



VIETNAM COMPETITION AUTHORITY  
MINISTRY OF INDUSTRY AND TRADE



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ABBREVIATIONS

ABBREVIATION	MEANING
ACCP	ASEAN Committee on Consumer Protection
AEGC	ASEAN Expert Group on Competition
APEC	Asia - Pacific Economic Cooperation
ASEAN	Association of Southeast Asia Nation
DOIT	Department of Industry and Trade
EC	European Commission
EU	European Union
FTA	Free Trade Agreement
ICN	International Competition Network
ICPEN	International Consumer Protection Enforcement Network
JICA	Japan International Cooperation Agency
M&A	Merger and Acquisition
MOIT	Ministry of Industry and Trade
OECD	Organization for Economic Cooperation and Development
VCA	Vietnam Competition Authority
VCL	Vietnam Competition Law
VINASTAS	Vietnam Standard and Consumer Protection Association
WTO	World Trade Organization

# HIGHLIGHTS IN 2016

## COMPETITION

On competition, the year 2016 marks an important turning point for the improvement of the legal framework, which is the official approval by the National Assembly on the amendment of the Competition Law. This is both a challenge and also a development opportunity of the Vietnam Competition Authority (the VCA). As such, the VCA staffs should focus resources to promote its role of chairing the amendment of the Competition Law in the coming time.

## CONSUMER PROTECTION

Consumer protection also experienced a remarkable development in 2016. In addition to the official announcement of the March 15 event as the Vietnamese Consumer Rights Day, the Prime Minister approved the "Development Program on Consumer protection activities for 2016-2020" with an aim to build the plan as well as develop effective measures to protect consumers' interests in Vietnam in the 2016-2020 period.

## TRADE REMEDIES

In the field of trade defense, in addition to the successes in dealing with foreign lawsuits, the VCA has actively investigated and promptly processed a significant number of cases involving unfair commercial practices of foreign manufacturing enterprises in Vietnam. This will support the protection of legitimate interests of domestic enterprises and industries against negative impacts of imported goods.



# STATE MANAGEMENT ON COMPETITION

## A - COMPETITION LEGISLATION DEVELOP- MENT

In 2016, the VCA participated in the development of a number of legal documents, such as: the Decree replacing Decree No. 42/2014/ND-CP on the management over multi-level sale activities. The draft version is going to be submitted to the Government for approval; Directive No. 30/CT-TTg of the Prime Minister on enhancing the effectiveness of State management over multi-level sale activities; Directive No. 02/CT-BCT of the Minister of Industry and Trade on enhancing the inspection, supervision and handling of law violations in multi-level sale activities.

In addition, in 2016, the VCA took the lead in amending the Competition Law.

## B - COMPETITION LAW AND POLICY ENFORCEMENT

### 1. COMPETITION RESTRICTION INVESTIGATION

#### 1.1. Competition restriction investigation

Regarding the investigation of competition restriction cases, in 2016, the VCA concluded the formal investigation process and transferred the case dossier Code 14 KN HCT to the Competition Council. The case is related to the complaint of ABTours Trading and Service Co., Ltd. on the fact that Anh Duong Import Export Trading Service Co., Ltd has manipulated its market power to impose conditions for contract on other enterprises for purchase and sale of goods and services; force another enterprise to accept obligations not directly related to the subject matter of the contract; and prevent new competitors from entering the market.

### BOX 1

#### ABTOURS

##### a. Case information

In April 2014, the VCA received a complaint from ABTours Limited Trading Company (ABTours Company), who accused that Anh Duong Co., Ltd abused its dominant position in the field of organizing tours for Russian tourists to some localities in Vietnam.

##### b. Investigation process

After submitting the complaint, on May 5, 2014, the VCA issued Decision on preliminary investigation of the competition case No. 14 KN HCT 01 as above-mentioned. In June 2014, VCA issued a decision to investigate the case.

Currently, the VCA has completed the formal investigation process and has transferred the case dossier to the Competition Council.



## 1.2. Pre-litigation investigation

In 2016, the VCA has conducted the pre-litigation investigations in many sectors and areas, such as:

### *Fishing vessel insurance service market:*

On the basis of the media's reflection on the status of some insurers with signs of agreement in the fishing vessel insurance services market, accordingly, the VCA coordinated and worked with relevant agencies. Based on the information collected, the VCA initially assessed the case and proposed continuing to monitor the competition activities in the above-mentioned market.

