implement-decree-41-deferring-tax-payments.html/#:~:text=On%20April%208%20the%20government,%20affected%20by%20COVID%2D19;); Government of Viet Nam. Viewed at: <https://thuvienphapluat.vn/van-ban/lao-dong-tien-luong/Resolution-42-NQ-CP-2020-assistance-for-people-affected-by-Covid-19-pandemic-439660.aspx>; and information provided by the authorities.

1.25. On the monetary front, the SBV issued guidelines to commercial banks to reschedule loans, reduce/exempt interest, and provide loan forbearance. According to the IMF, as at mid-September 2020, banks had registered a credit package totalling VND 300 trillion (about 3.8% of GDP) at lower interest rates, and supported nearly 1.1 million customers with outstanding loans of about VND 2,300 trillion, by rescheduling repayments, exempting or reducing interest on existing debts, and extending new loans. The SBV asked credit institutions to channel credit to five priority economic sectors and to accelerate consumer loans. The SBV also introduced measures to help credit institutions reduce their cost of funding and to allow them to reduce interest rates and fees. Furthermore, firms affected by COVID-19 are eligible for interest-free concessional loans from the Vietnam Social Policy Bank (VSPB) for paying salaries to workers who temporarily stopped working. The total loan value is planned at VND 16.2 trillion (around 0.2% of GDP). In addition, the SBV committed to inject liquidity, including through refinancing windows, into the VSPB (up to VND 16 trillion at 0% interest) and other credit institutions to implement the Government's programmes.<sup>20</sup>

1.26. There are tentative signs of a domestic recovery, with retail sales and industrial production rebounding from the low points seen during the lockdown, but sustained and robust growth will also require an economic recovery among trading partners. As the macroeconomic and fiscal framework remains resilient, Viet Nam reported GDP growth of 2.1% in the first nine months of 2020, and growth is expected to be 2.5% in 2020, if domestic epidemics are successfully controlled.

### 1.3 Developments in Trade and Investment

#### 1.3.1 Trends and patterns in merchandise and services trade

##### 1.3.1.1 Merchandise trade

1.27. During the review period, Viet Nam's merchandise trade grew at a double-digit rate annually, in real terms (Table 1.2); both merchandise imports and exports exceeded USD 200 billion in 2019, more than double the 2012 figures. Among the world's top 50 merchandise traders, Viet Nam recorded a significant advancement in world ranking, improving its position from 39<sup>th</sup> in 2009 to 23<sup>rd</sup> in 2019.<sup>21</sup>

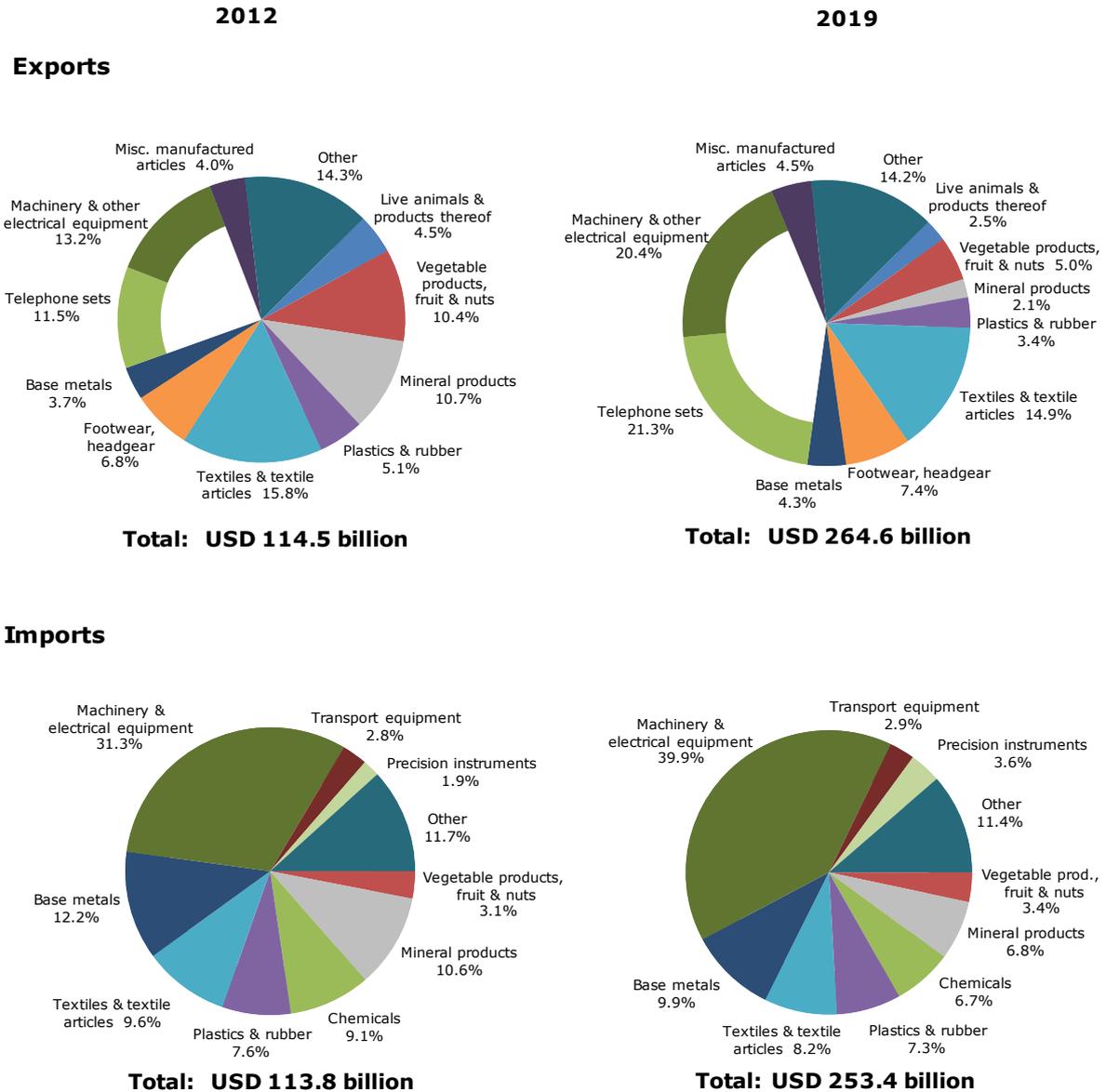
1.28. Machinery and electrical equipment (i.e. electrical machinery and electronic equipment) continued their dominance in Vietnamese merchandise exports: their combined share significantly increased from 25% in 2012 to 42% in 2019. In particular, the share of smartphones and accessories in total exports increased by almost 100%. The share of merchandise exports of apparel products (including footwear) remained stable, at 22% throughout the review period (Char 1.4). Mainly due to low oil prices, the share of mineral product exports, in terms of value, decreased from 11% in 2012 to 2% in 2019; also reflecting low commodity prices, combined exports of agricultural and aquatic products decreased from 15% in 2012 to about 8% in 2019 (Table A1.1).

1.29. Viet Nam's merchandise trade exhibits strong intra-industry trade (IIT) patterns. Electrical machinery and electronic equipment continue to represent the largest share of Vietnamese merchandise imports, accounting for 40% of the total in 2019. During the review period, about 10% of imports were attributed to textiles and apparel, and footwear (Table A1.2). These two segments actively participate in GVCs (Section 1.3.1.3), with significant foreign investment involvement (Section 1.3.2).

<sup>20</sup> IMF, *Policy Responses to COVID-19*. Viewed at: <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>.

<sup>21</sup> Member states of the European Union are counted individually. For details, see WTO (2020), *World Trade Statistic Review*. Viewed at: [https://www.wto.org/english/res\\_e/statis\\_e/wts2020\\_e/wts20\\_toc\\_e.htm](https://www.wto.org/english/res_e/statis_e/wts2020_e/wts20_toc_e.htm).

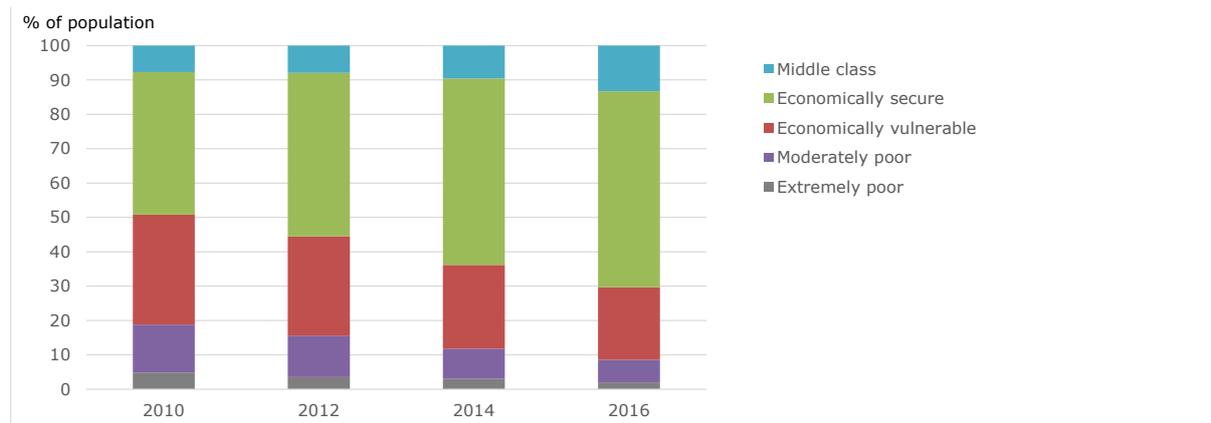
**Chart 1.4 Product composition of merchandise trade by main HS sections, 2012 and 2019**



Source: WTO Secretariat calculations, based on UN Comtrade database.

1.30. The growth of IIT in agricultural products, clothing and apparel, and consumer electronics reflects the demand for trade-in-varieties caused by rapid urbanization in Viet Nam over the last three decades. According to the World Bank, the share of high-spending households increased from less than 50% in 2010 to 70% in 2016; notably, the share of middle-class and economically secure consumers almost doubled within five years (Chart 1.5).<sup>22</sup> The increasingly rich and urban consumers demand more differentiated products through trade. For example, while final consumer goods accounted for some 80% of exported apparel products in 2019, and just 5% for imports, in the case of smartphones, these figures were 44% and 7%, respectively.

<sup>22</sup> World Bank (2020), *Vietnam Development Report 2019: Connecting Vietnam for Growth and Shared Prosperity*. Viewed at: <http://documents1.worldbank.org/curated/en/590451578409008253/pdf/Vietnam-Development-Report-2019-Connecting-Vietnam-for-Growth-and-Shared-Prosperity.pdf>.

**Chart 1.5 Population by economic class, 2010-16**

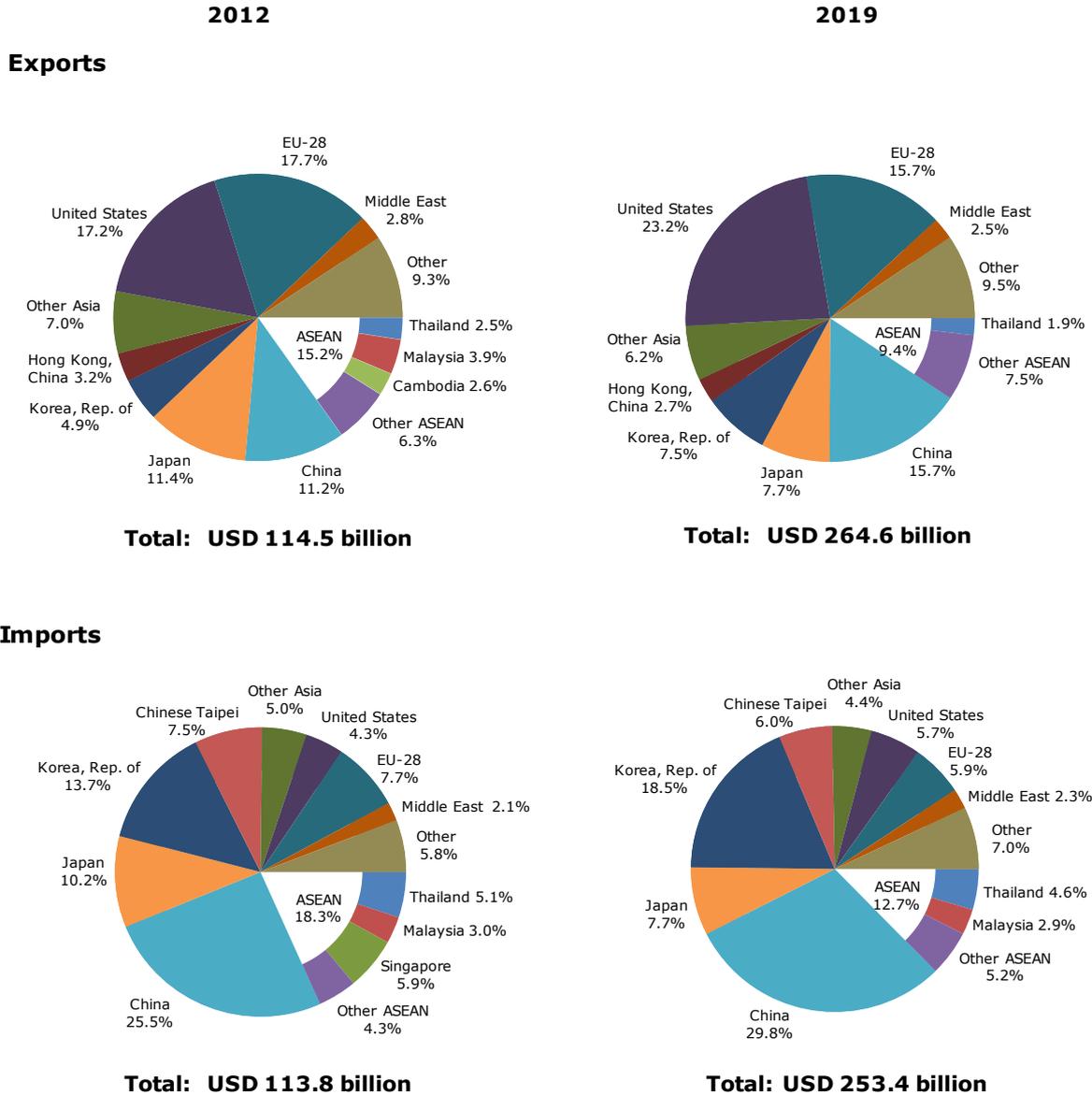
Source: World Bank (2020), *Vietnam Development Report 2019: Connecting Vietnam for Growth and Shared Prosperity*. Viewed at: <http://documents1.worldbank.org/curated/en/590451578409008253/pdf/Vietnam-Development-Report-2019-Connecting-Vietnam-for-Growth-and-Shared-Prosperity.pdf>.

1.31. China and the United States remain Viet Nam's largest trade and investment partners (Chart 1.6). In 2019, the largest share of merchandise imports, almost 30%, was sourced from China (up from 26% in 2012), while 23% of merchandise exports were destined for the United States, Viet Nam's largest market, 6 percentage points higher than in 2012.

1.32. Rising trade tensions in recent years also affected Viet Nam. However, as assessed by the IMF, they had a small positive overall impact due to trade diversion effects. A potentially larger and more durable impact could come from shifts in investment, which remain to be seen. In recent years, international firms moved facilities to Viet Nam in response to rising costs in China and the desire to diversify production locations (Section 1.3.2).

1.33. The direction of trade is a reflection of Viet Nam's participation in GVCs. In addition to China, other Asian economies in the region supplied almost 50% of total merchandise imports in 2019. Notably, imports from Japan, the Republic of Korea, and Chinese Taipei maintained a stable share at about 30% during the review period, while the share of supplies from the Republic of Korea steadily increased (Table A1.4). Regarding exports, the European Union (EU-28) remains the second largest market for Vietnamese merchandise goods, accounting for 16% in 2019. Exports to China gradually increased during the review period, also reaching around 16% in 2019 (Table A1.3).

**Chart 1.6 Direction of merchandise trade, 2012 and 2019**



Source: WTO Secretariat calculations, based on UN Comtrade database.

**1.3.1.2 Participation in global value chains**

1.34. Through its involvement in GVCs, Viet Nam has emerged as an important manufacturing centre since its accession to the WTO in 2007, in particular, for textiles and apparel, and for information and communication technology (ICT) equipment.<sup>23</sup> According to the WTO-OECD Trade-in-Value-Added (TiVA) database, domestic value-added as a share in Viet Nam's gross exports in 2016 was 58%, while the share for apparel exports was 55%, and 39% for ICT exports.<sup>24</sup>

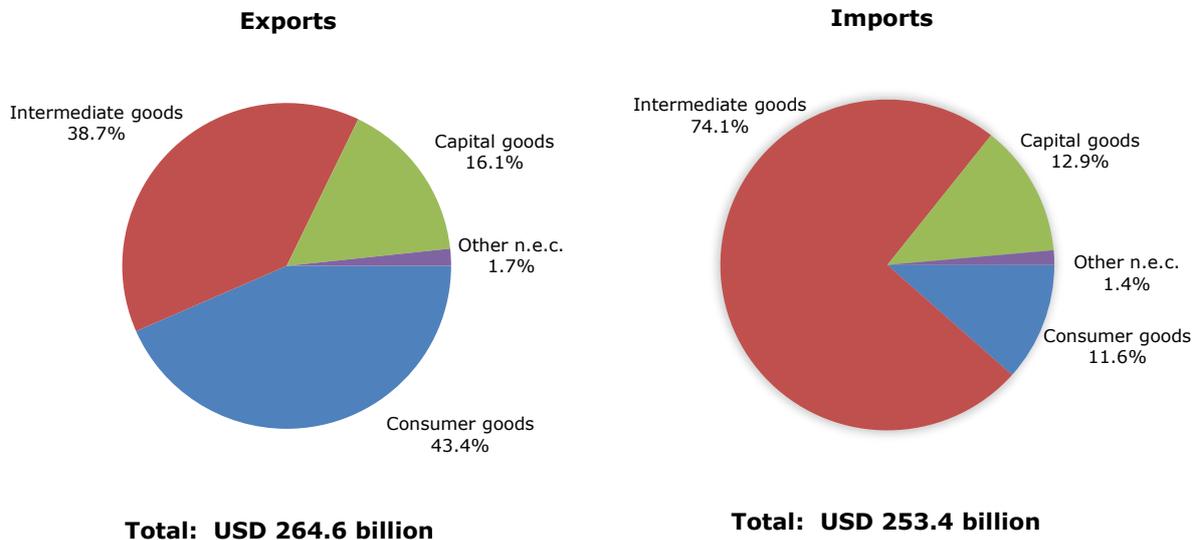
1.35. In 2019, Viet Nam imported USD 187.8 billion of intermediate goods (74% of gross imports), and it exported USD 102.4 billion of intermediate goods (39% of gross exports), and

<sup>23</sup> Hollweg, C. H.; Smith, T.; and Taglioni, D. (2017), *Vietnam at a Crossroads: Engaging in the Next Generation of Global Value Chains*, Washington, DC: World Bank. Viewed at: <https://openknowledge.worldbank.org/handle/10986/26215>.

<sup>24</sup> The methodology for constructing the TiVA database is an input-output (I-O) table approach, which assumes technology is static in between compilation of two I-O tables; therefore, it is reasonable to consider that the share of domestic value-added does not change much compared with the 2016 figure.

USD 157.7 billion of final goods for consumers or for capital formation (60%) (Chart 1.7).<sup>25</sup> Among imports of intermediates, more than 30% were for electric and electronic products (HS Chapter 85).

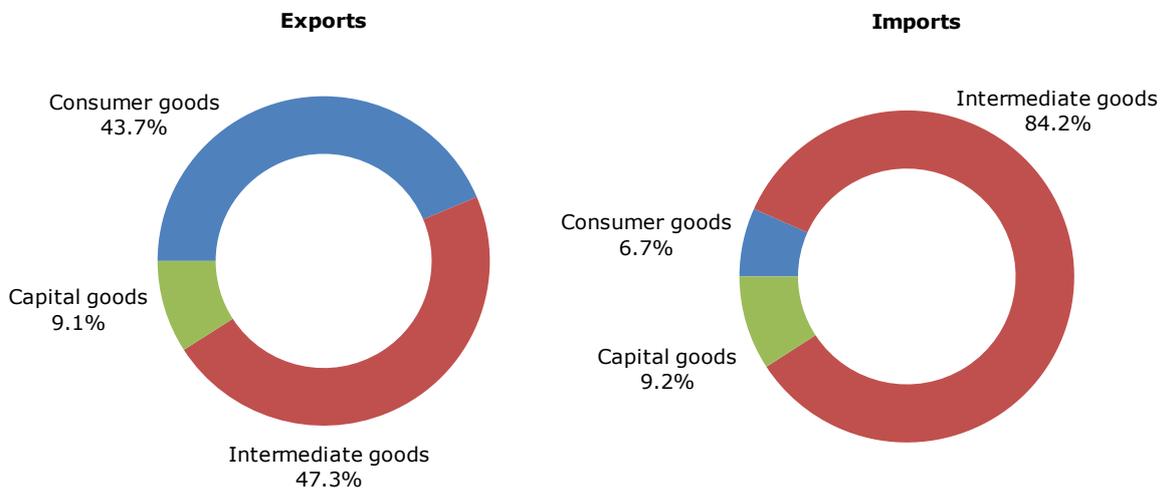
**Chart 1.7 Merchandise trade, by end-use, 2019**



Source: WTO Secretariat calculations, based on UN Comtrade database.

1.36. Viet Nam's participation in the manufacturing of ICT equipment, in particular of smartphones and consumer electronics, gradually increased. About 85% of electric/electronic imports in 2019 were intermediates, and 9% were capital goods. In terms of exports, 47% were intermediates, and about 53% were final goods for consumers or as capital inputs (Chart 1.8).

**Chart 1.8 Share of electric/electronic trade, by end-use, 2019**



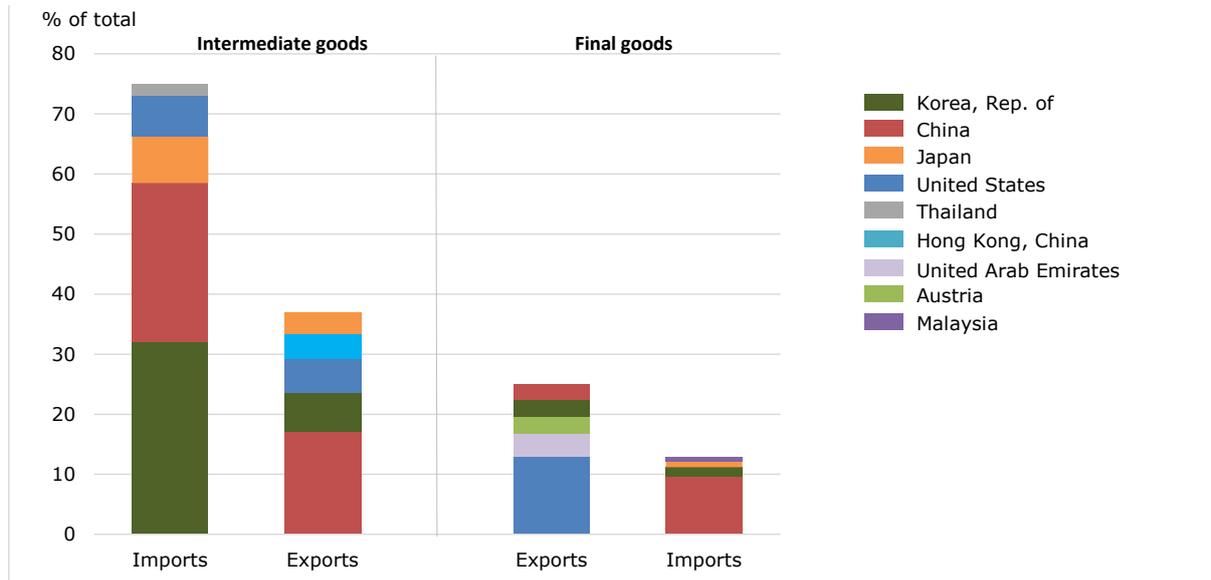
Source: WTO Secretariat calculations, based on UN Comtrade database.

1.37. China is the main supplier of capital goods (10%) for the electronics sector in Viet Nam, while 32% of intermediate imports were sourced from the Republic of Korea, 26% from China, 8% from Japan, and 7% from the United States. Viet Nam exported electronic intermediates for further processing elsewhere: 17% were destined for China, 7% for the Republic of Korea, and 6% for the

<sup>25</sup> The nomenclature of Broad Economic Categories, Revision 5 (BEC5) is used to categorize all the merchandise trade by their end use.

United States. Final goods for consumers or industries were shipped to the United States, the United Arab Emirates, Austria, the Republic of Korea, and China (Chart 1.9).

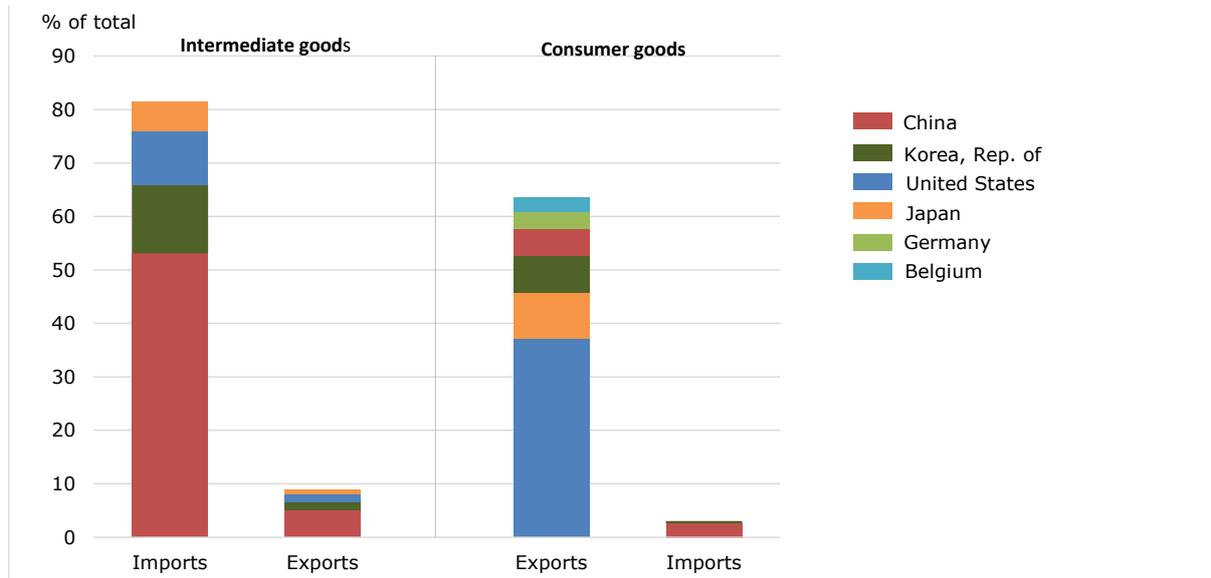
**Chart 1.9 Major trading partners of electronic products, by end-use, 2019**



Source: WTO Secretariat calculations, based on UN Comtrade database.

1.38. Regarding manufacturing of apparel, 53% of intermediate imports for the garment sector were sourced from China, 13% from the Republic of Korea, and 10% from the United States. Once processed, Vietnamese garment exports were shipped to the United States (37%), the European Union members including Germany and Belgium (15%), Japan (9%), and the Republic of Korea (7%) (Chart 1.10).

**Chart 1.10 Major trading partners for garment apparel, by end-use, 2019**



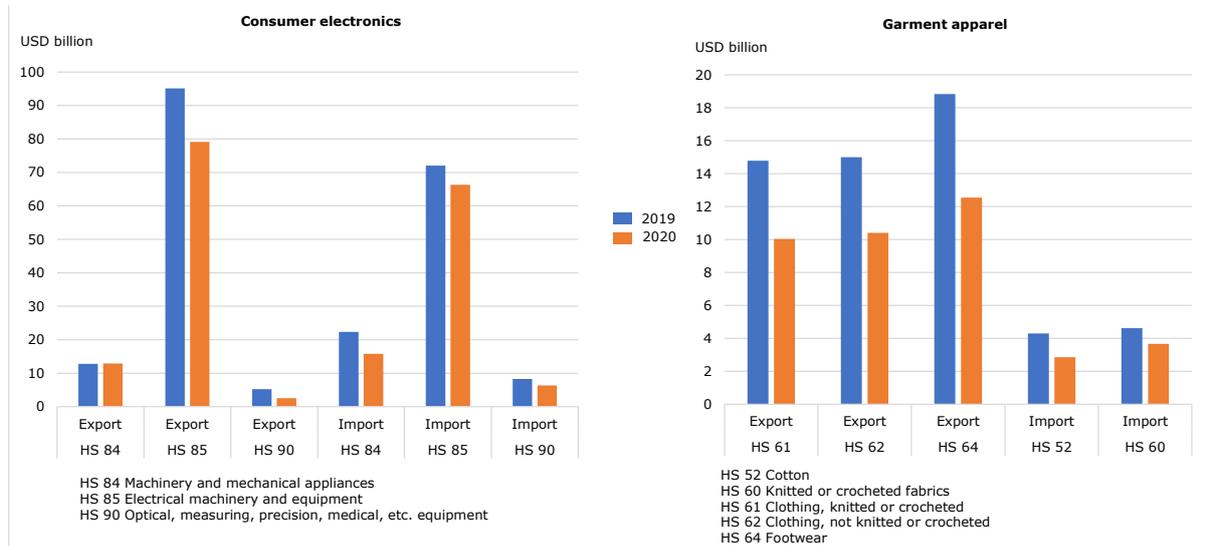
Source: WTO Secretariat calculations, based on UN Comtrade database.

**1.3.1.3 Impact of COVID-19 pandemic on global value chains**

1.39. While total external trade shrank by 60% at the onset of the pandemic, Viet Nam's merchandise trade based on GVCs, in particular, in the consumer electronics manufactured and the garment apparel manufactured sectors appears not to be losing momentum, compared with the

sectors' performance in 2019 (Chart 1.11). With regard to other top categories of merchandise trade, imports of motor vehicles and their parts and components, as well as of oil, witnessed a significant drop, compared with 2019.

**Chart 1.11 Major merchandise trade of manufacturing sectors, 2019-20**



Note: The trade data for 2020 cover from January to September only. It is not full-year data.

Source: WTO Secretariat calculations, based on UN Comtrade database; and data provided by the authorities.

1.40. In 2019, trade based on GVCs in the consumer electronics and the garment apparel sectors accounted for around 65% of total exports, and 51% of total imports. Although only nine-month data for 2020 are available, trade of consumer electronics maintained its trend, except for exports of precision equipment (HS Chapter 90). As for the garment sectors, exports of final goods recorded a slight decrease, compared with their performance in 2019.

### 1.3.1.4 Trade in services

1.41. Regarding trade in services, Viet Nam is a net importer (Table 1.4).

**Table 1.4 Trade in services, 2013-19**

(USD million)

	2013	2014	2015	2016	2017	2018	2019
<b>Total credit</b>	<b>10,710</b>	<b>12,231</b>	<b>12,580</b>	<b>13,961</b>	<b>14,878</b>	<b>18,060</b>	<b>19,920</b>
	% of total credit						
Transport service	20.8	19.0	19.3	17.5	18.9	24.2	20.0
Postal and telecommunication service	1.3	1.2	1.3	1.2	1.0	0.8	0.7
Travel service	67.7	60.6	58.4	60.9	59.8	55.8	59.4
Finance service	1.7	1.4	0.9	0.8	0.8	1.2	1.1
Insurance service	0.6	0.5	0.4	0.4	0.4	0.3	0.3
Government service	1.2	1.1	1.1	1.1	1.1	0.9	0.9
Other service	6.7	16.2	18.5	18.1	18.2	16.7	15.6
<b>Total debit</b>	<b>13,538</b>	<b>15,519</b>	<b>16,703</b>	<b>17,800</b>	<b>18,684</b>	<b>20,348</b>	<b>21,111</b>
	% of total debit						
Transport service	54.2	49.9	48.2	45.3	39.6	36.8	37.9
Postal and telecommunication service	0.6	0.5	0.8	0.7	0.7	0.7	0.9
Travel service	15.1	17.1	21.5	25.3	27.0	29.0	29.1
Finance service	1.3	1.2	1.3	0.8	1.2	0.9	0.9
Insurance service	6.7	6.6	6.1	4.5	3.6	2.9	2.9
Government service	1.4	1.3	1.2	1.1	1.1	1.0	1.0
Other service	20.6	23.5	20.9	22.3	26.9	28.6	27.2
<b>Balance</b>	<b>-2,828</b>	<b>-3,288</b>	<b>-4,123</b>	<b>-3,839</b>	<b>-3,806</b>	<b>-2,288</b>	<b>-1,191</b>

Source: WTO Secretariat calculations, based on data provided by the authorities.

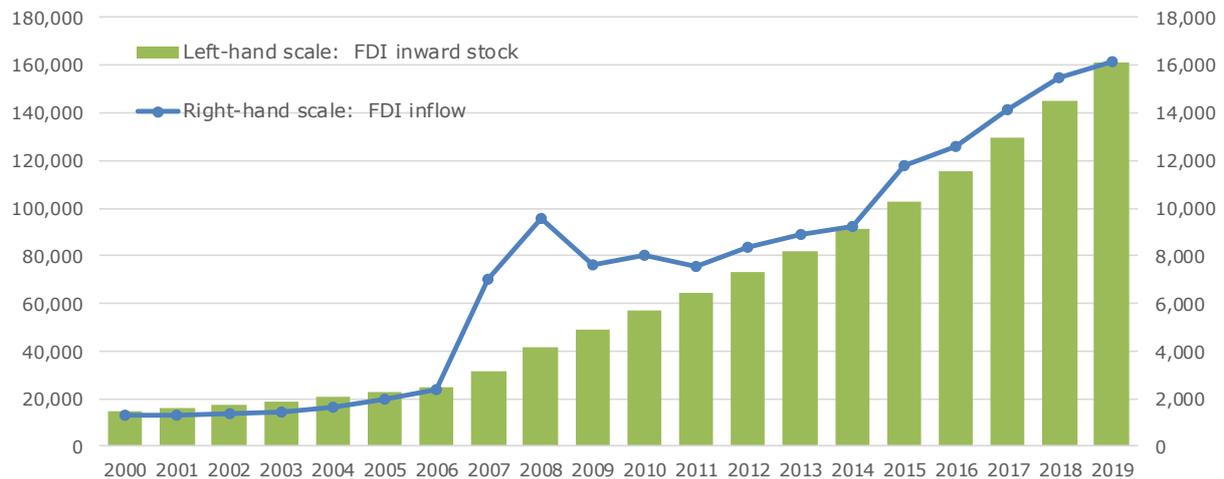
1.42. Travel services are the biggest FX earners, contributing more than two thirds of Vietnamese services exports during each year of the review period. Vietnamese nationals also increasingly spent on travel services abroad; 29% of services imports were attributed to travel services in 2018, compared with 15% in 2013.

1.43. Transport services are the largest item of services imports; on average, they accounted for 45% of Vietnamese services imports during the review period. Transport services, especially freight transport, facilitate Viet Nam's participation in GVCs.<sup>26</sup> In a World Bank report, Viet Nam recorded a significant increase (i.e. 76% in a five-year period) in transport of high-value goods such as mobile phones, electronic components, and high fashion exports.<sup>27</sup>

### 1.3.2 Trends and patterns in FDI

1.44. Since its accession to the WTO in 2007, Viet Nam has received large FDI inflows (Chart 1.12). During the review period, the inflow of FDI grew at an average annual rate of 13%, and the stock of inward FDI increased from USD 81.8 billion in 2013 to USD 161.1 million in 2019. FDI plays a key role in Viet Nam's economic transformation, representing a large share of output (20% of GDP) and employing 5 million people in 2019; about half of gross exports were attributed to foreign investment.

**Chart 1.12 Foreign direct investment, 2000-19**



Source: UNCTAD, *World Investment Report 2020*. Viewed at: <https://unctad.org/webflyer/world-investment-report-2020>.

1.45. Most of the inward FDI was destined for the manufacturing sector, accounting for some 60% of total foreign capital stock. Foreign investment in the real estate and electricity sectors also accounted for large shares (12% and 9%, respectively), though far fewer projects were financed with foreign capital (Table 1.5).

**Table 1.5 Inward foreign investment stock by sector, 2019**

(USD million)

Sector	No. of projects	Total capital
Processing and manufacturing sector (MAN)	6,943	89,321.96
Real estate business	462	17,624.35
Production and supply of electricity, gas, hot water, steam and air-conditioning (ELE)	61	15,439.99
Wholesale and retail trade, repair of motor vehicles and motorcycles (TRADE)	3,691	4,304.05

<sup>26</sup> No detailed data are available for the transport services imports, broken down by end-use.

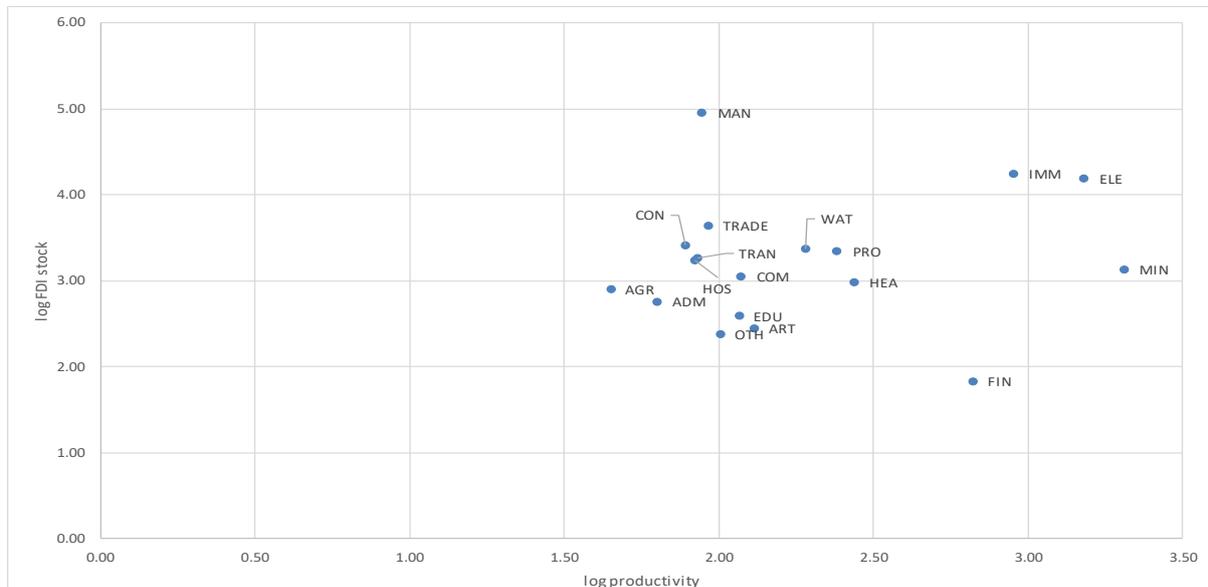
<sup>27</sup> World Bank (2020), *Vietnam Development Report 2019: Connecting Vietnam for Growth and Shared Prosperity*. Viewed at: <http://documents1.worldbank.org/curated/en/590451578409008253/pdf/Vietnam-Development-Report-2019-Connecting-Vietnam-for-Growth-and-Shared-Prosperity.pdf>.

Sector	No. of projects	Total capital
Construction (CON)	830	2,546.03
Water supply, sewerage, waste management and remediation activities (WAT)	53	2,372.13
Professional, scientific and technical activities (PRO)	2,030	2,198.01
Transportation and storage (TRAN)	489	1,824.55
Accommodation and catering services (HOS)	530	1,704.02
Mining and quarrying (MIN)	12	1,359.22
Information and communication (COM)	1,363	1,120.15
Health care and social relief (HEA)	70	955.73
Agriculture, forestry and fishing (AGR)	121	794.54
Administrative activity and supporting service (ADM)	306	571.47
Education and training (EDU)	370	388.05
Art, entertainment and recreation (ART)	39	276.04
Other service activities (OTH)	65	237.44
Financial, banking and insurance activities (FIN)	28	68.11
Activities of households as employers	5	4.37
<b>Total</b>	<b>17,468</b>	<b>143,110.19</b>

Source: Information provided by the authorities.

1.46. FDI in Viet Nam's manufacturing sector is dominated by electronics multinationals and apparel producers engaged in processing and final assembly. This FDI manufacturing sector generates a large trade surplus (15% of GDP in 2018).<sup>28</sup> The investment in these segments is positively correlated to productivity; that is, higher productivity leads to more foreign investment, while foreign investment pushes up productivity through the technology diffusion effect (Chart 1.13). A study shows that Viet Nam's deep engagement in GVCs, through the FDI manufacturing sector, improves the capacity of local firms that are suppliers to those foreign-owned firms.<sup>29</sup>

**Chart 1.13 FDI stock and productivity by sector, 2019**



Source: Information provided by the authorities.

1.47. Compared with the manufacturing sector, the productivities of other sectors are low (20% of those in the FDI sectors)<sup>30</sup>, and the exports of the sectors are dominated by agricultural commodities and oil. Investment in these other sectors fell, partly reflecting cutbacks in SOE capital formation in

<sup>28</sup> IMF (2019), *Vietnam: 2019 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Vietnam*, IMF Country Report No. 19/235.

<sup>29</sup> Amendolagine, Presbitero, Rabellotti, Sanfilippo, and Seric (2017), *FDI, Global Value Chains, and Local Sourcing in Developing Countries*, IMF Working Paper WP/17/284.

<sup>30</sup> Slow SOE reform progress, barriers faced by SMEs to reach economies of scale, and credit misallocation and weaknesses in financial intermediation impede the development of a productive and vibrant economy outside the FDI sector. IMF (2019), *Vietnam: 2019 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Vietnam*, IMF Country Report No. 19/235.

heavy industries, barriers to the development of private manufacturing firms and SMEs, and declining public investment. National savings (29% of GDP in 2019) remains consistently higher than domestic investment (26% of GDP in 2019) (Table 1.2), indicating a shallow financial sector and a lack of investment opportunities.

1.48. FDI was mainly from neighbouring economies, including China, Japan, the Republic of Korea, Singapore, and Chinese Taipei.

## 2 TRADE AND INVESTMENT REGIMES

### 2.1 General Framework

#### 2.1.1 Institutional framework

2.1. Viet Nam adopted a new constitution in November 2013. According to the authorities, the 2013 Constitution reflects the changes in the international and domestic environment since the adoption of the 1992 Constitution. It recognizes for the first time the role played by the private sector, and affirms the protection of lawful assets from nationalization.<sup>1</sup> The new Constitution also has additional provisions to control state agencies in their exercise of legislative, executive, and judicial powers.<sup>2</sup>

2.2. As stipulated in the Constitution, the National Assembly is the highest representative body of the people of Viet Nam, and the highest body of state power. The term of the National Assembly is five years. The President (Head of State), the Prime Minister (Head of the Government), the Chief Justice of the Supreme People's Court, and the Prosecutor General of the Supreme People's Procuracy are elected from the members of the National Assembly. Their terms of office are the same as that of the National Assembly.

