

Overview Report: Challenges of small and medium enterprises in Vietnam in meeting the requirements of the Trans-Pacific Partnership Agreement (TPP) on Environment and Corporate Social Responsibility"

1. Problem statement

The importance and the contribution of small and medium-sized enterprises (SMEs) in Vietnam.

Over the past 30 years, Vietnam has been restructuring its economy towards industrialization and modernization, creating the premise for the development of enterprises in both quantity and quality. According to statistics in 2015, Vietnam has about 500,000 active enterprises, of which 95% is small and medium enterprises (SMEs). In Vietnam, SMEs are defined as enterprises with capital investment of less than 100 million VND and total employees of less than 300. SMEs are often planned within industrial clusters. The increase in the number of enterprises has brought about significant economic benefits: per capita income per annum has increased from US \$ 471 in 2003 to US \$ 2300 in 2016. The more than 400,000 SMEs operating in Vietnam employ 51% of workers and contribute over 40% of GDP.

Challenges of SMEs in meeting TPP requirements for corporate social responsibility in the environmental field.

Carrying out environmental social responsibility means complying with existing environmental laws and implementing environmental management measures that will prevent pollution to the surrounding environment. Free trade agreements such as the TPP require Vietnamese enterprises to meet strict environmental conditions. However, the reality of compliance with environmental law of SMEs in Vietnam is very poor. Specifically, according to data from MONRE, in Vietnam, out of 615 industrial clusters in which SMEs operate, only 5% have concentrated wastewater treatment systems, the remaining wastewater is discharged directly into rivers, streams and canals. The poor compliance of SMEs exposes them to legal and financial risks such as administrative penalties and suspended operations, which reduce the profitability of the business. Challenges leading to low environmental compliance of SMEs are: policy, finance, awareness, technology, human resources and access to information.

The necessity of an environmental management training program.

Currently, businesses in Vietnam have access to information on environmental law primarily through self-study (internet, workshop) and annual public awareness programs on environmental legislation organized by each province's DONRE. However, those programs have not yet reached the typical SMEs in Khac Niem, Bac Ninh. According to CECR survey in Khac Niem in February 2017, 100% of SMEs have never attended a training course on environmental law and guidance on the implementation of environmental management in enterprises. Therefore, the development of a training program on environmental law for SMEs is essential.

The results of the study on the challenges to compliance with environmental law of SMEs will be the basis for the development of a training program on environmental management in compliance with law in Khac Niem Industrial Park, Bac Ninh in March 2017.

2. Methodology

- Desk study on policies, legal documents related to SMEs
- Consultation with environmental experts
- Interview with Khac Niem Ward staff, businesses and communities in Khac Niem Ward

3. Key findings

a. Policy challenge in supporting SMEs in compliance with environmental law

- **Policies and legal documents to regulate SMEs and to support the compliance with environmental law.**

- **Policies and legal documents related to SMEs.**

Vietnam has issued many policies to support small and medium-sized enterprises (SMEs), for example, Decree 201/2001 / ND-CP and more recently Decree 56/2009 / ND-CP and guiding circulars. In addition, the Small and Medium Enterprise Law is being promulgated, and is expected to be passed by the National Assembly in May 2017.

Policy to support SMEs in compliance with environmental law

+ Currently, Vietnam does not have direct policies related to environmental management for SMEs, however similar policies for general business in Vietnam is concretized in the Vietnam Constitution 2013 and Environment Protection Law 2016. In addition, at the macro level, there is a National Strategy for Green Growth and a Commitment to achieving 17 sustainable development goals. In the above policies and legal documents, environmental management, corporate greening, sustainable business development are the responsibility of all enterprises, including SMEs.

+ There is no specific policy for SME support in compliance with environmental law. At present, there are only some provisions in the Law on Environmental Protection. Businesses can borrow money from the Environmental Protection Fund for priority areas related to wastewater treatment, treatment and rehabilitation of environmental pollution, environmental monitoring, production of environmental-friendly products (MONRE green label) and products from waste recycling activities. In addition, MONRE instructs DONREs to organize training courses on environment protection law for enterprises.

- **Inadequacy of policies supporting the development of SMEs and supporting SMEs in compliance with environmental law**

- There exists an overlap between policies supporting SME development and current policies related to business in general. Specifically, some of the main support to SMEs are regulated in Decree 56/2009 / NĐ-CP but subject to regulations in other sectors and laws (Labor Law, Land Law, Investment Law , Law on Credit Institutions, Law on Procurement, Law on Science and Technology, Tax Law ...). Therefore, the effectiveness of enforcement of Decree 56/2009 / ND-CP is not high.
- There is a lack of environmental management principles of enterprises in SME policies generally. SME support policies are generally aimed at promoting the economic development of SMEs without addressing environmental issues.
- The policies and legal documents issued for SMEs in general and environmental management in particular are just mentions of measures without stating the principles of criteria, conditions or operating models. Therefore, measures to support SMEs are hardly feasible. Specifically, policies and legal documents on environmental management for SMEs are only in the legal system of environmental protection in general for all business subjects with regulations lacking scientific basis and technological foundation such as norms Discharge, permit discharge.
- The policy of human resource support through training is available, there are local training programs organized by DONRE but SMEs have almost no access to these classes. Moreover, the new training courses are only limited to dissemination of legal regulations but not yet include guidelines on enforcement of environmental protection law.