### *Pay TV Market:*

Due to the fact that pay TV companies have agreed to negotiate for the right to broadcast the Premier League, the VCA worked with related businesses and agencies to collect information to verify the case.



### *Film market:*

In 2016, the VCA received documents from film businesses (production and distribution of cinema movies), which reflected that CJ CGV Vietnam abused its dominant position and caused the harm to the domestic film companies. The VCA worked with relevant businesses and agencies to collect and verify the case.



### ***Tourism market:***

The VCA received a complaint from Dung Yen Company operating in the field of international travel business, stating that the Standing Association of Quang Ninh Tourism unilaterally expels Dung Yen Company out of the Association, and the Chairman of 849 Quang Ninh Company set quotas to control the number of Chinese tourists received by each international travel business. The VCA has been working with relevant stakeholders to collect information.

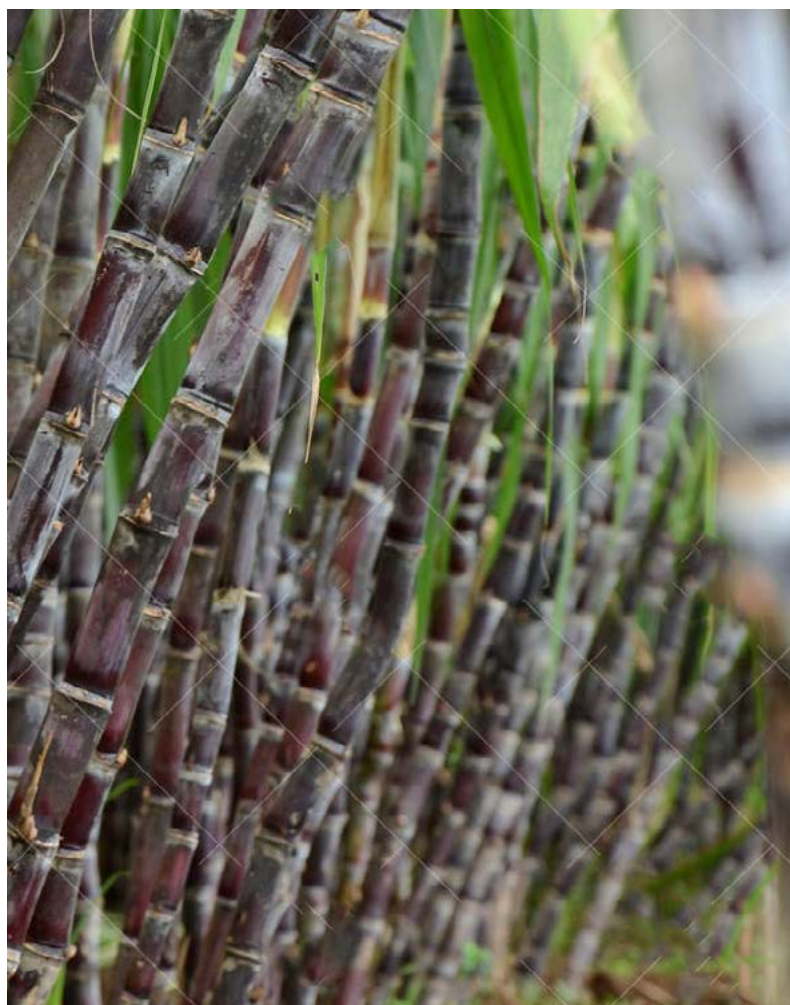


### ***Sugar market:***

The Sugar Association requested its members not to increase the purchasing prices of raw materials. Since this action has its signs of competition violation, VCA collected relevant information for internal discussion; as a result issued a recommendation to the Association and related companies.

In addition, the VCA also collected information relating to a number of cases showing signs of violating competition law, such as information on increasing steel prices and gas prices; the agreed purchase price of television rights to the English Premier League, the imposition of charges on maintenance services for air suspension life raft; the abusive behavior in advertising.

In addition, in 2016, VCA continued to monitor and collect information on signs of violation of Article 6 of the Competition Law.



## 2. INVESTIGATION AND HANDLING OF UNFAIR COMPETITION PRACTICES

### 2.1. Investigation and handling of unfair competition practices

In 2016, due to the high volume of work involved in the management of multi-level sales activities, the VCA must concentrate resources to address this issue, which led to the sharply decreasing number of unfair competition cases.