2.3. Legislative power is vested in the unicameral National Assembly. Between sessions of the National Assembly, the Standing Committee of the National Assembly functions as the legislature.<sup>3</sup> The National Assembly enacts, amends, and annuls laws, while the Standing Committee enacts ordinances<sup>4</sup> (Section 2.1.3). Both the National Assembly and the Standing Committee make decisions on the basis of a simple majority.<sup>5</sup>

2.4. The Government is the executive branch, and it consists of 22 ministries and 8 ministerial-level agencies.<sup>6</sup> The State Bank of Viet Nam (SBV, the central bank) is one of the 22 ministerial agencies; it is not independent from the executive branch. In general, the Government promulgates decrees stipulating specific measures to implement laws and resolutions of the National Assembly, including ordinances and resolutions of the Standing Committee.<sup>7</sup> The Law on Handling Administrative Violations (Law No. 15/2012/QH13), issued on 20 June 2012, provides remedies against the misconduct of the executive branch.

2.5. Judicial power is exercised by the People's Courts<sup>8</sup>, which include the Supreme People's Court at the top and other courts at lower levels. The People's Procuracies exercise prosecutorial power and supervise judicial activities. The Procuracies include the Supreme People's Procuracy and other lower-level procuracies.

2.6. Subnational administration is divided into three levels: (i) provincial, under the central Government; (ii) district (both rural and urban); and (iii) commune. Local governments at each level are organized into People's Councils and People's Committees, which mirror the structure of the central Government. The People's Councils are the local bodies of state power (i.e. local legislature); the People's Committees are the executive at the local level, reporting to their corresponding People's Council and the line agencies at higher levels. Both are responsible for implementing national laws within their respective jurisdictions<sup>9</sup>, and deciding local issues as provided by law.

<sup>1</sup> 2013 Constitution, Article 53.

<sup>2</sup> 2013 Constitution, Article 2.

<sup>3</sup> The Standing Committee is headed by the Speaker (i.e. Chairperson) of the National Assembly. Members of the Cabinet may not be members of the Standing Committee.

<sup>4</sup> 2013 Constitution, Article 74.

<sup>5</sup> 2013 Constitution, Article 85.

<sup>6</sup> Government Portal, *Ministries*. Viewed at:

<http://www.chinhphu.vn/portal/page/portal/English/ministries>.

<sup>7</sup> 2015 Law on Promulgation of Legal Documents, Article 19.

<sup>8</sup> The National Assembly may also set up special tribunals in certain circumstances.

<sup>9</sup> 2015 Law on Promulgation of Legal Documents, Articles 27 and 28.

### 2.1.2 International agreements

2.7. The Government is responsible for negotiating treaties and international agreements as mandated by the President.<sup>10</sup> Not all concluded and signed treaties and agreements must be ratified by the National Assembly.<sup>11</sup> Both Article 70 of the Constitution and the 2016 Law on Treaties<sup>12</sup> stipulate when treaties need ratification by the National Assembly, including treaties for Vietnamese membership in an international or regional organization. The authorities note that the National Assembly ratified Viet Nam's WTO accession protocol, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the Free Trade Agreement between Viet Nam and the European Union.<sup>13</sup>

2.8. On entry into force, an international treaty may be applied in Viet Nam through changes in domestic legislation (i.e. legal normative documents) (Section 2.1.3) or through direct application.<sup>14</sup> All WTO agreements, where applicable, were directly applied in Viet Nam.<sup>15</sup> When changes in domestic legislation are deemed necessary for a treaty's application, the relevant authorities develop an implementation plan, and propose changes in legislation for the legislature's consideration.

2.9. In the event of a discrepancy between the provisions of international treaties and domestic legislation, those of the treaties prevail.<sup>16</sup>

### 2.1.3 Transparency and certainty

2.10. On 1 July 2015, the Law on Promulgation of Legal Documents (Law No. 80/2015/QH13), issued on 22 June 2015, entered into force; it repealed and replaced both the 2008 Law on Promulgation of Legal Documents and the 2004 Law on Promulgation of Legal Documents of the People's Council and People's Committee. The authorities consider that the new Law streamlined the system of legal normative documents, and ensured consistency among them, regardless of whether they are promulgated at the central or local level.<sup>17</sup>

2.11. Under the Constitution, there are 10 forms of legislation (i.e. legal normative documents) (Box 2.1). The National Assembly adopts laws and resolutions. Resolutions of the National Assembly are usually employed to implement new policies on a pilot basis, and to meet urgent socio-economic development requirements.<sup>18</sup> Ordinances and resolutions of the Standing Committee are not required to be transposed into/replaced with a new law within a certain time-frame. The Standing Committee may pass a resolution to abolish, suspend, or extend the application of all or parts of existing ordinances and resolutions.<sup>19</sup> In the event of conflicts in provisions from various legal normative documents, the one promulgated by a higher legal hierarchy, or the one of a later date if promulgated

<sup>10</sup> 2013 Constitution, Article 96.

<sup>11</sup> As per the 2013 Constitution, the signing of or withdrawal from treaties in the name of the Government, is required to be approved only by the Government; ratification of such treaties by the National Assembly is not required. Article 28 of the 2016 Law on Treaties lists the categories of treaties that must be concluded and signed in the name of the state.

<sup>12</sup> The Law on Treaties entered into force on 1 July 2016, repealing and replacing the Law on the Conclusion, Accession and Implementation of Treaties. According to the authorities, compared with the replaced Law, the Law on Treaties provides additional regulations on plans for treaty implementation. The Law includes provisions that facilitate the process of proposing negotiation of treaties, as well as those on the negotiation and signing of treaties with expedited procedures.

<sup>13</sup> Not all trade-related treaties/agreements are subject to ratification by the National Assembly. Only trade-related treaties/agreements falling into the categories listed in Article 29 of the 2016 Law on Treaties must be ratified by the National Assembly.

<sup>14</sup> The National Assembly, the President, or the Government, when deciding whether to be bound by a treaty, shall also decide on the direct application of all or part of that treaty if the provisions are sufficiently clear and specific for implementation. See 2016 Law on Treaties, Article 6.

<sup>15</sup> National Assembly Resolution No. 71/2006/NQ-QH11, 29 November 2005.

<sup>16</sup> 2016 Law on Treaties, Article 6.

<sup>17</sup> Previously, provisions pertaining to the promulgation of legal documents were set forth in two laws: (i) the 2008 Law on Promulgation of Legal Documents, and (ii) the 2004 Law on Promulgation of Legal Documents of the People's Council and People's Committee. According to the authorities, provisions in these two laws were inconsistent, and even contradictory, despite both referring to the same issue.

<sup>18</sup> 2015 Law on Promulgation of Legal Documents, Article 15.

<sup>19</sup> 2015 Law on Promulgation of Legal Documents, Article 16.

by the same level of hierarchy, prevails.<sup>20</sup> The extent to which new legislation abrogates or supplements existing legislation is not always evident.<sup>21</sup>

### Box 2.1 The system of legal normative documents, 2020

Legislation is divided into 10 forms of legal normative documents. All have binding effects and may be invoked in the People's Courts. The legal hierarchy is listed in descending order. Legislation at the subnational level may be applied only within the boundaries of the corresponding jurisdiction.

#### National level:

1. laws and resolutions of the National Assembly;
2. ordinances and resolutions of the Standing Committee of the National Assembly; joint resolutions between the Standing Committee of the National Assembly and the Presidium of the Central Committee of the Vietnam Fatherland Front;
3. orders and decisions of the President;
4. decrees of the Government; joint resolutions between the Government and the Presidium of the Central Committee of the Vietnam Fatherland Front;
5. decisions of the Prime Minister;
6. resolutions of the Judicial Council of the Supreme People's Court; and
7. circulars of the Chief Justice of the Supreme People's Court; circulars of the Prosecutor General of the Supreme People's Procuracy; circulars of ministers and heads of ministerial-level agencies; joint circulars between the Chief Justice of the Supreme People's Court and the Prosecutor General of the Supreme People's Procuracy; joint circulars between ministers, heads of ministerial-level agencies, the Chief Justice of the Supreme People's Court, and the Prosecutor General of the Supreme People's Procuracy; and decisions of the State Auditor General.

#### Subnational level:

8. resolutions of People's Councils;
9. decisions of People's Committees; and
10. legal normative documents of local administrations in special administrative-economic units.

Note: Compared with the replaced laws, the 2015 Law on Promulgation of Legal Documents abolished five forms of legal normative documents, such as: (i) joint resolutions of the Standing Committee (or the Government) and a central agency of a socio-political organization (except for joint resolutions between the Standing Committee (or the Government) and the Presidium of the Central Committee of the Vietnam Fatherland Front); (ii) joint circulars of ministers and the heads of ministerial-level agencies; (iii) directive notices of provincial People's Committees; (iv) directive notices of district People's Committees; and (v) directive notices of commune People's Committees. The 2015 Law introduced a new form of legal normative document: one of local administrations in special administrative-economic units.

Source: Information provided by the authorities; and the 2015 Law on Promulgation of Legal Documents.

2.12. Laws or ordinances must be promulgated within 15 days of their passage, unless the President does not assent to the ordinance passed by the Standing Committee.<sup>22</sup> A transition period between the dates of promulgation and entry into force of a legal document must be provided: no shorter than 45 days for national legislation, and no shorter than 7 to 10 days for legislation at subnational levels. All legal normative documents promulgated by the Government are available in Vietnamese on the Government Portal.<sup>23</sup>

2.13. Though not recognized as legal normative documents, "official letters", notices, or guidelines are relied on by many ministries to set policy and clarify implementation issues. According to the authorities, the 2015 Law on Promulgation of Legal Documents prohibits the promulgation of administrative procedures in circulars, joint circulars, and documents of local governments except as otherwise provided in the Law. The authorities also note that an Advisory Council for Reforming Administrative Procedures was established to improve the quality of handling administrative procedures at ministries, agencies, and localities.<sup>24</sup>

2.14. According to the authorities, the 2015 Law on Promulgation of Legal Documents provides a coordination mechanism for policy formulation and legislative process, which helps stakeholders such

<sup>20</sup> 2015 Law on Promulgation of Legal Documents, Article 156.

<sup>21</sup> WTO, *Trade Policy Review of Viet Nam*, WT/TPR/S/287/Rev.1, 4 November 2013.

<sup>22</sup> In this case, the President must send a written request to the Standing Committee for reconsideration of the ordinance within 10 days of its passage.

<sup>23</sup> Government Portal, *Legal Normative Documents*. Viewed at: <http://vbpl.vn/TW/Pages/vbpgen.aspx>.

<sup>24</sup> Directive No. 30/CT-TTg, 30 October 2018.

as government agencies, private associations, and individuals to provide input into the drafting of legal documents. As per the Law, holding public consultations is mandatory for both policy formulation and the drafting of legal normative documents. The competent authorities responsible for drafting the legislation must provide the public with a comment period of no fewer than 30 days; the drafting authorities must publish the proposed bill, written responses to all comments received, and the revised text of the proposed legislation on their websites.<sup>25</sup>

2.15. In addition, according to the authorities, the Government holds regular dialogues on economic policies with representatives of businesses, academia, industry associations, and international organizations. The Prime Minister and cabinet members participate in such dialogues; ministries (and ministerial-level agencies) formulate specific strategies and measures to address concerns raised in the dialogues.

## 2.2 Trade Policy Formulation and Objectives

### 2.2.1 Trade policy objectives

2.16. Viet Nam recognizes international economic integration as one of the important drivers for its institutional improvement, economic growth, and development. In January 2016, the Government approved an Overall Strategy for International Integration through 2020, Vision to 2030. The Strategy states that the objectives of international integration are, *inter alia*, to take "full advantage of favourable global condition to soon turn Viet Nam into a modern-oriented industrialized country", and to improve "people's living standards".<sup>26</sup>

2.17. Specific to trade, Viet Nam seeks "to diversify export-import markets" and "to actively take part in the global production network and the value chains".<sup>27</sup> The Strategy on Exports and Imports for 2011-20, Vision to 2030 sets out three specific targets:

- the average annual growth rate of exports should be at the double-digit level;
- the growth rate of imports should be lower than that of exports; and
- a gradual reduction of the trade deficit, so as to guarantee a trade balance by 2020, and reach a trade surplus in 2021-30.

2.18. The authorities state that all three targets were achieved. Furthermore, the Ministry of Industry and Trade (MOIT) adopted the Master Plan for Trade Development on 24 June 2011, with a focus on accelerating trade by integrating Viet Nam into foreign markets. In order to better implement the Plan, the Prime Minister issued a directive on 4 September 2018, instructing government agencies to make a positive contribution upon joining international and regional multilateral organizations and forums, such as the Association of Southeast Asian Nations (ASEAN) and the WTO. The goal is to increase Viet Nam's profile in the international arena, make full use of technical assistance provided by partners to improve the capacity for macroeconomic management, create a stable and transparent business environment to attract foreign investment, and provide business opportunities for domestic and foreign enterprises.<sup>28</sup>

### 2.2.2 Trade policy formulation and implementation

2.19. Trade and trade-related policies are formulated at the central level, and are implemented uniformly nationwide. The MOIT remains the focal point of the Government for trade and trade-

<sup>25</sup> When the legislation takes the form of laws and ordinances, the proposal must be published in the *Official Gazette* and on its website. The Law does not have provisions for a new comment/consultation period when the revised text is different from the originally proposed text.

<sup>26</sup> See Part III, Objectives and Guiding Viewpoints, *Overall Strategy for International Integration through 2020, Vision to 2030*. Viewed at: <http://www.chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=30&articleId=10056863>.

<sup>27</sup> See Section 1, Viewpoints of the strategy, *Strategy on Exports and Imports for 2011-20, Vision to 2030*. Viewed at: <http://chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=30&articleId=10051303>.

<sup>28</sup> Directive No. 26/CT-TTg, 4 September 2018.

related matters. Its responsibilities include: (i) formulating trade strategies, plans, and programmes; (ii) preparing and drafting legislation on trade and trade-related issues; (iii) supervising trade policy implementation; and (iv) promoting trade. In trade negotiations, the MOIT plays a leading role in coordinating with other competent authorities that have trade-related portfolios, such as the Ministries of Finance, Agriculture and Rural Development, Health, and Science and Technology.<sup>29</sup> The Multilateral Trade Policy Department under the MOIT is the focal point for WTO-related matters.

2.20. In 2016, the National Committee for International Economic Cooperation was transformed into the Inter-ministerial Steering Committee on International Economic Integration (ESC).<sup>30</sup> The ESC is the intersectoral coordination mechanism for policy formulation and economic cooperation, and is chaired by the Deputy Prime Minister. It holds regular and extraordinary meetings, whose participants include senior officials from all ministries and selected agencies. It also produces periodical reports. The Secretariat of the ESC is housed in the MOIT.<sup>31</sup>

2.21. Viet Nam did not establish an industrial adjustment programme to address the impact of trade on the domestic economy.

### 2.3 Trade Agreements and Arrangements

#### 2.3.1 WTO

2.22. Viet Nam has been a WTO Member since January 2007. All WTO agreements to which Viet Nam is a signatory are directly applied, where applicable (Section 2.1.2), and may be invoked in Vietnamese courts.<sup>32</sup> Viet Nam considers that its WTO membership plays a central role in its international integration strategy and contributes to global common rules and standards.<sup>33</sup>

2.23. Viet Nam submitted its instrument of acceptance of the Agreement on Trade Facilitation (TFA) in December 2015, and ratified the amendment of the TRIPS Agreement in January 2017. It participates in the Information Technology Agreement (ITA), but not in the Agreement's expansion (ITA 2), nor is it a contracting party to the WTO plurilateral Agreements on Government Procurement (GPA) and on Trade in Civil Aircraft.

2.24. Viet Nam submitted more than 350 notifications during the review period, covering, *inter alia*, anti-dumping legislation, agriculture measures, import licensing requirements, standards and technical regulations, trade facilitation, and safeguard measures (Table A2.1).

2.25. With respect to dispute settlement, Viet Nam was involved in 5 cases as a complainant, none as a respondent, and 33 as a third party.

#### 2.3.2 Regional and preferential agreements

2.26. Viet Nam considers that participation in regional trade agreements (RTAs) is a way to advance its international integration.<sup>34</sup> As at June 2020, Viet Nam was a party to 15 RTAs (Table 2.1).

<sup>29</sup> See Commercial Law, Article 8; and Foreign Trade Administration Law, Article 3.

<sup>30</sup> Prime Minister's Decision No. 04/QĐ-BCĐLNKT, 9 January 2015.

<sup>31</sup> The Minister of Industry and Trade is the Vice Chairman of the Committee and, as Head of the Government's delegation for international economic/trade negotiations, was assigned as Secretary-General of the ESC. See Inter-agency Steering Committee for International Economic Integration, *Mandates* (in Vietnamese). Viewed at: <http://hoinhapkinhte.gov.vn/Gi%E1%BB%9Bi-thi%E1%BB%87u/Ch%E1%BB%A9c-n%C4%83ng-nhi%E1%BB%87m-v%E1%BB%A5/ID/1032/Gioi-thieu-ve-Ban-Chi-ao-lien-nganh-hoi-nhap-quoc-te-ve-kinh-te>.

<sup>32</sup> In the cases where such provisions are clear and detailed enough for implementation.

<sup>33</sup> Government Portal, *Overall Strategy for International Integration through 2020, Vision to 2030*. Viewed at:

<http://www.chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=30&articleId=10056863>.

<sup>34</sup> Government Portal, *Overall Strategy for International Integration through 2020, Vision to 2030*. Viewed at:

<http://www.chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=30&articleId=10056863>.

2.27. During the review period, Viet Nam, as an individual signatory, signed six RTAs, and concluded the negotiations of a free trade agreement. Also, as a member of the ASEAN, Viet Nam signed new RTAs with third parties including India and Hong Kong, China. RTA negotiations with the European Free Trade Association and with Israel are ongoing.

**Table 2.1 RTAs of which Viet Nam is a party, June 2020**

Agreements	Coverage	Effective date	CRTA consideration
ASEAN Free Trade Area	G and S	01/01/1993	Y, BISD26S/321 (L/4735)
ASEAN-China	G and S	21/09/2005 (G) 26/06/2008 (S)	Y, WT/REG279/1
ASEAN-Japan	G	01/12/2008	Y, WT/REG277/1
Viet Nam-Japan	G and S	01/10/2009	Y, WT/REG275/1/Rev.1
ASEAN-Republic of Korea	G and S	01/01/2010 (G) 14/10/2010 (S)	Y, WT/REG287/1; WT/REG287/3
ASEAN-Australia-New Zealand	G and S	01/01/2010	Y, WT/REG284/1/Rev.1
ASEAN-India	G and S	19/08/2010 (G) 01/07/2015 (S)	Y, WT/COMTD/RTA/8/1; WT/REG372/1
Viet Nam-Chile	G	01/01/2014	Y, WT/REG365/1
Viet Nam-Republic of Korea	G and S	20/12/2015	Y, WT/REG371/1
Viet Nam-Eurasian Economic Union (EAEU)	G and S	05/10/2016	Y, WT/REG385/1
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	G and S	14/01/2019	N
ASEAN-Hong Kong, China	G and S	11/06/2019	N
Viet Nam-European Union	G and S	01/08/2019	N
Viet Nam-Cuba Trade Agreement	G	01/04/2020	N
Regional Comprehensive Economic Partnership (RCEP)	G and S	Not yet applied	N

Note: G Goods.  
S Services.  
Y Has been considered in the WTO Committee on Regional Trade Agreements (CRTA).  
N Has not been considered in the WTO CRTA.

Source: WTO Secretariat.

2.28. Prior to its WTO accession, Viet Nam concluded bilateral trade agreements with some 40 partners. These bilateral trade agreements continue to be effective (e.g. the bilateral trade agreement with the United States), unless the agreement is replaced with a new agreement (e.g. the agreement with Cuba), according to the authorities.

### 2.3.2.1 ASEAN

#### 2.3.2.1.1 ASEAN Free Trade Area

2.29. Viet Nam has been a member of the ASEAN since July 1995; it considers ASEAN as the cornerstone of its international integration. Viet Nam chaired the ASEAN in 2020.

2.30. The ASEAN developed the framework of the ASEAN Free Trade Area, covering trade in both goods and services under specific agreements. Under the ASEAN Trade in Goods Agreement (ATIGA), as at 1 January 2018, nearly 100% of goods originating from ASEAN members entered Viet Nam tariff-free.<sup>35</sup> The ATIGA Information Technology Agreement was concluded in 2019 and became effective on 1 January 2020. The ATIGA also contains provisions pertaining to non-tariff barrier elimination and trade facilitation.

2.31. Under the ASEAN Framework Agreement on Services (AFAS), 12 main service sectors comprising 128 subsectors were opened to operators of ASEAN members. The ASEAN Trade in Services Agreement (ATISA), under negotiation since 2013, was signed on 17 October 2020. The

<sup>35</sup> For goods originating from ASEAN members, 194 tariff lines remain non-zero-rated.

ATISA consolidates the achievements under the AFAS, provides for a transition to an eventual negative-list approach in scheduling liberalization commitments, and will eventually supersede the AFAS.<sup>36</sup> Services professionals now may work across ASEAN members under the ASEAN Agreement on Movement of Natural Persons, the ASEAN Mutual Recognition Arrangement on Services, and the ASEAN Qualifications Reference Framework.

2.32. The ASEAN Comprehensive Investment Agreement (ACIA) entered into force in 2012. It covers investment liberalization, protection, promotion, and facilitation, with the aim of creating an open investment environment in the ASEAN region. Under the ACIA, ASEAN-based investors enjoy non-discriminatory treatment, with a single negative list of reservations, and provisions on further progressive liberalization. The Fourth Protocol to Amend the ACIA was signed 15 July 2020. The Protocol incorporates TRIMs-plus<sup>37</sup> provisions prohibiting performance requirements in the ACIA.

### **2.3.2.1.2 ASEAN-Hong Kong, China Free Trade Agreement**

2.33. The RTA between ASEAN members and Hong Kong, China was signed in November 2017, and entered into force on 11 June 2019 in Viet Nam.<sup>38</sup>

2.34. Under this agreement, Viet Nam is expected to eliminate import duties for 75% of total tariff lines for goods originated from Hong Kong, China by 2029, and further eliminate an additional 10% of lines by 2033. In terms of services trade, Viet Nam offers service providers in Hong Kong, China with commitments to open certain markets such as professional services (e.g. legal services), business services (e.g. advertising services), and telecommunications.<sup>39</sup> According to the authorities, the Agreement takes a progressive liberalization approach; it also provides a regular review mechanism for future negotiations of market access improvements.

2.35. With regard to investment, Viet Nam, together with other ASEAN members, pledged to protect businesses based in Hong Kong, China that invest in ASEAN countries on the principle of fair treatment. In addition, there is a stand-alone Investment Agreement between ASEAN and Hong Kong, China; this agreement contains provisions about the treatment of investments in the services sectors.

### **2.3.2.1.3 ASEAN-India Agreement on Trade in Services**

2.36. This agreement was signed by India and the ASEAN members in November 2014, and entered into force on 1 July 2015.<sup>40</sup>

2.37. Viet Nam's sector-specific commitments in this agreement are identical to its GATS schedule. On horizontal commitments, Viet Nam maintains, as in its GATS schedule, certain restrictions under Mode 3, including unbound for the establishment of a branch unless otherwise indicated in each specific sector or subsector. Horizontal commitments under Mode 4 cover intra-corporate transferees, service salespeople, persons responsible for setting up a commercial presence, contractual service suppliers, and other personnel. While the entry of contractual service suppliers was allowed under the GATS, specifically only for computer and related services and engineering services, under the Agreement, the entry of architectural service suppliers is also liberalized.

<sup>36</sup> ASEAN Secretariat, "ASEAN Signs Trade in Services Agreement", 23 October 2020. Viewed at: <https://asean.org/asean-signs-trade-services-agreement-2/>.

<sup>37</sup> This refers to commitments beyond the WTO TRIMs Agreement.

<sup>38</sup> The dates that the ASEAN-Hong Kong, China, free trade agreement entered into force are different among ASEAN members.

<sup>39</sup> Detailed specific commitments may be consulted in Annex 8-1 to the ASEAN-Hong Kong, China, free trade agreement. Viewed at: [https://www.tid.gov.hk/english/ita/fta/hkasean/files/AHKFTA\\_Chapter\\_8\\_Annex\\_8-1\\_SOC\\_Viet\\_Nam.pdf](https://www.tid.gov.hk/english/ita/fta/hkasean/files/AHKFTA_Chapter_8_Annex_8-1_SOC_Viet_Nam.pdf).

<sup>40</sup> This agreement was negotiated under the Framework Agreement on Comprehensive Economic Cooperation between the Republic of India and the ASEAN and the Protocol to Amend the Framework Agreement, signed in 2009. It should also be viewed in connection with the Agreement on Trade in Goods that entered into force on 1 July 2003; the ASEAN-India Agreement on dispute settlement mechanism was signed in 2009.

### 2.3.2.1.4 Other ASEAN RTAs

2.38. Viet Nam, through its membership in ASEAN, maintains RTAs with Australia-New Zealand, China, India, Japan, and the Republic of Korea.<sup>41</sup>

### 2.3.2.2 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

2.39. Viet Nam signed the CPTPP on 8 March 2018.<sup>42</sup> It was ratified by the National Assembly on 12 November 2018, and entered into force on 14 January 2019.<sup>43</sup>

2.40. Viet Nam adopted a phased approach to reducing tariffs for goods originating from CPTPP contracting parties over a period of 10 years. Upon entry into force, about 66% of total Vietnamese tariff lines were zero-rated, which covered products such as, *inter alia*, animal feed, dairy products, grains, rice, cotton, leather and leather products, textiles and materials for textiles, footwear, rubber and rubber products, furniture, wood and wood products, plastics, pharmaceuticals, pesticides, chemicals, fertilizers, perfume, cosmetics, machinery and equipment, and electronic accessories. Approximately 86.5% of total lines are to be zero-rated within three years of the agreement's entry into force. For the remainder, tariff reductions will be implemented over a period of between 5 and 10 years.

2.41. For products deemed highly sensitive, tariff rate quotas may be applied, or tariff reductions may be implemented over a period longer than 10 years. Specifically, Viet Nam adopts tariff rate quotas for unmanufactured tobacco and used vehicles. As a result of the CPTPP, Viet Nam committed to remove in-quota duties for sugar, eggs, and salt 5 or 10 years (depending on the good) after the implementation of the Agreement.

2.42. Viet Nam will also abolish export duties on the majority of goods within 5 to 15 years of the Agreement's entry into force.<sup>44</sup> However, it reserves the right to maintain export duties on a number of crucial commodity groups, such as coal, oil, and certain types of ores and minerals.<sup>45</sup>

2.43. Regarding rules of origin, the CPTPP cumulative rule allows diagonal cumulation, i.e. a CPTPP contracting party can treat the raw materials of one or more CPTPP contracting parties as its own, when those materials are used to produce a good of CPTPP origin.

2.44. In terms of trade in services and investment, Viet Nam lists all of its reservations that are inconsistent with the service and investment chapters<sup>46</sup>; those reservations mostly concern the national treatment obligation.

2.45. Viet Nam made its commitments regarding government procurement under the CPTPP (Section 3.3.6).

<sup>41</sup> For details, see WTO document WT/TPR/S/287/Rev.1, 4 November 2013, Table A2.1.

<sup>42</sup> Contracting parties of the CPTPP include Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Viet Nam.

<sup>43</sup> Six other countries also ratified the CPTPP: Australia, Canada, Japan, Mexico, New Zealand, and Singapore.

<sup>44</sup> Items are listed as Categories A to J in Annex 2-C to the CPTPP Agreement. Viewed at: [http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/2\\_%20National%20Treatment%20and%20Market%20Access%20for%20Goods.pdf](http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/2_%20National%20Treatment%20and%20Market%20Access%20for%20Goods.pdf).

<sup>45</sup> Items are listed as Category K in Annex 2-C to the CPTPP Agreement. Viewed at: [http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/2\\_%20National%20Treatment%20and%20Market%20Access%20for%20Goods.pdf](http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/2_%20National%20Treatment%20and%20Market%20Access%20for%20Goods.pdf).

<sup>46</sup> Reservations of existing measures are listed in Annex I to the CPTPP Agreement. Viewed at: [http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/Annex%20I\\_%20Viet%20Nam.pdf](http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/Annex%20I_%20Viet%20Nam.pdf). Reservations of permanent measures are listed in Annex II. Viewed at: [http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/Annex%20II\\_%20Viet%20Nam.pdf](http://cptpp.moit.gov.vn/data/e0593b3b-82bf-4956-9721-88e51bd099e6/userfiles/files/Annex%20II_%20Viet%20Nam.pdf).

### 2.3.2.3 European Union-Viet Nam Free Trade Agreement (EVFTA)

2.46. The free trade agreement between Viet Nam and the European Union was signed on 30 June 2019, and was ratified by the National Assembly on 8 June 2020. The Agreement entered into force on 1 August 2020.

2.47. Under the Agreement, Viet Nam is expected to eliminate 98.3% of its total tariff lines for goods originating from the European Union over a period of 10 years; on the application day of the Agreement, 48.5% of total tariff lines were zero-rated. For the remaining 1.7% of lines, tariffs may be reduced over a period longer than 10 years, or tariff rate quotas, in line with Vietnamese WTO commitments or under the category of Completely Knocked Down, may be applied.

2.48. Under the Agreement, while Viet Nam does not impose export duties on most goods, it reserved the right to impose export duties on 57 lines, most of which are commodities, such as crude oil or coal, that are already subject to export duties.<sup>47</sup>

2.49. In general, market access and national treatment commitments under the EVFTA are similar to those under the GTAS; however, the authorities note that under the EVFTA, European Union service providers enjoy preferential conditions in some sectors, such as freight transportation, storage and warehouse services, cargo-handling services, telecommunications, and distribution.

2.50. With regard to government procurement, the provisions are similar to those of the GPA. Viet Nam listed ministries and central agencies, authorities of Hanoi and Ho Chi Minh City, some state-owned enterprises (SOEs), and a number of state-funded entities in the procuring entities schedule (Section 3.3.6). Viet Nam is expected to complete the opening for the scheduled entities in 15 years.

2.51. The provisions of intellectual property also cover geographical indications.

### 2.3.2.4 Free Trade Agreement between Viet Nam and the Eurasian Economic Union (EAEU) and its member States (VN-EAEU FTA)

2.52. The VN-EAEU FTA was signed in May 2015, and entered into force in October 2016.

2.53. Viet Nam committed to eliminating tariffs on 84.5% of tariff lines within 10 years, of which up to 60% of tariff lines were eliminated immediately after the Agreement came into effect. About 12.8% of tariff lines are not committed for preferential rates.

2.54. In terms of services trade, Viet Nam maintains restrictions on establishment in industries that are prohibited from opening or may open only conditionally (Section 2.4). On sector-specific commitments, most are similar to Viet Nam's schedule under the GATS, with some improvement in certain subsectors, such as research and development services, and rental/leasing services without operators.<sup>48</sup>

2.55. Other commitments under the Agreement, such as on intellectual property and competition, are mainly cooperative. According to the authorities, they do not exceed Viet Nam's commitments in the WTO and in other FTAs that Viet Nam has signed.

### 2.3.2.5 Free Trade Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the Republic of Korea (VKFTA)

2.56. The VKFTA was signed in May 2015, and entered into force on 20 December 2015.

2.57. In terms of trade in goods, Viet Nam is expected to eliminate tariffs for 89.2% of tariff lines over a period of 10 years. The tariff elimination is similar to the schedule in the ASEAN-Republic of Korea FTA (AKFTA). However, an additional 265 lines are to be eliminated for goods originating from the Republic of Korea under the VKFTA, covering products of, *inter alia*, textile and footwear

<sup>47</sup> Except coking coal and coals used throughout the production of coking coal, which is almost unavailable in Viet Nam.

<sup>48</sup> WTO document WT/REG385/1, 21 June 2019, Table 4.2.

materials; auto engines, components, and parts; electrical appliances and equipment; electronic products and components; and plastic materials.

2.58. For trade in services, Viet Nam offered more services markets to Korean service providers than the AKFTA. These new markets include urban planning services and urban landscape architecture, and leasing machines and other equipment without operators.<sup>49</sup> The VKFTA contains a list of reserved measures/fields.

2.59. According to the authorities, the Investor-State Dispute Settlement (ISDS) Mechanism provided for in the VKFTA has a wider scope of application, with more specific process and procedure rules than in the AKFTA.<sup>50</sup> Also, the process and the procedure of the ISDS in the VKFTA are clearer and more specific than those in the AKFTA.<sup>51</sup>

### **2.3.2.6 Free Trade Agreement between Viet Nam and Chile**

2.60. Viet Nam signed a free trade agreement with Chile in November 2011, which entered into force on 1 January 2014.

2.61. The FTA covers trade in goods only. Viet Nam is to gradually reduce tariffs for goods originating from Chile over a period of 15 years. Upon entry into force, tariffs for about 35% of total lines were eliminated; most tariffs are to be eliminated in 2024, following 10 years of implementation.<sup>52</sup> After the transition period, 10.8% of tariff lines will remain dutiable in 2029; these lines include meat and prepared foods, sugar, alcoholic beverages, tobacco-related products, cars, motorcycles, and tyres.

### **2.3.2.7 Trade Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the Republic of Cuba (Viet Nam-Cuba Trade Agreement)**

2.62. The Viet Nam-Cuba Trade Agreement replaces the 1996 agreement between these two countries on trade and other forms of economic cooperation. The Agreement was signed on 9 November 2018, and entered into force on 1 April 2020.

2.63. Under the Agreement, Viet Nam is expected to eliminate tariffs for almost all goods originating from Cuba (475 lines in total) over a period of four years. Four hundred thirty-one lines of goods are zero-rated upon the Agreement's entry into force. Over a period of four years, tariffs rates for cigarettes and cigars will be reduced to 70%; for alcohol and alcoholic beverages, 20%; and for sugar and unprocessed tobacco within the WTO-quota limits, 15% (in-quota rates).

2.64. The Agreement also covers, *inter alia*, customs management and trade facilitation, trade remedies, standards, technical regulations and conformity assessment procedures, food hygiene and safety measures, quarantine of plants and animals, and economic and trade cooperation.

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<sup>49</sup> Other sector-specific commitments are similar to Viet Nam's schedule under the GATS. WTO document WT/REG/371/1, 13 April 2017, Table 4.4.

<sup>50</sup> Under the AKFTA, ISDS only applies to the alleged breach of seven obligations, namely, national treatment; most-favoured-nation treatment; general treatment of investment; senior management and boards of directors; transfers, expropriation, and compensation; and compensation for losses. However, the ISDS mechanism under the VKFTA is applied to the performance requirements obligation, in addition to the seven obligation breaches provided under the AKFTA.

<sup>51</sup> The VKFTA provides a number of disciplines on arbitral procedure that are not available under the AKFTA, including the number, remuneration, and qualifications of arbitrators; the process to consolidate cases; the conduct of the arbitration; the interpretation of the joint committee on the Agreement's provisions; and the address for delivery of notices and other documents. The VKFTA also requires more detailed information than the AKFTA regarding contents of the notice of intent to submit a claim to arbitration, conditions to submit a claim to arbitration, and consent to arbitration.

<sup>52</sup> WTO document WT/REG365/1, 21 June 2016, Table 3.4.

### 2.3.2.8 Regional Comprehensive Economic Partnership (RCEP)

2.65. The RCEP is an agreement among 15 parties, including 10 ASEAN members<sup>53</sup> and 5 other countries<sup>54</sup> in the region. Viet Nam concluded negotiations of the RCEP in November 2019, and signed the agreement on 15 November 2020.<sup>55</sup>

2.66. The RCEP covers a wide variety of areas, including, *inter alia*, trade in goods, trade in services and investment, and intellectual property.<sup>56</sup>

### 2.3.3 Other agreements and arrangements

2.67. Viet Nam does not operate a Generalized System of Preferences, nor it provides duty-free and quota-free market access for products originating from least developed countries.

## 2.4 Investment Regime

2.68. Viet Nam's investment regime has been substantially revised since its previous Review in 2013. The current Enterprise Law (Law No. 68/2014/QH13) and Investment Law (Law No. 67/2014/QH13) were both adopted in November 2014, and entered into force on 1 July 2015. The legal forms for enterprises prescribed by the Enterprise Law continue to be limited liability companies, shareholding companies, partnerships, or sole proprietorships.<sup>57</sup> Through the update of the legal framework, Viet Nam intends to equalize the treatment accorded to Vietnamese and foreign investors and to attract foreign direct investment (FDI).

2.69. A foreign investor is defined by the Investment Law as any organization established in accordance with foreign laws and conducting business investment activities in Viet Nam. Article 9 of the Law stipulates the protection of foreign investors from nationalization or confiscation through administrative measures, and establishes a list of exceptional reasons<sup>58</sup> for expropriation by the State subject to compensation. According to the Enterprise Law, SOEs, foreign-invested enterprises, and the Vietnamese private sector operate under equal business conditions.

2.70. Article 6 of the Investment Law classifies restricted investment activities for national and foreign investors in banned<sup>59</sup> and conditional businesses. For reasons of national defence and security, social order and security, social ethics, or public health, investment in conditional businesses must satisfy certain conditions. Compared with the 2005 Investment Law, the number of conditional businesses was reduced from 386 to 243.<sup>60</sup> Business investment conditions applying to domestic and foreign investors are regulated through laws, ordinances, decrees, and international agreements to which Viet Nam is a signatory. The Government regulates these conditions mainly by employing decrees; ministries and agencies (ministerial agencies, People's Councils, People's Committees, and other entities) do not issue regulations on these matters.

2.71. Decree No. 118/2015/ND-CP (guidelines for some articles of the Law on Investment), issued on 12 November 2015, provides further details on conditions that might apply to investment, such

<sup>53</sup> The ASEAN members include Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

<sup>54</sup> The other five countries include Australia, China, Japan, the Republic of Korea, and New Zealand.

<sup>55</sup> The RCEP, when in effect, shall cover a market of approximately 2.2 billion consumers, with a GDP at around USD 26.2 trillion (accounting for 30% of global GDP and population, respectively). In the third RCEP Summit in November 2019, 15 countries expressed agreement on the legal text, which basically completed the negotiations.

<sup>56</sup> ASEAN Secretariat, "Summary of the Regional Comprehensive Economic Partnership Agreement". Viewed at: <https://asean.org/summary-regional-comprehensive-economic-partnership-agreement/>.

<sup>57</sup> Any enterprise resolving social and environmental problems or serving the public interest can now be considered a social enterprise. Social enterprises are also requested to reinvest at least 51% of their annual profits to address social and environmental objectives.

<sup>58</sup> Exceptional reasons include national defence and security, national interests, states of emergency, and prevention of, or recovery after, natural disasters.

<sup>59</sup> Trade in specific narcotic substances, chemicals and minerals, and wild fauna and flora species are listed as banned activities in Appendices 1, 2, and 3 of the 2014 Investment Law. Furthermore, prostitution, trafficking in humans or their organs, human cloning, and trade in firecrackers are forbidden activities following the amendment of Law No. 03/2016/QH14.

<sup>60</sup> Law No. 03/2016/QH14.

as licences, certificates of eligibility, practice certificates, certificates of professional liability insurance, and other non-written certification; separate regulations prescribe specific business conditions that apply to related activities among the 243 conditional sectors. Investment projects that have a significant environmental impact, use forest or rice cultivation lands (more than 500 hectares), or relocate people (20,000 in mountainous areas or 50,000 elsewhere) require approval by the National Assembly. For projects with a lower relocation impact (10,000 in mountainous areas or 20,000 elsewhere), the Prime Minister oversees the approval procedure.

2.72. Furthermore, approval by the Prime Minister is required for investment projects in the building and commercial operation of airports and air transport, national seaports, and golf courses; petroleum prospecting, exploitation, and processing; betting and casino businesses; cigarette production; and development of industrial parks, export-processing zones, and investment projects valued at VND 5 trillion (approximately USD 214 million) or more.

2.73. The approval of a People's Committee, i.e. the executive arm of the Government at the provincial level, is required for projects involving land allocation or leasing out by the State without auction, tender, or transfer; changes in land-use purposes; or the use of restricted technologies.

2.74. Regarding approval, Articles 33 to 35 of the Investment Law provide guidance on the criteria to be used by the approving authorities (People's Committee, Prime Minister, or National Assembly); they include the necessity of the project, conformity with socio-economic development strategy and master plans, objectives, scope, site, duration and schedule for implementation, land use, relocation and resettlement, environmental protection issues, capital investment, socio-economic effects, special policies, investment incentives, support, and conditions. The assessment of these criteria by the relevant approving authority varies according to the nature of each investment project.

2.75. Besides investment conditions in the 243 sectors mentioned above, additional conditions for foreign investors might apply in some sectors. Although the general cap of 49% for foreign acquisition of public companies<sup>61</sup> operating in unconditional sectors was abolished in 2015, foreign participation in some sectors remains capped at levels varying between 30% and 51% (Table 2.2).<sup>62</sup> Wholly foreign-owned enterprises in architectural services can provide services only to foreign-invested enterprises in Viet Nam. Projects with foreign participation in sea transport, telecommunications services with network infrastructure, afforestation, publishing, journalism, and the establishment of wholly foreign-owned science and technology companies may require the approval of the Prime Minister.

**Table 2.2 Caps on foreign participation in specific sectors and activities, 2020**

Sector	Cap on share capital
Services incidental to agriculture	51%
Joint stock commercial banks <sup>a</sup>	30%
Basic telecommunications services with infrastructure	49%
Value-added telecommunications services with infrastructure	50%
Telecommunications services without infrastructure	65%
Virtual private network (VPN) telecommunications services without infrastructure	70%
Rail and road transport	49%

a Note that banks with 100% foreign capital are allowed in Viet Nam.

Source: Information provided by the authorities.

2.76. Business activities in Viet Nam are subject to a two-tier registration procedure, which differs according to the participation of foreign investors and specific conditions applied to the activity. A simplified registration procedure applies to business activities with foreign equity participation of less than 51% and for which no specific conditions apply. In that case, companies must only obtain an enterprise registration, and no further formalities are necessary. The enterprise registration

<sup>61</sup> In addition to publicly listed companies, Decree No. 60/2015/ND-CP allows for the majority participation of foreign investors in companies with more than 100 shareholders and with charter capital of VND 10 billion (approximately USD 430,000) or more.

<sup>62</sup> Foreign participation in other sectors such as distribution services, passenger and freight transport (excluding cabotage) to the supply of international maritime transport services, insurance, securities, maintenance and repair of aircraft (air transport), and legal services was completely liberalized in line with WTO commitments.

certificate (ERC) should be issued in three working days. Circular No. 47/2019/TT-BTC, issued by the Ministry of Finance (MOF), halved the fees for enterprise registration on 20 September 2019. The current fee for issuing or reissuing an ERC or changing information on it is VND 50,000 (USD 2.14). Online applications for enterprise registration are exempt from fees. Once the ERC is granted, companies are requested to announce their registration on the National Business Registration Portal<sup>63</sup>, whose publication fee is VND 100,000 (USD 4.28).<sup>64</sup> Changes in foreign ownership, legal forms, location, business name, legal representatives, and business activities require an amendment to the enterprise registration.

2.77. Foreign-invested firms with majority foreign participation must obtain an investment registration at the provincial Department of Planning and Investment where the business is located or at the Management Board of the special-purpose zone<sup>65</sup> in which they operate.<sup>66</sup> The investment registration should be granted within 15 working days; no statistics are collected on the effective or observed days needed for this registration. Applications for enterprise and investment registrations can be done simultaneously, although the procedures remain separate, and the relevant investment registration authority is expected to cooperate with the enterprise registration authority.<sup>67</sup> Registration requirements for mergers and acquisitions were clarified in the current law and, unless foreign capital participation is equal to or greater than 51%, only an amendment of enterprise registration is needed. Article 40 of the Investment Law stipulates that changes or adjustments in business activities require the re-assessment and re-issuance of the investment registration. The investment registration is issued at no cost.