b. Financial challenge for SMEs in compliance with environmental law

- **Main sources of financial support to SMEs:**

- Funds from the state budget: SME development funds, credit guarantee funds, environmental protection funds,
- Other funds: loans from commercial banks
- Own source of business
- Other borrowing sources: Informal loans with high interest rates

- **Inadequacy of finance for SMEs in compliance with environmental law**

- Limited business capital: Limited capital, lack of access to preferential loans, or receiving loans from informal sources of high interest rates are some of the burdens on businesses. That directly affects the business mindset and business strategy of earning profits and ignoring environmental management values, which means that compliance with environmental legislation is very low.
- Access to preferential loans is difficult: SMEs have access to preferential loans from the SME development fund, but the number is limited to 30%, the remaining 70% own funds and obtain loans for large interest rates. The reason is due to cumbersome administrative procedures, it is thus difficult for enterprises to access this source of capital because they are not eligible for preferential treatment. Also, enterprises that want to access the funds from the environmental protection fund must be in the priority area (environmentally-friendly products that are green labeled by the Ministry of Natural Resources and Environment). Because of ineffective communication, businesses do not

see the need for green labeling for products, labeling procedures are complicated and difficult to apply, consumer awareness of green label is not high.

c. SME perception challenge

- Any business aims to achieve top profits so all business activities are aimed at maximizing profits and reducing costs. For SMEs, with funding constraints, many businesses believe that the implementation of pollution control measures (construction of wastewater treatment systems) is not profitable and reduced activity and profit of the business.

d. Technological capacity challenge

- Current state of manufacturing technology in SMEs: At present, production lines at SMEs are mainly importing used machinery from other countries. Many enterprises have entered modern machinery but have inadequate capacity to use machines proficiently, resulting in low efficiency. At the same time out-of-date machinery consumes more raw materials and energy.
- Current status of wastewater treatment technology: At present there are many units providing waste treatment technology services for enterprises in the form of contracts to build a treatment system. Waste water / gaseous emissions will be contracted with the supplier and allocated to that supplier. Suppliers providing wastewater treatment services base their systems on previous experience of building wastewater / gas treatment systems of that fields (food processing, chemical production, metal,...)
- Inadequate technology capacity:
 - + Vietnam does not have a modern technology base to meet the standard of saving energy and raw materials.
 - + Vietnam has a mandate to encourage enterprises to use environmentally friendly technologies but lack preferential policies in place for enterprises using such technologies, which lead to enterprises not so excited.
 - + With current wastewater / air treatment technologies in Vietnam, there is no standard for technology as well as for units responsible for managing the application of the technology into practice. This leaves the company unsure that the treatment system that they hire from the construction services provider can handle the waste properly and that it complies with the law.

e. Human resource challenge

- The current situation of environmental management resources in enterprises: According to the survey of SMEs in Khac Niem, 100% of surveyed enterprises do not have professional and trained staff in charge of environmental issues. Most of the staff in charge of the environment are staffs who are concurrently holding positions in human resources, accounting, etc. This is also the general organizational model of SMEs in Vietnam. These part-time employees will learn about environmental procedures themselves through the inspection of the regulatory authority and through guidance from a consulting firm (whom the company may hire to help with environmental records).

- Thus, currently in small and medium enterprises, environmental management is only the completion of the legal procedures required by law in a non-active way. This is because the policy and awareness of enterprises in environmental issues is very lacking. SMEs do not take the initiative in planning environmental management but stop at dealing with the authorities in the inspection.

f. Challenges of access to information

- Current status of environmental law information sources: Currently in Vietnam there are information channels on environmental law:
 - + Provincial Department of Natural Resources and Environment - DONRE's website: updated with new environmental legislation, some questions answered but is only updated in few provinces.
 - + Fee-paying legal information website of legal service companies (not confining to the field of the environment)
 - + Training courses of service providers: Vietnam Chamber of Commerce and Industry (VCCI); Environmental consulting companies: providing short courses and answering questions of enterprises on the contents of the law which enterprises should pay attention to, such as making environmental impact assessment reports, environmental permits, periodic environmental reports, ...
 - + Law dissemination classes organised by DONRE.
- Inadequacies in SME's access to information on environmental law:
 - + SMEs do not have access to legal dissemination classes organized by DONRE.
 - + Training courses organized by environmental service companies are not aimed at helping enterprises to actively build up environmental management according to law.
 - + Information on the website of the environmental agency are not regularly updated.

Recommendations

During Vietnam's push to enter into international trade agreements, small and medium-sized enterprises in Vietnam need to seize opportunities to expand their markets and improve their internal capabilities to satisfy the requirements of a free-trade market. To help SMEs seize the opportunity, support from the government through promulgation of support policies for SMEs, along with supportive measures in terms of technology, finance and human resources is critical. Particular attention should be given to environmental protection in production and business. These policies should provide concrete measures to assist SMEs in taking environmental compliance in a responsible manner, which in part helps SMEs to overcome major challenges in finance, awareness, technology capacity, human resources, and access to information in the field of environmental management. For research institutes and social organizations, the development of an environment legal training program for SMEs in Vietnam needs to be based on a two-side approach: from the need for training in environmental management in SMEs based on the actual conditions of the enterprise and from the research of the training models implemented to provide a suitable and useful program for SMEs.