In 2016, the VCA received 18 dossiers requesting consultation or complaints on acts of unfair competition. In addition to a number of cases moving into the investigation phase in 2017, the majority of cases ended without investigation due to various reasons: out of working scope; the complainant did not supplement the required documents; the parties actively negotiated and did not continue to provide information and documents.

However, in the course of examination and sactioning the multi-level sale enterprises, the VCA detected and handled 15 cases, in which the multi-level sale enterprises have committed acts of “advertisement for unfair competition”, which violated Clause 3, Article 45 of the Competition Law with the total fine of VND 1 billion 524 million VND, 05 acts of illegal multi-level sales violating Article 48 of the Competition Law with the total amount of VND 590 million.

### 2.2. Analysis on violation

Due to the low volume of case handled, the types of violation related to unfair competition in 2016 are not diversified, including advertising that misleads customers and sellers, and illegal multi-level sales.

Table 1: Unfair competition violations

Type of unfair competition practices	2009	2010	2011	2012	2013	2014	2015	2016
Advertisement for unfair competition purpose	5	20	33	37	2	6	18	15
Promotion for unfair competition purpose	2	2	-	-	-	-	-	-
Interruption in other enterprises' business activities	-	-	-	1	-	-	-	-
Discrediting other enterprises	4	1	2	-	-	-	-	-
Misleading indication	-	1	-	-	-	1	1	-
Illegal multi-level sales	3	4	1	3	1	-	4	5
<b>Total</b>	<b>14</b>	<b>26</b>	<b>36</b>	<b>41</b>	<b>3</b>	<b>7</b>	<b>23</b>	<b>20</b>

**2.3. Management over multi-level sales activities**

**2.3.1. Granting, modifying and supplementing registration certificates of multi-level sale activities**

In 2016, the VCA continued the evaluation of application dossiers for granting, modifying and supplementing certificates of registration for multi-level sale activities, in which the majority of the dossiers are amendments and dossier submission

Regarding the granting and withdrawal of the multi-level sales certificate for trainers, in 2016, the VCA issued 1013 certificates of multi-level sales trainers for 73 dossiers of 28 enterprises, and withdrew 54 issued Certificates.

**2.3.2. The inspection and handling of violations in multi-level sale activities**

The VCA focused its attention on the inspection and handling of violations in multi-level sale activities.

The VCA sent its officials to participate in the interdisciplinary inspection team to investigate

07 multi-level sales companies and also 10 other enterprises.

Based on the inspection result in 2015 and 2016 and through the work of settling complaints, the VCA investigated and sanctioned 41 enterprises with a total fine amount of 8.9 billion VND. Also via the monitoring and management of multi-level sale activities, the VCA revoked the certificates of 15 multi-level sales that violated the law.

**2.3.3. The settlement of complaints in multi-level sale activities**

In 2016, the VCA received and handled large volumes of complaints that requested for buy back and return of goods of participants in multi-level sales activities. Many ground-based complaints have been satisfactorily resolved.

For cases showing signs of violating the criminal law, the VCA transferred them to the police for consideration and handling.

In order to well handle the complaints in multi-level sales, the VCA built procedures for receiving and settling complaints of participants in multi-level sales.





### 3. CONTROL ON ECONOMIC CONCENTRATION ACTIVITIES AND EXEMPTION PROGRAM IN COMPETITION LAW

In 2016, the VCA received and processed 04 economic concentration notification dossiers, including M&A in such markets as retail & supermarket, liquid milk and yoghurt, sanitary ware products, veterinary drugs. In details:



**Table 2: List of notification dossiers on economic concentration in 2016**

No.	Time	Sector	Type	Involved parties
1	09/ 2016	Milk and yoghurt product	Merger	Vinamilk – Merging party, Lamsonmilk - Merged party
2	09/2016	Sanitary ware products	Merger	Lixil Việt Nam (Merging party) American Standard Việt Nam (Merged party)
3	10/2016	Supermarket	Acquisition	TCentral Group (Acquirer) Casino Group (Seller) Big C supermarket chain (targeting company under the ownership of the Seller)
4	12/2016	Manufacture and distribution of veterinary drugs and vaccine	Acquisition	Boehringer Ingelheim International (GMBH) (Acquirer) Sanofi SA (Seller)

In addition, the VCA received a lot of consultation information from domestic and foreign enterprises, Department of Planning and Investment in provinces & cities, management boards of industrial and processing zones, Securities Commission about cases of economic concentration. This engagement demonstrates that the legal awareness on competition in the community is improved considerably. On the other hand, in addition to provisions on M&A, the VCA always endeavours to support and receive consultation from enterprises in order to propagandize on competition law compliance.