2.78. For activities subject to the approval of the National Assembly, the Prime Minister, or the local People's Committee, approval must be obtained before application for investment and/or enterprise registrations. In that case, investment registration is not mandatory for projects with foreign equity participation of less than 51% or domestic projects, unless requested by specific business conditions for foreign investors. Investment registration following approval should be issued in five working days following the appraisal. For projects subject to the approval of a People's Committee, the investor should be notified of the result of the procedure within 35 days.<sup>68</sup> The Investment Law does not prescribe delays for appraisal procedures by other authorities.

2.79. Between 2013 and 2019, the Vietnamese authorities approved 17,468 foreign investment projects with total registered capital of USD 143.1 billion. The processing and manufacturing sector attracted the largest number of projects (6,943), representing 62% (USD 89.3 billion) of the total foreign capital invested in the country during this period.<sup>69</sup> The preferred form of foreign investment is whole ownership, and major cities and surrounding provinces are the main destinations for foreign investment.

2.80. The OECD Investment Policy Review of Viet Nam 2018 points out that statutory delays for registration and approval procedures were rarely met in the past, although national authorities noted that this was mostly related to the investment approval process. The authorities indicate that the implementation of online licensing should improve these procedures, although some localities might continue to face challenges in implementing the highest level of digitalization outlined in this initiative. The National Investment Information System for Private Sector, which is to be launched in 2021, is expected to provide enhanced information and services on investment procedures to foreign investors. According to the World Bank Doing Business 2020 Report, the major obstacle to

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<sup>63</sup> Available in Vietnamese and English. National Business Registration Portal, *Business Registration*. Viewed at: [www.dangkykinhdoanh.gov.vn](http://www.dangkykinhdoanh.gov.vn).

<sup>64</sup> Circular No. 47/2019/TT-BTC.

<sup>65</sup> Also known as special economic zones.

<sup>66</sup> Investment registration for oil and gas projects is granted by the MOIT, while the MOF also approves insurance projects.

<sup>67</sup> Although this setting cannot be considered as a one-stop shop for registration, the Government formalized an improved mechanism for the registration requirements for foreign investors through Circular No. 02/2017/TT-BKHDT.

<sup>68</sup> Law No. 67/2014/QH13 on Investment, Article 33, Clause 1.

<sup>69</sup> Other attractive sectors for FDI are wholesale and retail trade; professional, scientific, and technical activities; real estate; production and supply of electricity; construction; water supply; transport and storage; accommodation and catering; and information and communication.

opening a business in Viet Nam is the delay in obtaining pre-printed VAT invoices at the municipal level.<sup>70</sup>

2.81. Decree No. 11/2016/ND-CP, as amended by Decree No. 140/2018/ND-CP, details the provisions and procedures for contracting foreign workers. The hiring of foreign workers is subject to the approval of the Chairman of the local People's Committee, based on employers' needs that cannot be covered by Vietnamese workers. Workers in 11 service sectors<sup>71</sup> can transfer within their companies and work in Viet Nam.

2.82. Private ownership of land is not permitted in Viet Nam. However, the Land Law of 29 November 2013 allows land to be leased through annual payment or one-off rental payment for the entire period of the lease to foreign-invested firms to implement projects in agriculture, forestry, aquaculture or salt making, non-agricultural production and business land, construction of public facilities for business purposes, and housing projects for lease. In the case of housing investment projects for sale or sale combined with leasing, the State might allocate land to foreign-invested firms. Moreover, the Law authorizes assets associated with the land and the value of land-use rights to be mortgaged. The allocation of land-use rights is the competence of the provincial People's Committees. Although the duration of a land-lease agreement should not exceed 50 years, special cases with slow capital recovery in areas with difficult or exceptionally difficult socio-economic conditions might be granted a land lease of up to 70 years. Leases may be extended upon expiry of the initial term.

2.83. To stimulate private investment, the current legal framework allows for the granting of investment incentives (Chapter 3 of the Investment Law), including reductions in enterprise income taxes, exemptions from import duties on supplies and components for investment projects, and exemptions or reductions of land rentals or use levies. Selected activities<sup>72</sup> are eligible for investment incentives, as well as projects located in industrial zones and economic zones (Section 3.2.4). Also, supporting industries might benefit from preferences in investment credits, land and water surface rents, and VAT rates.

2.84. In February 2020, Viet Nam notified to the WTO other support programmes that have been implemented since the previous Review.<sup>73</sup> Current support programmes aim at supporting enterprises that hire workers with disabilities or a high proportion of women. Supported companies in these two programmes can be entitled to a reduction of corporate tax income, concessional loans, priority in land lease applications and a reduction in associated fees. A support programme for fishery products was active between 2015 and 2018, and its extension is currently under evaluation. A two-year mechanism promoting the development of solar power projects ended in June 2019, while a similar mechanism for wind-power projects runs until November 2021. The additional benefit for energy-producing projects consists of a selling price above the retail price for electricity.

2.85. Decree No. 63/2018/ND-CP establishes the investment framework for public-private partnerships (PPPs). The number of fields where PPPs can be implemented in Viet Nam considerably increased compared with those under Decision No. 71/2010/QĐ-TTg, which previously regulated PPPs. Transport, power generation and transmission lines, public lighting, water supply and waste collection systems, social housing and office space for state agencies, health, education and training, commercial infrastructure and infrastructure in SEZs, agricultural and rural development, and other

<sup>70</sup> According to the World Bank's Doing Business 2020 Report, Viet Nam substantially improved on ease of doing business, and the country now ranks 70<sup>th</sup> among 190 economies, up from 99<sup>th</sup> in 2013. The country shows an average performance among East Asian countries, where Malaysia (13<sup>th</sup>), Thailand (21<sup>st</sup>), and China (31<sup>st</sup>) are top performers. Its best relative scores are on "dealing with construction permits" and "getting credit" (25<sup>th</sup> on both sub-indicators), and the most significant improvement is on "getting electricity" (27<sup>th</sup>, compared to 155<sup>th</sup> in 2013). However, the country falls behind on "resolving insolvency" (122<sup>nd</sup>), "starting a business" (115<sup>th</sup>), "paying taxes" (109<sup>th</sup>), and "trading across borders" (104<sup>th</sup>).

<sup>71</sup> These sectors are business, communication, construction, distribution, education, environment, finance, healthcare, tourism, cultural entertainment, and transport.

<sup>72</sup> Activities eligible for investment incentives include high-tech activities; production of clean and renewable energy; manufacture of electronic products and automobiles and their supporting activities; supporting industries to the textile industry; information technology products; cultivation and processing of agricultural, forestry, and fishery products; forest planting and protection; waste management; infrastructure development, operation, and management; education; and drug, medicine, and biotechnology production.

<sup>73</sup> WTO documents G/SCM/N/284/VNM, G/SCM/N/315/VNM, and G/SCM/N/343/VNM, 26 February 2020.

fields decided by the Prime Minister are now available for the establishment of such investment partnerships.

2.86. For projects whose total investment capital is valued up to VND 1.5 trillion (approximately USD 64 million), the private investor must contribute at least 20% of the equity. For projects of higher value, the private investor must contribute at least an additional 10% of the investment capital beyond VND 1.5 trillion. The relevant authorities consider the financial plan, the balancing capacity of capital sources, and other resources to determine the value of the State's participation in a PPP project. The competent authority to approve the feasibility study of a PPP is the Prime Minister for projects of national importance and for those related to security, defence, and religion. Ministers, heads of ministerial-level agencies and government agencies, and presidents of provincial People's Committees approve feasibility studies for projects with lower total investment capital, according to the Law on Public Investment.<sup>74</sup> Decree No. 63/2018/ND-CP removes the requirement to obtain an investment registration for PPP projects.

2.87. Investment abroad by Vietnamese-based enterprises is governed by the Investment Law and Decree No. 83/2015/ND-CP of 25 September 2015 regulating outward investment. The regulation and management of outward investment allow authorities and government agencies to balance financial resources between Vietnamese enterprises investing abroad and high demand for domestic investment while ensuring that outward investment is in line with other national regulations and commitments. Periodically, the SBV stipulates the provisions of foreign currency loans available for outward investments, according to its monetary and foreign currency management policies. Projects with outward investment capital above VND 20 billion (approximately USD 864,000) and those requiring special policies are subject to the approval of the National Assembly based on a report by an Appraisal Council established by the Prime Minister. Outward investment projects in banking, insurance, securities, journalism, broadcasting, telecommunication, and real estate above VND 400 billion (approximately USD 17.2 million) and projects in other sectors exceeding VND 800 billion (approximately USD 34.5 million) are subject to the approval of the Prime Minister. The Ministry of Planning and Investment manages the procedure for appraisals of large investment projects, and is responsible for the issuance of certificates of outward investment registration for all outward investment projects.<sup>75</sup> As per the Investment Law, outward investment is restricted in the sectors where private investment is forbidden; quarterly and annual reports prepared by Vietnamese investors are the means used to monitor the implementation of outward investment.

2.88. At the end of 2019, the Ministry of Planning and Investment had granted investment certificates for 1,321 projects overseas, with a total capital of USD 20.6 billion. Vietnamese investment is active in 18 sectors across 78 countries and territories on 5 continents. Main sectors for outward investment are exploration and mining, mostly for oil and gas, accounting for 38.4% of total registered investment; other important sectors for Vietnamese investment are activities in agriculture, forestry, and fisheries (15.3%), and telecommunications and information technology (12.8%). Main destinations for Vietnamese investment include neighbouring Lao People's Democratic Republic (23.8%) and Cambodia (13.3%); other regional partners such as Myanmar (6.5%) and Malaysia (4.1%); and overseas partners such as the Russian Federation (13.7%), the Bolivarian Republic of Venezuela (8.8%), Algeria (6.1%), Peru (6%), and the United States (3.4%).

2.89. By end-2019, Viet Nam signed 67 bilateral investment agreements; 5 of them were signed during the review period. The recently ratified EVFTA is coupled with a single European Union-Viet Nam Investment Protection Agreement (EVIPA), which is expected to replace 21 bilateral investment agreements and is currently pending ratification by European Union countries. This agreement is aimed at implementing a permanent system for dispute resolution, as well as consultation and mediation mechanisms.

2.90. Foreign investment is also covered by provisions in recent FTAs signed by Viet Nam and entered into force, such as the ASEAN-Hong Kong, China, FTA; the CPTPP; the VN-EAEU FTA; and the VKFTA (Section 2.3.2).

2.91. On 17 June 2020, a revised Enterprise Law (Law No. 59/2020/QH14) and a revised Investment Law (No. 61/2020/QH14) were issued; both of them entered into force on 1 January

<sup>74</sup> Law No. 39/2019/QH14 on Public Investment.

<sup>75</sup> Outward investment projects below these thresholds do not require approval from the authorities but should still request their outward investment registration.

2021. Some changes applied by the 2020 Investment Law include the definition of foreign-invested companies as those where a foreign investor holds 50% or more of the charter capital (instead of 51% until now), the classification of debt collection services as a banned business activity, the lowering of conditional business sectors to 227 (instead of 243), and the increase in the number of activities which might benefit from investment incentives. The 2020 Enterprise Law increases the protection of minority shareholders and enhances the recognition of online business registrations.

2.92. Law No. 64/2020/QH14 on Investment in the Form on Public-Private Partnership, issued on 18 June 2020, entered into force on 1 January 2021; it identifies five key areas for PPPs: (i) transport; (ii) electric grids and non-hydro power generation; (iii) water supply and waste collection systems; (iv) health, education, and training; and (v) information technology infrastructure. It prescribes a minimum value for projects of at least VND 200 billion (USD 8.5 million), and private investors must contribute at least 15% of the total investment capital. Article 82 of the Law establishes a mechanism for sharing exceptionally high or low revenues for projects under a PPP.<sup>76</sup>

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<sup>76</sup> The State is entitled to half of revenues above 125% of the expected revenue in the financial plan of the PPP project. In case of a significantly low revenue for a PPP project, the State will share 50% of the loss revenue up to 75% of the expected revenue in the financial plan. Further details of this revenue sharing mechanism are to be announced by the Government.

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures, valuation, and requirements

###### 3.1.1.1 Customs procedures

3.1. During the review period, Viet Nam continued to reform its policies and measures on customs procedures based on its Customs Development Strategy to 2020 (Prime Minister's Decision No. 448/QĐ-TTg), issued on 25 March 2011. In accordance with the Strategy, a revised Customs Law (Law No. 54/2014/QH13), which aims to domesticate international treaties to which Viet Nam is a party, was adopted on 23 June 2014, and entered into force on 1 January 2015. The Law is supplemented by regulations including: (i) Decree No. 08/2015/ND-CP (providing specific provisions and guidance on the enforcement of the Customs Law on customs procedures, examination, supervision, and control procedures), issued on 21 January 2015; (ii) Decree No. 59/2018/ND-CP (on amendments to some articles of Decree No. 08/2015/ND-CP), issued on 20 April 2018; and (iii) Ministry of Finance (MOF) Circular No. 38/2015/TT-BTC (on customs procedures, customs supervision and inspection, export tax, import tax, and tax administration applied to exported and imported goods), issued on 25 March 2015, which was amended and supplemented by MOF Circular No. 39/2018/TT-BTC (on prescribing inspection and verification of exported goods), issued on 20 April 2018. The authorities state that the legal documents were formulated through, *inter alia*, public consultations with relevant agencies, businesses, and people via written documents, website posts, and business associations.

3.2. The Customs Law stipulates, *inter alia*, customs management; goods permitted to be imported, exported, or transited; and the organization and operation of customs services. The authorities state that, compared with the previous law, the revised Law created a legal basis for the application of risk management in all processes of customs inspection and supervision, adopted post-inspection principles, expanded the application of information technology and modern equipment into professional activities, and adopted the National Single Window and the Association of Southeast Asian Nations (ASEAN) Single Window. They state that the Law and other relevant documents modernized customs management by, *inter alia*, using technological applications such as electronic customs clearance at all customs departments and branches, and allowing customs declarations to be made 24 hours a day and 7 days a week.<sup>1</sup>

3.3. Through the reform, the authorities aim to: (i) simplify the customs dossier; (ii) provide transparent regulations on maximum time for post-customs clearance inspection and physical inspection of goods; (iii) conduct surveys and evaluation of management performance regularly; (iv) clarify the rights and obligations of customs declarants, organizations, and individuals concerned, as well as customs officers, the customs authority, and relevant agencies; (v) create a mechanism to encourage legal compliance of customs declarants; and (vi) minimize direct contact between customs officers and customs declarants during the clearance process. They also consider that the reform will lead to customs officers' increased awareness about the new customs management method.

3.4. The authorities consider that the uniform application of HS codes at the time of importation is ensured by using a List of Exports and Imports based on the HS Nomenclature of the World Customs Organization and the ASEAN Harmonized Tariff Nomenclature (AHTN), and a system of legislative documents on customs including the Customs Law.

3.5. On 6 April 2016, the Law on Export Tax and Import Tax (Law No. 107/2016/QH13) was adopted. The Law, which entered into force on 1 September 2016, aimed, *inter alia*, to: (i) meet the implementation requirements on international commitments and treaties on import and export duties; (ii) amend the tax table and tax rates to suit the requirements of free trade agreements Viet Nam is a party to; (iii) encourage and protect domestic business activities and production; and (iv) contribute to the implementation of administrative reforms. The Law specifies each type of tax,

<sup>1</sup> Customs declarants must submit customs dossiers to customs offices as prescribed in Clause 2, Article 16, of MOF Circular No. 38/2015/TT-BTC, and Clause 5, Article 1, of MOF Circular No. 39/2018/TT-BTC. The registration and channelling of declarations comply with Article 19 of MOF Circular No. 38/2015/TT-BTC and Clause 8, Article 1, of MOF Circular No. 39/2018/TT-BTC.

including *ad valorem* taxes, mixed taxes, and taxes on imported goods subject to tariff quotas.<sup>2</sup> In accordance with the implementation of commitments to reduce export tax in the framework of a number of FTAs, the Law also stipulates that, for goods exported to a country, group of countries or territories that have preferential export tax agreements in their trade relations with Viet Nam, these agreements will be applied.

3.6. The authorities consider that the Law makes comprehensive reforms in terms of management methods and export and import tax policies regarding stability, openness, transparency, and favourable conditions for businesses, particularly in regard to tax calculation method and various types of taxes.

3.7. Under the Law, imported goods originating from a country, a group of countries, or territories that exercise most-favoured nation (MFN) treatment in trade relations with Viet Nam or goods from non-tariff zones (e.g. export processing zones described in Section 3.2.4) imported into the domestic market that satisfy the rule of origin from a country, group of countries, or territories that exercise MFN treatment in trade relations with Viet Nam are accorded "preferential tax rates" (i.e. applied MFN rates). Imported goods originating from a country, a group of countries, or territories that have a preferential trade agreement with Viet Nam or goods from non-tariff zones imported into the domestic market that satisfy the rules of origin from a country, a group of countries, or territories that have a preferential trade agreement with Viet Nam are accorded "special preferential tax rates". If neither preferential tax rates nor special preferential tax rates are applicable, an ordinary tax rate, which is 150% of the preferential tax rate of each tariff line, will be applied. There are a number of tax exemptions.

3.8. Legislation continues to distinguish between import trading rights and the right to distribute imported goods within Viet Nam. Full import trading rights have been granted to foreigners since 1 January 2009. A foreign-invested company needs to have a certificate of investment registration as prescribed under the Law on Investment (Law No. 67/2014/QH13, issued on 26 November 2014, and entered into force on 1 July 2015) to engage in imports or exports (Section 2.4).<sup>3</sup> Under Decree No. 09/2018/ND-CP (providing guidance on the Law on Commerce and the Law on Foreign Trade Management), issued on 15 January 2018, wholesale distribution of imported goods within Viet Nam is allowed without a business licence, which is required for a foreign-invested enterprise to engage in retail distribution. Articles 3 and 23 of the Decree specify general criteria of an economic needs test for projects establishing FDI retail outlets. Foreign-invested enterprises are allowed to distribute lubricants (including petroleum-based lubricants) domestically if the enterprises meet the conditions specified in the Decree.<sup>4</sup> Under Decree No. 116/2017/ND-CP (on Business Requirements for Manufacturing, Assembly and Imports of Automobiles, Automobile Warranty and Maintenance Services, issued on 17 October 2017), importers of automobiles must hold a written certificate or document indicating that they are authorized to represent foreign automobile producers so they can recall any defective automobiles exported to Viet Nam, if necessary.<sup>5</sup>

3.9. Customs clearance documentation and procedures are implemented based on a circular of the MOF.<sup>6</sup> According to the authorities, Viet Nam's customs procedures follow the revised Kyoto Convention and the process of timely domestication of international treaties of which Viet Nam is a member. Under Article 29 of the Customs Law, a customs declaration must in principle be made electronically, but it may be made on paper as regulations prescribe. Electronic customs declaration and online tax payment can be made 24 hours a day, 7 days a week. For customs clearance, importers must submit and produce to customs offices documents as prescribed in Clause 2, Article 16, of MOF Circular No. 38/2015/TT-BTC, amended and supplemented in Clause 5, Article 1, of MOF Circular No. 39/2018/TT-BTC; the documents include a declaration of imported goods, commercial invoices, and the bill of lading. The registration and channelling of declarations must

<sup>2</sup> Article 10 of the Law on Export Tax and Import Tax (No. 45/2005/QH11) provides that "(i) Tax rates on exported goods are specified for each item in the Export Tariff; and (ii) Tax rates on imported goods include the preferential tax rate, the special preferential tax rate and the ordinary tax rate".

<sup>3</sup> For a domestic company to engage in imports or exports, a business registration certificate or an enterprise registration certificate is required.

<sup>4</sup> Conditions include that a foreign-invested business entity performs one of following activities in Viet Nam: manufacturing lubricants; or manufacturing or distributing machinery, equipment, or goods using particular lubricants.

<sup>5</sup> WTO document G/TBT/N/VNM/116, 7 March 2018.

<sup>6</sup> These include MOF Circular No. 38/2015/TT-BTC, as amended and supplemented by MOF Circular No. 39/2018/TT-BTC.

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comply with Article 19 of MOF Circular No. 38/2015/TT-BTC, amended and supplemented in Clause 8, Article 1, of MOF Circular No. 39/2018/TT-BTC.

3.10. Customs units at all levels in Viet Nam implement risk management. Under the 2014 Customs Law, risk management in customs operations includes: (i) collecting and processing customs information; (ii) building criteria and organizing the assessment of the customs declarants' legal compliance, and classifying the level of risks; and (iii) organizing the implementation of appropriate customs management measures. Customs plans to carry out the classification of import and export goods based on the results of classification of the compliance level, the level of risk of the customs declarant, and the result of the classification of risk level in export and import activities, exit, entry, transit. Customs plans to apply a communication system that automatically integrates and processes data. Currently, the actual inspection flow rate nationwide is about 5%. The MOF issued Circular No. 81/2019/TT-BTC (regulating risk management in customs operations, and publishing criteria for classification of compliance and risk level of customs declarants, as well as the results of such classification) on 18 November 2019. The authorities state that risk management basically follows the World Customs Organization's (WCO) recommendations on risk management.

3.11. Customs brokers require a business registration certificate or an enterprise registration certificate demonstrating that the operation is in good standing. Employees in charge of customs brokerage must be Vietnamese citizens.

3.12. Customs uses an automatic customs clearance and national single-window mechanism comprising: (i) an automatic clearance system (Viet Nam Automated Cargo Clearance System (VNACCS)); and (ii) a business information database system (Viet Nam Customs Information System (VCIS)). The VNACCS focuses on three stages: before, during, and after customs clearance; it has new functions and procedures, such as tax-free list registration procedures, and procedures for general application of both commercial and non-commercial goods. Through the VNACCS and the single window, Customs sends information related to the licensing application of the specialized agencies, and the licensing procedures will be conducted through the system; the VNACCS also connects with information systems of related parties such as those providing warehouse, port, service, forwarding, transportation, and banking services. The VNACCS system may also process information before arrival/declaration. With a view to ensuring fast clearance of goods, consignments with questionable prices will be moved to the post-customs clearance stage for identification.

3.13. On 13 June 2019, the National Assembly approved the Law on Tax Administration (Law No. 38/2019/QH14), which entered into force on 1 July 2020. The Law replaces the Law on Tax Administration No. 78/2006/QH11, which was amended and supplemented by a number of articles under the Law on Tax Administration No. 21/2012/QH13 (Law No. 71/2014/QH13) and Law No. 106/2016/QH13.

3.14. Customs has the function and authority of implementing measures to control imports (and exports) related to patents, including inspection and supervision to detect goods with signs of infringement and suspending customs procedures for export and import goods suspected of infringing on protected patents.

3.15. On 15 December 2015, Viet Nam deposited at the WTO its instrument of acceptance of the Protocol of Amendment to insert the WTO Trade Facilitation Agreement (TFA) into Annex 1A of the WTO Agreement. The authorities indicate that Viet Nam is committed to implementing the TFA and has taken many steps in this regard. It notified its Category A, B, and C commitments to the WTO on 16 November 2018. Final implementation of all category commitments is scheduled for 2025.

3.16. Since 2016, the Government has put in place a number of directions and guidelines with a view to facilitating international trade. These include Resolutions 19/NQ-CP in 2015, 2016, 2017, and 2018; Resolution 01/NQ-CP in 2019; and Resolutions 02/NQ-CP in 2019 and 2020, which set specific goals and assigned relevant ministries, branches, and agencies to implement solutions to achieve those goals. The Prime Minister issued directions to reduce the clearance time for goods, and to reform specialized inspection to facilitate import and export businesses, such as Decision No. 1254/QĐ-TTg in 2018 and Decision No. 1258/QĐ-TTg in 2020. Viet Nam established a National Steering Committee for the ASEAN Single Window, National Single Window, and Trade Facilitation

in accordance with Prime Minister's Decision No. 1899/QĐ-TTg, issued on 4 October 2016.<sup>7</sup> Since mid-2017, Viet Nam has used the Viet Nam Automated System for Seaport Customs Management (VASSCM) system, which is integrated into the National Single Window and the VNACCS/VCIS with a view to, *inter alia*, simplifying and harmonizing customs procedures with those of warehouses, yards, seaports, airports, and other related parties through IT systems developed by Customs.

3.17. Viet Nam issued advance rulings on commodity code classification, valuation, and origin of imported goods<sup>8</sup>, amending and supplementing a number of articles of MOF Circular No. 39/2015/TT-BTC, issued on 25 March 2015, prescribing the customs value of exported goods.

3.18. Viet Nam introduced various measures in response to the COVID-19 pandemic in the area of customs procedures and valuation. Customs enhanced the application of IT to customs clearance and goods clearance in order to minimize direct contact between customs officers involved in goods import and export procedures. By August 2020, all core customs procedures were completely automated through the VNACCS/VCIS system, processing more than 99.6% of declarations. The authorities state that Customs directed the implementation of fast clearance of goods, especially aid goods, to fight the pandemic, and worked to reduce the number of cases in which samples are required for customs clearance; it also reduced the rate of yellow and red channels. Regarding goods in transit or trans-shipment, customs procedures were simplified, for example, by not requiring supporting documents in some cases. Customs also simplified the renewal process for priority enterprises, submission of declarations, and inspections.

3.19. According to the World Bank, in 2019, Viet Nam was ranked 104<sup>th</sup> (up from 108<sup>th</sup> in 2015) of 190 economies in the ease of trading across borders.<sup>9</sup>

#### 3.1.1.2 Customs valuation

3.20. Article 86 of the Customs Law constitutes the basic legal provisions for customs; it stipulates the transaction value as the principal method of customs valuation, and provides for alternative valuation methods, which are stipulated in MOF Circular No. 39/2015/TT-BTC (on Customs Value of Imported Goods and Exported Goods), issued on 25 March 2015, and MOF Circular No. 60/2019/TT-BTC (amending a number of articles of MOF Circular No. 39/2015/TT-BTC), issued on 30 August 2019.

3.21. Pursuant to the provisions of MOF Circular No. 60/2019/TT-BTC, issued on 30 August 2019 (amending and supplementing a number of articles of MOF Circular No. 39/2015/TT-BTC (regulating the customs value of exported goods), issued on 25 March 2015), the Director of the General Department of Customs shall promulgate the regulation on exploitation, construction, management, operation, and use of the customs value database and customs value treatment. The database may be used only internally within Customs.

3.22. According to the authorities, customs valuation in Viet Nam complies with the standards set in the WTO Customs Valuation Agreement.

3.23. Decree No. 127/2013/ND-CP (on penalties for administrative violations), issued on 15 October 2013, stipulates sanctions (e.g. fines) related to, *inter alia*, violations of regulations on customs declaration and the enforcement of administrative decisions in the customs domain. It was amended and supplemented by Decree No. 45/2016/ND-CP, issued on 26 May 2016. Under the Decrees, sanctions include: (i) a fine up to VND 40,000,000 in the case of violating the regulations on customs declaration (Article 7); (ii) a fine of up to 20% of the underpaid tax amount or the

<sup>7</sup> The Committee is an interdisciplinary coordination organization assisting the Prime Minister in directing, coordinating, guiding, inspecting, and organizing the implementation of the ASEAN Single Window and the National Single Window. As at 15 December 2020, 207 administrative procedures of 13 ministries and agencies officially implemented the National Single Window, with more than 3.5 million records of more than 43,460 enterprises. The ASEAN Single Window was officially implemented on 1 January 2018.

<sup>8</sup> Decree No. 59/2018/ND-CP, issued on 20 April 2018, MOF Circular No. 39/2018/TT-BTC, issued on 20 April 2018, and MOF Circular No. 60/2019/TT-BTC, issued on 30 August 2019. Since then, Viet Nam has officially connected the ASEAN Single Window to exchange origin certification information with nine ASEAN countries. The number of C/O received by Viet Nam from other ASEAN countries totalled 247,858 and the number of C/O sent by Viet Nam to other ASEAN countries totalled 313,859.

<sup>9</sup> World Bank, *Ease of Doing Business Rankings*. Viewed at: <https://www.doingbusiness.org/en/rankings>.

exempted, reduced, refunded, or non-collected tax amount higher than the tax law provisions in the case of violating the regulations on tax declaration (Article 8); and (iii) other penalties for tax evasion or tax fraud (Article 13).

3.24. A disputed valuation decision may be appealed by an importer pursuant to Article 1 of the 2011 Law on Complaints and Degree 08/2015/ND-CP, issued on 21 January 2015, or the importer can initiate an administrative lawsuit in accordance with Article 30 of the 2014 Law on Administrative Procedures. The matter may be taken to a higher administrative body or a case may be brought before the Administrative Court.

3.25. Viet Nam has not filed any notifications regarding customs valuations to the WTO.

3.26. Viet Nam has no regulations on requirements concerning pre-shipment requirements.

### 3.1.2 Rules of origin

3.27. Viet Nam applies both non-preferential and preferential rules of origin.

3.28. Since its previous Review, Viet Nam has issued various legal documents concerning rules of origin including: Decree No. 31/2018/ND-CP (detailing a number of articles of the Law on Foreign Trade Management in terms of origin of goods), issued on 8 March 2018; and Ministry of Industry and Trade (MOIT) Circular No. 05/2018/TT-BCT (on origin of goods) (Table A3.1).<sup>10</sup>

3.29. Decree No. 31/2018/ND-CP stipulates, for example: the introduction of self-certification of origin; application and issuance of certificates of origin or other relevant documents; the procedure for issuing certificates of origin or other relevant documents in combination with applicant classification; strengthening post-inspection and combating fraudulent origin of goods; and how to handle violations of the rules of origin. Under the Decree, preferential rules of origin are applied in accordance with MOIT guidelines on rules of origin and international treaties or agreements to which Viet Nam is a party. MOIT Circular No. 05/2018/TT-BCT stipulates non-preferential product origin criteria in the case of goods not wholly obtained or produced in Viet Nam.

3.30. Viet Nam implements ASEAN preferential rules of origin. Importers are required to submit certificates of origin either satisfying the wholly obtained criterion or proving a minimum 40% cumulative origin of goods from ASEAN members for goods imported under the ASEAN Trade in Goods Agreement. ASEAN free trade agreements with other partners such as Australia-New Zealand, Chile, China, the Eurasian Economic Union, India, and the Republic of Korea are also based on the wholly obtained criterion or substantial transformation involving a change in tariff heading, and allowing for regional cumulative origin.<sup>11</sup> Specific rules may apply particularly to minimal operations and processes; accessories, spare parts, and tools; identical and interchangeable materials; the treatment of packaging materials and containers; and indirect materials.<sup>12</sup>

3.31. The MOIT is the competent authority for issuing certificates of origin. It also authorizes the management boards of industrial zones (including export processing zones) to issue certificates of origin, and the Chamber of Commerce and Industry of Viet Nam to issue preferential certificates of origin under the GSP of foreign countries that grant non-preferential certificates of origin for Viet Nam.

<sup>10</sup> Other relevant documents include MOF Circular No. 205/2010/TT-BTC, issued on 15 December 2010, which guides Decree No. 40/2007/ND-CP, issued on 16 March 2007, which defines customs value determination for imports and exports.

<sup>11</sup> The ASEAN agreements with Australia-New Zealand, China, and the Republic of Korea stipulate a general minimum regional value content of 40%; with India, the minimum is 35%. Some agreements also have product-specific rules, e.g. the FTA with the Republic of Korea contains product-specific rules for 447 tariff lines at the HS 6-digit level. Notably for processed shrimps and crabs, the regional value content must be not less than 35% of the f.o.b. value of the goods.

<sup>12</sup> Viet Nam notified the preferential rules of origin applicable in the ASEAN FTAs with Australia-New Zealand and India to the WTO Committee on Rules of Origin (WTO document G/RO/N/68, 23 February 2011).

3.32. During the review period, Viet Nam made no new notifications to the WTO.<sup>13</sup>

### 3.1.3 Tariffs

3.33. Viet Nam's tariffs are established by the Standing Committee of the National Assembly in the form of statutory rates at the 4-digit HS level, which constitute duty bands within which the Government fixes the applied duty rates. Within these bands, the customs tariff is generally issued annually in the form of an MOF circular. All of Viet Nam's tariffs are bound. Since 1 September 2016, export and import taxes have been issued in accordance with Articles 10 and 11 of the Law on Export Tax and Import Tax (Law No. 107/2016/QH13).

3.34. According to the authorities, Viet Nam fully implemented its tariff concessions in 2019; its final bound rates average 14.7% for all goods. Most tariff lines were initially bound in the 0%-40% range, with peaks in the initial bound rates for "sensitive" items such as sugar (100%), wines and spirits (65%), tobacco (80%-150%), and motor vehicles (100%). Viet Nam is a party to the plurilateral Information Technology Agreement, with zero duty on such goods applied.

3.35. Viet Nam bound all of its tariff lines at *ad valorem* rates, with the exception of 15 tariff lines applied to second-hand motor vehicles (HS 8703), which are bound at the lower of a compound rate (150% + USD 15,000) or 200% *ad valorem*. It reserved the right to apply specific or compound import duties on certain "sensitive" goods to address customs fraud. So far, this has not proven necessary. Currently, only second-hand motor vehicles are subject to applied non-*ad valorem* rates. The non-*ad valorem* rate for imported used cars is specified in Appendix III to Decree No. 57/2020/ND-CP, issued on 25 May 2020.

3.36. Viet Nam's tariff applied in 2020 follows the AHTN, based on the HS17 nomenclature.<sup>14</sup> The Customs Tariff contains 10,813 tariff lines at the HS 8-digit level. The simple average applied MFN rate for all goods is 11.9%, compared with 10.4% in 2013 (Table 3.1 and Chart 3.1); 18.1% for agricultural goods; and 10.9% for non-agricultural products (WTO definition). The main reason for the increase in the overall tariff average is due to the change from the HS12 to the HS17 nomenclature and the splitting of several tariff lines, mainly in the "transport equipment section (HS Section 17)". The highest tariffs include: 135% for five tariff lines concerning cigarettes (HS 2402.20 and 2402.90); 100% for two tariff lines concerning certain tobacco products such as cigars, cheroots, and cigarillos (HS 2402.10); and worn clothing and other worn articles (HS 6309.00) (Table A3.2 and Chart 3.2).

**Table 3.1 Tariff structure, 2013 and 2020**

(%, unless otherwise indicated)

	MFN applied		Final bound <sup>a</sup>
	2013	2020	
Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0
Simple average rate	10.4	11.9 (12.0)	14.7
Agricultural products (HS 01-24)	17.4	17.8 (18.6)	20.4
Industrial products (HS 25-97)	9.0	10.7	13.6
WTO agricultural products	17.4	18.1 (19.1)	20.0
WTO non-agricultural products	9.3	10.9 (11.0)	13.9
Duty-free tariff lines (% of all tariff lines)	32.9	29.2	12.7
Simple average rate of dutiable lines only	15.6	16.9 (17.1)	16.9
Tariff quotas (% of all tariff lines)	..	0.3	0.3

<sup>13</sup> Viet Nam's notifications to date are found in WTO documents G/RO/N/68, 22 February 2011, and G/RO/N/79, 1 June 2012.

<sup>14</sup> Viet Nam's Customs Tariff establishes three categories of import duty rates: (i) the "preferential rate", i.e. the MFN rate of duty generally applicable to WTO Members; (ii) "special preferential rates" applicable according to Viet Nam's preferential trade regimes; and (iii) the "ordinary" rate of customs duty. The ordinary duty, which is 1.5 times the MFN rate, is applied on trade with non-WTO Members (unless MFN treatment was agreed bilaterally).

	MFN applied		Final bound <sup>a</sup>
	2013	2020	
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.0	0.0	0.2
Domestic tariff "peaks" (% of all tariff lines) <sup>b</sup>	4.1	4.8 (5.0)	4.4
International tariff "peaks" (% of all tariff lines) <sup>c</sup>	25.6	28.4	34.8
Overall standard deviation of tariff rates	12.5	14.5 (14.9)	16.7
Coefficient of variation of tariff rates	1.2	1.2	1.1
Nuisance applied rates (% of all tariff lines) <sup>d</sup>	0.6	1.0	0.9
Total number of tariff lines	9,566	10,813	8,025
<i>Ad valorem</i> rates	6,337	7,429	6,994
Duty free	3,142	3,154	1,016
Alternate rates	0	0	15
Other <sup>e</sup>	87	230	0

.. Not available.

a Final bound rates are taken from the CTS database. The final bound schedule is based on HS12 nomenclature at the 8-digit level.

b Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.

c International tariff peaks are defined as those exceeding 15%.

d Nuisance rates are those greater than zero, but less than or equal to 2%.

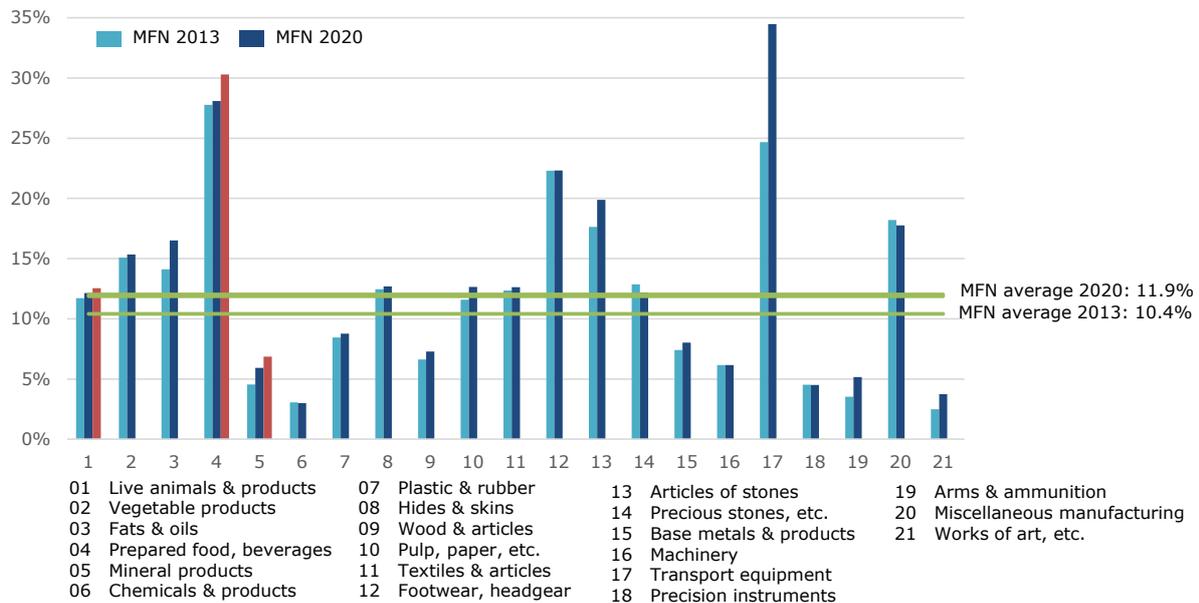
e Other duties include those based on special instruction as provided under Chapter 98; all tariff lines concerned are under Chapter 87 (motor vehicles).

Note: 2013 tariff rates are based on HS12, and 2020 on HS17. Calculations for averages are based on national tariff line level (8-digit). Tariff calculations for 2013 are based on in-quota rates, as no out-of-quota rates were available; tariff calculations based on in-quota rates are shown for 2020 for comparison. In 2020, figures in brackets refer to data including out-of-quota rates and excluding in-quota rates.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.37. In response to the outbreak of the COVID-19 pandemic, Viet Nam temporarily eliminated applied MFN tariffs on medical and certain personal protective equipment (HS Chapters 38-39, 56, 60, 62-63, 72-73, and 76) on 7 February 2020.<sup>15</sup> On that date, the Prime Minister's Official Letter No. 197/TTg-KTTH was issued, approving the exemption of import tax for medical masks, antiseptic hand sanitizer, raw materials for export, water-based antiseptic, and materials and other necessary equipment for the prevention and control of acute respiratory infections caused by COVID-19. Following the Official Letter, the Minister of Finance issued Decision No. 155/QD-BTC on 7 February 2020, which covered the same items. Other relevant documents include Decision No. 436/QD-BTC of the Minister of Finance, issued on 27 March 2020, on the addition of goods exempted from import tariff in the list of goods exempted from import duty, against the epidemic of acute respiratory infections caused by COVID-19, and Decision No. 2138/QD-BTC of the Minister of Finance, issued on 18 December 2020, on the issuance of the list of accessories imported for the manufacture of oxygen respirators that are exempt from import tax for COVID-19 epidemic prevention and control. According to the authorities, Viet Nam did not impose any provisional import duties during the review period.

<sup>15</sup> Tariffs were eliminated on HS 3808.94.20; 3808.94.90; 3916.10.20; 3916.20.20; 3916.90.42; 3916.90.92; 3926.90.99; 5603; 5604.10.00; 5606.00.00; 6002.40.00; 6002.90.00; 6210.10.90; 6307.90.40; 6307.90.90; 7217.90.90; 7326.90.99; 7604.10.10; 7604.29.10; and 7616.99.90.

**Chart 3.1 Average applied MFN rates, by HS section, 2013 and 2020**

Note: The 2013 tariff is based on HS12 nomenclature; the 2020 tariff is based on HS17. Excluding 87 and 230 tariff lines under HS section 17, respectively, in 2013 and 2020. Calculations exclude out-of-quota rates and include in-quota rates. The bars in red under HS Sections 1, 4, and 5 show 2020 averages including out-of-quota rates and excluding in-quota rates. In this scenario the overall average is 12.0%.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.38. The difference between bound and applied MFN rates leaves some scope for flexibility in Viet Nam's tariff policy.<sup>16</sup> The gap between the simple average applied MFN rate and the average bound rate is 2.8 percentage points in 2020.<sup>17</sup> Nineteen tariff lines had higher applied rates (entirely or partially) than their corresponding bound rates (Table A3.3).<sup>18</sup> The authorities state that Viet Nam has implemented tariff reductions each year based on the AHTN conversion table since joining the WTO, and if taking into account the amendments of the AHTN, eight of the nine lines indicated above were within the corresponding bound rates, and the applied MFN rate on one line (HS 4804.39.90) exceeded the corresponding bound rate.<sup>19</sup>

3.39. Viet Nam accords tariff preferences under regional and bilateral preferential trade agreements to its ASEAN partners, Australia and New Zealand, Chile, China, the Eurasian Economic Union, India, Japan, and the Republic of Korea (Table 3.2).

<sup>16</sup> The difference between the bound and applied MFN rate was 5 percentage points or more, for some 2,600 tariff lines in 2020 (comparison is difficult as applied MFN and bound schedules are not in the same nomenclature).

<sup>17</sup> Comparison is difficult as applied MFN and bound schedules are not in the same nomenclature.

<sup>18</sup> There could be more, as many lines are not possible to compare between applied MFN and bound.

<sup>19</sup> According to the authorities, when Viet Nam joined the WTO, its tariff commitments were based on the 2002 ASEAN Harmonized Tariff Nomenclature (AHTN 2002). To date, the AHTN 2002 has been amended three times (in 2007, 2012, and 2017). The amendments changed some product codes and group/subgroup classifications due to the merging/splitting of tariff lines.