In April 2016, at the request of the Business Association in Ho Chi Minh city to inspect the competition law compliance by foreign-invested retail enterprises to ensure the strictness of the law as well as the fairness in the competition in all economic sectors, the VCA reviewed

the cases of economic concentration in the field of wholesale and retails. As such, the VCA reviewed the case of TCC Holding (Thailand) to buy the entire system of Metro Cash & Carry Vietnam. After 6 months, the VCA concluded that the merger of Metro was not prohibited under the Competition Law.

In addition, the VCA regularly updates and aggregates data on M&A, joint venture of enterprises across the country. As a result, the VCA continues to build and manage a database to keep an eye on dominant players, market monopolies, and detect signs of law violation by dominant enterprises and monopoly in the market.

#### 4. ECONOMIC CONCENTRATION CASE HANDLED IN 2016

### BOX 2

#### BIGC VIETNAM SUPERMARKET CASE

In October 2016, the VCA received the economic concentration notification dossier of Casino Group (France) that the Casino Group sold Big C supermarket system to Central Group (Thailand), including many enterprises owning Big C supermarkets in Vietnam.

According to the explanation of the companies involved in the case, Central Group of Thailand purchased the ownership of the French Casino Group to own Big C supermarket chain in Vietnam in the form of acquisition according to Clause 1, Article 17 of the Competition Law. The relevant product market is defined as the retail market in the supermarket, the relevant geographical relevant market is the retail market in supermarkets in the provinces where the Big C supermarkets are located.

During the process of reviewing and evaluating the case, the VCA consulted with relevant agencies to assess the competition impact of the economic concentration.

Accordingly, in certain relevant markets (some provinces, cities), the combined market share of the parties is quite high. In the long run, this matter of fact might raise potential concerns about competition in the market, especially in the context of the growing number of foreign retailers in Vietnam. However, the combined market share of involved parties in the retail market is not subject to be prohibited as stipulated by the Vietnam Competition Law.

**BOX 3****THE CASE OF BOEHRINGER  
ACQUIRING THE VETERINARY  
DRUG BUSINESS OF SANOFI SA**

On December 28, 2016, the VCA received a notification of economic concentration from Sanofi SA and Boehringer Ingelheim International BMBH (Boehringer). Accordingly, Boehringer acquired Sanofi SA's entire worldwide veterinary drug business and the economic concentration was implemented in the host country.

In Vietnam, Boehringer (Boehringer) is represented by Boehringer Ingelheim Vietnam Veterinary Drug Co., Ltd. The seller (Sanofi SA) through domestic companies chose Merial Asia Pte., Ltd. (a Singaporean company, a wholly-owned subsidiary of Sanofi SA) as Sanofi Vietnam's distributor and in charge of all Sanofi products in Vietnam.

Thus, the economic concentration of the parties involved is done abroad, but they are doing business in Vietnam. Therefore, this case is under the governance stipulated in Clause 3 Article 17 of the Competition Law.

After the review and analysis phase on the actual situation of enterprises' operations in the relevant market, the VCA issued an official announcement informing that the economic concentration not falling into the prohibited cases as prescribed in the Competition Law. The combined market share of the parties involved in the economic concentration in the market for production and distribution of veterinary drugs (mainly veterinary vaccines) in the whole territory of Vietnam is less than 50% and the acquisition does not cause concerns on competition in the market.

*(1) Sanofi SA is a company that manufactures and distributes medical products for human and animal health, having Head Office in France. Boehringer is a pharmaceutical manufacturing and distribution company, headquartered in Germany.*

# C - OTHER SUPPORTING ACTIVITIES FOR THE ENFORCEMENT OF COMPETITION LAW AND POLICY

## 1. COMPETITION POLICY MONITORING

With the function of monitoring competition policy, the VCA is always actively involved in the development of legal documents, policies, programs and projects to ensure fair competition environment. In the past year, in order to improve and ensure the consistency of competition policy in the economy, the VCA contributed comments on several draft legal documents, such as:

- ✦ *Draft Decree on goods, services, geographical areas that allow state monopoly in commercial activities;*
- ✦ *The draft Decree regulating the posting of prices and surcharges in addition to the cost of container shipping by sea, service charges at seaports;*
- ✦ *The draft Decree amending and supplementing a number of articles of Decree No. 177/2013/ND-CP detailing and guiding the implementation of a number of articles of the Price Law;*
- ✦ *The draft Decree amending and supplementing a number of articles of the Decree No. 25/2011 / ND-CP dated April 6, 2011 by the Government detailing and guiding the implementation of a number of articles of Telecommunications Law regarding the condition of business investment;*
- ✦ *The draft Decree promulgating the Statute on organization and operation of a number of State-owned groups and corporations;*
- ✦ *The draft Decree amending and supplementing Decree No. 72/2013/ND-CP on the management, provision and use of internet services and online information related to business investment conditions, etc.*
- ✦ *In addition, the VCA serves as the focal point for exchanging information with enterprises and state management agencies on regulations related to competition law and policy; coordinate and join sectoral regulators in monitoring and ensuring competition in the market. The VCA continues to review and evaluate competition in a number of important areas of the economy with an aim to strengthen the state management and competition monitoring and ensure market efficiency.*





## 2. BUILDING COMPETITION STUDIES

### 2.1. Codification of competition terms

In the course of implementing Decision No. 6897 / QĐ-BCT dated July 07, 2015 by the Minister of Industry and Trade promulgating the plan to codify the legal terms under the authority of Ministry of Industry and Trade, the VCA fulfilled its mission of codifying competition items as required. The work has been appraised and accredited by the Ministry of Justice for inclusion in the General Codification Collection.

### 2.2. Completion of the final report on the 10-year implementation of the Competition Law

On the basis of the activities implemented in 2015, the VCA completed 04 reports including: (1) Collecting comments at the 10-year evaluation workshop on the Competition Law enforcement; (2) Report on the survey result on enterprises after 10 years of competition law enforcement; (3) Evaluation report on the effectiveness of competition law enforcement in the period 2005 - 2015: View from the experts; (4) Synthesis report on the results of the competition law review.

Based on these component reports, the VCA completed the 10-year review report on Competition Law enforcement, which served as the basis for the drafting of the amended Competition Law. The law has been listed in the working program by the National Assembly in 2016 & 2017 on legislation building.



## 3. COMPETITION POLICY NEGOTIATION IN BILATERAL AND MULTILATERAL FTAs

After concluding the negotiations of bilateral and multilateral trade agreements, including the Vietnam-EU Free Trade Agreement and the Trans-Pacific Partnership (TPP) in 2015, 2016, the VCA reviewed the chapters of Competition, Business and Subsidies in these Agreements under the direction of the Government Delegation for international economic and trade negotiations. The legal review aims to ensure the consistency between the commitments in the Agreement and the provisions of the competition law of Vietnam, from which to conduct studies on amending and supplementing the policy and legal framework on competition for better and more effective implementation of international commitments.

In 2016, the VCA continued to participate as a member of the Competitive Policy Negotiation Group in the Comprehensive Economic Partnership Agreement (RCEP) and the Free Trade Agreement between Vietnam and the European Free Trade Area (EFTA). Basically, the Competition Group in these agreements has largely ended the text and continued to carry out the work under the general direction of the Negotiation Delegation.

Within the framework of the Competition Group within ASEAN, the VCA is also contributing to the development of the ASEAN Competition Action Plan 2025. This will be a common policy direction for ASEAN countries towards the goal of 2025 after the official formation of the ASEAN Economic Community (AEC) in early 2016.



#### 4. COMPETITION ADVOCACY ACTIVITIES

In 2016, the VCA continued to promote law advocacy for enterprises and business associations through the organization of conferences, seminars, and other PR types, such as video clips and leaflets etc.

Especially, in the context of the unpredictable and serious consequences caused by the multi-level sales activities in the society during the past year, the VCA actively advocated for the legislation on the management of multi-level sales activities such as:

- Coordinate with Departments of Industry and Trade in provinces and cities, such as Da Nang, Nam Dinh, Thai Nguyen, Kien Giang, Kon Tum, Hai Duong, Hung Yen, Bac Giang, Hai Phong and Nghe An to organize conferences, seminars on the law on management of multi-level sale activities.