**Table 3.2 Summary analysis of the preferential tariff, 2020**

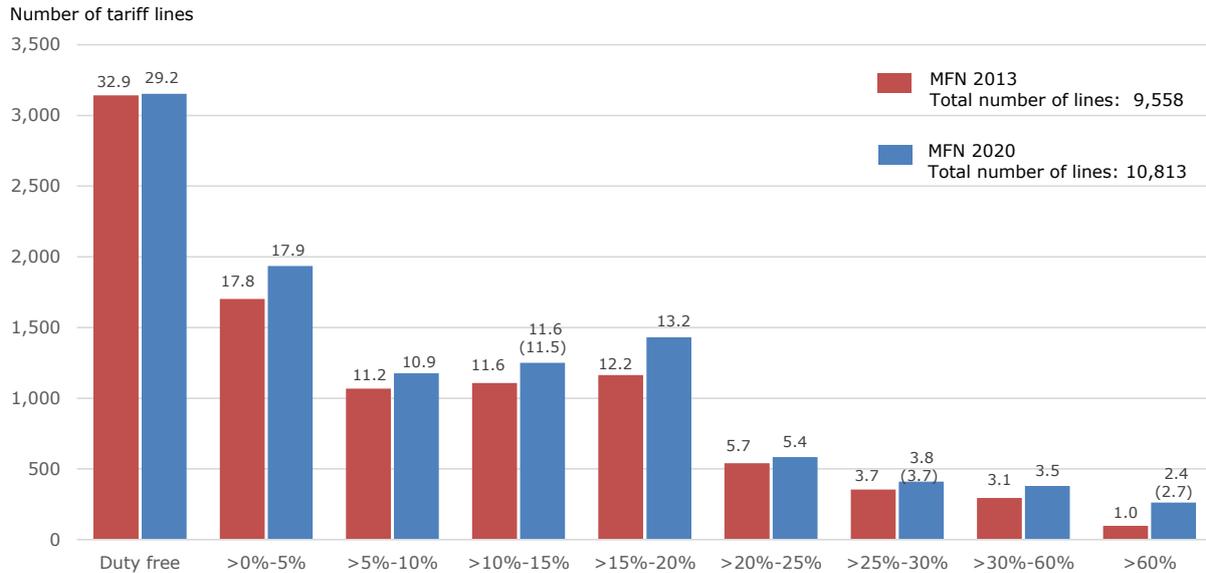
	Total				WTO agriculture		WTO non-agriculture	
	Average (%)	Range (%)	Coverage <sup>a</sup> (%)	Duty-free rates <sup>b</sup> (%)	Average (%)	Duty-free rates <sup>b</sup> (%)	Average (%)	Duty-free rates <sup>b</sup> (%)
MFN	12.0	0-135		29.2	19.1	11.8	11.0	31.7
ASEAN Trade in Goods Agreement (ATIGA)	0.5	0-135	67.6	96.3	2.3	93.4	0.2	96.8
ASEAN-Australia-New Zealand FTA (AANZFTA)	2.7	0-135	63.5	87.5	4.5	89.7	2.4	87.2
ASEAN-China FTA (ACFTA)	2.6	0-100	64.9	86.2	2.3	93.7	2.6	85.2
ASEAN-Hong Kong, China FTA (AHKFTA)	10.3	0-135	43.5	30.1	16.0	12.5	9.4	32.6
ASEAN-India FTA (AIFTA)	6.4	0-135	47.6	63.3	6.3	71.9	6.4	62.0
ASEAN-Japan Comprehensive Economic Partnership (AJCEP)	5.1	0-135	59.2	61.5	7.5	42.0	4.7	64.3
ASEAN-Korea FTA (AKFTA)	4.5	0-135	55.6	82.8	4.4	92.0	4.5	81.5
Viet Nam-Chile FTA (VCFTA)	6.8	0-135	47.4	34.3	12.1	16.6	6.1	36.9
Viet Nam-Japan Economic Partnership Agreement (VJEPA)	4.5	0-135	60.5	74.3	7.7	50.0	4.1	77.8
Viet Nam-Korea FTA (VKFTA)	4.1	0-135	59.4	83.8	4.4	91.6	4.0	82.7
Viet Nam-Eurasian Economic Union FTA (VEAEUFTA)	4.0	0-135	61.6	78.5	7.3	68.7	3.5	79.9
Comprehensive Progressive Agreement for Trans-Pacific Partnership (CPTPP)	4.6	0-109.6	65.5	63.9	9.2	35.3	3.9	68.0

a Percentage of total lines. Only rates that are lower than the corresponding MFN rate are taken into account.

b Duty-free lines as a percentage of total tariff lines.

Note: Calculations for preferential rates are based on the 2020 MFN tariff schedule; the lower preferential rate replaces with the corresponding applied MFN rate at the national 8-digit level. In case the preferential rate is higher than the corresponding MFN applied rate, the latter is used for the calculations. Calculations exclude in-quota tariff rates and include out-of-quota rates.

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Chart 3.2 Distribution of MFN tariff rates, 2013 and 2020**

Note: The 2013 tariff is based on HS12 nomenclature; the 2020 tariff is based on HS17. Figures above the bars refer to the percentage of total lines. Totals do not add up to 100%. No rates were available for 87 and 230 tariff lines in 2014 and 2020, respectively. Figures include in-quota and exclude out-of-quota rates. Figures in brackets for 2020, include out-of-quota and exclude in-quota rates.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.40. Viet Nam has tariff quotas for imports of eggs, sugar cane, tobacco, and salt, as prescribed in Appendix IV to Decree No. 57/2020/ND-CP and Article 11 of MOIT Circular No. 12/2018/TT-BCT (on detailing a number of articles of the Law on Foreign Trade Management), issued on 15 June 2018. According to the country's Goods Schedule, quota volumes must increase by 5% annually for goods subject to tariff quotas (Table 3.3).

**Table 3.3 Tariff quotas, 2016-19**

Product/HS code	TQ in 2016	TQ in 2017	TRQ in 2018	TRQ in 2019	In-quota tariff rate (%)	Out-of-quota tariff rate (%)	Import volume 2019	Administration method
<b>Eggs</b> 04072100 04072910 04072990 04079010 04079020 04079090	48,620 dozen	50,051 dozen	52,553 dozen	55,181 dozen	40	80	0	Past performance
<b>Sugar cane</b>  17011200 17011300 17011400 17019100 17019910 17019990	85,000 tonnes	89,500 tonnes	94,000 tonnes	98,700 tonnes			26,000 tonnes	Allocated to end users based on past performance; portion of TQ allocated to new importers
					25	80		
					25	80		
					25	80		
					40	100		
					40	85		
					40	85		

Product/HS code	TQ in 2016	TQ in 2017	TRQ in 2018	TRQ in 2019	In-quota tariff rate (%)	Out-of-quota tariff rate (%)	Import volume 2019	Administration method
<b>Tobacco</b>	48,620 tonnes	51,051 tonnes	53,604 tonnes	56,284 tonnes			37,147 tonnes	Past performance; quotas allocated to end users who have cigarette-producing permits
24011010					30	80		
24011020					30	90		
24011040					30	80		
24011050					30	80		
24011090					30	90		
24012010					30	80		
24012020					30	90		
24012030					30	90		
24012040					30	80		
24012050					30	80		
24012090					30	90		
24013010					15	80		
24013090					30	90		
<b>Salt</b>	102,000 tonnes	102,000 tonnes	110,000 tonnes	110,000 tonnes			60,000 tonnes	Past performance
25010010					30	60		
25010020					30	60		
25010050					15	50		
25010091					15	50		
25010092					15	50		
25010099					15	50		

Source: WTO document G/AG/N/VNM/12, 12 May 2020; MOIT Circular No. 12/2018/TT-BCT, 15 June 2018; and information provided by the authorities.

3.41. Tariff quotas for eggs, refined and raw sugar, and salt are decided by the Ministry of Agriculture and Rural Development (MARD). Tariff quotas for unmanufactured tobacco are decided by the MOIT, which announces annual import tariff quotas and decides on methods for managing imports of each commodity. Tariff rates for goods subject to tariff quotas are specified in Appendix IV to Decree No. 57/2020/ND-CP specifying the list of goods and the rates of out-of-quota import taxes with respect to the goods subject to the tariff quotas, including eggs, sugar, tobacco, and salt.

3.42. Quotas for salt are allocated to traders that wish to use it for manufacture, as confirmed by a competent regulatory authority. Quotas for poultry eggs are allocated to traders that wish to import them. Quotas for refined and raw sugar are allocated based on annual MOIT guidelines in consultation with the MARD and the MOF. Quotas for unmanufactured tobacco are allocated to traders that have been issued a licence by the MOIT to manufacture cigarettes using imported unmanufactured tobacco. Auctioning is not used to allocate the quotas. Allocated quotas are not transferrable. According to the authorities no imports of eggs is due to a lack of demand.

3.43. Viet Nam also has tariff quotas for preferential imports of rice, paddy, and unmanufactured tobacco from Cambodia and Lao People's Democratic Republic in accordance with bilateral memoranda concluded in 2005 (Lao People's Democratic Republic) and 2007 (Cambodia). In-quota volumes are subject to 0% import duty. The tariff quotas, which are announced by the MOIT, may be stipulated for one or two years at a time. Currently, for Cambodia, quota volume is 300,000 tonnes of rice equivalent<sup>20</sup> and 3,000 tonnes of unmanufactured tobacco each year for 2019 and 2020, and for Lao People's Democratic Republic, quota volume is 70,000 tonnes of rice equivalent and 3,000 tonnes of unmanufactured tobacco each year for 2018 and 2019.

3.44. Viet Nam exempts various goods from customs duties. Exemptions have been granted pursuant to the Law on Export Tax and Import Tax and Articles 10 and 12 of Decree No. 134/2016/ND-CP (guidelines for the Law on Export Tax and Import Tax) since their issuance on

<sup>20</sup> Two kg of paddy is considered equivalent to 1 kg of rice.

1 September 2016.<sup>21</sup> Under Article 16 of the Law, import duty exemptions are extended, *inter alia*, to: raw materials, supplies and components imported for export production; goods temporarily imported for re-export; certain goods and fixed assets imported for projects entitled to investment incentives; certain goods imported to serve petroleum activities; and imported goods related to information and technology, the environment, and education. Tariff exemption also extends to certain goods, which are bought, sold, or exchanged across the border by border residents within allowable quotas.<sup>22</sup> Appendix V to Decree No. 134/2016/ND-CP on duty-free quotas for goods traded and exchanged by border residents stipulates that goods purchased by Vietnamese residents with a permanent household registration in the border areas, and who hold a residence permit from the police station of the border province, are exempt from tax, with a customs value not exceeding VND 2 million per person per daily transaction and no more than four daily transactions per month. Other charges affecting imports. Under Article 18 of the Law, tax reductions apply to imports (and exports) that are damaged or lost under customs supervision and the damage or loss is verified by a competent organization.<sup>23</sup> Under Article 19, import duties are refunded if, *inter alia*: (i) a duty payer that has paid an import duty has to re-export the imported goods; (ii) a duty payer has paid a duty for goods imported for production or business activities but later uses these goods for export production and exports such products; or (iii) a duty payer has paid a duty for certain machinery, equipment, tools, or vehicles belonging to an organization or individual that is licensed to conduct temporary import for re-export. The refundable amount of import duty is determined based on the residual value of the re-exported goods calculated based on the period of their use in Viet Nam. The Government will not refund an amount that is lower than the prescribed minimum.

### 3.1.4 Other charges affecting imports

3.45. Imports are subject to customs fees in accordance with the Law on Fees and Charges (Law No. 97/2015/QH13, issued on 25 November 2015, and entered into force on 1 January 2017). On 14 November 2016, the MOF issued Circular No. 274/2016/TT-BTC stipulating the rates, collection, payment, management, and use of customs fees and fees for transit goods and vehicles. Accordingly, the customs fee to register a declaration is VND 20,000; the customs fee for inspection, supervision, or temporary suspension of customs procedures for export or import goods subject to intellectual property protection is VND 200,000.

3.46. Customs fees have been exempted for humanitarian goods and non-refundable aid; gifts for state agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations, people's armed forces units and individuals (exempt from tax within the norm, according to the relevant law); gifts for humanitarian or charity purposes; personal belongings of foreign organizations and individuals according to diplomatic immunity regulations; carry-on luggage; and postal letters and parcels.<sup>24</sup> Article 3 of MOF Circular No. 274/2016/TT-BTC introduces additional customs fee exemptions in such cases as: (i) imported and exported goods sent via express mail with a value of VND 1 million or less or with a tax amount (prescribed taxes) payable of under VND 100,000; (ii) imported and exported goods with a customs value of under VND 500,000 or a total payable tax amount (prescribed taxes) of under VND 50,000 for each export or import; and (iii) goods traded or exchanged by border residents within the prescribed norms.

3.47. Article 5 of MOIT Circular No. 274/2016/TT-BCT stipulates regulations concerning the declaration and payment of charges (they were not regulated under MOF Circular No. 172/2010/TT-BTC of 2 November 2010). According to the Article, for example, goods temporarily imported for re-export or temporarily exported for re-import are charged fees when carrying out import or export

<sup>21</sup> Before 1 September 2016, Article 12 of Decree No. 87/2010/ND-CP (detailing the implementation of a number of articles of the Law on Export and Import Tax), issued on 13 August 2010, was the basis of tariff exemptions.

<sup>22</sup> Border trade activities are regulated by: the Law on Foreign Trade Administration; Decree No. 14/2018/ND-CP (providing detailed guidelines on border trade activities), issued on 23 January 2018; MOIT Circular No. 01/2018/TT-BCT (detailing goods traded or exchanged by traders through sub-border gates and border crossings), issued on 27 February 2018; and MOIT Circular No. 02/2018/TT-BCT (providing detailed guidelines on the list of goods traded or exchanged by border residents), issued on 27 February 2018. They are also regulated under the Border Trade Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the People's Republic of China concluded on 12 December 2016, as well as border trade agreements with Cambodia and Lao People's Democratic Republic.

<sup>23</sup> Before 1 September 2016, Article 14 of Decree No. 87/2010/ND-CP was the basis for tariff reductions.

<sup>24</sup> This exemption is stipulated in Article 3 of MOF Circular No. 274/2016/TT-BTC; it was previously stipulated in MOF Circular No. 172/2010/TT-BTC, issued on 2 November 2010.

procedures; goods deposited in bonded warehouses are charged for customs clearance during the warehousing procedures. For goods in transit, a declaration fee is collected during entry procedures at the import border gate.

3.48. In its Goods Schedule, Viet Nam bound other duties and charges (pursuant to Article II:1(b) of the GATT 1994) at zero, and it does not apply taxes and fees other than tariffs on imported goods.

3.49. Viet Nam levies excise taxes on certain goods and services pursuant to the Law on Excise Tax No. 27/2008/QH12, which entered into force on 1 January 2009 and was amended twice – in 2014 (Law No. 70/2014/QH13) and in 2016 (Law No. 106/2016/QH13) (Table 3.4). No distinction is made between domestically produced and imported goods; excise tax is levied on the import-duty-inclusive price for imports on a c.i.f. basis. The taxable price of goods or services is the selling price or service provision price excluding environmental protection tax and value-added tax (VAT).

**Table 3.4 Goods and services subject to the excise tax, 2019**

No.	Description of good or service	Tax rate (%)
<b>I.</b>	<b>Goods</b>	
1.	Cigarettes, cigars and other products derived from tobacco plants	75
2.	Alcohol	
	(a) Alcohol from 20°	65
	(b) Alcohol less than 20°	35
3	Beer	65
4.	Motor vehicles	
	(a) Motor vehicles for the transport of not more than nine people, except for those specified in Point 4dd, 4e, and 4g of this Schedule	
	Of a cylinder capacity of 1,500 cm <sup>3</sup> or less	35
	Of a cylinder capacity exceeding 1,500 cm <sup>3</sup> but not exceeding 2,000 cm <sup>3</sup>	40
	Of a cylinder capacity exceeding 2,000 cm <sup>3</sup> but not exceeding 2,500 cm <sup>3</sup>	50
	Of a cylinder capacity exceeding 2,500 cm <sup>3</sup> but not exceeding 3,000 cm <sup>3</sup>	60
	Of a cylinder capacity exceeding 3,000 cm <sup>3</sup> but not exceeding 4,000 cm <sup>3</sup>	90
	Of a cylinder capacity exceeding 4,000 cm <sup>3</sup> but not exceeding 5,000 cm <sup>3</sup>	110
	Of a cylinder capacity exceeding 5,000 cm <sup>3</sup> but not exceeding 6,000 cm <sup>3</sup>	130
	Of a cylinder capacity exceeding 6,000 cm <sup>3</sup>	150
	(b) Motor vehicles of 10 to 15 seats (except those indicated in Points 4dd, 4e, and 4g)	15
	(c) Motor vehicles of 16 to 23 seats (except those indicated in Points 4dd, 4e, and 4g)	10
	(d) Motor vehicles served for both purposes of carrying passengers and goods (except those indicated in Points 4dd, 4e, and 4g)	
	Of a cylinder capacity not exceeding 2,500 cm <sup>3</sup>	15
	Of a cylinder capacity exceeding 2,500 cm <sup>3</sup> but not exceeding 3,000 cm <sup>3</sup>	20
	Of a cylinder capacity exceeding 3,000 cm <sup>3</sup>	25
	(dd) Motor vehicles running on both gasoline and electricity or bio-energy, the proportion of gasoline consumption does not exceed 70% of total energy used	Equal to 70% of amount of tax applied for the same type of vehicles indicated in Points 4a, 4b, 4c, and 4d
	(e) Motor vehicles running on bio-energy	Equal to 50% of amount of tax applied for the same type of vehicles indicated in Points 4a, 4b, 4c, and 4d
	(g) Motor vehicles running on electricity	
	Automobiles of less than nine seats	15
	Automobiles of 10 to 15 seats	10
	Automobiles of 16 to 23 seats	5
	Automobiles served for both purposes of carrying passengers and good	10
	(h) Motorhomes regardless of cylinder capacity	75
5.	Motorcycles of 2 or 3 wheels with cylinder capacity of over 125 cm <sup>3</sup>	20
6.	Airplanes	30
7.	Cruise boats	30
8.	Gasoline	10
	E5 Gasoline	8
	E10 Gasoline	7
9.	Air-conditioners with the capacity of 90,000 BTU or less	15
	From 01/04/2009	10
10.	Playing cards	40
11.	Votive paper	70

No.	Description of good or service	Tax rate (%)
<b>II. Services</b>		
1.	Operating discotheques, massage lounges, karaoke parlours	30
1.	Operating discotheques From 01/04/2009	40
2.	Operating massage lounges and karaoke parlours From 01/04/2009	30
3.	Casino business, electronic casino game business	35
4.	Recreation services with gambling From 01/04/2009	25 30
5.	Golf: selling memberships and tickets for playing golf Golf business From 01/04/2009	10 20
6.	Lottery	15

Source: Information provided by the authorities.

3.50. Refund and deduction of the excise tax are stipulated in Article 8 of the Law on Excise Tax. They concern, *inter alia*: goods temporarily imported for re-export; raw materials imported for production and processing of exports; goods subject to tax refund decisions by competent agencies; and goods subject to excise tax refund under treaties to which Viet Nam is a contracting party. Article 9 of the Law defines the reduction of the excise tax. It concerns taxpayers that produce excise taxable goods and face difficulties caused by natural disasters or unexpected accidents.<sup>25</sup>

3.51. Under the Law on Environmental Protection Tax (Law No. 57/2010/QH12), which entered into force on 1 January 2012, the environmental protection tax has been applied on petroleum products, coal, hydrogen-chlorofluorocarbon (HCFC) liquids (ozone-depleting substances), plastic bags, and various pesticides and herbicides. This list is unchanged since Viet Nam's previous Review. The tax rates are specific and set individually by product; the current rates are specified in Resolution No. 579/2018/UBTVQH14, issued on 26 September 2018 (Table 3.5). The Law authorizes the Standing Committee of the National Assembly to extend the product coverage. Goods exported directly are not subject to this tax.

**Table 3.5 Products subject to environmental protection tax, 2020**

Item	Product description	Calculation unit	Tax frame (VND)	Tax rate (VND)
I	<b>Gasoline, oil, grease</b>			
1	Gasoline, except ethanol	litre	1,000-4,000	4,000
2	Aircraft fuel	litre	1,000-3,000	3,000
3	Diesel oil	litre	500-2,000	2,000
4	Petroleum	litre	300-2,000	1,000
5	Fuel oil (Mazut oil)	litre	300-2,000	2,000
6	Lubricants	litre	300-2,000	2,000
7	Grease	kg	300-2,000	2,000
II	<b>Coal</b>			
1	Brown coal	tonne	10,000-30,000	15,000
2	Anthracite coal (anthracite)	tonne	20,000-50,000	30,000
3	Fat coal	tonne	10,000-30,000	15,000
4	Other coal	tonne	10,000-30,000	15,000
III	<b>Hydrogen-chlorofluorocarbon (HCFC) liquid</b>	kg	1,000-5,000	5,000
IV	Taxable-plastic bag	kg	30,000-50,000	50,000
V	Herbicide that is restricted	kg	500-2,000	500
VI	Pesticide that is restricted	kg	1,000-3,000	1,000
VII	Forest product preservative that is restricted	kg	1,000-3,000	1,000
VIII	Warehouse disinfectant that is restricted	kg	1,000-3,000	1,000

Source: Information provided by the authorities.

3.52. VAT is levied on goods and services in accordance with the Law on Value-Added Tax No. 13/2008/QH12, as amended in 2013, 2014, and 2016. The VAT rate is zero, 5%, or 10%, with 10% being the standard rate.<sup>26</sup> The reduced (5%) rate is applicable to goods and services that are

<sup>25</sup> The tax reduction level is determined based on the extent of damage caused by natural disasters or unexpected accidents, not exceeding 30% of the payable tax amount in the year the damage occurs or the balance between the value of damaged assets and the received compensation.

<sup>26</sup> Transactions subject to 0% or 5% VAT are enumerated in Article 8 of the Law.

inputs of agricultural production, as well as goods and services including clean water, ores for fertilizer production, pesticides and growth stimulants, preliminary processing and preservation of agricultural products, preliminarily processed rubber latex, fresh food, sugar and sugar by-products, animal feed, fresh food, agricultural machinery, medical equipment, teaching aids, children's toys, and scientific and technological services, unchanged since 2013.

3.53. Exported goods and services and international transportation services are zero rated. During the review period, VAT exemption was extended to: (i) insurance for persons in accordance with the Insurance Business Law; (ii) insurance for fishermen to encourage seafaring; (iii) loan services to taxpayers (excluding credit institutions, debt trading services, and foreign currency trading services); (iv) goods and services provided by business households and individuals that earn annual revenue of less than VND 100 million; and (v) certain fertilizers (Table 3.6). Enterprises and cooperatives that buy farming, breeding, or aquaculture products that have not been processed into other products or have only been preliminarily processed and then sell them to other enterprises or cooperatives do not need to declare and pay VAT but may deduct input VAT. Input for investment projects and exported goods and services equal to or above VND 300 million is eligible for VAT refund.

**Table 3.6 Goods and services not subject to VAT, December 2020**

No.	Product description
1.	Products of cultivation, husbandry, and aquaculture products, which have not yet been processed into other products or have been only preliminarily processed, sold by self-producing or fishing organizations and individuals.
2.	Livestock breeds, plant varieties, including breeding eggs, breeders, seedlings, seeds, semen, embryos, and genetic materials.
3.	Irrigation and drainage, ploughing and harrowing land, dredging interior field canals and ditches for agricultural production, service of harvesting agricultural products, fertilizer, machinery and equipment used exclusively for agricultural production, offshore fishing boats, fodder for cattle, poultry and other domestic animals.
4.	Salt products made from seawater, natural rock salt, refined salt, iodized salt with the main ingredient being sodium chloride (NaCl).
5.	State-owned houses sold by the State to current tenants.
6.	Transfer of land-use rights.
7.	Life insurance, health insurance, student insurance, other insurance services related to people; animal insurance, crop insurance, other agricultural insurance services; insurance for ships, boats, equipment and other necessary tools in direct service of fishing; reinsurance.
8.	<p>The following financial, banking and securities services:</p> <p>Credit extension services, including: lending; discount and rediscount of negotiable instruments and other valuable papers; guarantee; financial leasing; credit card issuance; domestic factoring; international factoring; other forms of credit provision as prescribed by law;</p> <p>Securities trading, including: securities brokerage; securities dealing; underwriting securities; securities investment consulting; securities depository; securities investment fund management; securities investment portfolio management; market organization services of a stock exchange or a securities trading centre; other securities business activities in accordance with the law on securities;</p> <p>Capital transfer, including: transfer of part or all of the invested capital, including the sale of enterprises to other enterprises for production, trading or transfer of securities; other forms of capital transfer as prescribed by law;</p> <p>Debt sale;</p> <p>Foreign currency trading;</p> <p>Derivative financial services, including: interest rate swaps; forward contracts; futures contract; options to buy and sell foreign currencies; other derivative financial services as provided for by law; and</p> <p>Selling collateral of debts of organizations in which 100% of the charter capital is owned by the State, established by the Government to handle the bad debts of Vietnamese credit institutions.</p>
9.	Medical services, veterinary services, including medical examination and treatment services, and disease prevention for humans and animals; care services for the elderly and people with disabilities.
10.	Public postal and telecommunications services and universal Internet services under the Government's programmes.

No.	Product description
11.	Maintenance of zoos, flower gardens, parks, street greenery, public lighting; funeral service.
12.	Maintenance, repair, and construction with capital contributions from the people, humanitarian aid for cultural and artistic works, public works, and infrastructure and housing a for social policy objective.
13.	Teaching and vocational training according to the provisions of law.
14.	Broadcasting radio and television with state budget funds.
15.	Publishing, importing, distributing newspapers, magazines, specialized newsletters, political books, textbooks, textbooks, legal text books, scientific-technical books, books printed in ethnic languages, minority groups and propaganda posters, pictures, even in the form of audio or video tapes or discs; money, money printing.
16.	Transporting public passengers by bus, tram.
17.	Machinery, equipment, spare parts and materials that cannot be produced at home and need to be imported for direct use in scientific research and technological development activities; machinery, equipment, spare parts, special-use means of transport and materials that cannot be produced at home and need to be imported for prospecting, exploration and development of oil and gas fields; airplanes, drilling rigs and ships that cannot be domestically produced and need to be imported to create fixed assets of an enterprise or leased from a foreign party for use in production, trading, for lease or sublease.
18.	Specialized weapons and weapons in service of national defence and security.
19.	Imported goods in case of humanitarian aid or non-refundable aid; gifts to state agencies, political organizations, socio-political organizations, socio-political organizations - professional, social organizations, socio-professional organizations, people's armed forces units; presents and gifts for individuals in Viet Nam according to the levels prescribed by the Government; belongings of foreign organizations and individuals according to diplomatic immunity standards; carry-on goods in duty-free baggage allowance. Goods and services sold to foreign organizations and individuals, international organizations for humanitarian aid or non-refundable aid to Viet Nam.
20.	Goods transhipped or transited through Vietnamese territory; goods temporarily imported for re-export; goods temporarily exported for re-import; raw materials imported for the production or processing of goods for export under a production or export processing contract signed with a foreign party; goods and services traded between foreign countries and non-tariff zones and between non-tariff zones.
21.	Technology transfer in accordance with the Law on Technology Transfer; assignment of intellectual property rights according to the provisions of the Intellectual Property Law; software.
22.	Gold imported in the form of bars or bars which has not yet been processed into fine-art articles, jewellery or other products.
23.	Exported products are natural resources and minerals that have not yet been processed into other products; Export products are goods processed from natural resources or minerals with a total value of natural resources and minerals plus energy costs accounting for 51% or more of the product cost.
24.	Artificial products used to replace sick people's body parts; crutches, wheelchairs and other specialized tools for the disabled.
25.	Goods and services of business households and individuals with annual turnover of VND 100 million or less.

Source: Information provided by the authorities.

3.54. Decree No. 100/2016/ND-CP, issued and entered into force on 1 July 2016, stipulates investment projects eligible for VAT refund for new businesses established by certain investment including projects in progress on oil and gas field exploration and development.

3.55. VAT is applied on the duty-paid value of imports and is due at the same time as the payment of import duties; this practice is unchanged since the previous Review. For domestic producers, VAT is collected monthly and settled at the end of the calendar year.<sup>27</sup>

### 3.1.5 Import prohibitions, restrictions, and licensing

3.56. Viet Nam applies import prohibitions, restrictions, and licensing in accordance with: the Law on Foreign Trade Management (Law No. 05/2017/QH14, issued on 12 June 2017, and entered into force on 1 January 2018); and other documents including Decree No. 69/2018/ND-CP (detailing a

<sup>27</sup> Enterprises and individuals established permanently in Viet Nam that produce or trade goods or services subject to VAT must register as VAT taxpayers, and file monthly tax returns.

number of articles of the Law on Foreign Trade Management), issued on 15 May 2018 (replacing Decree No. 187/2013/ND-CP).

3.57. Other relevant legislation includes: (i) the 2007 Law on Chemicals (as amended in 2018); (ii) Decree No. 113/2017/ND-CP (specifying and providing guidelines for implementation of a number of articles of the Law on Chemicals), issued on 9 October 2017; (iii) the 2000 Law on Drug Prevention and Combat (as amended in 2008); (iv) MOIT Circular No. 12/2018/TT-BCT; (v) Circular No. 11/2018/TT-BTTTT of the Ministry of Information and Communications (on detailing list of used information technology products prohibited from import with their HS codes), issued on 15 October 2018; (vi) Circular No. 173/2018/TT-BQP of the Ministry of National Defence (on promulgating the list of specific prohibited exports and imports subject to the administration of the Ministry of National Defence), issued on 31 December 2018; (vii) Decree No. 25/2012/ND-CP (detailing the implementation of a number of articles of the ordinance on management and use of weapons, explosives, and supporting tools), issued on 5 April 2012<sup>28</sup>; and (viii) Decree No. 66/2017/ND-CP (on prescribing the conditions for doing business in camouflaged sound recording, video recording, and positioning devices and software), issued on 19 May 2017.<sup>29</sup>

3.58. Goods subject to import prohibition include certain chemicals, weapons, right-hand drive vehicles, and certain used consumer goods (Table 3.7), unchanged since 2013.<sup>30</sup>

**Table 3.7 Import prohibitions, 2020**

Description
Chemicals in Annex III of the Rotterdam Convention.
Used supplies and vehicles, including:
(a) Engines, frames, inner tubes, tires, spare parts and motors of cars, trailers, semi-trailers, four-wheeled drives;
(b) Chassis of cars and tractors, fitted with engines (including new chassis fitted with used engines and used chassis fitted with new engines);
(c) Assorted cars that have been transformed in structure compared with their original designs;
(d) Cars, trailers, semi-trailers (other than dedicated trailers and semi-trailers), used passenger four-wheeled motor vehicles over five years from the manufacture year to the import year; and
(e) Ambulances.
(a) Right-hand drive means of transport (including those in knocked-down forms and those with converted drive before being imported in Viet Nam), excluding special-use right-hand drive vehicles operating within a restricted location and not joining traffic, including: crane trucks; canal diggers, street sweepers, street washers; garbage trucks; road builders; passenger cars in airports and lifting trucks in warehouses and ports; concrete-pumping vehicles; vehicles moving only within golf courses or parks;
(b) Assorted automobiles, four-wheeled drives, and their spare parts that have their frame or engine numbers erased, modified, or tampered with;
(c) Trailers and semi-trailers that have their frame erased, modified, or tampered; and
(d) Assorted motorcycles, special-use motorbikes, and motorbikes that have their frame or engine numbers erased, modified or tampered with.
Weapons, ammunitions, explosives (excluding industrial explosives), military technical equipment.
Assorted cultural products banned from dissemination and circulation or decided to be suspended from dissemination and circulation, or subject to revocation, confiscation, and destruction.
(a) Assorted publications banned from dissemination and circulation;
(b) Postage stamps banned from trading, exchange, display, and dissemination in accordance with the Law on Post; and
(c) Radio equipment and radio-wave appliances that do not comply with radio frequency master plans and relevant technical regulations in accordance with the Law on Radio Frequencies.

<sup>28</sup> Article 4 of the Decree prohibits producing, manufacturing, purchasing, selling, transporting, exporting, importing, stockpiling, and using parts, component assemblies for illegal assembly or the manufacture of weapons or supporting tools.

<sup>29</sup> Article 5 of the Decree stipulates that prohibited acts include illegally manufacturing, assembling, transporting, storing, trading, exporting, importing, leasing, and repairing camouflage devices and software used for sound and video recording and positioning.

<sup>30</sup> Viet Nam is a signatory to, *inter alia*, the following international treaties and conventions with implications for trade: the Convention on World Cultural Heritage and Natural Resources Conservation; the Convention on Wetland of International Importance, especially of Waterfowls Habitat (Ramsar); the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES); the Montreal Protocol on Substances that Deplete the Ozone Layer; the Framework Convention on Climate Change; the Convention on Biological Diversity (CBD); the Convention on Marine Law; the Basel Convention on controlling the transit and disposal of dangerous waste; the United Nations Convention to Combat Desertification (CCD); the Cartagena Protocol on Biosafety; the Vienna Convention on the Ozone Layer Protection; the Stockholm Convention on Persistent Organic Pollutants; and the Rotterdam Convention on Prior Informed Consent.

Description
Used consumer goods, medical equipment, and vehicles including the following commodity groups: (a) Textiles and garments, footwear, clothes; (b) Electronic appliances; (c) Refrigerating appliances; (d) Home electric appliances; (e) Medical equipment; (f) Interior decoration goods; (g) Home appliances made of pottery, ceramic, glass, metal, plastic, rubber, and other materials; (h) Bicycles; and (i) Motorcycles and mopeds.
(a) Schedule-1 toxic chemicals defined in the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and Annex to Decree No. 38/2014/ND-CP, dated 6 May 2014, on the management of chemicals under control in the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction; and (b) Chemicals under the list of banned chemicals prescribed in Appendix III to Decree No. 113/2017/ND-CP dated 9 October 2017 on guidelines for certain articles of the Law on Chemicals.
Wastes and scraps, refrigerating equipment using CFC.
Pesticides banned from use in Viet Nam.
Assorted fireworks (excluding signal fires used for navigational safety under the guidance of the Ministry of Transport), sky lanterns, assorted devices causing interference to vehicle speedometers.
Products and materials containing asbestos of the amphibole group (brown and green asbestos).
Used information technology products.
a) Samples of precious, rare and endangered animals and plants under Appendix I to the CITES derived from natural resources being exported for commercial purpose; and b) Samples and processed products of species: white rhinoceros ( <i>Ceratotherium simum</i> ), black rhinoceros ( <i>Diceros bicornis</i> ), African elephants ( <i>Loxodonta africana</i> ).

Source: Decree No. 69/2018/ND-CP, Law No. 14/2017/QH14, Decree No. 79/2018/ND-CP, and information provided by the authorities.

3.59. Goods subject to import restrictions, which entail various import licensing requirements, are shown in Table A3.4. The licensing requirement is also employed to administer importation of goods subject to tariff quotas.

3.60. Articles 11 to 14 of the Law on Foreign Trade Management stipulate circumstances when temporary suspension from export or import can be taken. The suspension of import or export may be imposed if products are subject to the urgent control measure for the foreign trade management prescribed in Chapter V (Articles 100-102) of the Law (e.g. products affected by war, natural disaster, epidemics, or environmental incidents; products producing serious effects on health and the environment; and balance of payment reasons). In accordance with the Law and MOIT Circular No. 22/2019/TT-BCT, issued on 12 November 2019, international trade and temporary import of plywood into Viet Nam for re-export to the United States is suspended between 27 December 2019 and 31 December 2024.<sup>31</sup> In addition, under MOIT Circular No. 27/2019/TT-BCT, issued on 15 November 2019, some scraps are subject to temporary suspension from temporary import, re-export, and border-gate transfer between 1 January 2020 and 31 December 2024.<sup>32</sup>

3.61. The automatic import licensing requirement applied to steel products was eliminated under MOIT Circular No. 17/2014/TT-BCT, issued on 16 June 2014. Currently, Viet Nam does not apply an automatic import licensing requirement.

3.62. MOIT Decision No. 1380/QD-BCT, issued on 25 March 2011, indicating goods not encouraged or discouraged for imports is still in force.

3.63. Quotas apply to imports of HCFCs under MOIT Circular No. 51/2018/TT-BCT, issued on 19 December 2018, which amended some provisions of Joint Circular No. 47/2011/TTLT-BCT-BTNMT of the MOIT and the Ministry of Natural Resources and Environment, issued on 30 December 2011. The amendment concerned changes regarding HCFC imports.

<sup>31</sup> Products concerned include HS codes 4412.10.00, 4412.31.00, 4412.33.00, 4412.34.00, 4412.39.00, 4412.94.00, 4412.99, 4412.99.10, 4412.99.20, 4412.99.30, and 4412.99.90.

<sup>32</sup> Products concerned include HS 4-digit codes (fully or partially): 2520, 2618, 2619, 2620, 3818, 3919, 3920, 3921, 3923, 4707, 5003, 5103, 5104, 5202, 5505, 6310, 7001, 7204, 7404, 7503, 7602, 7902, 8002, 8101, 8102, 8104, 8108, 8109, 8110, 8111, and 8112. Only used goods are applicable for HS codes 3919, 3920, 3921, and 3923.

3.64. Viet Nam did not introduce measures relating to import prohibitions, restrictions, and licensing in response to the COVID-19 pandemic.

### 3.1.6 Anti-dumping, countervailing, and safeguard measures

3.65. Chapter III of the Law on Export Tax and Import Tax stipulates conditions for, the principles of, and the period of imposing anti-dumping, countervailing (anti-subsidy), and safeguard measures. The Law on Foreign Trade Management is the main legislation governing anti-dumping, countervailing, and safeguard measures in Viet Nam. The Law replaced the ordinances on Investigation of the Application of Trade Remedies. The authorities state that the Law was introduced to assess the need for improving the legal basis for anti-dumping, countervailing, and safeguard measures since it was more than 10 years after the implementation of the ordinances of the Standing Committee of the National Assembly and Decrees by the Government.<sup>33</sup>

3.66. To supplement the Law, Decree No. 10/2018/ND-CP (guiding the Law on Foreign Trade Management on trade remedies) was issued on 15 January 2018, and MOIT Circular No. 06/2018/TT-BCT (detailing a number of provisions on trade remedies) was issued on 20 April 2018. Subsequently, MOIT Circular No. 37/2019/TT-BCT (prescribing in detail a number of provisions on trade remedies) was issued on 29 November 2019, and entered into force on 15 January 2020 to replace MOIT Circular No. 06/2018/TT-BCT with a view to improving regulations related to the process of handling exemptions for application of anti-dumping, countervailing, and safeguard measures. In addition to these ordinances and decrees, the MOF issued a circular to guide the collection, remittance, and refund of anti-dumping and anti-subsidy taxes, and the provision of securities for the payment of such taxes.<sup>34</sup> The authorities state that the legal provisions under the Law on Foreign Trade Management comply with the provisions of the WTO Agreement regarding anti-dumping, countervailing, and safeguard measures.

3.67. According to the authorities, the current legislation concerning anti-dumping, countervailing, and safeguard measures contains some regulations not yet included in the system of international commitments, such as: (i) eliminating some regulations that are not suitable to the reality of investigation (e.g. there is no deadline for issuing a preliminary report; and there are no specific issues related to consultations, such as the time limit for speaking); (ii) investigating the application of "avoid evasion measures"; (iii) exempting certain imports from the application of anti-dumping, countervailing, and safeguard measures (a waiver mechanism) in order to ensure that the measures apply strictly to imported goods that are similar or directly compete with domestically produced goods<sup>35</sup>; (iv) specifying procedures for reviewing and applying anti-dumping, countervailing, and safeguard measures, including on-demand, product range, mid-term, and final reviews; (v) specifying forms used during the investigation, such as an application for registration of a party concerned with a trade remedies case, import declaration, an application for exemption from trade

<sup>33</sup> Relevant decrees and ordinances (which expired in January 2018) include: Decree No. 04/2006/ND-CP (on establishment, functions, duties, powers, organizational structure of council for handling cases of combat against dumping, combat against subsidy, and self-protection), issued on 9 January 2006; Decree No. 89/2005/ND-CP (on detailing the implementation of a number of articles of the ordinance on anti-subsidy for imports into Viet Nam), issued on 11 July 2005; Decree No. 90/2005/ND-CP (on detailing the implementation of a number of articles of the ordinance on anti-dumping of imports), issued on 11 July 2005; Ordinance No. 22/2004/PL-UBTVQH11 (on anti-subsidy for imports), issued on 20 August 2004; Ordinance No. 20/2004/PL-UBTVQH11 (on anti-dumping of imports), issued on 29 April 2004; Decree No. 150/2003/ND-CP (on detailing the implementation of the ordinance on safeguards in the import of foreign goods), issued on 8 December 2003; and Ordinance No. 42/2002/PL-UBTVQH10 (on safeguards in the import of foreign goods), issued on 25 May 2002.

<sup>34</sup> MOF Circular No. 106/2005/TT-BTC, issued on 5 December 2005, guiding the collection, remittance, and refund of anti-dumping tax, anti-subsidy tax, and securities for payment of anti-dumping tax or anti-subsidy tax.

<sup>35</sup> Exemptions from the application of these measures include when: (i) the products cannot be produced domestically; (ii) the products possess characteristics that are different from and cannot be substituted by domestically produced products; (iii) the products are special products of like or directly competitive products produced by the domestic industry; (iv) there is no sale of like or directly competitive products produced by the domestic industry in the ordinary course of trade in the domestic market; (v) there are not enough like or directly competitive products produced domestically to meet the needs of the domestic market; and (vi) the imports within the total quantities of imports requested for exemption are intended for research and development (R&D) purposes, as well as other non-commercial purposes.

remedies, and report on exempted import goods; (vi) dealing with trade remedies applied to exports; and (vii) including provisions on special safeguard measures in the context of FTAs.

3.68. The MOIT is the authority responsible for deciding to investigate trade remedy measures. Since August 2017, the agency in charge of making appraisals and proposals to the Minister of Industry and Trade regarding investigations into trade remedy measures has been the Trade Remedy Authority of Viet Nam under the MOIT.<sup>36</sup>

3.69. Clause 5, Article 70, of the Law on Foreign Trade Management and Article 8 of MOIT Circular No. 37/2019/TT-BCT define the disclosure of information in the process of initiating, investigating, and promulgating decisions on application of trade remedy measures. Accordingly, information on initiation and the final decision is published on the websites of the Trade Remedy Authority of Viet Nam and the MOIT. Information concerning the investigation may be disclosed to the public, depending on the nature of the information.

3.70. Article 81.1 of the Law on Foreign Trade Management stipulates that the application of a provisional anti-dumping measure shall be decided by the Minister of Industry and Trade, based on the preliminary determination of the investigating authority. According to Article 70 of the Law, the final measure could be applied after 12 to 18 months from the date of issuance of an initiation decision. The Law does not specify the length of time between the decision on provisional measure and final measure. Article 81 of the Law stipulates that the duration of provisional anti-dumping duties is 120 to 180 days from the effective date of the decision on the imposition of provisional anti-dumping duties. The authorities state that, in order to avoid the gap between the provisional and final measures, the investigating authority plans the investigation process to ensure that the final measure will be applied before the expiration of the provisional measure.

3.71. Under Article 71 of the Law, an investigation is terminated when: (i) an organization or individual that submits a dossier of request for application of trade remedies voluntarily withdraws such dossier; (ii) the investigating authority's preliminary determination states that no injury is caused, there is no threat of injury to a domestic industry, or there is no delay of the establishment of the domestic industry; or (iii) the investigating authority reaches an agreement with the competent authority of the country having the products claimed to be subsidized upon import into Viet Nam's territory on removal of the subsidy. An investigation is also terminated when the investigating authority's final determination states one of the following: the imported products under investigation are neither dumped nor subsidized or such products are not excessively imported; no injury is caused to a domestic industry as prescribed in Clause 2, Article 69, of the Law; or there is no causal relationship between the import of products that are claimed to be dumped or subsidized or excessively imported and the extent of injury or threat of injury to a domestic industry or the delay of the establishment of domestic industry.