- Publicize videos on multi-level sales activities, articles warning of violations related to multi-level sale activities in particular and the multi-level sale mode in general.

- Publish and continuously update detailed information on the results of inspection and sanctioning of violations in multi-level sale activities.

In addition, the VCA also maintains the bulletin “Competition and Consumers” with a frequency of two months per issue to diversify the information channels on laws and specialized knowledge between policy makers and researchers, entrepreneurs and consumers.



5. 5. INTERNATIONAL COOPERATION  
ON COMPETITION

a. ASEAN

In 2016, the VCA participated in the annual meetings of the ASEAN Experts Group on Competition (AEGC) and actively contributed to the development and implementation of competition plans for ASEAN countries by 2020.

b. ICN

In 2016, the VCA organized a delegation to attend the 15th Annual Meeting of the International Competition Network (ICN) organized in Singapore. At the same time, the VCA also proactively supported her staff to participate in some other training and knowledge sharing activities organized by ICN.

c. APEC

In 2016, within the APEC platform, the VCA coordinated with the APEC Secretariat to organize an international workshop in Ho Chi Minh City. In addition, the VCA representatives also engaged in the APEC Policy and Competition Law Group (CPLG) activity in Lima, Peru.



d. OECD

In 2016, the VCA coordinated with the OECD - Korea policy Center to organize a regional workshop on anti-competitive behavior in March 2016 in Hanoi. The workshop's focus on investigating cross-border competition restriction practices attracted active participation of speakers and delegates in the OECD region.

e. Cooperation with other partners

In 2016, the VCA continued to maintain bilateral cooperation with a number of competition agencies from the United States, Japan, South Korea, Australia, New Zealand and the German International Cooperation Agency via numerous activities, such as sending staff to short-term internship at the partner institution; organizing international training workshops on competition with the participation of foreign experts to enhance the capacity of the staff and representatives of other relevant agencies and organizations.







# STATE MANAGEMENT ON CONSUMER PROTECTION

# A- LEGAL DOCUMENT PROMULGATION

In 2016, the VCA advised the leaders of the Ministry of Industry and Trade to submit the Prime Minister for promulgating the Prime Minister’s Decision No.1997/QĐ-TTg dated October 18, 2016 approving consumer protection program in period of 2016-2020. This is considered as one of the important legal documents, creating motivation to promote consumer protection activities from central to local in the coming time.

In addition, in 2016, the VCA also advised the Ministry’s leaders to issue the Plan No. 9701/KH-BCT dated October 12, 2016 of the Ministry of Industry and Trade on the organization of the Vietnam’s Consumer Rights Day for 2017.



# B- STATE ADMINISTRATION ON CONSUMER PROTECTION

## 1. HANDLE CONSUMER COMPLAINTS AND DENUNCIATION

In 2016, the VCA received more than 1,200 requests for consultation and complaints by consumers (out of nearly 4,000 incoming calls) via the Call Center 1800 6838 (free of charge nationwide).

In addition, the VCA also handled nearly 400 consumer cases submitted via email, website, post office or face-to-face contact. This showed the great efforts of the VCA staffs as well as the efficiency of the Call Center 1800-6838 during the year of 2016, which created favorable conditions for consumers and business community nationwide who may request consultancy and support in case of arisen disputes. More than 90% of the cases were successfully handled by the VCA, building the trust of consumers and the social community towards state management in general as well as MOIT over consumer protection activities in particular.

## \* Typical consumer cases in 2016

### BOX 4 THAI DUONG XANH COMPANY

Defendant: Thai Duong Xanh Vietnam Co. Ltd (Thai Duong Xanh Company)

Complainant: Consumer group

Time: 2016

Case information: In 2016, the VCA received a complaint from a group of consumers complaining about the wrong delivery of products when buying products of the Vietnam Thai Duong Xanh Company by telephone. Accordingly, consumers complained about having been called by Thai Duong Xanh Company informing that they won a voucher worth 5 million VND, which could be used to buy a Samsung Galaxy A8 mobile phone worth 8.5 million VND, therefore, they should pay only 3.5 million VND. However, when consumers received the phone by post, it turned out to be MIQ A8 phone which has very low value.