3.72. Article 81.3(d) of the Law stipulates that the time limit for imposition of an anti-dumping measure is five years from the effective date of the decision on imposition of such measure. If the result of a sunset review shows the need for the continued application of the anti-dumping measure, the investigating authority can extend the time limit of the measure.

3.73. Countervailing and safeguard measures may be applied pursuant to: the Law on Foreign Trade Management; Decree No. 10/2018/ND-CP; and MOIT Circular No. 37/2019/TT-BCT, issued on 29 November 2019, and entered into force on 15 January 2020. The Law establishes that countervailing measures may take the form of countervailing duties or acceptance of undertakings by the exporting enterprises or their governments or other countervailing measures (Article 83); it also establishes the definition of subsidies in Article 84. No countervailing investigation was made during the review period.

3.74. Section 4, Chapter IV, of the Law on Foreign Trade Management stipulates safeguard measures including, *inter alia*, the imposition of safeguard duties, import quotas, and tariff quotas; and the issuance of import licences. Under the Law, a safeguard measure can be imposed on imports if the following conditions are satisfied: (i) there is an absolute or relative increase in imports compared with the domestic production of like products; (ii) there is a serious injury or threat of

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<sup>36</sup> Between January 2013 and August 2017, the Viet Nam Competition Authority under the MOIT was the agency in charge of making appraisals and proposals to the Minister of Industry and Trade for the issuance of decisions to initiate investigations on trade remedy measures.

serious injury to the domestic industry; and (iii) the increased imports prescribed in Point A of this Section is the major cause of the serious injury or threat of serious injury to the domestic industry. Developing countries will be exempted from the safeguard measures if: (i) the imports originating in that country account for not more than 3% of total imports of like products; and (ii) the total imports of products originating in that country and satisfying the aforementioned conditions account for not more than 9% of the total production of imports of like products.

3.75. A safeguard investigation will be conducted if a domestic producer of like or directly competitive products<sup>37</sup> submits an application for the imposition of safeguard measures. The application must prove that the excessive import of products causes the serious injury or threat of serious injury to the domestic industry. The MOIT is responsible for deciding to conduct an investigation if there is clear evidence that the excessive imports of products cause the serious injury or threat of serious injury to the domestic industry.

3.76. The content of a safeguard investigation includes the determination of: the products that are imported excessively and the rate of the increase in imports; the serious injury or threat of serious injury to the domestic industry; and the causal link between the excessive import of relevant products and the injury to the domestic industry.

3.77. The imposition of interim safeguard measures is decided by the Minister of Industry and Trade, according to the preliminary determination provided by the investigating authority whether the delay in imposing safeguard measures causes a serious injury or threat of serious injury to the domestic industry that is difficult to be repaired. The maximum duration of a safeguard measure is 200 days from the day on which the decision of the imposition of the safeguard measure comes into force.

3.78. Conditions concerning the imposition of final (official) measures are that: (i) after the investigation finishes, the investigating authority shall publish the final determinations of contents related to the investigation stipulated in Article 94 of the Law, and the final determination (and its main reasons) shall be notified to interested parties of the case; (ii) according to the final determination, the Minister of Industry and Trade shall decide whether the final safeguard measure is imposed; (iii) the maximum duration of the safeguard measure (including the duration of any provisional safeguard measure) is 4 years, unless the duration is extended in accordance with Article 96 of the Law; (iv) the total duration of the safeguard measure (including the duration of the provisional measure, the final measure, and its extension) must not exceed 10 years.

3.79. With a view to effectively implementing the contents of "special safeguard measures" under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the MOIT issued Circular No. 19/2019/TT-BCT (providing for application of the special safeguard measures for implementing the CPTPP) on 30 September 2019. The special safeguard measures include transitional safeguard measures and emergency measures for textiles.

3.80. During the review period, Viet Nam notified laws and regulations pertaining to anti-dumping, countervailing, and safeguard measures to the WTO in 2018 and 2020, and responded to detailed questions on its anti-dumping regime in 2019.<sup>38</sup> Between 2013 and 2019, Viet Nam had five anti-dumping measures in place and four cases under investigation; it also had four safeguard measures

<sup>37</sup> "Directly competitive products" are products that can be substituted for products subject to the safeguard measures by the buyer due to their advantages in prices and purposes for use.

<sup>38</sup> WTO documents G/ADP/N/1/VNM/2/Corr.1, 5 November 2018, G/ADP/N/1/VNM/2, 30 October 2018, and G/ADP/N/1/VNM/3, 28 May 2020. Replies to questions posed by the European Union and the United States on Viet Nam's anti-dumping legislation have been circulated in WTO documents G/ADP/Q1/VNM/3, 2 April 2019, G/ADP/Q1/VNM/4, 30 April 2019, G/ADP/Q1/VNM/5, 2 May 2019, G/ADP/Q1/VNM/6, 20 June 2019, G/ADP/Q1/VNM/7, 7 November 2019, and G/ADP/Q1/VNM/8, 7 November 2019. Semi-annual reports of Viet Nam's anti-dumping actions for the period 2013-19 are found in WTO documents G/ADP/N/335/VNM, 31 March 2020, G/ADP/N/328/VNM, 21 October 2019, G/ADP/N/322/VNM, 16 April 2019, G/ADP/N/314/VNM, 9 August 2018, G/ADP/N/300/VNM, 6 September 2017, G/ADP/N/294/VNM, 3 April 2017, G/ADP/N/286/VNM, 29 August 2016, G/ADP/N/280/VNM, 8 April 2016, G/ADP/N/272/VNM, 19 October 2015, G/ADP/N/265/VNM, 27 April 2014, G/ADP/N/259/VNM, 15 October 2014, G/ADP/N/252/VNM, 23 October 2014, and G/ADP/N/244/VNM, 23 October 2014.

in place. The main products covered by these measures include steel, aluminium, and fertilizer. (Table A3.5).<sup>39</sup>

3.81. Appeals concerning a decision on an anti-dumping, countervailing, or safeguard measure can be conducted under the 2011 Law on Complaints. Complainants can send their complaint to the relevant Minister or initiate an administrative lawsuit in court, in accordance with the Law on Administrative Procedures.

3.82. Viet Nam did not introduce any anti-dumping, countervailing, or safeguard measures in response to the COVID-19 pandemic.

### 3.1.7 Other measures affecting imports

3.83. From the date of its accession to the WTO, Viet Nam agreed to fully comply with the TRIMs Agreement. Investment incentives contingent upon export performance were curtailed for new investments, and are to be phased out over a five-year period from the date of accession for existing beneficiaries. Incentives for exemption from and reduction of land use payment, land use tax, and corporate income tax were terminated on 25 October 2006; incentives for exemption from import duties in respect of the equipment and machinery imported to form fixed assets were eliminated on 1 January 2006.<sup>40</sup> As a guarantee for business operations, Article 10 of the 2014 Investment Law provides provisions that the State cannot compel investors to comply with. These provisions include: (i) prioritizing the purchase and use of domestic goods and services; (ii) reaching a certain rate of exported goods or services; (iii) limiting goods and services exported or domestically produced or provided; (iv) importing goods in a quantity or value corresponding to the quantity or value of exports goods<sup>41</sup>; (v) applying localization rates for domestically produced goods; (vi) requiring domestic research and development (R&D) activities; (vii) supplying goods or services at specific places in the country; and (viii) locating head offices at specific places. The authorities state that currently there are no trade-related investment measures (TRIMs) in place, and Viet Nam has not notified any new TRIMs to the WTO.<sup>42</sup>

3.84. The authorities state that Viet Nam does not use countertrade.

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Customs procedures and requirements

3.85. As in the case of imported goods, customs procedures for exported goods are based on legal documents: Customs Law 2014; Decree No. 08/2015/ND-CP, issued on 21 January 2015, as amended and supplemented by Decree No. 59/2018/ND-CP, issued on 20 April 2018; and MOF Circular No. 38/2015/TT-BTC, issued on 25 March 2015, as amended and supplemented by MOF Circular No. 39/2018/TT-BTC, issued on 20 April 2018.

3.86. Exporters must submit to customs offices dossiers of customs documents as prescribed in Clause 1, Article 16, of MOF Circular No. 38/2015/TT-BTC, as amended and supplemented in Clause 5, Article 1, of MOF Circular No. 39/2018/TT-BTC. The registration and channelling of declarations

<sup>39</sup> Notifications concerning Viet Nam's safeguard measures include G/SG/N/8/VNM/3/Suppl.3/Corr.1, 2 April 2020, G/SG/N/8/VNM/3/Suppl.3, 1 April 2020, G/SG/N/8/VNM/3/Suppl.2, 20 March 2020, G/SG/N/8/VNM/6/Suppl.2/Corr.1, 17 March 2020, G/SG/N/8/VNM/6/Suppl.2, 12 March 2020, G/SG/N/8/VNM/6/Suppl.1, 10 March 2020, G/SG/N/6/VNM/5/Suppl.1, 4 February 2020, G/SG/N/6/VNM/6/Suppl.1, 4 February 2020, G/SG/N/11/VNM/8/Suppl.1, 20 January 2020, G/SG/N/11/VNM/8, 16 December 2019, G/SG/N/11/VNM/7/Suppl.1, 17 July 2019, G/SG/N/8/VNM/3/Suppl.1, 2 July 2019, G/SG/N/13/VNM/3, 4 December 2018, G/SG/N/13/VNM/2, 4 December 2018, G/SG/N/8/VNM/6, 13 March 2018, G/SG/N/7/VNM/3/Rev.1, 23 October 2017, G/SG/N/7/VNM/4, 11 August 2017, G/SG/N/8/VNM/4, 2 June 2017, G/SG/N/6/VNM/6, 18 May 2017, G/SG/N/8/VNM/3, 2 August 2016, G/SG/N/6/VNM/5, 19 July 2016, G/SG/N/7/VNM/3, 24 March 2016, G/SG/N/7/VNM/2, 11 March 2016, G/SG/N/6/VNM/4, 4 January 2016, G/SG/N/13/VNM/1, 2 October 2015, G/SG/N/6/VNM/3/Corr.1, 1 October 2015, G/SG/N/6/VNM/3, 7 September 2015, G/SG/N/8/VNM/2, 12 September 2013, G/SG/N/7/VNM/1, 15 May 2013, and G/SG/N/6/VNM/2, 11 January 2013.

<sup>40</sup> WTO document G/SCM/N/155/VNM, 13 March 2013.

<sup>41</sup> Before its accession to the WTO, Viet Nam used this practice of "self-balance" in its needs for foreign exchange.

<sup>42</sup> WTO document G/TRIMS/N/2/Rev.28, 27 September 2018.

must comply with Article 19 of Circular No. 38/2015/TT-BTC, as amended and supplemented in Clause 8, Article 1, of Circular No. 39/2018/TT-BTC.

3.87. As with imports, to be a registered exporter, domestic investors need a valid business registration certificate, whereas a foreign investor must hold a valid investment certificate. The Law on Foreign Trade Management and Decree No. 09/2018/ND-CP stipulate rights to export by foreign-invested enterprises in Viet Nam; the Law also stipulates the rights of foreign traders without a physical presence in Viet Nam, as prescribed in Decree No. 90/2007/ND-CP, issued on 31 May 2007. Foreign-invested enterprises may export their products as any other goods unless they: (i) are listed as banned or suspended from exportation; or (ii) have not been granted the right to be exported. The Law allows foreign traders without presence in Viet Nam, other relevant organizations and individuals of countries and territories that are WTO Members, and countries and territories with signed bilateral agreements with Viet Nam to export in accordance with regulations and international treaties to which Viet Nam is a signatory. The right to export does not extend to the establishment of a network in Viet Nam to purchase goods for export.

3.88. In 2019, customs valuation rules for exports were amended through MOF Circular No. 60/2019/TT-BTC (issued on 30 August 2019).<sup>43</sup> According to the authorities, the Circular stipulates more detailed rules and methods of customs valuation for exported goods compared with the previous regime, particularly in regard to: the principles of customs valuation of exported goods; the method of determining the selling price of goods; the use of the selling price on the customs value database; and determination of the customs value of exported goods in special cases.

3.89. As in the case of imports, in response to the COVID-19 pandemic, the authorities focused on shortening the time for customs clearance of exports (Section 3.1.1).

### 3.2.2 Taxes, charges, and levies

3.90. Viet Nam levies export taxes on certain products, such as fish, minerals, coal, rubber, and raw hides and skins (Table A3.6). The taxes are applied on an MFN basis. Export taxes may be refunded in accordance with Article 19 of the Law on Export Tax and Import Tax (Law No. 107/2016/QH13). The Law stipulates minimum rates for some groups of goods subject to export tax.

3.91. The export tax rates changed frequently during the review period. Changes took place in January 2013, January 2014, January 2016, September 2016, and January 2018; on 25 May 2020, Decree No. 57/2020/ND-CP was issued, amending some export tax rates.<sup>44</sup>

3.92. As in the case of imports, MOF Circular No. 274/2016/TT-BTC (on the collection, payment, management, and use of customs fees and charges for goods and vehicles in transit), issued on 14 November 2016, specifies customs export charges for customs procedures (Table 3.8).<sup>45</sup>

**Table 3.8 Export charges and fees, 2020**

No.	Content collection	Collection rates
1	Customs fee for registering the declaration	VND 20,000 per declaration
2	Customs fees for inspection, supervision, or temporary suspension of customs procedures for exports and imports subject to intellectual property protection	VND 200,000 per application
3	Fee for transit of goods	VND 200,000 per application
4	Charge for road transit vehicles (including cars and tractors)	VND 200,000 per vehicle

<sup>43</sup> Vietnam Customs, *Amendments in the Customs Valuation Rules for Exports*. Viewed at: <https://www.customs.gov.vn/Lists/EnglishNews/ViewDetails.aspx?ID=702&Category=News%20and%20Events&language=en-US>.

<sup>44</sup> Vietnam Customs, *Export and Preferential Import Tariff Rates to Apply from 10 July 2020*. Viewed at: <https://www.customs.gov.vn/Lists/EnglishNews/ViewDetails.aspx?ID=729&Category=News%20and%20Events&language=en-US>.

<sup>45</sup> Before the Circular took effect, customs charges and fees had to comply with the provisions of MOF Circular No. 172/2010/TT-BTC, issued on 2 November 2010. Fees specified in MOF Circular No. 274/2016/TT-BTC are generally based on MOF Circular No. 172/2010/TT-BTC. Nonetheless, for example, fees for transiting vehicles via waterways were increased from VND 200,000 to VND 500,000.

No.	Content collection	Collection rates
5	Charge for water transport means (including ships, canoes, tractors, and barges)	VND 500,000 per vehicle

Source: Annex to MOF Circular No. 274/2016/TT-BTC.

3.93. Viet Nam levies royalties (severance tax) on natural resources, such as basic metals and minerals, timber, water, crude oil, and natural gas used in domestic production or exported (Table 3.9). The 2009 Law on Severance Tax (Law No. 45/2009/QH12) and its implementing regulations continue to provide the legal basis for these payments.<sup>46</sup> The Standing Committee of the National Assembly established minimum and maximum rates for each product, and the applied royalty rate is required to remain within the set band (or "the tax frame"). Royalty payments are levied at *ad valorem* rates. The f.o.b. export price constitutes the tax base for exported commodities. In general, the tax base is the exporter's sales price exclusive of VAT or, if individual sales prices cannot be determined, a regional market price decided by the local People's Committee. Provided it can be determined, the sales price at the place of delivery constitutes the tax base for timber, crude oil, natural gas, and coal gas. Royalties on water used in commercial generation of hydropower are charged on the average sales price of electricity. Royalties may be reduced or refunded in case of accidents or natural disasters. Natural aquatic resources are currently exempted from royalty payments.

**Table 3.9 Royalty payments on natural resources**

(a) Royalties on natural resources (excluding petroleum)

No.	Group or category of nature resource	Royalty tax frame (%)	Royalty tax rate (%)
<b>I</b>	<b>Metallic minerals</b>		
1	Iron	7-20	14
2	Manganese	7-20	14
3	Titan	7-20	18
4	Gold	9-25	17
5	Rare earths	12-25	18
6	Platinum, silver and tin	7-25	12
7	Wolfram, antimony	7-25	20
8	Lead, zinc	7-25	15
9	Aluminium, bauxite	7-25	12
10	Copper	7-25	15
11	Nickel	7-25	10
12	Cobalt, molybdenum, mercury, magnesium and vanadium	7-25	15
13	Other metallic minerals	5-25	15
<b>II</b>	<b>Non-metallic minerals</b>		
1	Soil exploited for ground levelling and work construction	3-10	7
2	Rock, gravel	5-15	10
3	Rock used for lime baking and cement production	5-15	10
4	White marble	5-15	15
5	Sand	5-15	15
6	Sand used for glass-making	7-15	15
7	Soil used for brick making	5-15	15
8	Granite	7-20	15
9	Refractory clay	7-20	13
10	Dolomite, quartzite	7-20	15
11	Kaolin, mica, technical quartz	7-15	13
12	Mica, technical quartz	7-15	13
13	Pyrite, phosphorite	5-15	10
14	Apatite	3-10	8
15	Serpentine	3-10	6
16	Pit anthracite coal	4-20	10
17	Open-cast anthracite coal	6-20	12
18	Brown coal, fat coal	6-20	12
19	Other coals	4-20	10
20	Diamond, ruby and sapphire	16-30	27

<sup>46</sup> The implementing legislation includes: Resolution No. 1084/2015/UBTVQH13, issued on 10 December 2015, and entered into force on 1 July 2016 (replacing Resolution No. 712/2013/UBTVQH13, which replaced Resolution No. 928/2010/UBTVQH12); the Law Amending and Supplementing a Number of Articles of Tax Law No. 71/2014/QH13 (26 November 2011), which includes the amendment of the Law on Severance Tax.

No.	Group or category of nature resource	Royalty tax frame (%)	Royalty tax rate (%)
21	Emerald, alexandrite and black precious opal	16-30	25
22	Adrite, rodolite, pyrope, berine; spinel and topaz	12-25	18
23	Bluish-purple, greenish-yellow or orange crystalline quartz; chrysolite; white or scarlet precious opal; feldspar; birusa; and nephrite	12-25	18
24	Other non-metallic minerals	4-25	10
III	<b>Natural forest products</b>		
1	Timber of Group I	25-35	35
2	Timber of Group II	20-30	30
3	Timber of Group III	15-20	20
4	Timber of Group IV	15-20	18
5	Timber of Groups V, VI, VII and VIII and of other categories	10-15	12
6	Tree branches, tops, stumps and roots	10-20	10
7	Firewood	1-5	5
8	Bamboo of all kinds	10-15	10
8	Sandalwood and calambac	25-30	25
10	Anise, cinnamon, cardamom and liquorice	10-15	10
11	Other natural forest products	5-15	5
IV	<b>Natural seafood</b>		
1	Pearl, abalone and sea-cucumber	6-10	10
2	Other natural seafoods	1-5	2
V	<b>Natural water</b>		
1	Natural mineral water, natural thermal water and refined natural water, bottled or tinned	8-10	10
2	Natural water used for hydroelectricity generation	2-5	5
3	Natural water used for production and business activities, except water mentioned at Points 1 and 2 of this group		
3.1	Used surface water		
	- Used for producing clean water	1-3	1
	- For other purposes	1-3	3
3.2	Used groundwater		
	- Used for producing clean water	3-8	5
	- For other purposes	3-8	8
VI	<b>Natural swallow's nests</b>	10-20	20
VII	<b>Other resources</b>	1-20	10

## (b) Royalty on crude oil, natural gas, and coal gas (unchanged since 2013)

No.	Output	Tax frame (%)	Tax rate (%)	
			Projects eligible for investment promotion	Other projects
I	<b>For crude oil</b>			
1	Up to 20,000 barrels/day	6-40	7	10
2	Between over 20,000 and 50,000 barrels/day	6-40	9	12
3	Between over 50,000 and 75,000 barrels/day	6-40	11	14
4	Between over 75,000 and 100,000 barrels/day	6-40	13	19
5	Between over 100,000 and 150,000 barrels/day	6-40	18	24
6	Over 150,000 barrels/day	6-40	23	29
II	<b>For natural gas and coal gas</b>			
1	Up to 5 million m <sup>3</sup> /day	1-30	1	2
2	Between over 5 and 10 million m <sup>3</sup> /day	1-30	3	5
3	Over 10 million m <sup>3</sup> /day	1-30	6	10

Source: Information provided by the authorities.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.94. As in the case of imports, Viet Nam enforces export prohibitions, restrictions, and licensing in accordance with the Law on Foreign Trade Management and Decree No. 69/2018/ND-CP (Table A3.7).<sup>47</sup>

3.95. In response to the outbreak of the COVID-19 pandemic, Viet Nam imposed temporary export licensing requirements on face masks (HS 6307.90.40 and HS 6307.90.90) between 11 March 2020 and 29 April 2020, and temporary export quotas on rice (HS 1006) for the purpose of national food security between 10 April 2020 and 1 May 2020. Currently, Viet Nam has no export quotas.

3.96. Viet Nam does not use minimum export prices.

### 3.2.4 Export support and promotion

3.97. Since its previous review, Viet Nam has continued to implement the National Program on Trade Promotion with a view to supporting trade promotion activities; this has been conducted mainly through the Viet Nam Trade Promotion Agency (Vietrade).<sup>48</sup> The Program is implemented in accordance with the provisions of: (i) Decree No. 28/2018/ND-CP (detailing the Law on Foreign Trade Management regarding foreign trade development measures), issued on 1 March 2018; (ii) Prime Minister's Decision No. 12/2019/QĐ-TTg (on amendment and addition to a number of articles of the Prime Minister's Decisions on construction, management, and implementation of the National Trade Promotion Program issued by the Prime Minister's Decision No. 72/2010/QĐ-TTg), issued on 26 February 2019; and (iii) MOIT Circular No. 11/2019/TT-BCT (Guiding the Implementation of Trade Promotion Activities for Foreign Trade Development under the National Program on Trade Promotion), issued on 30 July 2019. Decree No. 28/2018/ND-CP aims to: contribute to improving the production and business capacity of the business community; support the development of commercial infrastructure and logistics of foreign trade activities; and cope with the changes of import and export markets promptly. The main changes in trade promotion programmes compared with previous ones relate to the addition of the concept of supporting import promotion with a view to serving domestic production and exports, and holding trade fairs and exhibitions in Viet Nam for products, materials, equipment imported for manufacturing of exported goods, technology products, and inputs for manufacturing products having competitive positions.<sup>49</sup>

3.98. Specific trade promotion measures under the Program include: (i) organizing and participating in trade fairs and exhibitions abroad; (ii) organizing international trade fairs, exhibitions, and conferences in Viet Nam; (iii) organizing the display, introduction, and export of goods through a common store on an e-commerce trading floor; (iv) organizing overseas trade delegations from Viet Nam; (v) assisting foreign business delegations entering Viet Nam for conducting business or discussing investment opportunities; (vi) supporting both developing and existing commercial infrastructure and logistics in service of foreign trade activities; and (vii) organizing the Viet Nam Logistics Forum. Other trade promotion measures include activities supporting R&D, improving the quality of product and goods, and training.

3.99. The Viet Nam Trade Promotion Agency under the MOIT has funding from the State Budget for the National Program on Trade Promotion of about VND 100 billion per year for the implementation of 200 to 250 trade promotion projects. The Program is financially supported only by the State; other sources provide funds for local trade promotion activities.

3.100. As at June 2019, Viet Nam had four export processing zones (EPZs) with a total land area of about 627 hectares. The EPZs are industrial zones specializing in manufacturing goods for export

<sup>47</sup> Decree No. 69/2018/ND-CP replaces Decree No. 12/2006/ND-CP.

<sup>48</sup> Vietrade is a governmental organization responsible for national regulation of trade and investment promotion for the development of industry and trade. Other trade promotion organizations in Viet Nam include local trade promotion agencies, trade promotion agencies under the ministries and branches, and business and industry associations. The Viet Nam Trade Promotion Agency does not manage the funding sources of these organizations. Local trade promotion organizations are allocated part of their annual operation budget from other sources to carry out trade promotion activities. Non-governmental trade promotion organizations collect fees from members and other sources.

<sup>49</sup> Relevant regulations include Decree No. 28/2018/ND-CP, issued on 1 March 2018, and MOF Circular No. 11/2019/TT-BTC, issued on 30 July 2019.

to foreign countries or providing services related to import and export activities.<sup>50</sup> For companies located in the EPZs, the Law on Export Tax and Import Tax and other relevant legislation apply preferential treatment according to preferential sectors or industries under the Investment Law, regardless of whether the enterprises are domestic or foreign.<sup>51</sup> Imported materials used in production by firms in the EPZs or export processing enterprises<sup>52</sup> out of EPZs under a processing contract may benefit from a duty exemption.<sup>53</sup> Firms in the EPZs and export processing enterprises out of EPZs are exempt from export duties for goods exported to foreign countries. However, goods produced in EPZs with imported inputs are subject to import duties, taxes, and formalities if they enter the domestic market. According to the authorities, there is no legal requirement for investors in the EPZs to transfer technologies or conduct R&D.

3.101. Definitions of industrial parks, economic zones, and export processing enterprises are specified in Article 2 of Decree No. 82/2018/ND-CP, issued on 22 May 2018, on the management of industrial parks and economic zones.

3.102. An industrial zone is an area with a defined geographical boundary, specializing in the production of industrial goods and providing services for industrial production, established according to the conditions specified in the Decree. Industrial zones include EPZs<sup>54</sup> and industrial parks (including eco-industrial parks).<sup>55</sup>

3.103. An economic zone is an area with a defined geographical boundary, including many functional zones, established to achieve the objectives of attracting investment, developing socio-economic projects, and protecting national defence and security. Economic zones include coastal economic zones and border-gate economic zones.<sup>56</sup>

3.104. Currently, there are 361 industrial zones in the country (including industrial zones located in the economic zones), of which 273 are operational. The industrial zones cover approximately 109,000 hectares, of which industrial use accounts for 79,900 hectares.<sup>57</sup> Besides industrial zones, Viet Nam has established 43 economic zones, of which 17 are coastal economic zones covering

<sup>50</sup> Article 2 of Decree No. 82/2018/ND-CP, issued on 22 May 2018, stipulates that an export processing zone is "an industrial zone specialized in the production of exports, providing services for the production of exports and carrying out export activities, and so forth. Export processing zones are separated from the outside areas according to regulations applicable to non-tariff areas specified in the Law on Export and Import Tax".

<sup>51</sup> MOF Circular No. 164/2013/TT-BTC of 15 November 2013 (on a preferential tariff of import and export taxes); MOF Circular No. 182/2015/TT-BTC of 16 November 2015 (on a preferential tariff of import and export taxes); Decree No. 122/2016/ND-CP of 1 September 2016 (on the export tax schedule, preferential import tax schedule, and a list of taxable items); and Decree No. 125/2017/ND-CP of 16 November 2017 (amending and supplementing Decree No. 122/2016/ND-CP of 1 September 2016 (on the export tariff, import tariff by list of taxable items, and a list of goods and absolute tax, compound tax, and import tax outside the tariff quota). Article 15 of the Law on Investment provides general provisions on the beneficiaries of investment incentives, including projects belonging to industries, occupations, and areas eligible for investment incentives.

<sup>52</sup> An export processing enterprise is an enterprise established and operating in an EPZ or an enterprise specializing in the production of products for export and operating in industrial parks or economic zones. An export processing enterprise not located in an EPZ is separated from the outside area in accordance with regulations applicable to non-tariff zones in the Law on Export Tax and Import Tax.

<sup>53</sup> Article 10 of Decree No. 134/2016/ND-CP.

<sup>54</sup> An EPZ is an industrial zone that specializes in the production of exports, the provision of services for export production, and export activities, and is established according to the conditions, orders, and procedures applicable to public zones regulations in this Decree. The EPZ is separated from the outside area according to regulations applicable to non-tariff zones in the Law on Export Tax and Import Tax.

<sup>55</sup> An industrial park is an area eligible for investment incentives and is entitled to preferential policies applicable to geographical areas on the list of geographical areas with difficult socio-economic conditions under the Investment Law. Industrial zones established in areas on the list of geographical areas with extremely difficult socio-economic conditions are entitled to preferential policies applicable to those areas.

<sup>56</sup> A coastal economic zone is an economic zone formed in the coastal area and the vicinity of the coastal area. A border-gate economic zone is an economic zone formed in the land border area and the area adjacent to the land border area with an international border gate or main border gate.

<sup>57</sup> Decree No. 82/2018/ND-CP stipulates that new industrial zones can only be established when the industrial use of already-established industrial zones reaches 60% of their respective surfaces.

859,000 hectares (inland and water surface combined), and the remaining ones are border-gate economic zones extending over about 760,000 hectares.<sup>58</sup>

3.105. Article 24 of Decree No. 82/2018/ND-CP provides for incentives in industrial parks and economic zones. For example, investment in the construction, operation, or rental of an apartment building and social infrastructure works serving workers in industrial zones or economic zones is accorded deductible expenses; and investment in the construction of houses, cultural and sports works, and social infrastructure works in service of workers working in industrial parks or economic zones is accorded incentives under the law on social housing construction and related laws.

3.106. According to the OECD Investment Policy Review 2018, there are three high-tech parks in Viet Nam, which are regulated by Decree No. 99/2003/ND-CP, issued on 28 August 2003. Nearly 200 projects are established in these parks. They manufacture products or provide services in high-tech production chains; they are entitled to directly export their products or services. They enjoy investment preferences as prescribed by the Investment Law. They can select their investment forms and use their land-use right certificates as collateral with credit institutions.

3.107. There also remain three key economic zones (KEZs), which have a larger geographical coverage than all zones mentioned before. In 2004, an economic development plan for each KEZ was enacted for the period up to 2020.<sup>59</sup> According to the authorities, industrial/economic zones in the Northern KEZ are mostly oriented to the production of computer, electronic, and optical products, and machinery and equipment, and they benefit from their proximity to the Chinese market. The Southern KEZ accounts for around half of the country's industrial surface in industrial/economic zones, and the zones focus on machinery and equipment, textiles and apparel, fabricated metal products, and rubber and plastic products. Food processing, fabricated metal products, and other non-metallic mineral products are the main sectors in the Central KEZ.

3.108. The proportion of industrial output generated in industrial zones (including EPZs) was about 32% in 2019. The authorities state that industrial zones attracted 9,500 domestic projects valued at USD 22.3 billion and 9,700 FDI projects for more than USD 195 billion by the end of 2019. The performance of industrial zones is highly uneven between KEZs; for instance, the occupancy rate is substantially lower in the Central KEZ (52%) than in the Northern KEZ (82%) and the Southern KEZ (77%).<sup>60</sup>

3.109. On 22 May 2018, the Government issued Decree No. 82/2018/ND-CP, regulating the development and management of industrial zones and economic zones. According to the Decree, new industrial zones and economic zones, as well as their subsequent modifications, are subject to the approval of the Prime Minister based on a report by the Ministry of Planning and Investment in consultation with local and provincial People's Committees. It takes up to 30 working days to prepare a report on the establishment of an industrial zone and up to 40 working days for one on an economic zone. The Decree also delegates certain responsibilities to management boards of industrial zones as a means to effectively implement one-stop-shop mechanisms. The Decree also imposes a minimum use (60%) of the surface for industrial activities in the existing industrial zones prior to the approval of new ones. The authorities state that the average occupancy rate in operating industrial zones reached 71% in 2019, compared with 65% in 2010.

3.110. The Government promotes investment for industrial production in industrial zones and economic zones located in areas with difficult or particularly difficult socio-economic conditions through investment preferences foreseen in the Investment Law.<sup>61</sup> These investment incentives may consist of a reduced tax rate on enterprise income; an exemption from import duty of fixed assets, materials, supplies, and components of the investment project; or an exemption or reduction of land rental, land use levy, or land use tax.

3.111. Viet Nam seeks to attract investment in cleaner production and efficient use of resources by creating a new type of industrial zone, named eco-industrial parks, for the purpose of economic,

<sup>58</sup> Most of the zones are based in the key economic zones, i.e. in South, North, and Central Viet Nam.

<sup>59</sup> Prime Minister's Decisions No. 145/2004/QĐ-TTg, No. 146/2004/QĐ-TTg, and No. 148/2004/QĐ-TTg.

<sup>60</sup> Rents also differ substantially across regions; average rents in SEZs in the Northern and Southern regions are twice those observed in the Central region.

<sup>61</sup> Decree No. 82/2018/ND-CP and 2014 Investment Law.

environmental, and social benefits. Currently, there are three pilot eco-industrial parks; the Government encourages existing industrial zones to transform into eco-industrial parks.

3.112. In the context of the COVID-19 pandemic, Viet Nam conducted trade promotion measures through online meetings and business matching workshops.

### 3.2.5 Export finance, insurance, and guarantees

3.113. In Viet Nam, export credit insurance, import and export goods insurance, and guarantee insurance schemes are currently provided by private insurers. State-owned insurance enterprises do not provide financial services, insurance, or export guarantees. According to the authorities, no state support is provided to the schemes. These schemes are regulated by, *inter alia*: the Law on Insurance Business (Law No. 24/2000/QH10, issued on 9 December 2000)<sup>62</sup>; Decree No. 68/2014/ND-CP (amending and supplementing a number of articles of Decree No. 45/2007/ND-CP of 27 March 2007, detailing the examination a number of articles of the Law on Insurance Business), issued on 9 July 2014; and Decree No. 73/2016/ND-CP (detailing the implementation of the Law on Insurance Business and the Law Amending and Supplementing a Number of Articles of the Law on Insurance Business), issued on 1 July 2016.

3.114. Before 15 May 2017, loans extended to export contracts were also provided by the Viet Nam Development Bank (VDB), in accordance with Decree No. 75/2011/ND-CP issued on 30 August 2011. The lending interest rate was reported by the Chairman of the VDB Board of Directors to the MOF, and enterprises had to implement loan security measures in accordance with the government regulations on security transactions. The authorities state that these loans were provided on a market basis without a subsidy. On 31 March 2017, the Government issued Decree No. 32/2017/ND-CP, which entered into force on 15 May 2017 (replacing Decree No. 75/2011/ND-CP), under which the VDB no longer provides loans to export contractors. The State does not provide any funding for export credit.

3.115. During the review period, a guarantee insurance scheme (trade credit insurance) for exports was introduced in 2014, based on Decree No. 68/2014/ND-CP. The trade credit insurance is underwritten by the MOF. In order to support insurance companies during the COVID-19 pandemic, the MOF reduced the rate of contribution to the scheme in 2020 from 0.15% to 0.05% of the insurance premium.

## 3.3 Measures Affecting Production and Trade

### 3.3.1 Incentives

3.116. The Government provides different forms of incentives, including investment incentives mainly through tax reductions, sectoral and support programmes by the VDB including interest subsidies, and support measures to SMEs, the fisheries sector, and high-tech sectors.

3.117. The 2014 Investment Law sets out the eligibility criteria and sectors for investment incentives.<sup>63</sup> In general, incentives are accorded to new projects (excluding mergers and acquisitions), although expansions of projects not previously benefitting from incentives may be granted incentives under specific conditions. Eligibility for incentives includes projects in geographical areas with difficult or extremely difficult socio-economic conditions and those in industrial zones.<sup>64</sup> Investment projects valued at VND 6 trillion or more, those disbursing at least VND 6 trillion within three years of obtaining their investment certificate, or rural investment projects employing at least 500 workers are also eligible for incentives. Incentives are granted for the

<sup>62</sup> Government Portal, *Legal Normative Documents*. Viewed at: <http://vbpl.vn/TW/Pages/vbpqgen-toanvan.aspx?ItemID=49>.

<sup>63</sup> Encouraged sectors in the Investment Law are high tech, science and technology, renewable energies, electronic products, and key mechanical products in agricultural machinery, automobiles, and shipbuilding, supporting industries, software production, processing of agricultural and aquatic products and related biotechnology products, waste management, infrastructure development, education, healthcare, sport and culture, and microfinance institutions.

<sup>64</sup> Investment projects in mineral exploitation and in the production and trading of goods and services subject to special consumption tax (except for automobile production) are not eligible for the incentives attributed to these areas.

duration specified in the initial investment plan, and requirements for incentives are to be met during the project's entire lifetime. Specific investment incentives are implemented in accordance with the Law on Corporate Income Tax<sup>65</sup>, as well as other laws on taxation including the Law on Export Tax and Import Tax, the Law on Value Added Tax<sup>66</sup>, and the Law on Personal Income Tax.

3.118. The main types of incentives include the reduction of the corporate income tax, which is levied at the general rate of 20%.<sup>67</sup> A preferential rate (17% for 10 years) applies to investment projects starting from the year they generate their first revenue.<sup>68</sup> Investors may be granted tax holidays, which involve an exemption for the first two to four years since their start of operations, and a 50% reduction for the subsequent four to nine years. Specific durations and eligibility criteria for tax exemptions and reductions are described in Articles 19 and 20 of MOF Circular No. 78/2014/TT-BTC. Other incentives may include exemptions on import duties on goods used to create fixed assets and on unavailable domestically materials for project implementation, and exemptions or reductions on land rental, and land use levies and taxes.

3.119. Besides investment incentives in the Investment Law and other relevant laws, investors participating in significant public-private partnership (PPP) projects can benefit from incentives described in Articles 61 to 66 of Decree No. 63/2018/ND-CP (property mortgage and ownership, guarantees on land use, foreign currency availability, provision of public services, and dispute settlement).

3.120. Over the years, the VDB has financed numerous programmes and projects assigned by the Government<sup>69</sup>, and provided credit guarantees for SMEs to receive loans from commercial banks. Eligible projects are announced each period, and the VDB prepares internal procedures for the appraisal of its lending decisions. Since 2009, more than 2,500 enterprises have applied for SME credit guarantees totalling VND 60 trillion; the VDB has issued over 1,500 certificates for credit guarantees totalling VND 10.7 trillion. The VDB also implemented other tasks assigned by the Government, such as providing enterprises in difficulty with working capital to ensure the payment of salaries during the financial crisis.<sup>70</sup>

3.121. Viet Nam did not submit subsidy notifications to the WTO between September 2015 and February 2020, when it notified details of support programmes from 2012 until the present.<sup>71</sup> The notification does not contain data on the programmes' subsidy per unit. The authorities state that, due to limited resources, they were not able to collect the data.

3.122. Law No. 04/2017/QH14 (Provision of Assistance for Small and Medium-sized Enterprises), issued on 12 June 2017, and entered into force on 1 January 2018, stipulates support measures such as access to credit and credit guarantee funds to SMEs, and reductions or exemptions in land and water surface rents and use levies. Corporate income taxes can be reduced for companies investing and trading in production and distribution chains heavily populated by SMEs. Eligible SMEs are defined in Article 4 of the Law, according to their total capital or revenue and the number of employees; beneficiaries are SMEs originated as household business, creative start-ups, innovative

<sup>65</sup> Law No. 14/2008/QH12 on Corporate Income Tax was amended by Law No. 32/2013/QH13, issued on 19 June 2013.

<sup>66</sup> Law No. 13/2008/QH12 on Value Added Tax was amended by Law No. 31/2013/QH13, issued on 19 June 2013.

<sup>67</sup> Rates applied to the prospecting, exploration, and mining of rare natural resources, crude oil, and natural gas range from 32% to 50%, depending on the specific project and business establishment.

<sup>68</sup> Investment in social sectors such as education and health benefits from a lower rate (10%) up to 15 years.

<sup>69</sup> Examples of these funding activities are the construction of canals, afforestation, power generation, sanitation plants, healthcare facilities, investments in the production of cement, and outward investment. Established in 2006, the VDB is a non-profit institution with chartered capital of VND 30 trillion (as at the end of 2017). The compulsory reserve ratio of the VDB is 0%, and its solvency is guaranteed by the Government. The VDB raises capital mainly from the state budget (approximately VND 25 trillion), but it also receives funds from other sources. The Government entrusted the VDB with the disbursement and management of official development assistance (ODA) loans, which related to 380 projects with a total commitment of USD 13.8 billion at the end of 2019.

<sup>70</sup> For example, Prime Minister's Decisions No. 14/2009/QD-TTg, No. 30/2009/QD-TTg, and No. 60/2009/QD-TTg supported enterprises facing difficulties during the 2008 financial crisis through credits by the VDB. These regulations are no longer in force.

<sup>71</sup> WTO documents G/SCM/N/284/VNM (G/SCM/N/315/VNM), 28 February 2020, and G/SCM/N/343/VNM, 27 February 2020.

start-ups, and SMEs participating in processing and industrial clusters or value chains. The SME Development Fund, established by Decree No. 39/2019/ND-CP of 10 May 2019, offers loans to SMEs at lower interest rates than those of commercial banks. Loans through the Fund can cover up to 80% of investment capital for a project with an interest rate 20% lower than the lowest commercial loan interest rate for a term up to seven years.

3.123. There are also industry-specific incentives, such as those under Decree No. 111/2015/ND-CP (on developing supporting industries), issued on 3 November 2015 (Section 4.3). Fisheries Development Policies provided support measures to the sector, such as credits for new vessels, subsidized accidental insurance, and tax exemptions between 2015 and 2018 (Section 4.1.3).<sup>72</sup> Between 2017 and 2019, solar power projects benefitted from lower corporate income tax, exemption on import duties, lower land rents, and a selling price of electricity generated above the average retail price. Currently, a support programme for wind power energy offers similar benefits for projects between 2019 and 2021.

3.124. Decree No. 13/2019/ND-CP provides further details on the preferential treatment for science and technology enterprises, such as corporate tax cuts and exemptions, credit incentives, and exemption or reduction in land and water surface lease fees. Currently, Viet Nam has more than 380 firms certified as science and technology enterprises, of which 43 are considered as high-tech enterprises.<sup>73</sup>

3.125. On 17 June 2020, Parliament adopted the new Investment Law (No. 61/2020/QH14), which entered into force on 1 January 2021.<sup>74</sup> Some changes to incentives will apply. Article 15 adds two groups (creative start-ups, innovation-related centres, and R&D centres; and trading in the product distribution and supporting technical facilities for SMEs) as potential beneficiaries for investment incentives. Article 20 stipulates that the Government may grant special investment incentives for projects generating a great impact on socio-economic development and disbursing more than VND 3 trillion (in innovation centres and R&D centres) or VND 30 trillion (in other sectors and businesses) of investment capital in the first three years of the project.

3.126. Following the onset of COVID-19 pandemic, Viet Nam issued a number of legal documents with the aim of alleviating the impact of the pandemic on enterprises. Decree No. 41/2020/ND-CP, issued on 8 April 2020, extends the time limit for payment of VAT, corporate income tax, and land rental. The National Assembly's Resolution No. 116/2020/QH14 and Decree No. 114/2020/ND-CP apply a 30% reduction of corporate income taxes for 2020 to enterprises, cooperatives, non-business units, and other organizations with annual turnover of less than VND 200 billion. A 10% temporary discount in electricity bills for two periods of three months in 2020 was applied by MOIT Official Dispatches No. 2698/BCT-DTDL and No. 9764/BCT-DTDL.<sup>75</sup>

### 3.3.2 Standards and other technical requirements

3.127. During the review period, the overall regulatory framework for standards and technical regulations remained largely unchanged<sup>76</sup>; recent legislative changes concern, *inter alia*, the adoption of decrees and circulars implementing a more participatory development of standards, compliance with international conventions, and a new regulation on labelling. Furthermore, new laws on environmental protection and construction also were enacted and have some impact on technical standards in these fields.

3.128. The 2006 Law on Standards and Technical Regulations<sup>77</sup>, as amended, stipulates that the Ministry of Science and Technology (MOST) is responsible for issuing and managing standards; its Directorate for Standards, Metrology, and Quality (STAMEQ) is the national standardization body.

<sup>72</sup> WTO documents G/SCM/N/284/VNM (G/SCM/N/315/VNM), 28 February 2020, and G/SCM/N/343/VNM, 27 February 2020.

<sup>73</sup> Prime Minister's Decision No. 19/2015/QĐ-TTg prescribes the criteria determining high-tech enterprises, in addition to criteria specified in Article 75 of the 2014 Investment Law. Total expenditure in R&D and the proportion of employees with a university or higher qualification are some of the requirements stipulated by the Decision.

<sup>74</sup> Baker McKenzie, *Vietnam: New Investment Law and Draft Guiding Decree*, 27 July 2020. Viewed at: <https://www.lexology.com/library/detail.aspx?q=75ce815f-0e3f-4f5f-94f8-e719fb053ac4>.

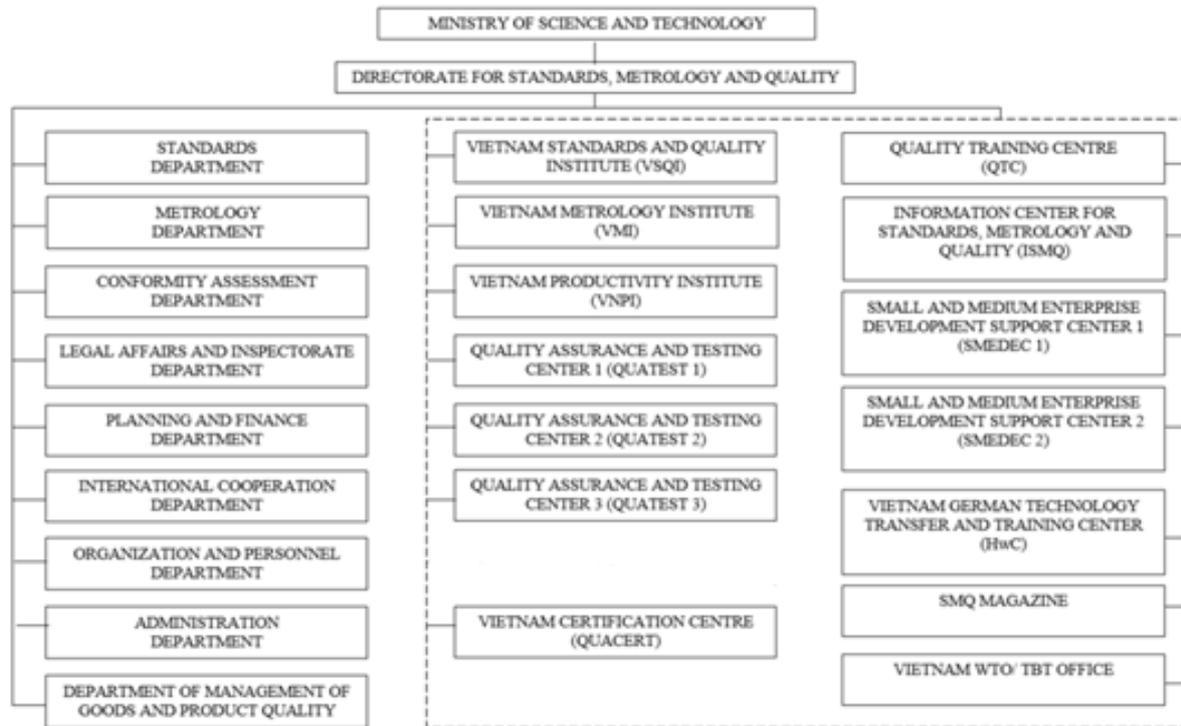
<sup>75</sup> The periods covered by this benefit were April to June and October to December 2020.

<sup>76</sup> Standards are voluntary; technical regulations are mandatory.

<sup>77</sup> Law No. 68/2006/QH11, amended by Law No. 35/2018/QH14.

Ministries prepare draft rules on standards and standards-related issues on goods under their responsibility, and they must consult with STAMEQ on their draft national standards prior to their approval. Several subsidiary bodies under the STAMEQ are responsible for conformity assessment, quality system certification, product certification, accreditation of testing and calibration laboratories, supervision of quality requirements for goods, and other matters related to standards and technical regulations (Chart 3.3).

**Chart 3.3 Standards organizational structure in the Ministry of Science and Technology, 2020**



Source: Information from the authorities; and STAMEQ, *Organization Structure*. Viewed at: <https://tcvn.gov.vn/organization-structure/?lang=en>.

3.129. Several ministries are responsible for standards, technical regulations, conformity assessment procedures, and other measures related to technical requirements. These include the MOST and the Ministries of: Industry and Trade; Agriculture and Rural Development; Information and Communication; Natural Resources and Environment; Transport; Health; Education and Training; Labour, Invalids and Social Affairs; Finance; Culture, Sports and Tourism; National Defence; Public Security; and Construction. The MOST is responsible for announcing the publication of national standards on the STAMEQ's website<sup>78</sup>, keeping an updated repository of valid standards in Viet Nam<sup>79</sup>, and coordinating the development of standards and technical regulations with the other ministries for products and services in its areas of competence. The MOST is also responsible of preparing five-year and annual plans on the formulation of national standards with the concerned ministries and agencies. Since 2009, the STAMEQ has adhered to the Code of Good Practice for the Preparation, Adoption and Applications of Standards in Annex 3 to the TBT Agreement.<sup>80</sup>

3.130. The TBT Viet Nam Office within the STAMEQ remains the notification authority and enquiry point for WTO TBT-related issues.<sup>81</sup> The Office coordinates a network of domestic enquiry points and inter-agency committee for TBTs as established by Prime Minister's Decision No. 46/2017/QĐ-TTg.

<sup>78</sup> STAMEQ, *Dissemination of National Standards* (in Vietnamese). Viewed at: <https://tcvn.gov.vn/category/pho-bien-phap-luat/>.

<sup>79</sup> STAMEQ, *Search Module for National Standard* (in Vietnamese). Viewed at: <http://tracuu.tcvn.vn/sdomain/front/viet-nam-standard>.

<sup>80</sup> WTO document G/TBT/CS/N/175, 20 February 2009.

<sup>81</sup> WTO, *TBT-IMS Portal*. Viewed at: <http://tbtims.wto.org/en/NationalEnquiryPoints/Search>.

The STAMEQ represents Viet Nam in international and regional organizations on issues related to technical requirements (Table 3.10).

3.131. Between June 2013 and June 2020, Viet Nam submitted 152 notifications, covering a large variety of products, to the WTO TBT Committee.<sup>82</sup> During the review period, four specific trade concerns (STCs) were raised in the Committee. Three of these STCs were raised in 2017: one was related to volumes of alcoholic beverages allowed to be imported for carrying out conformity assessments<sup>83</sup>, another concerned the vehicle type approval certificates and emission, quality, and safety inspection for every lot of imported cars<sup>84</sup>, and the third related to provisions of the Law on Cybersecurity. In May 2020, an STC was raised concerning mandatory quality management for products and goods under responsibility of Ministry of Information and Communications.<sup>85</sup>

**Table 3.10 The STAMEQ in international and regional standards organizations, 2020**

Organization	Status	Date
<b>International</b>		
International Organization for Standardization (ISO)	Member	1977
Global Organization on Barcodes and Numbering (GS1)	Member	1995
International Electrotechnical Commission (IEC)	Associate member	2002
International Organization for Legal Metrology (OIML)	Member	2003
General Conference on Weights and Measures (CGPM)	Associate member	2003
WTO Technical Barriers to Trade Committee (WTO/TBT)	Member	2007
International Accreditation Forum	Member	2008
<b>Regional</b>		
Pacific Area Standards Congress (PASC)	Member	1992
Asia Pacific Metrology Programme (APMP)	Member	1992
Asia Pacific Quality Organization (APQO)	Member	1994
ASEAN Consultative Committee for Standards and Quality (ACCSQ)	Member	1995
Asian Pacific Legal Metrology Forum (APLMF)	Member	1995
Asian Productivity Organization (APO)	Member	1996
Asia-Europe Meeting/Trade Facilitation Action Plan/Standards and Conformity Assessment (ASEM/FTAP/SCA)	Member	1996
APEC Subcommittee on Standards and Conformance	Member	1998

Source: STAMEQ, *International Cooperation*, viewed at: <https://tcvn.gov.vn/international-cooperation/?lang=en>; and international and regional organizations listed in the table.

3.132. The 2006 Law on Standards and Technical Regulations<sup>86</sup> remains the main legal basis for standards and technical regulations and seeks to promote harmonization of national standards with international ones. International, regional, and foreign standards must be used as the basis for the formulation of technical standards and technical regulations, unless they are not suitable to Viet Nam (because of its geography, climate, and technical or technological characteristics), or they affect its national interests. The main laws, decrees, and decisions by the Prime Minister that cover standards and technical regulations are listed in Table A3.8. Besides these, some ministerial circulars and ministerial decisions provide guidance on the implementation of laws, decrees, and Prime Minister's decisions.<sup>87</sup> The key regulations for standards planning, elaboration, appraisal, publication, and

<sup>82</sup> In 2019 and 2020, the notifications covered the following products: transport equipment (road vehicles and railway material), batteries, iron and steel products, lifts and escalators, petroleum products, spices and condiments, chemical products (paints, wood-protecting chemicals, disinfection products, etc.), sugar and sugar products, domestic electrical appliances, and telecommunication equipment.

<sup>83</sup> WTO document G/TBT/N/VNM/86 of 26 August 2016, related to Decree No. 105/2017/ND-CP.

<sup>84</sup> WTO documents G/TBT/N/VNM/116 of 7 March 2018, G/TBT/N/VNM/116/Add.1 of 25 November 2019, G/TBT/N/VNM/116/Add.2 of 28 April 2020, and G/TBT/N/VNM/140 of 6 April 2019, notifying Decree No. 116/2017/ND-CP on business requirements for manufacturing, assembly and imports of automobiles, automobiles' warranty, and maintenance services.

<sup>85</sup> WTO notifications G/TBT/N/VNM/161 of 19 February 2020 and G/TBT/N/VNM/161/Add.1 of 3 June 2020, notifying the issuance of Ministry of Information and Communication Circular No. 05/2019/TT-BTTTT.

<sup>86</sup> Law No. 68/2006/QH11, as amended by Law No. 35/2018/QH14.

<sup>87</sup> A number of ministerial circulars were issued during the review period to promulgate particular standards and technical regulations, including Ministry of Transport (MOT) Circular No. 45/2019/TT-BGTVT promulgating three national technical regulations on batteries, engines used for electric bicycles, and motors used for electric motorcycles and mopeds; MOT Circular No. 88/2015/TT-BGTVT promulgating the national technical regulation on technical safety quality for trailers and semi-trailers; and MOST Circular No. 22/2015/TT-BKHHCN promulgating and implementing the national technical regulation on gasoline, diesel fuel, and biofuel.

implementation include Circular No. 21/2007/TT-BKHCN Guiding the Formulation and Application of Standards (as revised by Circular No. 29/2011/TT-BKHCN) and Decision No. 22/2007/QĐ-BKHCN of the MOST, promulgating the regulation on organization and operation of the Technical Board for National Standards. More recently, Decree No. 78/2018/ND-CP aims to broaden the participation of technical committees developing national standards, notably by including associations, enterprises, and consumers, and it aims at ensuring the compliance of national standards and technical regulations with international conventions signed by Viet Nam.

3.133. In Viet Nam, there are two types of standards – national standards (*Tieu chuan Viet Nam* (TCVNs)), and company/organization standards (*Tieu Chuan Co So* (TCCSs))<sup>88</sup> – and two types of technical regulations – national technical regulations (QCVNs) and local technical regulations (QCDPs).<sup>89</sup> Company/organization standards may serve as the basis for the development of national standards. A specific standard or a part of it becomes mandatory when it is invoked in a legal document or technical regulation.

3.134. Draft national standards are prepared by technical committees organized by the relevant ministries, the Viet Nam Standards and Quality Institute in the STAMEQ (VSQI), organizations, and individuals. The drafts are based on proposals from government agencies or the private sector. The VSQI is responsible for organizing the development of TCVNs and related consultations<sup>90</sup>, providing secretarial support for the technical committees, and planning standardization activities. In 2020, authorities reported that there were 139 national standards technical committees and 54 sub-committees. Draft TCVNs are published on the VSQI website<sup>91</sup> with 60-day comment periods.<sup>92</sup> Interested foreign parties can consult draft standards on request. Based on comments, revisions should be finalized in 120 days and, if a disagreement between interested parties persists, the MOST shall report to the Prime Minister for their consideration and decision. A repository of valid standards in Viet Nam is available online.<sup>93</sup> Each year, the VSQI publishes a work-programme listing, which is regularly updated. The plan for 2020, approved by Decision No. 4099/QĐ-BKHCN of the MOST, includes 770 standards being prepared in various technical committees, proposed by different government ministries.

3.135. Viet Nam has around 12,888 TCVNs in effect, of which 60% were harmonized<sup>94</sup> with international, regional, or foreign standards (up from 40% in 2013). This result is in line with the objectives set by Prime Minister's Decision No. 712/QĐ-TTg approving the National Programme on Products and Goods Productivity and Quality.

3.136. The VSQI also provides support for the development of technical regulations (QCVNs), which are developed by drafting committees composed of government agencies and experts. Proposals for the QCVNs are published on the official websites of the relevant ministries, and technical committees hold seminars for further public consultation and dissemination. Interested parties can comment either in their capacity as members of the technical committee or through comments to the technical committees. Draft technical regulations are shared with WTO Members through the TBT Viet Nam Office. In case the parties do not agree on the evaluation, the promulgating agency of the national technical regulation shall report to the Prime Minister for their consideration and decision. The final

<sup>88</sup> Company/organization standards (TCCS) are developed independently by organizations; the STAMEQ has no direct involvement, although it issues guidelines (Circular No. 21/2007/TT-BKHCN) on how standards should be developed. TCCSs must not contradict technical regulations and other relevant regulations; their publication is the responsibility of the issuing organization. Authorities report that enterprises in Viet Nam frequently use TCCSs in their own businesses.

<sup>89</sup> Local technical regulations (QCDPs) are developed by local authorities, e.g. Chairpersons of People's Committees, to enforce compulsory application within local management of specific products, goods, services, processes, and local environmental requirements (Law No. 68/2006/QH11, Article 32, and MOST Consolidated Document No. 09/VBHN-BKHCN).

<sup>90</sup> Decree No. 78/2018/ND-CP stipulates that relevant scientific and technological organizations, regulatory bodies, associations, enterprises, consumers, and experts must be part of the development of standards.

<sup>91</sup> STAMEQ's Standards and Quality Institute, *National Standard Data Portal* (in Vietnamese). Viewed at: <http://tieuchuan.vsqi.gov.vn>.

<sup>92</sup> The duration for consultations might be shortened in urgent circumstances related to health, safety, or the environment.

<sup>93</sup> STAMEQ, *Search Module for National Standard* (in Vietnamese). Viewed at: <http://tracuu.tcvn.vn/sdomain/front/viet-nam-standard>.

<sup>94</sup> Viet Nam assesses harmonization with international standards in accordance to its national standard TCVN 6709-1:2007, which adopts the ISO/IEC Guide 21-1:2005.

QCVNs are published on the official websites of the relevant ministries, normally six months before they become effective.<sup>95</sup> In addition, the MOST publishes an annual catalogue of new technical regulations.

3.137. The authorities state that there are 23 local technical regulations (QCDPs), which provide further details on national regulations to meet local needs. Some examples of QCDPs include food safety conditions for dried fish and fish sauce in An Giang province, wine processing in Tra Vinh province, tea tree oil production in Hue, and waste water treatment in Bac Ninh province.

3.138. Under the Law on Products and Goods Quality, products and goods are classified in two groups. Products "incapable of causing unsafety" (Group 1) are distinguished from those "capable of causing unsafety" (Group 2). "Those products and goods which, under rational conditions of transportation, storage, preservation and use for proper purposes, can latently cause harms to humans, animals, plants, assets or the environment" belong to Group 2, while all other products belongs to Group 1.<sup>96</sup> Decree No. 74/2018/ND-CP states that the goods' capability of causing "unsafety" shall be determined based on their chemical, physical, and biological nature; their functional structure and principles; and their transportation, warehousing, storage, and usage conditions.<sup>97</sup> Products in Group 1 are subject to quality control on the basis of standards announced by producers. Products in Group 2 are controlled on the basis of relevant technical regulations from the competent state agencies, which shall also specify the method and procedures for conformity assessment.<sup>98</sup> Different ministries are responsible for the quality control of goods under their responsibility, and for issuing lists of goods potentially causing "unsafety" and subject to conformity assessment through mandatory certification, quality inspection, and testing (Table 3.11).

3.139. Producers and importers must fulfil requirements concerning conformity assessment before selling their products freely in the market, and measures for domestically manufactured and imported products are similar. Conformity must be declared using the results of assessments carried out at the discretion of producers and importers, certifications by legally registered or recognized certification bodies, or certifications by legally designated certification bodies. Importers must register for inspection using a specific form<sup>99</sup> and include certified copies and other documents related to their registration, according to the method for conformity declaration. If a laboratory test, certification of conformity, or certification of inspection is required, importers must submit these documents to the inspection authority within 15 working days of the date of such customs clearance. Results by foreign laboratories and foreign certifications can be used for conformity assessment procedures in Viet Nam; however, a unified list of recognized foreign laboratories and certifications does not exist, as this information is separately handled by each line ministry. Relevant agencies are responsible for running market surveillance or monitoring schemes for the products under their management.

3.140. Decree No. 107/2016/ND-CP (as revised by Decree No. 154/2018/ND-CP) prescribes the conditions for conformity assessment services in Viet Nam, as well as the duties and responsibilities of management agencies; the Decree replaces previous MOST Circulars<sup>100</sup> on these matters. The Bureau of Accreditation of the MOST runs the Viet Nam Laboratory Accreditation Scheme (VILAS), the Viet Nam Certification Accreditation Scheme (VICAS), and the Viet Nam Inspection Scheme (VIAS). By 2020, the VILAS had accredited more than 1,300 laboratories, including 7 laboratories abroad. Laboratories in ASEAN countries for electrical and electronic laboratories were recognized under the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment Framework (ASEAN EEE MRA). The VICAS has accredited 72 certification bodies; and the VIAS has accredited 84 verification and inspection organizations.

<sup>95</sup> The MOIT is responsible for the implementation of 45 QCVNs, of which 21 were issued after 2013. Other ministries and agencies are responsible for the implementation of QCVNs in their respective domains.

<sup>96</sup> Article 3 of the Law on Products and Goods Quality.

<sup>97</sup> Goods assigned under management by specific ministries are detailed in Article 32 of Decree No. 74/2018/ND-CP.

<sup>98</sup> Law on Products and Goods Quality, Decree No. 132/2008/ND-CP, and Decree No. 74/2018/ND-CP. Luggage of incoming passengers, goods of diplomatic organizations and individuals, sample products, temporary imports for exhibition and promotion, goods temporarily imported to re-export, in-transit goods, and raw materials and inputs for export processing are exempt from conformity assessment, among others.

<sup>99</sup> Form No. 01 in the Appendix to Decree No. 74/2018/ND-CP.

<sup>100</sup> MOST Circulars No. 08/2009/TT-BKHCHN, No. 21/2010/TT-BKHCHN, and No. 10/2011/TT-BKHCHN.

3.141. There are five product certification bodies under the STAMEQ:

- the Viet Nam Certification Centre (QUACERT), which helps enterprises with compliance with national and international standards and practices, including certification for meeting national, foreign, regional, and international standards; and
- four Quality Assurance and Testing Centres (QUATEST 1, 2, 3, and 4), which are responsible for testing imports and exports for compliance with standards and technical regulations.

3.142. QUACERT is the certification body responsible for compliance with:

- Vietnamese standards and technical regulations (including Vietnamese Good Agricultural Practices (VietGAP));
- certification of management systems to international standards (ISO 9001, ISO 14001, ISO 22000, ISO/IEC 27001, quality management systems for petroleum, petrochemical and natural gas industries (ISO/TS 29001), ISO 50001, Occupational Health and Safety Assessment Series (OHSAS 18001 and ISO 45001), Good Manufacturing Practices (GMP), and Hazard Analysis Critical Control Point (HACCP)); and
- standards in other countries (American Society for Testing and Materials (ASTM), Japanese Industrial Standards (JIS), German Institute for Standardization (DIN), Russian Federation's Gosstandart (GOST), British Standards Institution (BSI), and People's Republic of China Guobiao (GB)).<sup>101</sup>

3.143. QUACERT, QUATEST 1, and QUATEST 3 are the certification bodies responsible for electrical and electronic equipment under the ASEAN Sectoral Mutual Recognition Arrangement for Electrical & Electronic Equipment (ASEAN EE MRA).

3.144. Decree No. 43/2017/ND-CP (on Labelling of Goods) of 14 April 2017 prescribes the contents and ways of recording goods produced in or imported to Viet Nam. Labels must include: the name of the product; the name and address of the producer or importer responsible for the good; its origin; and other contents according to the nature of the product. For food products, labels must show ingredients in order of importance, include production and expiry dates, and warning information (if any). For alcoholic beverages, the label must also include shelf life, preservation instructions (for wines), and batch identification (if any). Auxiliary labels are allowed on imported goods to show compulsory contents in Vietnamese, while keeping the original labels. Domestically produced goods that cannot be exported and are sold in the local market must include an auxiliary label with the denomination "Made in Viet Nam" (in bold). Decree No. 21/2011/ND-CP requires energy labels to be affixed to equipment and vehicles pursuant to the Law on Energy Conservation. MARD and MOST Joint Circular No. 45/2015/TTLT-BNNPTNT-BKHHCN, issued on 23 November 2015, provides further details on labelling requirements applied to foods containing at least 5% of genetically modified ingredients.<sup>102</sup>

**Table 3.11 Goods subject to mandatory inspection and quality control, 2020**

<b>Ministry of Industry and Trade (Circulars No. 41/2015/TT-BCT and No. 29/2016/TT-BCT)</b>
Tissue paper products
Storage tanks and related material for liquified petroleum gas
Water boilers and heaters
Chemicals
Coal and selected minerals for export
Industrial explosives
Machines and industrial-specific equipment
<b>Ministry of Public Security (Circular No. 14/TT-BCA of 2012)</b>
Fire prevention and fighting equipment
Technical equipment
Ammunitions, weapons

<sup>101</sup> QUACERT. Viewed at: <https://www.quacert.gov.vn/vi/gioi-thieu-quacert.iso156.html>.

<sup>102</sup> Government Portal, *Legal Normative Documents* (in Vietnamese). Viewed at: <http://vbpl.vn/TW/Pages/vbpg-toanvan.aspx?ItemID=94028&Keyword=45/2015/TTLT-BNNPTNT-BKHHCN>.

Support instruments
<b>Ministry of Information and Communications (Circulars No. 04/2018/TT-BTTTT and No. 05/2019/TT-BTTTT)</b>
Telecommunications terminal equipment
Computers, network and IT equipment
Radio and transmission equipment
<b>Ministry of Health (Circular No. 44/2011/TT-BYT)</b>
Foods
Pharmaceuticals
Vaccines
Medical bio-products
Cosmetics
Drug materials
Drugs for human use
Domestic chemicals
Insecticides
Disinfectants
Medical equipment and facilities
<b>Ministry of Agriculture and Rural Development (Circulars No. 50/2009/TT-BNNPTNT, No. 50/2010/TT-BNNPTNT, and No. 50/2012/TT-BNNPTNT)</b>
Plants
Animals
Fertilizers
Animal feeds
Plant protection drugs
Veterinary drugs
Bio-products for use in agriculture, forestry or aquaculture
Irrigation works and dykes
<b>Ministry of Science and Technology (Circular No. 01/2009/TT-BKHCN)</b>
Petrol, diesel, and biofuels
Motorbike helmets
Electrical and electronic products
Electrical wires
Toys
<b>Ministry of Transport</b>
Means of transport
Loading and unloading means and equipment
Specialized transport equipment for construction, marine exploration, and exploitation equipment
Traffic works
<b>Ministry of Construction</b>
Civil works
Industrial works
Technical infrastructure works
<b>Ministry of Defence (inspections on goods imported for national security purposes)</b>
Military equipment and facilities
Ammunition
Weapons and products in service of defence
Defence works

Note: The mandatory measures are applied to all goods, irrespective of their origin (i.e. domestically produced, imported, or exported).

Source: Information provided by the authorities; the Law on Products and Goods Quality; and various ministerial circulars.

### 3.3.3 Sanitary and phytosanitary requirements

3.145. The Laws on Food Safety, on Plant Protection and Quarantine, on Animal Health, and on Environmental Protection set out the overarching legal framework for SPS-related matters in Viet Nam (Table A3.9). Except for the Law on Food Safety, all previous legal texts were enacted during the review period; plant protection and quarantine, and animal health were previously regulated by relevant ordinances. Other relevant legislation includes the Laws on Crops (Law No. 31/2018/QH14, issued on 19 November 2018), on Livestock (Law No. 32/2018/QH14, issued on 19 November 2018), and on Fisheries (Law No. 18/2017/QH14, issued on 21 November 2017), as well as decrees on food safety for imported food, on the implementation of the Law on Animal Health, on quarantine of aquatic animals and fishery products, and on fertilizer management. Other relevant regulations include MARD Circulars on permitted and banned plant protection products, on pesticide management, and on maximum residue levels (MRLs) of pesticides on food, and a Decision

of the Minister of Agriculture and Rural Development on products subject to plant quarantine. These have been notified to the WTO; between June 2013 and June 2020, Viet Nam submitted 84 notifications to the SPS Committee, but no emergency notifications.

3.146. Several ministries and agencies are responsible for SPS-related matters, including the MARD, the MOIT, the Ministry of Health (MOH), and the MOST. Within the MARD, the Directorate of Fisheries replaces the former National Directorate of Aquatic Resources Exploitation and Protection as the competent entity for SPS related to fishery products. The Department of Plant Protection (DPP) and the Department of Animal Health (DAH) at the MARD remain the other two relevant entities for SPS issues.

3.147. The national food safety strategy for 2011-20<sup>103</sup> aimed at implementing master plans on food safety from production to consumption by 2015, and at controlling food safety over the entire food supply chain by 2020. Other specific objectives of the national strategy include: (i) improving general knowledge of food safety and food safety practices; (ii) building capacity for the food safety management system; (iii) improving food safety assurance by producers, processors, and traders through certification; and (iv) effectively preventing cases of acute food poisoning. By 2020, local agencies were assigned in all 63 provinces to perform the state management of food safety, 83 food-inspection laboratories complying with ISO/IEC 17025 standards and 106 food-inspection facilities (some of them belonging to the private sector) operated at the provincial level, certification of products and producers by VietGAP or by equivalent standards significantly increased in last five years, and rates of unsafe food samples were four times lower than in 2017. By 2030, all food producers, processors, traders, managers, and consumers are expected to have knowledge of food safety practices, and all food production, processing, and trading establishments are expected to meet food safety conditions. Risk monitoring, communication, and inspection activities are expected to contribute to achieve these objectives.

3.148. Importers of food products must provide the authorities with a number of supporting documents (Table 3.12). Decree No. 15/2018/ND-CP details food products under the responsibility of the MOH, the MARD, and the MOIT. Decree No. 69/2018/ND-CP requires ministries and competent authorities to publish detailed lists of goods, including their HS codes, for which a Certificate of Free Sale (CFS) from the competent authorities of the exporting country that has been certified by consular services is required.<sup>104</sup> Appendixes I and IV to MARD Consolidated Document No. 08/VBHN-BNNPTNT provide detailed lists of products subject to CFS when exported or imported. All products containing genetically modified materials, irradiated products, and products that were produced by new technologies require a CFS when imported to Viet Nam.

3.149. Goods in Group 2, i.e. those "capable of causing unsafety", must comply with procedures for quality inspection stated in Decree No. 74/2018/ND-CP and Decree No. 154/2018/ND-CP. Post-clearance and post-surveillance inspections are specified in the relevant technical regulations or legal documents (Circular) of the line ministries. The current guidelines for food safety inspection of imported plant origin products are specified in MARD Circular No. 12/2015/TT-BNNPTNT, issued on 16 March 2015.

**Table 3.12 Certificates required for importing food and agricultural products, 2020**

Product	Documents	Basis	Government Agency
Processed food products	Certificate of HACCP, ISO 22000 or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis	Food quality and standards	MOH/VFA
Food for health protection, medical nutrition, or special diets	Certificate of Free Sale, Health Certificate, or equivalent	Food safety and quality	MOH/VFA
	Certificate of HACCP, ISO 22000, or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis	Food quality and standards	MOH/VFA
	Certificate of Free Sale, Health Certificate, or equivalent	Food safety and quality	MOH/VFA

<sup>103</sup> Prime Minister's Decision No. 20/QD-TTg.

<sup>104</sup> A CFS is a certificate stating that a product is produced and freely sold in the country issuing the certificate.

Product	Documents	Basis	Government Agency
Nutrition products for children up to 36 months old	Certificate of HACCP, ISO 22000 or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis	Food quality and standards	MOH/VFA
	Certificate of Free Sale, Health Certificate, or equivalent	Food supplemental value functioned to improve human health	MOH/VFA
Mixed food additives with new uses or uses not yet permitted	Certificate of GMP or HACCP or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis	Food quality and standards	MOH/VFA
	Certificate of Free Sale, Health Certificate, or equivalent	Food safety and quality	MOH/VFA
Feed ingredients	Certificate of GMP, HACCP, ISO, or equivalent	Product quality	MARD/DLP
	Certificate of Free Sale	Product quality and safety	MARD
	Certificate of Analysis	Product quality, safety and hygiene	MARD/DLP
Plants and plant products with minimum processing (plant genetics including seeds, fruit, vegetable, grain, oilseeds, forest products, etc.)	Phytosanitary certificate	Plant health protection	MARD/DPP
Processed plant products	Export certificate	Plant protection	MARD/DPP
Irradiated plant products	Phytosanitary certificate		MARD/DPP
	Certificate of Free Sale		MARD/DPP
Animals and animal products, except meat and meat products, and live aquatic animals	Health certificate with additional requirements depending on the product and place or origin	Animal health protection and human health protection	MARD/DAH
Dairy products	Certificate of GMP, HACCP, or equivalent	Food safety and hygiene	MARD/DAH
Poultry or porcine meals, bovine blood products, gelatine (from porcine, bovine, hides, and/or skins)	Export certificate	Product quality, safety and hygiene	MARD/DAH
Meat and meat products, including pork, poultry, bovine, and offal	Export certificate	Product quality, safety and hygiene	MARD/DAH
Aquatic animal products except live aquatic animals	Health certificate (export certificate)	Food safety and hygiene	MARD/DAH

Note: DAH = Department of Animal Health; DLP = Department of Livestock Production; DPP = Department of Plant Protection; MARD = Ministry of Agriculture and Rural Development; MOH = Ministry of Health; VFA = Viet Nam Food Administration.

Source: Information provided by the authorities.

3.150. Imported and domestically produced foods, other than fresh fruits and meat, require a Food Standards Registration Certificate from the Viet Nam Food Administration in the MOH, valid for three years. The registration dossier for processed products includes: (i) a CFS, Certificate of Export, or Certificate of Health from the competent authority of the exporting country; (ii) the results of food safety testing or analysis; and (iii) a certificate showing that the establishment meets the conditions for food safety or Good Manufacturing Practice (GMP) certificate.<sup>105</sup>

3.151. MOH Circular No. 50/2016/TT-BYT prescribes MRLs for different pesticides and their active ingredients in plant-based food products, which apply for domestically produced and imported goods.

3.152. Imports of plants, plant products, aquatic and terrestrial animals and animal products, and processed food products may be inspected; this inspection may include an examination of

<sup>105</sup> Decree No. 15/2018/ND-CP, Article 7.

documentation or visual inspection before transportation to quarantine, where samples may be taken for laboratory testing.<sup>106</sup>

3.153. The DPP at the MARD is the national competent agency on plant protection in Viet Nam. It has 9 regional sub-departments and 10 centres for plant quarantine, 2 centres for post-entry quarantine, 1 centre for plant inspection, 2 centres for testing, and 1 national centre for fertilizer testing<sup>107</sup>; there are also plant quarantine stations at the country's entry points.

3.154. To import plants or plant products, the importer must make a declaration to the DPP at least 24 hours before the import is made and then, within the next working day, the authority will notify the location and time to conduct the quarantine. According to Article 26 of the Law on Plant Protection and Quarantine, an import consignment of plants must: (i) be accompanied by a plant quarantine certificate from the competent authority of the exporting country; (ii) be free of regulated pests and harmful organisms; (iii) have an import plant quarantine permit from the PPD for objects subject to pest-risk analysis; and (iv) have packaging that complies with national technical regulations. MARD Circular No. 30/2014/TT-BNNPTNT contains the list of objects subject to plant quarantine and those subject to pest-risk analysis. The latter includes living plants; fresh fruits and bulbs; weeds and weed seeds; beneficial organisms, biological agents, or living organisms harmful to plant resources; and objects with a high risk of carrying a regulated pest.

3.155. Decree No. 35/2016/ND-CP requires that imports and exports of animals or animal products must be reported to the DAH at the MARD using the necessary documents.

3.156. For imports of terrestrial animals and animal products on the quarantine list in Circular No. 25/2016/TT-BNNPTNT, the DAH should reply within five working days, informing the owner of the goods which quarantine agency is responsible for conducting quarantine. The duration of the quarantine period for terrestrial animals and animal products may be up to 45 days, and it varies according to the risk associated with the terrestrial animal or animal product. For imports from countries reported for the first time or with high risks of animal diseases, the DAH will conduct a risk analysis.

3.157. The list of aquatic animals and aquatic animal products subject to quarantine and the related procedures are set out in Circular No. 26/2016/TT-BNNPTNT, as amended by Circular No. 02/2018/TT-BNNPTNT.<sup>108</sup> Importers of aquatic animals and animal products must register for import quarantine with the DAH. Quarantines can last up to 10 days, but authorities may notify a longer duration in a written note justifying the reasons. In addition to the quarantine declaration, the following documents are required: (i) an export quarantine certificate from the competent authorities of the exporting country; (ii) a copy of a CITES permit for endangered species; and (iii) a copy of an aquatic product import permit issued by the Department of Fisheries. Other documents may be required for items not imported for human consumption. The DAH operates a number of laboratories for sampling and testing.

3.158. Between December 2014 and July 2017, Viet Nam applied automatic import licensing to fertilizers (urea, and fertilizers containing nitrogen, phosphorus, and potassium). MOIT Circular No. 07/2017/TT-BCT repeals the automatic import licences on these products, and allows their importation only through international or main border gates.

3.159. Prime Minister's Decision No. 147/2008/QĐ-TTg (approving the national action plan on the acceleration of the implementation of commitments under the agreement on the application of SPS measures in performing WTO Member obligations) of 17 November 2008 launched an action plan to meet Viet Nam's obligations under the SPS Agreement, which included harmonizing its food hygiene and safety, and sanitary and phytosanitary standards with those of Codex Alimentarius, the OIE, and the IPPC.<sup>109</sup> This Decision states that the same standard should be used for exports and domestic

<sup>106</sup> MARD Circular No. 33/2014/TT-BNNPTNT.

<sup>107</sup> Plant Protection Department. Viewed at: <https://www.ppd.gov.vn/co-cau-to-chuc/so-do-to-chuc.html>.

<sup>108</sup> Circulars detailing products subject to quarantine and banned products for SPS reasons are frequently amended or supplemented by the authorities.

<sup>109</sup> Viet Nam is a member of the Codex Alimentarius and the World Organisation for Animal Health (OIE), and a contracting party to the International Plant Protection Convention (IPPC).

consumption and sets out goals for improving risk assessment, control measures, and institutional capacity.

3.160. The national enquiry point for SPS matters is the Viet Nam SPS Office in the MARD.<sup>110</sup> Decision of the Minister of Agriculture and Rural Development No. 04/2008/QĐ-BNN of 10 January 2008 requires relevant agencies for SPS to coordinate with the Viet Nam SPS Office and to operate as a network for notifications.

3.161. Since 2013, eight STCs were raised at the SPS Committee. Two STCs, initially raised in 2015, on restrictions on plant products and fruits were reported as resolved or partially resolved in the second semester of 2017; all other STCs remain unresolved. Three STCs were initially raised but have not been reiterated by Members in subsequent meetings.<sup>111</sup> The STCs concerning the suspension of groundnut seed imports, the market access for "white" offal, and the import restrictions in the draft Law on Animal Protection have been reiterated, at least once, by Members.<sup>112</sup>

3.162. Following the onset of the COVID-19 pandemic, Viet Nam indicates to apply the WHO's guidelines on "COVID-19 and food safety: Guidance for food businesses", and the Department of Food Safety under the MOH issued guidance on enhancing food safety for food service providers (Official Letter No. 881/ATTP-NDTT) to prevent the spread of the disease.

### 3.3.4 Competition policy and price controls

#### 3.3.4.1 Competition policy

##### 3.3.4.1.1 Legal and institutional frameworks

3.163. During the review period, Viet Nam amended its Law on Competition. The new Law (No. 23/2018/QĐ14) entered into force on 1 July 2019, and repealed the previous Law (No. 27/2004/QĐ11).<sup>113</sup> Two implementing decrees were issued by the Government, namely, the Decree on Sanctioning Administrative Violations in the Competition Area (No. 75/2019/ND-CP, effective on 1 December 2019)<sup>114</sup> and the Decree on Detailing a Number of Articles of the Law on Competition (No. 35/2020/ND-CP, effective on 15 May 2020).<sup>115</sup> The new Law on Competition has addressed some issues of regulatory deficiencies<sup>116</sup>; the major amendments included adjusting the application scope, revising relevant provisions on determining violations, restricting institutional arrangements, and making other changes.

3.164. The new Law defines its goals as being to enhance market access, improve economic efficiency and social welfare, and protect consumer interests. Compared with the previous Law, the new Law expressly expanded its coverage to extraterritorial practices that have or may have competition-restrictive effects on the Vietnamese market, although this had already been the practice for many years under the interpretation of the Vietnamese competition authorities of the old Law. The provisions of the new Law apply to all enterprises, individuals, and industry associations operating either in Viet Nam or abroad. The new Law also covers the public-utility sector, the public non-business sector, and the state-monopolized sector. Under the new Law, exemptions may be

<sup>110</sup> WTO, *Sanitary and Phytosanitary Information Management System: Enquiry Points/Notification Authorities*. Viewed at:

<http://spsims.wto.org/en/EnquiryPointsNotificationAuthorities/Search?countryCode=C704>.

<sup>111</sup> They concern the approval of dairy and meat products (2015), the amendment of MRLs in veterinary drugs (2018), and general restrictions on imports of fruits, live cattle, and meat (2019).

<sup>112</sup> WTO, *Sanitary and Phytosanitary Information Management System*. Viewed at: <http://spsims.wto.org/>.

<sup>113</sup> Revised Law on Competition (in Vietnamese). Viewed at: <https://thuvienphapluat.vn/van-ban/Doanh-nghiep/Law-23-2018-QH14-on-competition-387952.aspx>.

<sup>114</sup> The Decree in Vietnamese is available at: <http://congbao.chinhphu.vn/loi-dung-van-ban-so-75-2019-nd-cp-29759>.

<sup>115</sup> The Decree in Vietnamese is available at: <https://thuvienphapluat.vn/van-ban/thuong-mai/Decree-35-2020-ND-CP-elaborating-on-several-Articles-of-the-Competition-Law-439832.aspx>.

<sup>116</sup> Such deficiencies also arose in the OECD peer reviews. OECD, *Peer Reviews of Competition Law and Policy: Viet Nam 2018*. Viewed at: <https://www.oecd.org/daf/competition/VietNam-OECD-Competition-Review-2018-ENG.pdf>; and OECD, *Investment Policy Reviews: Viet Nam 2018*. Viewed at: <https://www.oecd.org/countries/vietnam/oecd-investment-policy-reviews-viet-nam-2017-9789264282957-en.htm>.

granted to some anti-competitive acts if such acts are deemed to enhance the competitiveness of Vietnamese enterprises in the international markets; these provisions raised some concerns about their application.

3.165. A new competent authority, the National Competition Commission (NCC), was established by consolidating two separate authorities (i.e. the Viet Nam Competition Council and the Viet Nam Competition Authority).<sup>117</sup> The NCC is authorized to investigate and adjudicate, review exemption requests, monitor economic concentration, and settle complaints about its decisions. The NCC exists under the MOIT and is financed through the Ministry's budget. Hence, there is concern over the NCC's independence and impartiality, particularly when SOEs are involved in an anti-competition case.<sup>118</sup> In response, the NCC notes that under the new legal framework concerning SOEs, the MOIT is no longer the representative of state ownership; therefore, with ownership transferred out of the MOIT, the conflict of interest has been addressed.

### 3.3.4.1.2 Anti-competitive agreements

3.166. The new Law prohibits anti-competitive agreements covering the following conduct: (i) fixing prices; (ii) dividing up of markets; (iii) limiting or controlling production and sale; (iv) bid rigging; (v) preventing or restricting market entry of non-parties; (vi) removing non-parties from the market; (vii) restricting technology development and investments; (viii) sales or product bundling; (ix) preventing parties from dealing with non-parties; and (x) restricting consumer markets or sourcing from non-parties.

3.167. The new Law removed the threshold for triggering prohibitions under the previous Law (previously, the combined market share of parties to an anti-competitive agreement had to be no less than 30%<sup>119</sup>, which was criticized for not preventing anti-competitive conduct that had negative impacts on the market but did not reach the threshold). To determine a violation, the NCC assesses the specific competition-restrictive effects of an agreement. When it detects signs of crimes prescribed in the Criminal Code, the NCC transfers the file to the competent authorities for criminal liability prosecution.

3.168. Exemption from the prohibition on anti-competitive agreements can be made if consumers benefit from the anti-competitive agreement and the agreement: (i) promotes technological advancement and raises the quality of goods and services; (ii) enhances the competitiveness of Vietnamese enterprises on the international market; (iii) promotes the uniform application of quality standards and technical norms of product categories; or (iv) concerns conditions for contract performance, delivery, and payment but is not related to price. Exemption requests are reviewed by the NCC, and a decision is made within 60 days, or 90 days if the case is complicated. The validity of any exemption can be up to five years.

### 3.3.4.1.3 Abuse of a dominant market position

3.169. The new Law prohibits the abuse of a dominant market position or monopoly position. It upholds the market share presumption under the old Law, i.e. an enterprise is considered to have a dominant market position if it has a market share of 30% or more. Groups of enterprises are considered to have a dominant position if: (i) two enterprises have a total market share of 50% or more; (ii) three enterprises have 65% or more; (iii) four enterprises have 75% or more; or (iv) five enterprises have 85% or more. Any enterprise with less than 10% market share is not considered to be a member of a group of enterprises with a dominant market position.

3.170. An enterprise or a group of enterprises is considered to have a dominant market position if it has significant market power based on the following factors: (i) market share; (ii) financial strength and size of the enterprise(s); (iii) barriers to market entry and expansion for other enterprises; (iv)

<sup>117</sup> The dual-authority system of the past, under which the Viet Nam Competition Authority was the investigative body and the Viet Nam Competition Council was the adjudicative body, was considered to be of low efficiency and lack sufficient independence to enforce competition legislation. See OECD, *Peer Reviews of Competition Law and Policy: Viet Nam 2018*.

<sup>118</sup> Duane Morris LLP, "Vietnam: The New Competition Law – Pragmatic Progress, What You Must Know", *Lexology*, 16 December 2019. Viewed at: <https://www.lexology.com/library/detail.aspx?q=b27b089e-ceb1-497e-97f7-086621247557>.

<sup>119</sup> WTO, *Trade Policy Review of Viet Nam*, WT/TPR/S/287/Rev.1, 4 November 2013.

capability of accessing and controlling the market for supply, distribution, or sale of goods or services; (v) advantages in technology and technical infrastructure; (vi) ownership of and the right to possess and access infrastructure; (vii) ownership of and the right to use intellectual property rights; (viii) ability to switch to the supply of or demand for other relevant goods or services; and (ix) special factors in the industry or sector in which the enterprise conducts business.

3.171. State-controlled enterprises operating in state monopoly fields are exempted from the application of the Law when they decide the purchase or sale prices of goods and services, or the quantity, volume, and market area of goods and services, or organize markets related to goods and services in the state monopoly domain.

#### **3.3.4.1.4 Economic concentration**

3.172. The previous Law prohibited economic concentration activities such as mergers, consolidation, and joint ventures, if the combined market share of participating enterprises was more than 50% of the relevant market, unless: (i) the enterprises remained small or medium-sized; (ii) one or more of the participants faced dissolution or bankruptcy; or (iii) the economic concentration contributed to Viet Nam's socio-economic development. Under the new Law, prohibited activities are determined by whether such activities have or may have significant competition-restrictive effects on the market. Market share is only one factor to be considered.

3.173. Factors that would be taken into consideration in the assessment of significant competition-restrictive effects include: (i) the combined market share; (ii) the level of concentration before and after the concentration activity; (iii) the relationship of relevant enterprises; (iv) competitive advantages resulting from the concentration activity; (v) the probability of a significant increase in the price or the profit rate; and (vi) the capability to remove or prevent other enterprises from entering the market. The NCC would also consider the positive effects of an economic concentration activity, including those on the development of the industry, the sector, and science and technology, according to state's strategic planning, the development of SMEs, and the enhancement of the competitiveness of Vietnamese enterprises in the international market.

3.174. Under the previous Law, an economic concentration activity that could lead to a market share of 30% or more had to be notified to the authorities before implementation. Under the new Decree No. 35/2020/ND-CP, the notification threshold is determined based on whether: (i) the total assets or turnover of relevant enterprises in the domestic market is VND 3 trillion or more; (ii) the transaction value is VND 1 trillion or more; or (iii) the combined market share is 20% or more. For enterprises in the credit, insurance, and securities sectors, the thresholds are VND 15 trillion in total assets, VND 10 trillion in total turnover, or 20% for the combined market share.

3.175. Under the new Law, economic concentration is determined by a two-phase process. First, the NCC conducts a preliminary review within 30 days from the notification date. Second, where an official investigation is required, the NCC completes its investigation and announces its decision within 90 days, which can be extended by up to 60 days for complex cases. Due to the extraterritorial nature of the new Law, foreign companies involved in offshore economic concentration activities that impact the Vietnamese market are also subject to the Law.

#### **3.3.4.1.5 Penalties, leniency programme, and enforcement**

3.176. The new Law and the Decree on Sanctioning Administrative Violations in the Competition Area (No. 75/2019/ND-CP) increased the financial penalties for violations, compared with the previous Law. The fine for anti-competitive agreements and abuse of a dominant market position can be up to 10% of the total turnover of the violating enterprises, and the fine for violating the regulations on economic concentration can be up to 5% of the turnover of the violating enterprises. The NCC has the discretion to increase or decrease the fines under certain circumstances specified by the Decree. In addition to fines, a range of non-monetary sanctions can be imposed, such as revocation of practice licences, business licences, or enterprise registrations, or the suspension of business activities for 6 to 12 months.

3.177. The new Law also established a leniency programme to reduce or exclude penalties for enterprises that voluntarily report their violation to the NCC prior to the investigation. The first three applicants for leniency are entitled to a penalty reduction of up to 100%, 60%, and 40%,

respectively. The leniency programme does not apply to enterprises forcing or organizing other enterprises to participate in anti-competitive conduct.

3.178. Since the new Law's entry into force on 1 July 2019, 20 claims have been filed with the NCC, of which 11 were related to unfair trade practices, and 9 to anti-competitive agreements and abuse of a dominant market position. The NCC concluded 10 investigations, and found 3 cases of violation. There were also 60 economic concentration reviews. The authorities note that the leniency program has not been utilized.

#### 3.3.4.1.6 International treaties and cooperation

3.179. Viet Nam is a member of the ASEAN Experts Group on Competition. It participates in the meetings of the International Competition Network and other international working groups on competition. Among the FTAs that Viet Nam has signed and that have come into effect, six agreements have separate chapters on competition policy, including the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), the Viet Nam-Japan Economic Partnership Agreement (VJEPA), the Viet Nam-Eurasian Economic Union Free Trade Agreement (VN-EAEU FTA), the Viet Nam-Korea Free Trade Agreement (VKFTA), the CPTPP, and the Viet Nam-EU Free Trade Agreement. In general, the chapters on competition in these Agreements include provisions on competition authorities, anti-competitive conduct, enforcement procedures, information security, transparency, cooperation, consultation and notification of competition issues, technical assistance, and dispute settlement. In addition, the CPTPP Agreement contains provisions on state-owned enterprises (SOEs) and subsidies.

#### 3.3.4.2 Price controls

3.180. Price control remains regulated by the Law on Prices (Law No. 11/2012/QH13, issued on 20 June 2012) that came into force on 1 January 2013. The general principle of price control in Viet Nam is that, while respecting the market mechanism and the right of businesses to set their own prices, the Government may exercise price regulation to stabilize prices or to protect the legitimate interests of business entities, consumers, or the State. Price management is achieved mainly through indirect means, such as the synchronized use of macroeconomic policies and the harmonization of supply and demand. According to the authorities, price control measures created jobs, increased investment, and contributed to socio-economic development in the period of international integration.

3.181. During the review period, Viet Nam issued numerous government decrees and ministerial circulars implementing the relevant provisions of the Law and specifying price management measures. The Government's regulations, guidelines, policies, measures, and decisions are published through press conferences or mass media. The main decrees in this area are included in Table 3.13. The MOF at the national level and the Department of Finance at the provincial level are the competent authorities for implementing price controls.

**Table 3.13 Decrees on price management, 2020**

Date of adoption	Decree no.	Title
14 November 2013	177/2013/ND-CP	Decree on Detailing and Guiding a Number of Articles of the Law on Prices
11 November 2016	149/2016/ND-CP	Decree on Amending, Supplementing a Number of Articles of Decree No. 177/2013/ND-CP
24 September 2013	109/2013/ND-CP	Decree on Prescribing the Sanctioning of Administrative Violations in the Field of Price, Charges, Fees and Invoices
27 May 2016	49/2016/ND-CP	Decree on Amending and Supplementing a Number of Articles of Decree No. 109/2013/ND-CP
30 June 2018	96/2018/ND-CP	Decree on Providing Guidelines for Prices of Irrigation Products and Services and Financial Support for Use of Public Irrigation Products and Services

Source: Information provided by the authorities.

3.182. The list of goods and services subject to price management is regulated by relevant legal documents and concerns essential public goods and services for economic activities and life; services

funded by the state budget for social security purposes; and areas that are not commercially attractive to private service providers. The list may be reviewed, amended, or shortened to meet the requirements of international economic integration.

3.183. Price management measures used by the Government include price stabilization measures, price fixing, price negotiation, and inspection of the elements of price formation. They apply in the same manner to imported and domestic goods and services, and to different users or different groups of companies.

3.184. Price stabilization measures are used when prices of goods or services on the list change abnormally or the level of change affects socio-economic stability in the event of a natural disaster, fire, epidemic, enemy sabotage, economic crisis, or temporary supply-demand imbalance. Specific measures may include regulating the supply and demand balance through goods circulation and buying in or selling out national reserves. The Government may set up a price stabilization fund where necessary. Goods and services subject to price stabilization include: (i) refined petrol and oil; (ii) electricity; (iii) liquefied petroleum gas; (iv) nitrogenous fertilizer and NPK fertilizer; (v) plant protection chemicals; (vi) vaccines preventing diseases for bovine animals and poultry; (vii) kitchen salt; (viii) health foods, medical nutrition foods, and supplements, including nutritional products for children up to 36 months old; (ix) edible sugar; (x) paddy and ordinary rice; and (xi) preventive and curative medicines for human use. Examples of such measures include improving circulation of goods in the domestic market; making purchases for national reserves or selling out these reserves; financial or monetary support; establishing a price stabilization fund for certain products; and fixing prices or the price frame. According to the authorities, price stabilization is currently applied only to refined petrol and oil.

3.185. Price fixing is used to define specific rates, price ranges, or minimum or maximum charges by the State. It applies to state-monopolized sectors, important resources, national reserve goods, and goods or services for public interest and purchased with the state budget. Goods and services subject to price fixing include: (i) aviation services, including take-off and landing charges, flight management, assistance for "flight assurance", and security screening; (ii) telecommunications connecting services; (iii) electricity, electricity transmission, and electricity system support services; (iv) domestic air transport on monopoly routes; (v) land and forests, ground water, and potable water; (vi) lease and rent/purchase options for housing built with state funds; (vii) medical care services and education/training services; (viii) national reserve goods, goods or services under state plan, goods or services funded by the state budget for the public interest; (ix) domestically produced cigarettes; and (x) lease of state-owned infrastructure works.

3.186. Price negotiation, i.e. the mediation of a governmental authority in price discussions between buyers and sellers, can apply to important goods and services where competition is limited on the side of the seller and/or buyer. The final price needs to be agreed upon by the buyer and the seller. Inspection of the elements of price formation is applied for goods and services that are subject to price stabilization or fixing, and for other goods and services at the request of the Prime Minister, ministers, or other high-level officials when prices are changing abnormally. The inspection serves to clarify the reasonableness or irrationality of price decisions and aims to enhance transparency and to protect legal rights and interests of relevant parties in specific cases.

3.187. Other price management measures include: (i) price declaration by producers or business organizations or individuals to the competent authorities; (ii) price posting by producers or business organizations or individuals to inform customers; and (iii) publicizing price information, which is organized by authorities and relevant business organizations or individuals through press conferences, mass media, or other appropriate forms.

3.188. The Government is working to establish a national price database for managing and regulating prices, especially for the purpose of forecasting market price fluctuations. Phase 1 of the database project was put into practical operation, and Phase 2 is under development. It is expected that some of the price information will be publicly accessible in the database.

### 3.3.5 State trading, state-owned enterprises, and privatization

#### 3.3.5.1 State trading

3.189. Article 6 of the 2005 Law on Commerce stipulates that the State exercises for a definite time its monopoly over commercial activities with respect to selected goods and services or in certain geographical areas in order to ensure national interests. On that basis, Decree No. 94/2017/ND-CP (on goods, services, and areas for execution of state rights in trade activities) was issued on 10 August 2017. Under the Decree, state agencies have the right to exercise a state monopoly in commercial activities directly or through designating other organizations or individuals to perform commercial activities. According to the Decree, industrial explosive materials, gold materials for the production of gold bars, cigarette and cigars (imports), national reserve activities, and fireworks are subject to state-trading requirements.

3.190. During the review period, Viet Nam notified to the WTO its state-trading enterprises concerning cigarettes, cigars, newspapers, journals, and periodicals.<sup>120</sup> Viet Nam also submitted replies to questions posed in the Working Party on State Trading Enterprises; in these documents, the status of certain companies, including Vinafood I and Vinafood II, concerning rice exports and imports, for example, is mentioned.<sup>121</sup>

#### 3.3.5.2 State-owned enterprises and privatization

3.191. Data provided by the authorities indicate that, as at 31 December 2018, SOEs in Viet Nam had 1.13 million workers (of which 669,700 were employed in enterprises that were 100% owned by the State, and 457,000 worked in enterprises that were more than 50% owned by the State), accounting for 7.6% of the employees of the corporate sector, down 6.2% over the same period in 2017. In 2018, SOEs' pre-tax profit was VND 190,357 trillion (of which, 100% SOEs had a pre-tax profit of VND 103,014 trillion, and the business sector with more than 50% state capital had a pre-tax profit of VND 87,343 trillion).

3.192. At the end of 2019, Viet Nam had 487 SOEs; of which 54 were centrally managed and 433 were managed by a Provincial People's Committee. Data provided by the authorities indicate that the number of 100% SOEs fell from 1,309 at the end of 2011 to 487 at the end of 2019. The Government continues to hold a controlling stake, i.e. more than 51% of the charter capital, in 185 enterprises. Table 3.14 shows some large SOEs.

**Table 3.14 Selected large SOEs, 2019**

Name of group	Main business	Financial data	Group structure	Parent company charter capital (VND billion)
Viet Nam National Oil and Gas Group (PetroVietnam)	<ul style="list-style-type: none"> <li>- Petroleum research, exploration, and exploitation</li> <li>- Oil refinery and petrochemical filtration</li> <li>- Gas industry</li> <li>- Electricity</li> <li>- High-quality petroleum services</li> </ul>	..	Investing in 15 subsidiaries, 3 joint ventures, and 9 associate companies	..

<sup>120</sup> WTO documents G/STR/N/15/VNM and G/STR/N/16/VNM, 20 April 2016.

<sup>121</sup> WTO documents G/STR/Q1/VNM/7, 5 March 2020, G/STR/Q1/VNM/6, 9 October 2018, G/STR/Q1/VNM/5/Corr.1, 25 September 2018, G/STR/Q1/VNM/5, 31 August 2018, G/STR/Q1/VNM/4, 11 January 2018, G/STR/Q1/VNM/3, 8 November 2017, G/STR/Q1/VNM/2, 2 October 2017, and G/STR/Q1/VNM/1, 2 June 2016.

Name of group	Main business	Financial data	Group structure	Parent company charter capital (VND billion)
Viet Nam National Coal-Mineral Industries Holding Corporation Limited (Vinacomin)	<ul style="list-style-type: none"> <li>- Coal industry</li> <li>- Mineral and industrial explosive materials industry</li> <li>- Power industry</li> <li>- Mechanical industry</li> </ul>	<ul style="list-style-type: none"> <li>- Revenue: VND 104,644 billion</li> <li>- Profit before tax: VND 3,856 billion</li> <li>- Profit after tax: VND 3,098 billion</li> </ul>	<ul style="list-style-type: none"> <li>- Holding company: <ul style="list-style-type: none"> <li>- Dependent accounting units: 27</li> <li>- One-member limited liability company: 9</li> <li>- Joint-stock companies: 30</li> <li>- Joint venture-associate enterprises: 1</li> </ul> </li> </ul>	35,000
Viet Nam Electricity (EVN)	<ul style="list-style-type: none"> <li>- Production, transmission, distribution, and trading of electricity</li> <li>- Management of production, transmission, distribution, and allocation of electricity in the national grid</li> <li>- Export and import of electricity, investment and management of invested capital in electricity projects</li> <li>- Management, operation, repair, maintenance, overhaul and upgrade of equipment, machinery, and automated systems</li> </ul>	<ul style="list-style-type: none"> <li>- Revenue: VND 338,127 billion</li> <li>- Profit before tax: VND 2,107 billion</li> <li>- Profit after tax: VND 2,103 billion</li> </ul>	<ul style="list-style-type: none"> <li>- Holding company: <ul style="list-style-type: none"> <li>- Dependent accounting unit: 31</li> <li>- One-member limited liability company: 9</li> <li>- Joint-stock companies: 4</li> <li>- Joint venture-associate enterprises: 1</li> </ul> </li> </ul>	198,279
Viet Nam National Chemical Group (Vinachem)	<ul style="list-style-type: none"> <li>- Production and trading of fertilizer, pesticides</li> <li>- Mineral exploitation and processing to produce fertilizer and chemicals</li> <li>- Rubber processing</li> <li>- Production and trading of basic chemicals, household chemicals, and pharmaceutical chemistry</li> </ul>	..	Vinachem invests in 23 subsidiaries. Vinachem holds 100% of the charter capital in 4 subsidiaries, and between 50%-99% in 19 subsidiaries.	..
Viet Nam Rubber Group (VRG)	<ul style="list-style-type: none"> <li>- Rubber plantation and exploitation</li> </ul>	<ul style="list-style-type: none"> <li>- Revenue (parent company: Rubber Industry Group): VND 3,877 billion</li> <li>- Profit after tax: VND 2,591 billion</li> </ul>	<ul style="list-style-type: none"> <li>- Parent company and 24 subsidiaries: <ul style="list-style-type: none"> <li>- 20 subsidiaries are one-member limited liability companies</li> <li>- 4 non-business units</li> </ul> </li> </ul>	..
Viet Nam Textile Group (Vinatex)	<ul style="list-style-type: none"> <li>- Textile</li> <li>- Cotton</li> <li>- Clothes manufacturing</li> </ul>	<ul style="list-style-type: none"> <li>- Net revenue (consolidated data): VND 18,986 billion</li> <li>- Profit before tax (consolidated data): VND 1,515 billion</li> </ul>	<ul style="list-style-type: none"> <li>- Parent company and eight subsidiaries</li> </ul>	5,000

.. Not available.

Source: Information provided by the authorities.

3.193. Concerning the governance and management of SOEs in Viet Nam, a number of laws and regulations were issued during the review period, including: (i) the new Enterprise Law (Law No. 68/2014/QH13), issued on 26 November 2014, and entered into force on 1 July 2015; (ii) Law on Management and Use of State Capital Invested in Production and Business Activities in Enterprises (Law No. 69/2014/QH13), issued on 26 November 2014, and entered into force on 1 July 2015; (iii) Decree No. 91/2015/ND-CP (on investing state-owned capital in enterprises and managing and using capital and assets at enterprises) dated 13 October 2015; (iv) Decree No. 32/2018/ND-CP (amending and supplementing some articles of Decree No. 91/2015/ND-CP), issued on 8 March 2018; (v) Decree No. 131/2018/ND-CP (defining the functions, tasks, powers, and organizational structure of the Committee for State Capital Management in Enterprises), issued on 29 September 2018; (vi) Decree No. 10/2019/ND-CP (on exercising rights and responsibilities of owner representatives) issued on 30 January 2019; (vii) Decree No. 126/2017/ND-CP (on transforming SOEs and one-member limited liability companies with 100% of charter capital invested by state enterprises into joint-stock companies), issued on 16 November 2017; (viii) Prime Minister's Decision No. 58/2016/QD-TTg (on the classification criteria for wholly SOEs, partially SOEs, and the list of SOEs undergoing restructuring in the 2016-20 period), issued on 28 December 2016; (ix) Prime Minister's Decision No. 707/2017/QD-TTg (approving the Project "Restructuring of SOEs, focusing on state-owned groups and corporations in the 2016-20 period"), issued on 25 May 2017; (x) Prime Minister's Decision No. 1232/2017/QD-TTg (approving the List of partially SOEs divesting capital in the 2017-20 period), issued on 17 August 2017; and (xi) Prime Minister's Decision No. 26/2019/QD-TTg (approving the list of enterprises to be equitized until the end of 2020), issued on 15 August 2016.

3.194. Between 2016 and 2020, Viet Nam focused on increasing the value of equitization<sup>122</sup> of SOEs in accordance with the following documents: Prime Minister's Decision No. 58/2016/QD-TTg, stipulating that 137 enterprises must be equitized during the period; Official Letter No. 991/TTg-DMDN, issued on 10 July 2017, approving the list of 137 SOEs to complete equitization between 2017 and 2020; and Prime Minister's Decision No. 26/2019/QD-TTg. The authorities state that the Ministry of Planning and Investment will submit to the Prime Minister for approval the plan and roadmap for SOE equitization for the 2021-25 period.

3.195. The authorities state that policies related to promoting production and competitiveness of enterprises in each sector of the economy apply equally to all types of enterprises regardless of ownership.

3.196. During the review period, the establishment and reorganization of SOEs was governed by Decree No. 172/2013/ND-CP (on the establishment, reorganization, and dissolution of one-member limited liability companies funded by the State, and one-member limited liability companies as a subsidiary of a one-member limited liability company owned by the State), issued on 13 November 2013. The Decree has specific provisions on the process of SOE dissolution as follows: the person competent to decide on dissolving a company shall set up a Dissolution Council to appraise the proposal of the company dissolution; after the dissolution decision is made, the one-member limited liability company shall comply with the provisions of Article 29; the tax authority directly managing the tax collection of the company is responsible for issuing documents confirming the fulfilment of tax obligations of the company within five working days of the date of receiving the written request for confirming the fulfilment of the company's tax obligations.

3.197. Every year, the MOF reports to the Prime Minister on the state capital investment in enterprises; relevant documents include: Government Report No. 441/BC-CP of 16 October 2017; Government Report No. 480/BC-CP of 12 October 2018; Official Letter No. 13784/BTC-TCDN of 9 November 2018; Official Letter No. 1441/BTC-TCDN of 30 January 2019; Official Letter No. 11589/BTC-TCDN of 1 October 2019; Government Report No. 499/BC-CP of 16 October 2019; and Official Letter No. 1283/BTC-TCDN of 25 October 2019.

3.198. Three documents – Decree No. 126/2017/ND-CP on conversion from SOEs and one-member limited liability companies with 100% of charter capital invested by SOEs, issued on 16 November

<sup>122</sup> Equitization involves the transformation of ownership in wholly SOEs and determining which enterprises would: (i) remain 100% state owned (i.e. no equitization); (ii) be majority state-owned; or (iii) have a minority state shareholding or no state ownership at all. Thus, equitization as such does not necessarily mean full-scale privatization, and diversity of ownership has been foreseen, including stakes held by the State and by the employees.

2017<sup>123</sup>, Prime Minister's Decision No. 58/2016/QD-TTg on the criteria on classification of 100% SOEs and the list of SOEs to be equitized in the period 2016-20, issued on 28 December 2016, and Prime Minister's Decision No. 26/2019/QD-TTg – provide equitization rules and list the SOEs to be equitized, including Viet Nam Bank for Agriculture and Rural Development (Agribank), Viet Nam National Coal – Mineral Industries Holding Corporation Limited (Vinacomin), Viet Nam Posts and Telecommunications Group (VNPT), Viet Nam Mobile Telecom Services (MobiFone Telecommunication Corporation), Viet Nam National Chemical Group (Vinachem), Viet Nam Electricity Power Generation Corporation 1 (EVN Genco 1), and Viet Nam Electricity Power Generation Corporation 2 (EVN Genco 2). Pursuant to Decision No. 26/2019/QD-TTg, after the equitization and divestment process is completed, it is expected that the State will still own more than 65% of Agribank, more than 65% of Vinacomin<sup>124</sup>, between 50% and 65% of VNPT, between 50% and 65% of MobiFone, between 50% and 65% of Vinachem, less than 50% of EVN Genco 1<sup>125</sup>, and less than 50% of EVN Genco 2.<sup>126</sup> The Vietnam Post Corporation (VNPost) and the Vietnam Railway Corporation remain enterprises whose 100% charter capital is held by the State.<sup>127</sup>

3.199. Businesses that will remain 100% state-owned include enterprises considered essential for national security and the maintenance of public order, for socio-economic development, or to guarantee the supply of key services. These enterprises are involved in electricity distribution, grid management, multipurpose hydropower, railroad infrastructure, air traffic services and related safety services, maritime safety, public postal services, lottery businesses, and publishing. The Government also intends to maintain majority ownership in equitized companies in large and "sensitive" sectors of the economy, e.g. in food (rice wholesale), energy (large-scale mineral mining, gas, manufacture of basic metals, petrol and oil importation, electricity retail), telecommunications services with a network infrastructure, aviation (airport management, air navigation systems, air transport services), and financial and banking services.

3.200. During the review period, Viet Nam reduced the degree of state involvement (e.g. reduction in state ownership of shares) in food (rice wholesale), energy (large-scale mining, gas, electricity generation, and retail), transport (railway transport, air transport services), and banking in accordance with Prime Minister's Decision No. 58/2016/QD-TTg. Viet Nam's regulations were reviewed and adjusted in order to narrow the number of industries and fields that the State holds 100% of charter capital; in which, the State holds 100% of capital mainly in the fields of state monopoly, security and defence, public services that non-public sectors do not provide, and social security. Specifically, according to Decision No. 58/2016/QD-TTg on the criteria for classification of SOEs and the list of SOEs to be rearranged in the 2016-20 period, the State holds 100% of the charter capital in only 103 enterprises operating in 11 fields of state monopoly, security and defence, public postal services, and key infrastructure such as railway and road.

3.201. Between 2011 and 2015, equitization plans for 508 enterprises were approved by competent authorities (among them, 14 enterprises in 2011, 25 in 2012, 73 in 2013, 175 in 2014, and 221 in 2015), with a total actual value of VND 761.9 trillion, of which the value of state capital was VND 189.4 trillion. Between 2016 and 2019, equitization plans for 171 enterprises were approved (of which, 66 enterprises in 2016, 70 in 2017, 23 in 2018, and 12 in 2019), with a total enterprise value of VND 443.1 trillion, of which the value of state capital was VND 206.7 trillion.

<sup>123</sup> This regulation repealed Decrees No. 59/2011/ND-CP of 18 July 2011, No. 189/2013/ND-CP of 20 November 2013, and No. 116/2015/ND-CP of 11 November 2015.

<sup>124</sup> Currently, in order to equitize Vinacomin, it must handle financial issues and rearrange and handle houses and land, according to the provisions of Decree No. 167/2017/ND-CP, issued on 31 December 2017.

<sup>125</sup> The Committee for State Capital Management in Enterprises issued Decision No. 633/QD-UBQLV on 31 December 2019 regarding the equitization of EVN Genco 1.

<sup>126</sup> The authorities state that EVN Genco 2 completed the equitization progress in accordance with Prime Minister's Decision No. 26/2019/QD-TTg. The Committee for State Capital Management in Enterprises issued Decision No. 150/QD-UBQLV on 30 March 2020 on the determination of enterprise value of EVN Genco 2 for equitization.

<sup>127</sup> VNPost is designated by the Prime Minister as a public postal service provider (Prime Minister's Decision No. 41/2011/QD-TTg, issued on 3 August 2011). According to Prime Minister's Decision No. 58/2016/QD-TTg, issued on 28 December 2016, the State holds 100% of the charter capital of enterprises operating in the field of "Public postal service".

3.202. After the initial equitization, the State occasionally divested its assets by selling part or all of its remaining shares to the public or to a strategic investor. The State Capital Investment Corporation (SCIC) continues to carry out divestments.

3.203. The authorities state that Viet Nam has not introduced any measures regarding state trading, SOEs, and privatization in response to the COVID-19 pandemic.

### 3.3.6 Government procurement

#### 3.3.6.1 Overview of legal and institutional framework

3.204. Government procurement follows the general principles of competitiveness, fairness, transparency, and economic efficiency. Furthermore, it is used as an important tool to achieve specific economic or social goals, e.g. promoting the development of domestic industries and SMEs, and securing domestic employment and women's employment. Viet Nam also maintains "buy national" requirements and preferential treatment for certain suppliers and service providers.

3.205. Viet Nam has been an observer in the WTO Committee on Government Procurement since December 2012. As it is not a signatory of the WTO Agreement on Government Procurement (GPA), it does not undertake any commitment within the WTO legal framework to open its government procurement market to other WTO Members. Viet Nam is a party to the CPTPP. As such, it undertakes market access commitments in the area of government procurement.<sup>128</sup> Viet Nam also signed a bilateral free trade agreement with the European Union, which contains a government procurement chapter.<sup>129</sup> The two agreements constitute Viet Nam's first commitments to open its government procurement to foreign suppliers bidding directly from abroad (Section 3.3.6.4).

3.206. Government procurement remains regulated by the Law on Bidding. During the review period, the Law was amended by Law No. 43/2013/QH13, which came into effect on 1 July 2014.<sup>130</sup> Decree No. 63/2014/ND-CP (detailing the implementation of several provisions of the Law on Bidding and the Law Regarding the Selection of Contractors) was issued on 26 June 2016.<sup>131</sup>

3.207. Compared with its previous version, the amended Law on Bidding expanded its scope of application. It covers: (i) development investment projects financed by state agencies, political organizations, socio-political organizations, professional socio-political organizations, socio-professional organizations, social organizations, units of the people's armed forces, and public non-business units; (ii) development investment projects of SOEs; (iii) development investment projects with no less than 30% of the capital originating from the state budget or total capital of more than VND 500 billion; (iv) procurements financed by the state budget to maintain regular operations of state agencies, political organizations, socio-political organizations, professional socio-political organizations, social organizations, socio-professional organizations, units of the people's armed forces, and public non-business units; (v) the purchase of national reserve goods financed by the State; (vi) the purchase of drugs and medical supplies financed by the State, the medical insurance fund, or revenues of public medical establishments; (vii) overseas direct investment projects of Vietnamese enterprises financed by the State with 30% of the capital originating from the state budget or total capital of more than VND 500 billion; and (viii) PPP investment projects.

3.208. Government procurement in the form of PPP is regulated by the Law on Public-Private Partnership Investment (Law No. 64/2020/QH14), promulgated on 18 June 2020 and entered into

<sup>128</sup> The legal text of the CPTPP is available at New Zealand Foreign Affairs & Trade, *Comprehensive and Progressive Agreement for Trans-Pacific Partnership Text and Resources*. Viewed at: <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text-and-resources/>.

<sup>129</sup> The EU-Viet Nam FTA was signed on 30 June 2019, and entered into force on 1 August 2020. The text of the agreement is available at European Commission, *EU-Vietnam Trade and Investment Agreements*. Viewed at: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1437>.

<sup>130</sup> Both the Law on Bidding and the implementing decree are posted on the official website. Viewed at: <http://muasamcong.mpi.gov.vn>. An unofficial English translation of the revised Law on Bidding can be found at Vietnam Law in English, *Vietnam Bidding Law 2013, Law No. 43/2013/QH13*. Viewed at: <https://vietnamlawenglish.blogspot.com/2013/11/vietnam-bidding-law-2013-law-no.html>.

<sup>131</sup> An unofficial English translation of the Decree is available at: <https://vanbanphapluat.co/decree-no-63-2014-nd-cp-several-provisions-of-the-law-on-bidding-regarding-the-selection-of-contractors>.

force on 1 January 2021.<sup>132</sup> The Law on Public Investment (Law No. 49/2014/QH13) is also relevant for regulating government procurement. If the procurements are related to the petroleum sector, including services directly related to the search for, exploration of, and mining of petroleum, the relevant provisions set forth in the Law on Petroleum prevail. Government procurement projects funded by official development assistance (ODA) loans and grants are usually governed by regulations of relevant donors or in accordance with international treaties or agreements between the Government and its development partners.

3.209. The Ministry of Planning and Investment is the authority for general administration of public procurement and the management of procurement projects that are under the decision competence of the Prime Minister. Other ministries and provincial governments are responsible for administering procurement projects within their own jurisdictions.

3.210. Government procurement is conducted both in centralized and decentralized modes. Centralized procurement is organized for goods and services that need to be procured in large quantities and in similar categories by many entities. Framework agreements can also be used in centralized procurement for long-term purchasing agreements between the central procuring entity and selected contractors. The maximum period of a framework agreement is three years. The MOF is responsible for issuing the national list of goods and services subject to centralized procurement. Local governments and SOEs can issue their own lists.

3.211. Government procurement is divided into domestic bidding and international bidding. Domestic bidding is organized for most procurement projects. In the case of domestic bidding, only domestic tenderers are allowed to participate in a tender.<sup>133</sup> International bidding is organized only when: (i) the sponsor of a project requests international bidding; (ii) the concerned goods cannot be manufactured in Viet Nam or Vietnamese goods fail to meet technical, quality, or price requirements; or (iii) domestic providers of the services concerned cannot meet performance requirements. International bidding is also organized for investment projects in the form of PPPs and investment projects with land use, except for limited cases prescribed by the Law on Investment.

3.212. All suppliers must register in the national bidding network system before participating in a bidding procedure. Foreign suppliers must have a partnership with domestic contractors or be sub-contractors of domestic contractors when participating in an international bid, unless domestic contractors do not have full capacity to participate in a bidding. This partnership requirement does not apply to suppliers from the European Union and the CPTPP countries when participating in procurements covered by these two FTAs.

### **3.3.6.2 Procurement methods, time periods, bid evaluation, and bid protests**

3.213. The revised Law on Bidding provides for eight procurement methods (Table 3.15), with open bidding and competitive quotation being the most widely used methods. The other six are: (i) limited bidding; (ii) direct appointment of contractor; (iii) direct procurement; (iv) self-implementation; (v) selection of investors in special cases; and (vi) community participation in project performance. For each procurement procedure, the procurement notice must indicate the method to be used and also whether it is a domestic or international bidding.

<sup>132</sup> An unofficial English translation of the Law is available at: <https://english.luatvietnam.vn/aw-on-investment-in-the-form-of-public-private-partnership-no-64-2020-gh14-dated-june-18-2020-of-the-national-assembly-186267-Doc1.html>.

<sup>133</sup> According to the authorities, a domestic tender is a Vietnamese national, or an economic organization with no foreign investors as members or shareholders, as provided in the Law on Investment.

**Table 3.15 Procurement methods and conditions for use, 2020**

Procurement method	Description/Conditions for use
Open bidding	The number of participating tenderers is unrestricted.
Competitive quotation	The procurement is for: <ol style="list-style-type: none"> <li>1. commonly used goods that are readily available on the market and have standardized technical features and are similar to each other in quality;</li> <li>2. commonly used and simple non-advisory services; or</li> <li>3. construction works that are simple and have had the approved construction drawing design.</li> </ol>
Limited bidding	The subject matter of procurement has high technical requirements or technical peculiarities for which only a limited number of tenderers are capable of satisfying.
Direct appointment of contractor	The procurement serves to: <ol style="list-style-type: none"> <li>1. address an urgent situation caused by <i>force majeure</i>;</li> <li>2. ensure national security;</li> <li>3. address an urgent situation to protect people's life, health, and assets;</li> <li>4. procure drugs, chemicals, and health equipment to prevent and treat urgent epidemics;</li> <li>5. protect national sovereignty, national borders, and islands;</li> <li>6. procure from the original suppliers to ensure technological compatibility;</li> <li>7. procure research or tests;</li> <li>8. procure copyright;</li> <li>9. procure from an architect who has already won a design competition;</li> <li>10. procure a work of art;</li> <li>11. procure the service of relocation of technical infrastructure works managed directly by a specialized unit in order to serve the work of ground clearance;</li> <li>12. procure services of detection and disposal of bombs, mines, or explosives in order to prepare construction of works; or</li> <li>13. procure public products and services subject to a maximum price, as prescribed by the Government in line with economic-social conditions.</li> </ol>
Direct procurement	The procurement is to obtain goods or services similar to or the same as existing ones. The contractor has already won a tender through open or limited tendering and has already signed a previous contract.
Self-implementation	It is used when the procuring entity has the technical and financial capability and experience to implement the project by itself.
Selection of tenderers/investors in special cases	It is used when none of the above methods can be applied. The competent person shall prepare a plan for selection of a contractor or investor and submit it to the Prime Minister for consideration and decision.
Community participation in performance	Communities, organizations, teams, or groups of workers may be assigned to perform an entire or part of a local project if this project is under national support programmes for hunger elimination, poverty reduction, and communities in mountainous and remote areas, islands, or areas with special economic-social difficulties; or if the project is small in scale.

Source: Information provided by the authorities.

3.214. The time-period granted to suppliers to prepare tenders, i.e. from the date of the issuance of tender documentation to the final date of the submission of tenders, should be no less than 20 days for domestic bidding and 40 days for international bidding. When suppliers need to be pre-qualified, the time-period for suppliers to submit their pre-qualification documents shall be at least 10 days for domestic bidding and 20 days for international bidding.

3.215. In selecting tenders, the lowest price method is used for simple and small procurements in which technical, financial, and commercial aspects of tenders are of similar competitiveness. Life-cycle costs may also be taken into account where necessary. For procurement of technically complicated goods, services, and construction works, both the technical aspect and the price of the tenders are taken into account. The weight of technical aspects in the total score varies depending on the technical nature of the procurement and should be published in the tender notice. The tenderer with the highest overall score is ranked first.

3.216. In order to ensure the consistency and transparency of online bidding, the Prime Minister approved the master plan and the roadmap for the application of online bidding in the period 2015-25. The Ministry of Planning and Investment is responsible for building, managing, and operating

the National Procurement Network<sup>134</sup>, which was established on 1 January 2016. All bidding information must be published online and in designated media.<sup>135</sup> All procurements using the methods of open bidding, limited bidding, competitive quotation, direct procurement, and direct appointment of contractor must be conducted through the Network.

3.217. In addition, the Department of Public Procurement of the Ministry of Planning and Investment developed a national online PPP network; the new system came into operation in 2018.

3.218. When a supplier considers that its rights and benefits under the Law on Bidding or other legal provisions are severely affected, it can either make a protest to the procuring entity or the regulatory authority or bring a case to a court. When a substantial violation of the Law on Bidding or other legal provisions is found, the procurement can be suspended, and the bidding result can be invalidated. The responsible entity must compensate for damages.

### 3.3.6.3 Domestic preference and other preference policies

3.219. "Buy national" requirements are a key feature of Viet Nam's government procurement policy. They take the form of preferential treatment of tenders that meet the domestic content or domestic labour requirements. In accordance with the Law on Bidding and its implementing decree, preferential treatment is granted to certain suppliers if they meet the following criteria:

- a. in both domestic and international bidding for goods, tenderers whose goods contain no less than 25% domestic content in value;
- b. in international bidding of services and construction works, domestic tenderers or foreign tenderers in partnership with domestic tenderers in which domestic tenderers fulfil no less than 25% of the value of the tender;
- c. in domestic bidding of services and construction works, tenderers whose employees are made up of no less than 25% women, or persons with disabilities; or
- d. tenderers that are SMEs.<sup>136</sup>

3.220. Compared with the previous Law, the domestic content requirement has been relaxed.<sup>137</sup> Preferential treatment is provided, as appropriate, when comparing and ranking different tenders. If a tenderer is eligible for more than one preference, it will be accorded the more substantial one. When two tenders are ranked the same after preferential treatment has been accorded, the tenderer whose supply has more domestic content or who employs more local workers will be selected. Construction contracts with values of less than VND 5 billion are set aside for small and micro enterprises.

3.221. In international bidding for goods, services, and construction works, tenderers that meet the preferential treatment criteria will be granted an advantage margin of 7.5% in respect of either the tender price or tender score in the comparison and rating. In domestic bidding for goods, the preferential treatment is the same as in international bidding for goods. In domestic bidding for services and construction works, tenderers that meet the preferential treatment criteria will be selected if they rank the same as other tenderers.

### 3.3.6.4 Government procurement commitments under FTAs

3.222. The government procurement chapters of both the CPTPP Agreement and the European Union-Viet Nam FTA (EVFTA) are based, to a large extent, on the legal text and market

<sup>134</sup> Portal of the National Procurement Network (in Vietnamese). Viewed at: <http://muasamcong.mpi.gov.vn/>.

<sup>135</sup> Tenders are normally published in newspapers such as *Dau Thau*, *Nhan Dan*, *Lao Dong*, and *Saigon Giai Phong*, all of which are in Vietnamese, and in the English-language newspapers *Viet Nam News* and *Viet Nam Investment Review*. Bidding information is also posted on the Electronic Government Procurement system and the Bidding newspaper, according to regulations.

<sup>136</sup> The authorities note that the SME preference is accorded to Vietnamese SMEs.

<sup>137</sup> Under the previous Law, the threshold for receiving preferential treatment was 30% in terms of domestic costs and 50% in terms of local labour employment.

access schedule structure of the GPA. On the whole, the market accession commitments undertaken by Viet Nam under the EVFTA are broader than those undertaken under the CPTPP. A comparison in this regard is provided in Table 3.16.

In order to improve its government procurement legal framework and to codify the commitments on government procurement under the CPTPP, the Government issued an implementing decree (Decree No. 95/2020/ND-CP) on 24 August 2020.<sup>138</sup> A decree guiding the implementation of the EU-Viet Nam FTA will be issued later.

**Table 3.16 Comparison of market access offers under the CPTPP and the EVFTA**

Comparison aspect		CPTPP	EVFTA
Entity coverage	Central government	18 ministries, 2 ministerial-level agencies, and 1 government agency	18 ministries, 2 ministerial-level agencies, and 1 government agency
	Sub-central government	None	Hanoi City and Ho Chi Minh City
	Other	38 entities, including the Viet Nam News Agency, 3 research institutions, and 34 public hospitals under the direct control of the Ministry of Public Health	42 entities, including the Viet Nam News Agency, 3 research institutes, 34 public hospitals under the direct control of the Ministry of Public Health, 2 research institutes, and 2 SOEs (Viet Nam Railways and Viet Nam Electricity)
Thresholds	Central government	Goods and services: gradual reduction from SDR 2,000,000 to SDR 130,000 in 25 years	Goods and services: gradual reduction from SDR 1,500,000 to SDR 130,000 in 15 years
		Works: gradual reduction from SDR 65,200,000 to SDR 8,500,000 in 15 years	Works: gradual reduction from SDR 40,000,000 to SDR 5,000,000 in 15 years
	Sub-central government	n.a.	Goods and services: gradual reduction from SDR 3,000,000 to SDR 1,000,000 in 15 years
	Other	Goods and services: gradual reduction from SDR 3,000,000 to SDR 2,000,000 in 5 years	Goods and services: gradual reduction from SDR 3,000,000 to SDR 1,000,000 in 15 years
Procurement items	Goods	All goods are covered with a few exemptions and special set-asides for purchases of pharmaceutical products	Similar but not fully identical to those under the CPTPP
	Services	A number of sectors, including most computer-related services. Distribution services of pharmaceutical products are excluded	Similar to but slightly narrower than under the CPTPP
	Construction services	All construction services except dredging services; construction in remote, mountainous, and extremely difficult areas, and on islands located beyond Viet Nam's territorial sea; or construction of ministerial-level headquarters	All construction services except construction in remote, mountainous, and extremely difficult areas and on islands located beyond Viet Nam's territorial sea; or construction of ministerial-level headquarters. Dredging services are included in the schedule

<sup>138</sup> The Decree is posted at: <http://vanban.chinhphu.vn>.

Comparison aspect	CPTPP	EVFTA
Other flexibilities	Viet Nam is permitted to apply offsets for 25 years and delay implementation of several obligations	Offsets are applicable for 18 years. Other flexibilities are similar but not identical to those under CPTPP

n.a. Not applicable.

Note: SDR is the IMF special drawing right.

Source: Information provided by the authorities.

### 3.3.7 Intellectual property rights

#### 3.3.7.1 Overview

3.223. During the review period, Viet Nam modernized its IP system. While some challenges remain, protection of IP improved significantly. From 2006 to 2018, the number of patent applications submitted by, and the number of patents granted to, Vietnamese nationals increased annually by 9.86% and 20.05%, respectively.<sup>139</sup> Trademarks and geographical indications (GIs) became more important for enterprises and the Government. In 2019, Viet Nam was ranked 42<sup>nd</sup> of 129 economies in the Global Innovation Index<sup>140</sup>, which was substantial progress compared with its ranking of 76<sup>th</sup> of 142 in 2013. Viet Nam actively participates in multilateral, regional, and bilateral cooperation in the area of IPRs, which helps it introduce international standards and best practices and improve its efficiency in IPRs registration and protection.

3.224. Notwithstanding Viet Nam's enhanced efforts to improve its IP regime, innovation remained a weak area in its socio-economic development. The number and value of IP assets are still low, and few Vietnamese products based on IP are competitive either in the region or in the world. The recent rate of domestic patent filings is about 10 per million people.<sup>141</sup> Vietnamese applicants filed 10.3% of patent applications in 2018. Few Vietnamese enterprises or producers built up their brands or GIs. Counterfeiting and piracy in both physical and online markets remain major concerns of Viet Nam's trade partners, especially in the areas of software, music and movies, books and journals, pharmaceuticals, pesticides, and consumer goods.<sup>142</sup> The number of reported infringement cases increased significantly between 2013 and 2019. Reasons for these shortcomings may include low awareness of the value of their IP assets by enterprises and individuals, and inadequate enforcement of IPRs by the Government.<sup>143</sup>

3.225. To address these challenges and to create an innovation ecosystem, Viet Nam launched its first National Intellectual Property Strategy in August 2019<sup>144</sup>, the first such policy at the national level. The Strategy will guide IP policies in the country for the next decade to support competitiveness and promote economic, cultural, and social development. It sets out specific targets on various IPRs aspects and assigns implementation responsibilities to related ministries and local governments. The authorities have organized publicity activities to promote the Strategy. They have

<sup>139</sup> MOST, *Viet Nam's Intellectual Property Strategy Until 2030*, 14 May 2020. Viewed at: <https://www.most.gov.vn/en/news/753/viet-nam%E2%80%99s-intellectual-property-strategy-until-2030--driving-force-for-development-of-intellectual-property-assets.aspx>.

<sup>140</sup> The Global Innovation Index (GII) is co-published by Cornell University, INSEAD, and the World Intellectual Property Organization (WIPO). The Index is a ranking of the innovation capabilities and results of world economies. It measures innovation based on criteria that include institutions; human capital and research; infrastructure; credit; investment; linkages; the creation, absorption, and diffusion of knowledge; and creative outputs. *Global Innovation Index 2019*. Viewed at: <https://www.globalinnovationindex.org/gii-2019-report#>.

<sup>141</sup> MOST, *Viet Nam's Intellectual Property Strategy Until 2030*, 14 May 2020. Viewed at: <https://www.most.gov.vn/en/news/753/viet-nam%E2%80%99s-intellectual-property-strategy-until-2030--driving-force-for-development-of-intellectual-property-assets.aspx>.

<sup>142</sup> International Chamber of Commerce and BASCAP, *Promoting and Protecting Intellectual Property in Viet Nam*. Available at: <https://cms.iccwbo.org/content/uploads/sites/3/2019/05/bascap-vietnam-country-report-translation-vietnam-eng.pdf>.

<sup>143</sup> International Chamber of Commerce and BASCAP, *Promoting and Protecting Intellectual Property in Viet Nam*.

<sup>144</sup> Lawsoft (Vietnamese legal documents in English reference portal), *Prime Minister's Decision on Approving the Intellectual Property Strategy through 2030*. Viewed at: <https://thuvienphapluat.vn/van-ban/so-huu-tri-tue/Quy%E1%BB%81t-%C4%81nh-1068-QĐ-TTg-2019-Chien-luoc-so-huu-tri-tue-den-2030-422277.aspx>.

also issued relevant implementation guidance and work plans, and have been revising the IP Law and regulations accordingly.

### 3.3.7.2 Legislative and institutional framework/developments

3.226. The overall structure of the legislative framework for IPRs remained largely unchanged during the review period (Table A3.10). The Civil Code No. 91/2015/QH13 of 24 November 2015 sets out the basic civil principles of the IP system. The 2015 Criminal Code, as amended and supplemented in 2017 and taking effect from 1 January 2018, provides criminal penalties for infringements of copyright and industrial property rights on a commercial scale. The Law on Intellectual Property (Law No. 50/2005/QH11 of 29 November 2005 (IP Law)), amended and supplemented by Law No. 36/2009/QH12 in 2009, and further amended by Law No. 42/2019/QH14 in June 2019, covers the full range of IPRs. Its implementation is generally regulated by decrees and circulars issued by relevant authorities.

3.227. The 2019 amendments to the IP Law were aimed at implementing commitments that Viet Nam undertook in the CPTPP Agreement. A new proposal to amend and supplement several articles of the IP Law is being prepared and is planned to be submitted to the National Assembly in 2021. The proposal concerns policies related to copyright assignment or transfer, IPRs created from the state budget, copyright registration procedures, the balance of interests between IP rightsholders and users in various areas, collective representatives of copyright and other IP rights, IP enforcement, and the implementation of international obligations.

3.228. Since 2013, several new decrees and circulars have been issued by relevant authorities to address certain issues and concerns, such as examination procedures, and to align Viet Nam's IP system with international best practices.

3.229. Another development in IP-related legislation is the promulgation of the revised Law on Technology Transfer (Law No. 07/2017/QH14), which came into effect on 1 July 2018.<sup>145</sup> Reportedly, the revised Law aims at facilitating technology transfer and application, supporting technology R&D activities, and controlling the quality of technology transferred into Viet Nam. It requires that cross-border technology transfer contracts be registered with the competent authority<sup>146</sup>, provides for tax incentives, and facilitates the development of IP portfolios. The implication of this revised Law for the IPRs regime mainly concerns the disclosure of technological secrets. Specifically, the 2006 Law banned disclosing technology secrets. The revised Law allows technology secrets to be disclosed under certain circumstances, such as to ensure national security, national defence, social welfare, and other interests of the State and society, similar to the circumstances permitted by Article 7.3 of the IP Law.

3.230. In 2018, the IP Office of Viet Nam changed its English name from "National Office of Intellectual Property" to "Intellectual Property Office of Viet Nam" (IP Viet Nam) and adjusted its organizational structure. IP Viet Nam is under the MOST. It advises and assists the Minister in the overall management of the national IP system; chairs and coordinates with other relevant agencies to draft IP policies and measures to guide, organize, and supervise the implementation of such policies and measures, and to organize IPR advocacy activities, training, and participation in international treaty negotiations; and manages industrial property rights. IP Viet Nam is composed of 17 units, of which 9 (including the 2 branch offices in Ho Chi Minh City and Da Nang) are divisions that manage state functions, and 8 are administrative service centres for specific IPR areas such as patent examination, industrial design examination, trademark examination, GIs and international trademark examination, and post-registration examination.

3.231. The Copyright Office of Viet Nam under the Ministry of Culture, Sports and Tourism is responsible for the implementation of copyrights. Its functions, tasks, powers, and organizational structure are defined by Decision of the Minister of Culture, Sports and Tourism No. 3954/QD-

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<sup>145</sup> The new Law on Technology Transfer is available in English on the MOST's website. Viewed at: <https://www.most.gov.vn/en/Pages/Detaildocument.aspx?vID=45>.

<sup>146</sup> The MOST (at the national level) and the Department of Science and Technology (at the provincial level) have the authority to receive applications for registration of technology transfer contract. The Ministry of National Defence has the authority to receive applications related to national defence.

BVHTTDL of 20 October 2017.<sup>147</sup> Other agencies are involved in aspects of the IP system, e.g. granting of plant variety certificates, issuance of compulsory licences, and enforcement.

### 3.3.7.3 Industrial property

3.232. Overall, data on industrial property registration indicate that there is a growing interest in protection of IPRs (Table 3.17). Trademark remains the area where applications grew significantly, although the number of grants was relatively moderate. The number of patent applications and grants increased notably. The number of industrial property registered by and granted to Vietnamese abroad also increased during the review period, indicating Viet Nam's further integration into global grade and economy.

**Table 3.17 Trademarks, industrial designs, and patents and utility solutions, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
<b>Trademark applications</b>							
Resident	36,236	38,854	45,230	54,963	55,313	60,731	43,647
Non-resident	21,482	22,308	22,514	26,965	29,463	33,465	10,154
Total	57,718	61,162	67,744	81,928	84,776	94,196	53,801
Abroad	2,032	2,734	3,482	3,733	4,442	7,244	..
<b>Trademarks granted</b>							
Resident	22,515	23,831	21,971	20,466	22,504	22,699	22,265
Non-resident	21,315	21,704	22,851	20,862	24,901	27,070	6,555
Total	43,830	45,535	44,822	41,328	47,405	49,769	28,820
Abroad	1,592	5,191	2,332	2,718	5,044	4,470	..
<b>Industrial design applications</b>							
Resident	1,556	1,736	1,839	2,060	1,763	1,891	1,841
Non-resident	873	873	1,046	1,334	1,420	1,475	1,650
Total	2,429	2,609	2,885	3,394	3,183	3,366	3,491
Abroad	712	287	1,639	927	826	425	..
<b>Industrial designs granted</b>							
Resident	960	1,144	1,029	988	1,504	1,433	1,234
Non-resident	597	819	652	671	1,104	1,391	938
Total	1,557	1,963	1,681	1,659	2,608	2,824	2,172
Abroad	754	219	1,759	574	1,115	345	..
<b>Patent applications</b>							
Resident	443	487	582	560	592	646	720
Non-resident	3,552	3,960	4,451	4,668	4,790	5,425	6,800
Total	3,995	4,447	5,033	5,228	5,382	6,071	7,520
Abroad	54	74	100	73	71	103	..
<b>Patents granted</b>							
Resident	59	36	63	76	111	205	169
Non-resident	1,123	1,361	1,325	1,347	1,634	2,014	2451
Total	1,182	1,397	1,388	1,423	1,745	2,219	2620
Abroad	11	24	25	42	48	43	..
<b>Utility solution applications</b>							
Resident	226	246	310	326	273	370	395
Non-resident	47	126	140	152	161	187	204
Total	273	372	450	478	434	557	599
Abroad	..	..	4	1	..	2	..

.. Not available.

Source: WTO Secretariat, based on WIPO statistics data, last updated in June 2020 (for 2013-18). Statistics for 2019 provided by the authorities.

3.233. One of the challenges faced by IP Viet Nam in managing industrial property applications is the shortage of examination capacity, resulting in a backlog.<sup>148</sup> Along with the increasing number of applications, the average time for granting a patent increased from 73 months in 2013 to 77.5 months in 2017.<sup>149</sup> Building patent examination capacity is a particular focus. During the review

<sup>147</sup> Copyright Office of Viet Nam. Viewed at: <http://www.cov.gov.vn/>.

<sup>148</sup> MOST, Intellectual Property Office of Viet Nam, *2018 Intellectual Property Activities Annual Report*. Viewed at: <http://ipvietnam.gov.vn/documents/20182/687634/Baocaothuonngien+2018+.pdf/aa49c9cf-0436-4a27-bd15-c811fa43c94c>.

<sup>149</sup> The authorities note that the average time for granting a patent runs from the date of filling to the date of granting a certificate.

period, IP Viet Nam provided training for examiners, upgraded technical infrastructure, and improved internal management. Following the amendments to the IP Law in 2019, applications can be filed electronically.<sup>150</sup>

### 3.3.7.3.1 Patents

3.234. Patent administration remained largely unchanged during the review period. IP Viet Nam receives and examines patent applications. Patents are classified into invention patents and utility solution patents, the latter of lower inventiveness. The maximum terms of protection are 20 and 10 years, respectively. Giving effect to a CPTPP undertaking, the 2019 amendments extended the grace period for patents from 6 to 12 months, so that an invention will not be deemed as having lost its novelty if a patent application is submitted within 12 months of certain forms of prior publication or public exhibition.<sup>151</sup> In terms of compulsory licensing, the IP Law reflects the main TRIPS provisions, and there has been no change since the last Review. On 23 January 2017, Viet Nam notified its acceptance of the 2005 Protocol amending the TRIPS Agreement (WT/L/641) regarding patents and public health.<sup>152</sup> The authorities indicate that Viet Nam is amending the IP Law to permit compulsory licensing for export of medicines to countries without sufficient production capacity. No compulsory licences have been granted since the IP Law was enacted.

3.235. IP Viet Nam is implementing pilot Patent Prosecution Highway (PPH) programmes under bilateral cooperation mechanisms with the Japan Patent Office and the Korean Intellectual Property Office. However, Viet Nam accepts at most 200 PPH requests per year from Japan and 100 from the Republic of Korea. The implementation of a PPH programme with the European Union is under bilateral discussion.

### 3.3.7.3.2 Industrial designs

3.236. Viet Nam protects two- and three-dimensional designs. The term of protection is five years from the grant date, renewable for two consecutive periods of five years. Prior use of industrial designs that are independently created is not considered to infringe the owner's right. On 30 September 2019, Viet Nam joined the Geneva Act (1999) of the Hague Agreement.<sup>153</sup> The Act entered into force in Viet Nam on 30 December 2019, enabling industrial designs of Viet Nam and other contracting parties of the Act to realize the protection through a single international application.

### 3.3.7.3.3 Layout designs of integrated circuits

3.237. During the review period, there were no amendments to the provisions on layout designs of integrated circuits in the IP Law. They reflect the provisions of the TRIPS Agreement, including the provisions of the Washington Treaty incorporated in the Agreement. IP Viet Nam conducts a formal (rather than a substantive) examination of applications. Between 2013 and 2019, 50 applications were submitted and certified (Table 3.18).

**Table 3.18 Applications of layout design of integrated circuits and certificates granted, 2013-19**

Year	2013	2014	2015	2016	2017	2018	2019	Total
Applications	12	19	5	7	2	5	0	50
Certificates	12	19	5	7	2	5	0	50

Source: Information provided by the authorities.

<sup>150</sup> Intellectual Property Online Service Portal (in Vietnamese). Viewed at: <http://dvcvt.noip.gov.vn:8888/HomePage.do>.

<sup>151</sup> As specified in Article 60.3 of the IP Law as amended in 2019.

<sup>152</sup> WTO, *Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health*. Viewed at: [http://www.wto.org/english/tratop\\_e/trips\\_e/implem\\_para6\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/implem_para6_e.htm); and WTO, *Amendment of the TRIPS Agreement*. Viewed at: [http://www.wto.org/english/tratop\\_e/trips\\_e/amendment\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/amendment_e.htm).

<sup>153</sup> WIPO, *Viet Nam Joins the Hague System*, 30 September 2019. Viewed at: [https://www.wipo.int/hague/en/news/2019/news\\_0009.html](https://www.wipo.int/hague/en/news/2019/news_0009.html).

### 3.3.7.3.4 Trade secrets

3.238. The IP Law provides for general protection of trade secrets, as well as of test data in the pharmaceutical and agrichemical sectors, in line with Article 39 of the TRIPS Agreement.<sup>154</sup> The Law and relevant regulations further specify that a competent Vietnamese authority shall not grant licences to subsequent applicants to use protected test data without the consent of the original submitter of such data for a period of five years starting from the date the licence is granted to the data submitter.<sup>155</sup>

### 3.3.7.3.5 Trademarks

3.239. In general, trademark rights are granted through registration in Viet Nam or the recognition of international registration by IP Viet Nam, in accordance with applicable international treaties. International registration is available under the Madrid System. The term of protection is 10 years, renewable indefinitely. Trademark holders have to use their trademarks continuously. If a trademark is not used continuously for five years or more, the certificate will be invalidated when so requested by another organization or individual.<sup>156</sup> Under the 2019 amendment of the IP Law, use of a trademark by a licensee is also deemed to constitute the use by the holder. A trademark licence does not need to be registered at the competent authority in order to have legal validity to a third party. New regulations on organizations having the right to register collective marks and certification marks and on the process of handling international trademark applications in Viet Nam were issued in June 2016.<sup>157</sup> The registration process can take up to 15 months. Well-known trademarks are defined as marks that are "widely known by consumers throughout the territory of Viet Nam".<sup>158</sup> IPRs in relation to well-known marks are established by use and not dependent on registration procedures. There is no formal procedure for recognizing the fame of a mark. IP Viet Nam has the authority to recognize, *ex officio*, the well-known status.

### 3.3.7.3.6 Geographical indications

3.240. Viet Nam considers GIs as an important instrument to manage the quality of agricultural products, promote their competitiveness, achieve greater economic value in domestic and international markets, and preserve relevant culture and traditions. The IP Law provides protection of GIs through registration at IP Viet Nam. The authorities note that GIs are protected as certification marks. The right to register GIs of Vietnamese origin belongs to the State, which allows organizations and individuals to register GIs. Nonetheless, the party exercising the right to register a GI does not become the owner of the GI. The 2019 amendments to the IP Law implementing CPTPP undertakings further clarify that names and indications that have become common names of goods widely accepted by consumers in Viet Nam cannot be registered as protected GIs. It also supplements grounds for refusing a GI application when the subject matter of the application is identical with or similar to a trademark with an earlier filing date or priority date and the use of such a GI is likely to cause a confusion as to the origin of products. Once registered, the protection has an indefinite duration. By the end of 2019, 73 GI certificates were issued for Vietnamese products. Six GIs from foreign countries are registered and protected in Viet Nam.

### 3.3.7.3.7 Protection of plant varieties

3.241. Viet Nam is a member of the International Union for the Protection of New Varieties of Plants. The UPOV Convention (1991 Act) entered into effect for Viet Nam on 26 December 2006. The Plant Variety Protection Office under the MARD is the main authority responsible for protecting plant variety. The IP Law sets out conditions for obtaining protection of plant varieties, exclusive rights, and compulsory licences. Decree No. 88/2010/ND-CP, issued on 16 August 2010, provides details on the implementation of the Law. There was no change to the relevant legislation during the review

<sup>154</sup> IP Law (as amended in 2019), Article 128.

<sup>155</sup> Ministry of Health Circulars No. 44/2014/TT-BYT and No. 32/2018/TT-BYT, Decision No. 69/2006/QĐ-BNN of the Minister of Agriculture and Rural Development, Decree No. 108/2017/ND-CP, the 2013 Law on Plant Protection and Quarantine, Decree No. 39/2017/ND-CP, and the 2015 Law on Animal Health.

<sup>156</sup> IP Law (as amended in 2019), Article 136.2.

<sup>157</sup> WIPO IP Portal, *Viet Nam: Circular No. 16/2016/TT-BKHCN dated 30 June 2016*. Viewed at: <https://wipolex.wipo.int/en/legislation/details/17743>.

<sup>158</sup> The Law Amending and Supplementing a Number of Articles of the Law on Intellectual Property (Law No. 36/2009/QH12), Article 1, Item 2.20.

period. As at end-2019, the Plant Variety Protection Office issued 771 certificates for plant variety protection, including 155 plant variety rights in the crops sector.

### 3.3.7.4 Copyright and related rights

3.242. The IP Law provides protection of copyright for a period of the life of the author plus 50 years. For cinematographic works, photographic works, works of applied art, and anonymous works, the term of protection is 75 years from the date of first publication or 100 years from the date of creation, if the works remain unpublished within 25 years of the date of creation. This is longer than the minimum protection of 50 years required by the Berne Convention and the TRIPS Agreement. Although registration of copyrights is not mandatory, Viet Nam maintains a copyright registration system in which registered copyright holders can obtain certificates that can be used as evidence in case of litigation. Guidelines on procedures for registration are contained in Decree No. 22/2018/ND-CP, issued on 23 February 2018. In 2019, a total of 8,446 copyright and related rights certificates were issued. Online registration became available as at 1 May 2020.

3.243. During the review period, two new non-governmental copyright collection societies, namely the Association for Protection of the Rights of Vietnamese Music Performers (APPA) and the Viet Nam Association for Copyright Protection of Movies and TV Films (Ban Quyên Phim) were established. Four others were already established: the Viet Nam Literary Copyright Center (VLCC); the Recording Industry Association of Viet Nam (RIAV); the Viet Nam Center for Protection of Music Copyright (VCPMC); and the Viet Nam Reproduction Rights Organization (VIETRRO).

3.244. Despite copyright protection efforts, infringements in this area are hard to prevent due to the complexity of violations. For example, much of the illegal broadcasting of television programmes and movies is delivered by overseas website servers that use technologies to avoid detection. On 19 June 2012, the Ministry of Information and Communications and the Ministry of Culture, Sports and Tourism issued a joint circular stipulating the duty of enterprises providing intermediary services to protect copyright and related rights on the Internet and telecommunication networks.<sup>159</sup> Inspectors from the two ministries coordinated to handle violations in this area. The authorities also learned from other countries about enhancing enforcement, including through collective copyright protection societies.

### 3.3.7.5 Parallel imports

3.245. There were no changes in the IP Law regarding parallel imports during the review period. Viet Nam has a regime of international exhaustion. Therefore, parallel imports are not considered to infringe IPRs.

### 3.3.7.6 Enforcement

3.246. Legislation in Viet Nam provides for a comprehensive enforcement regime including civil, administrative, criminal, and border measures. According to the authorities, criminal and administrative measures are prescribed to address counterfeiting and piracy. IPR enforcement is primarily practiced through the imposition of administrative penalties.<sup>160</sup> Civil and criminal remedies are rarely or ineffectively used (Table 3.19). The authorities, however, note that actions against IPR infringement were stepped up at the border; 33 cases involving goods valued at VND 48.6 million led to arrest in 2019, up from 17 cases in 2013.<sup>161</sup>

<sup>159</sup> Ministry of Information and Communications, *Joint Circular No. 07/2012/TTLT-BTTTT-BVHTTDL dated 19 June 2012*. Viewed at: [https://english.mic.gov.vn/Pages/VanBan/11264/07\\_2012\\_TTLT-BTTTT-BVHTTDL.html](https://english.mic.gov.vn/Pages/VanBan/11264/07_2012_TTLT-BTTTT-BVHTTDL.html).

<sup>160</sup> WIPO, Minutes of the Advisory Committee on Enforcement, Twelfth Session, Geneva, 4-6 September 2017. Viewed at: [https://www.wipo.int/edocs/mdocs/enforcement/en/wipo\\_ace\\_12/wipo\\_ace\\_12\\_5.pdf](https://www.wipo.int/edocs/mdocs/enforcement/en/wipo_ace_12/wipo_ace_12_5.pdf).

<sup>161</sup> No data are available for the total value of goods involved in the 17 cases that led to arrest in 2013.

**Table 3.19 IPR infringement cases, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
Criminal cases handled by the court	2	11	4	1	2	1	1
Cases handled by the Inspector of Science and Technology	142	113	149	26	21	18	..
Cases by market surveillance	3,274	3,436	3,740	4,483	4,521	5,000	4,097
Cases handled by Customs	17	23	15	22	31	46	33
Cases handled by local administrative agencies	2,216	1,106	1,500	1,957	2,954	1,811	3,296

.. Not available.

Source: Information provided by the authorities.

3.247. Counterfeiting and piracy remain the major IPR infringements. According to the International Chamber of Commerce's BASCAP Report, a broad range of counterfeit products continue to be sold, e.g. garments, accessories, food products, wines and spirits, cosmetics, pharmaceuticals, computer software, vehicle spare parts, engine lubricants, electro-mechanical products, and consumer electronics.<sup>162</sup> Online piracy is also a serious concern, and the authorities took important enforcement steps over the past few years. In addition, domestic manufacturing of counterfeit products is emerging as a concern.

3.248. The BASCAP Report identifies a number of shortcomings in Viet Nam's IPR protection system. To further promote and improve the efficiency of IPR enforcement, the National Intellectual Property Strategy with Visions to 2030 sets out detailed tasks, such as streamlining relevant administrative measures and strengthening judicial enforcement including criminal investigation.<sup>163</sup>

3.249. To enhance coordination and efficiency among relevant administrative agencies, a National Steering Committee against Smuggling, Counterfeiting and Trade Fraud (National Steering Committee 389) was established in March 2014. The Committee is chaired by a Deputy Prime Minister, and its members include relevant ministers. The MOF is the standing agency of the Committee. At the sub-central levels of government, the standing agency is determined by local authorities. The Committee coordinates enforcement activities and investigations to tackle serious counterfeiting acts. IP Viet Nam provides technical support to relevant enforcement activities.

### 3.3.7.6.1 International cooperation and integration

3.250. During the review period, Viet Nam participated in international cooperation activities in the IP area. On the multilateral front, Viet Nam is a party to a number of WIPO-related treaties (Table 3.20). Viet Nam is also considering joining several other WIPO treaties.<sup>164</sup>

<sup>162</sup> ICC BASCAP, *Promoting and Protecting Intellectual Property in Viet Nam*. Viewed at: <https://iccwbo.org/content/uploads/sites/3/2019/05/bascap-vietnam-country-report-translation-vietnam-eng.pdf>.

<sup>163</sup> *National Intellectual Property Strategy, Vision to 2030*. Viewed at: <https://thuvienphapluat.vn/van-ban/so-huu-tri-tue/Decision-1068-QD-TTg-2019-approval-for-intellectual-property-strategy-by-2030-445454.aspx>.

<sup>164</sup> WIPO IP Portal, *WIPO-administered Treaties*. Viewed at: [http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=185C](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=185C).

**Table 3.20 International IPR treaties in force for Viet Nam, 2020**

Treaty	Subject matter (non-exhaustive list of elements)	Date of accession or ratification	Date of entry into force
WIPO Convention	Constituent instrument of WIPO	7 April 1981 (Declaration of Continued Application)	21 July 1976
Berne Convention	Copyright (artistic and literary works, etc.)	26 July 2004	26 October 2004
Rome Convention	Related rights (performers, producers of phonograms and broadcasting organizations)	1 December 2006	1 March 2007
Phonograms Convention	Protection of producers of phonograms against unauthorized duplication of their phonograms	6 April 2005	6 July 2005
Brussels Convention	Distribution of programme-carrying signals transmitted by satellite	12 October 2005	12 January 2006
Paris Convention, 1883; Stockholm Act, 1967	Industrial property (patents, trademarks, utility models, trade names, industrial designs, GIs and appellations of origin, unfair competition, enforcement, etc.)	7 April 1981	2 July 1976
Patent Co-operation Treaty (PCT), 1970	International patent applications	10 December 1992	10 March 1993
Madrid Agreement (Marks), Stockholm Act, 1967	International registration of marks	7 April 1981 (Declaration of Continued Application of the Stockholm Act)	2 July 1976
Protocol relating to the Madrid Agreement (Marks)	International registration of marks	11 April 2006	11 July 2006
Hague Agreement	International registration of industrial design	30 September 2019	30 December 2019
UPOV Convention 1961 1991 Act	<i>Sui generis</i> system of protection of plant varieties	24 November 2006	24 December 2006

Source: WTO Secretariat, based on WIPO information on treaties. Viewed at: [www.wipo.int/treaties/en/](http://www.wipo.int/treaties/en/).

3.251. Viet Nam also participated in IP activities within the framework of APEC and ASEAN. It is a member of the ASEAN Patent Examination Cooperation (ASPEC), the first regional patent programme to share search and examination results.<sup>165</sup>

3.252. Regarding regional trade agreements, in both the CPTPP Agreement and the EVFTA, Viet Nam undertook commitments to provide enhanced protection to IPRs. Viet Nam is also negotiating with the European Free Trade Association (EFTA) and participating in the Regional Comprehensive Economic Partnership (RCEP) Agreement negotiations.

3.253. In addition, IP Viet Nam participated in activities to implement international agreements on IP that have been signed or initiated, specifically on: (i) implementation of the bilateral Trade Agreement with the United States; (ii) the Agreement with the Russian Federation on IP in military technical cooperation; and (iii) the proposed Viet Nam-United Kingdom Free Trade Agreement.

3.254. As mentioned previously, Viet Nam also strengthened its cooperation with countries including the European Union, Japan, and the Republic of Korea on various projects to help Viet Nam build its capacity in patent application examination, GIs, and the protection of traditional knowledge. It signed memoranda of understanding with several foreign IP offices on cooperation plans.

<sup>165</sup> ASEAN Intellectual Property Portal, *What Is ASPEC*. Viewed at: <https://www.aseanip.org/Services/ASEAN-Patent-Examination-Co-operation-ASPEC/What-is-ASPEC>.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture, Forestry, and Fisheries

#### 4.1.1 Features

4.1. In 2019, agriculture, forestry, and fisheries contributed 15.5% to GDP (down from 20.0% in 2013) and 34.5% to employment (down from 46.7% in 2013), reflecting lower labour productivity as compared with other sectors. The main agricultural products include rice, coffee, and rubber (Table 4.1). By the end of 2016, about 4,400 enterprises operated in agriculture, forestry, and fisheries; these accounted for less than 1% of total enterprises nationwide. Many agricultural businesses are micro, small, and medium-sized enterprises (MSMEs), and the majority (about 55%) have capital of less than VND 5 billion. The authorities consider that the ability of agriculture, forestry, and fishery enterprises to apply science and technology remains low; 75% of enterprises use fully depreciated machinery, and many still use outdated technologies.

4.2. In 2017, 53.7% (62.2% in 2011) of households engaged in agriculture, forestry, and fishery activities. In 2016, there were 62,523 cooperative groups, an increase of 541 compared with 2012. As at 1 December 2016, 7,869 cooperatives had been registered and reorganized under the Cooperative Law; they function as a bridge between the Government, social and political organizations, and farmers.

4.3. Viet Nam adopted measures to increase the total capacity of the irrigation system. This led to an increase in irrigation available for rice cultivation to 7.48 million hectares in 2019 (compared with 6.92 million hectares in 2013).<sup>1</sup>

**Table 4.1 Production of selected commodities, 2013-19**

		2013	2014	2015	2016	2017	2018	2019
Rice, paddy	'000 hectares (ha)	7,902.5	7,816.2	7,828.0	7,737.1	7,737.1	7,570.9	7,470.1
	'000 tonnes	11,039.1	44,974.6	45,091.0	43,165.1	43,165.1	44,046.0	43,448.2
Coffee, green	'000 ha	581.3	589.8	593.8	597.6	617.1	618.9	618.1
	'000 tonnes	1,326.6	1,408.4	1,453.0	1,460.8	1,577.2	1,616.3	1,678.8
Cashew nuts	'000 ha	300.9	288.3	280.3	281.0	283.8	283.7	276.4
	'000 tonnes	275.5	345.1	352.0	305.3	215.8	266.4	284.0
Cassava	'000 ha	543.9	552.8	567.9	569.0	532.6	513.0	519.3
	'000 tonnes	9,757.3	10,209.9	10,740.2	10,909.9	10,267.7	9,846.9	10,105.1
Rubber	'000 ha	548.1	570.0	604.3	621.4	653.2	685.5	698.1
	'000 tonnes	946.9	966.6	1,012.7	1,035.3	1,094.5	1,137.7	1,167.3
Maize	'000 ha	1,170.4	1,179.0	1,178.9	1,152.7	1,099.5	1,032.9	990.8
	'000 tonnes	5,191.2	5,202.3	5,287.2	5,246.5	5,109.6	4,874.1	4,757.0
Sugar cane	'000 ha	310.4	305.0	284.2	267.6	281.0	269.3	233.7
	'000 tonnes	20,128.5	19,821.6	18,337.3	17,211.2	18,356.4	17,945.5	15,269.9
Bananas	'000 ha	112.0	114.0	115.0	120.0	125.0	128.0	150.0
	'000 tonnes	1,893.0	1,858.0	1,943.0	1,942.0	2,045.0	2,087.0	2,194.3
Pepper	'000 ha	7,902.5	7,816.2	7,828.0	7,737.1	7,737.1	7,570.9	7,470.1
	'000 tonnes	11,039.1	44,974.6	45,091.0	43,165.1	43,165.1	44,046.0	43,448.2
Pig meat	'000 tonnes	1,326.6	1,408.4	1,453.0	1,460.8	1,577.2	1,616.3	1,678.8

<sup>1</sup> The Ministry of Agriculture and Rural Development (MARD) reviewed irrigation plans in the context of climate change and sea-level rise, adding standards and procedures for irrigation, dikes, reservoir safety, and repairing and upgrading 633 lakes with a view to improving management efficiency of irrigation works. Localities built and upgraded reservoirs, pumping stations, irrigation culverts, and canals. The Government invested in many small irrigation projects associated with hunger eradication and poverty alleviation, population stabilization, and security and national defence in mountainous, island, and border areas.

		2013	2014	2015	2016	2017	2018	2019
Cattle meat	'000 tonnes	300.9	288.3	280.3	281.0	283.8	283.7	276.4
Hen eggs	'000 tonnes	9,757.3	10,209.9	10,740.2	10,909.9	10,267.7	9,846.9	10,105.1

Source: FAOSTAT, *Food and Agriculture Data*. Viewed at: <http://faostat.fao.org>; and data provided by the authorities.

4.4. All land belongs to the population of Viet Nam; the State acts as the owners' representative regarding land management. Under Article 126 of the Land Law (Law No. 45/2013/QH13), issued on 29 November 2013 and entered into force on 1 July 2014, the term for the lease of land used for agriculture by households and individuals directly engaged in agricultural production is 50 years<sup>2</sup> (compared with 20 years for annual crops and 50 years for perennial crops under the previous legislation); the lease of agricultural land to households and individuals shall not exceed 50 years. Upon the expiration of the land-lease term, the household or individual may request the State to allow it to continue leasing the land.

4.5. In 2019, Viet Nam had a deficit in agricultural trade. Both imports and exports of agricultural products increased between 2013 and 2018; in 2019, they both declined. In 2019, the main exports included coconuts, rice, and coffee; the main imports included cotton and maize (Table 4.2).<sup>3</sup>

**Table 4.2 Exports and imports of agricultural products, 2013-19**

HS 2002			2013	2014	2015	2016	2017	2018	2019
<b>Exports</b>									
	<b>TOTAL (not including rubber)</b>		<b>13,157.3</b>	<b>15,213.2</b>	<b>15,390.6</b>	<b>16,458.8</b>	<b>18,631.7</b>	<b>18,196.9</b>	<b>17,632.8</b>
0801	Coconuts, Brazil nuts and cashew nuts	'000 tonnes	..	418.4	..	411.9	409.9	..	519.9
		USD million	1,668.6	2,049.6	2,404.2	2,810.7	3,482.6	3,290.7	3,072.1
1006	Rice	'000 tonnes	6,594.7	6,334.8	6,603.1	4,811.2	5,820.5	2,892.1	5,467.0
		USD million	2,926.3	2,936.9	2,807.9	2,160.0	2,634.6	2,621.4	2,434.3
0901	Coffee	'000 tonnes	1,269.1	1,646.3	1,283.7	1,705.2	1,466.2	874.1	1,421.9
		USD million	2,551.4	3,311.4	2,415.4	3,040.2	3,101.4	2,891.5	2,218.8
0810	Other fruit, fresh	'000 tonnes	124.7	151.7	281.6	621.5	989.8	1,041.5	..
		USD million	252.8	324.7	570.5	1,248.8	1,785.7	1,832.7	1,820.6
1108	Starches; inulin	'000 tonnes	1,506.0	1,495.7	..	..	620.0	500.1	2091.8
		USD million	710.7	738.8	916.7	740.5	746.7	798.5	872.5
0904	Pepper	'000 tonnes	133.7	156.6	132.5	182.5	217.5	97.8	266.9
		USD million	893.4	1,206.5	1,262.8	1,441.6	1,131.0	752.4	682.6
2008	Fruit, nuts, otherwise prepared or preserved	'000 tonnes	50.3	40.8	..	..	66.4	68.7	87.0
		USD million	149.9	122.0	165.4	241.8	284.0	345.8	501.0
2101	Extracts, concentrates of coffee, tea, or maté	'000 tonnes	48.1	45.0	59.2	76.0	100.6	40.1	119.8
		USD million	332.8	246.4	260.4	299.0	405.2	447.9	458.9
2309	Preparations used in animal feed	'000 tonnes	92.4	125.6	136.4	172.2	190.4	215.2	256.9
		USD million	145.7	191.4	224.4	244.0	282.6	349.2	396.0

<sup>2</sup> The term for agriculture-based organizations is a period approved by the authorities of no longer than 50 years.

<sup>3</sup> For the purposes of this Review, agricultural products are defined as set out in Annex 1 of the Agreement on Agriculture, where fish products are defined under the HS02 nomenclature headings 0208.40, 03, 0511.91, 1504, 1603, 1604, 1605, and 2301.20. Although not defined as an agricultural product under the Agreement on Agriculture, export data for rubber are included under exports in Table 4.2 but are not included in the total for exports and imports of agricultural products.

HS 2002			2013	2014	2015	2016	2017	2018	2019
4001	Rubber	'000 tonnes	990.2	982.2	783.4	665.7	573.0	..	750.0
		USD million	2,378.7	1,668.8	1,065.8	881.2	943.0	953.7	1,004.8
<b>Imports</b>			<b>11,876.3</b>	<b>13,671.7</b>	<b>15,162.8</b>	<b>16,427.7</b>	<b>18,639.1</b>	<b>20,812.5</b>	<b>20,788.6</b>
	<b>TOTAL (not including rubber)</b>								
5201	Cotton, not carded or combed	'000 tonnes	571.7	742.2	999.3	1,018.2	1,269.3	1,398.5	1,340.7
		USD million	1,154.6	1,422.7	1,607.2	1,643.3	2,331.8	2,727.5	2,400.2
1005	Maize	'000 tonnes	2,186.5	4,764.0	7,622.4	8,444.8	7,725.5	..	11,447.7
		USD million	672.7	1,216.0	1,650.9	1,672.4	1,503.9	2,108.1	2,313.0
2304	Oil-cake and other solid residues	'000 tonnes	3,094.1	3,141.1	3,316.9	4,465.1	4,342.1	4,457.6	4,689.3
		USD million	1,743.3	1,859.8	1,966.1	1,854.7	1,728.2	2,054.2	1,845.2
0801	Coconuts, Brazil nuts and cashew nuts	'000 tonnes	640.0	579.1	892.9	1,039.2	1,298.9	180.8	1,327.4
		USD million	601.4	651.5	1,130.1	1,658.7	2,578.1	1,995.4	1,795.1
2106	Food preparations, not elsewhere specified	'000 tonnes	..	..	..	..	..	..	..
		USD million	388.7	451.0	499.9	532.5	552.9	614.3	836.0
1001	Wheat and meslin	'000 tonnes	1,816.6	2,075.6	2,328.7	4,743.8	4,663.8	5,417.9	2,760.1
		USD million	619.5	648.8	600.9	1,005.0	994.4	1,177.6	720.3
1201	Soya beans	'000 tonnes	1,297.5	1,519.5	1,707.6	1,546.2	1,646.0	1,529.1	1,718.5
		USD million	784.2	873.3	765.0	661.0	707.9	771.1	686.3
0102	Live bovine animals	'000 tonnes	..	..	..	115.0	96.8	104.3	197.6
		USD million	85.2	268.8	453.9	350.1	315.6	349.8	615.1
1511	Palm oil and its fractions	'000 tonnes	404.5	508.0	429.4	594.7	602.6	566.4	672.5
		USD million	518.2	559.1	458.7	510.9	568.7	541.5	530.9
2309	Preparations used in animal feed	'000 tonnes	222.3	250.3	280.0	372.4	342.1	370.4	368.6
		USD million	366.7	427.1	480.6	540.6	490.1	543.5	526.3

.. Not available.

Source: UN Comtrade database.

## 4.1.2 Agriculture

### 4.1.2.1 Legal, institutional, and policy framework

4.6. During the review period, the main agricultural policy development was the adoption of various laws, such as the Laws on Irrigation, Animal Health, Animal Husbandry, and Crop Production, and relevant regulations.

4.7. The main legislation governing the sector includes: (i) the Law on Irrigation (Law No. 08/2017/QH14), issued on 19 June 2017 and entered into force on 1 July 2018; (ii) the Law on Animal Health (Law No. 79/2015/QH13), issued on 19 June 2015 and entered into force on 1 July 2016; (iii) the Law on Animal Husbandry (Law No. 32/2018/QH14), issued on 19 November 2018 and entered into force on 1 January 2020; (iv) the Law on Crop Production (Law No. 31/2018/QH14), issued on 19 November 2018 and entered into force on 1 January 2020; (v) Decree No. 57/2018/ND-CP (on incentive policies for enterprises investing in agriculture and the rural development sector), issued on 17 April 2018; (vi) Decree No. 13/2020/ND-CP, issued on 21 January 2020 (guiding the Law on Animal Husbandry); (vii) Decree No. 107/2017/ND-CP (on amendments and supplements to Decree No. 193/2013/ND-CP dated 21 November 2013), issued on 15 September 2017; (viii) Decree No. 40/2017/ND-CP (on management of salt production and trading), issued on 5 April 2017; (ix) Decision No. 369/QĐ-BNN-CBTNS (approving the sugar cane

development project to 2020, and orientation to 2030), issued on 18 April 2018; (x) Decree No. 83/2018/ND-CP (on agricultural extension), issued on 24 May 2018; (xi) the Law on Plant Protection and Quarantine (Law No. 41/2013/QH13), issued on 25 November 2013; (xii) Decree No. 107/2018/ND-CP (on rice export trading), issued on 15 August 2018; (xiii) Decree No. 202/2013/ND-CP (on fertilizer management), issued on 27 November 2013; and (xiv) Decree No. 62/2019/ND-CP (on amending and supplementing articles of Decree No. 35/2015 on management and use of rice land), issued on 11 July 2019.

4.8. The Ministry of Agriculture and Rural Development (MARD) has primary responsibility for agricultural policy, including preparing draft legislation, implementing the legislation, supporting production, and regulating inputs and outputs. It is also responsible for fisheries and other subsectors. Its structure is set out in Decree No. 15/2017/ND-CP (defining the functions, tasks, and organizational structure), issued on 17 February 2017. Under the MARD, several agencies are responsible for the delivery of agricultural services, such as the Centre for Informatics and Statistics, the National Centre for Agriculture and Fisheries Extension, and the National Centre for Rural Water Supply and Environmental Sanitation. Other ministries responsible for some aspects of agricultural policy include the Ministry of Natural Resources and Environment (MNRE) (responsible for land use), the Ministry of Industry and Trade (MOIT) (responsible for food distribution and trade), the Ministry of Health (responsible for social policies and food security), and the Ministry of Finance (MOF) (responsible for fiscal policy, including support to agriculture). In addition, the People's Committees are responsible for some aspects of agricultural policy in the provinces.

4.9. The private sector is represented by the Vietnam Food Association (VFA) for enterprises engaged in trade and processing agricultural products, and the Viet Nam Farmers' Union, with some sector-specific associations also representing producers. Agricultural exporters are not obliged to join the VFA.

4.10. State-owned enterprises (SOEs) play a critical, though declining, role in the production, processing, and trade of agricultural products. Examples include the following:

- Viet Nam Northern Food Corporation (Vinafood1) and the Viet Nam Southern Food Corporation (Vinafood2), which purchase, process, import, and export food and salt products. About 15% of Viet Nam's rice is exported by these two corporations since 2019.
- Viet Nam National Coffee Corporation (Vinacafe) which, through its subsidiaries, member companies, and associated companies, has interests in all stages of the coffee production chain. The Corporation's interests in production are mostly limited to research into coffee production, and it assists producers by providing seeds and advice.
- Viet Nam Rubber Corporation, which is the largest natural rubber company in Viet Nam.
- Viet Nam National Tea Corporation (Vinatea), which is involved in all stages of tea production, processing, and marketing, and in research and providing extension services.

4.11. During the review period, the authorities focused on the restructuring of SOEs to promote equitization and divestment of investment capital to achieve efficiency of state capital. According to the authorities, 18 SOEs were corporatized by the end of 2017.

#### **4.1.2.2 Border measures**

4.12. The simple average applied MFN tariff on agricultural products (WTO definition) was 18.1% in 2020, higher than the overall average of 11.9%. Among agricultural products, Viet Nam has tariff quotas on eggs, sugar cane, and tobacco. The most recent notification on imports under tariff quotas for 2019 shows no imports of eggs under the tariff quota; about one quarter of the sugar quota was used, and about two thirds of the tobacco quota.<sup>4</sup> In addition, Viet Nam has quotas for preferential imports of rice, paddy, and unmanufactured tobacco from Cambodia and the Lao People's Democratic Republic (Section 3.1.3).

<sup>4</sup> WTO document G/AG/N/VNM/12, 12 May 2020.