Based on consumer complaints, the VCA worked with relevant parties to clarify the circumstances of the case as well as provides them with necessary consultancy and support in terms of legal regulations on consumer protection.

As a result, all complaints to the VCA were resolved by the method of “return products – refund”

### BOX 5 PAYMENT FOR AIRLINE TICKET BY CREDIT CARD

Defendant: Air Asia.

Complainant: N. Đ. L. (Da Nang).

Time: April 2016

Case information: a consumer complained about booking AirAsia's air tickets online through mobile applications. Specifically, the consumer booked a round-trip flight Da Nang - Kuala Lumpur. Upon payment, the application reported an amount of \$42.112 (over US \$ 40), but after making payment by credit card, the bank reported an amount of \$421.12 (over \$ 400). Assuming that his legitimate rights and interests were violated, the consumer had contacted AirAsia. The company committed to settle the case within 14 days. However, after that time, the consumer did not receive any response from Air Asia.

After receiving the complaint, the VCA contacted AirAsia in Malaysia (this company does not have any representative office in Vietnam) to inform about the case. As a consequence, the company apologized and accepted to refund the complainant with the airfare.

## BOX 6 COMPENSATION FOR ROOM RESERVATION RESERVATION

Defendant: AirBNB.

Complainant: Ms. V. B. A. (Hochiminh City)

Time: March 2016

Case information: a consumer booked a hotel in Dubai via Airbnb.com. However, one (01) hour before the flight departure, the consumer received an email from Airbnb informing that they couldn't contact the host. Airbnb agreed to compensate 150% of the deposit (more than \$4,000) on if the consumer would show evidence that the consumer had lodged a complaint to the competent management agency in Vietnam. After contacting the VCA and getting advice, the consumer was fully refunded by Airbnb as committed.

## BOX 7 DISPUTES ON INTEREST RATE

Defendant: Some consumer credit companies like HomeCredit, FECredit

Time: 2016

Case information: In 2016, the VCA received a number of complaints on the interest rate of credit contracts which turned out to be different from the rate as consulted previously. Therefore, the consumers could not afford to pay the interest or couldn't make clearance before due date as they wouldn't be able to fulfill conditions for such clearance. In those cases, the VCA recommended consumers to: (i) carefully read the contract before signing, note that the part of interest rate mustn't be left blank, it must be clearly stated and mutually agreed before contract signing; (ii) carefully consider the interest rate as well as other terms and conditions of early liquidation to avoid the situation where consumers would not be able to fulfill early liquidation conditions; (iii) clearly understand all the contract terms and conditions to ensure consumers' compliance after signing.

## 2. DEFECTIVE PRODUCT RECALL

According to the Law on protection of consumer rights, enterprises are responsible for recalling products when detecting they are defective. In 2016, the VCA received and handled 33 defective product recalls of more than 20 enterprises nationwide. For each case, the VCA closely monitored the recall process and made a press release so that consumers could know and follow. Most of enterprises actively implemented recall and notified to

the VCA. The number of cases increased remarkably comparing to that of the previous years (an increase of 65% comparing to 2015) and had great impact on consumers as ten thousands or even hundred thousands of products were recalled in a case.



**Table 3: List of defective products to be recalled in 2016**

No	Product	Technical error	Enterprise	Note
1	Samsung Galaxy Note 7	Exploding batteries, consumers were refunded	Samsung Vina Electronics Company	
2	Range Rover and Range Rover Sport manufactured by Land Rover	Air bag technical errors	UK Car Joint Stock Company - Thanh Do Group	
3	E-Class and CLS-Class Car manufactured by Mercedes-Benz	Rubber lining assembling errors	Mercedes-Benz Vietnam Co. Ltd (MBV Company)	
4	Charger cord Linetek LS - 15 for Acer laptop "Acer", "Gate-way" and "eMachines"	When being used, charger cord overheats, which may lead to ignition	Acer Vietnam Co. Ltd.	
5	Pin máy tính xách tay của Lenovo (khoảng 200.000 pin lithium-ion)	Battery could cause overheat or ignition for consumer s	Lenovo (Singapore) Pte. Ltd – (Lenovo Company)	
6	Honda Civic 2005~2011 and CR-V 2008~201	Air blower's pressure could be excessive due to gas partial fluctuation in a wide range	Honda Vietnam Co. Ltd	
7	Mitsubishi Outlander and imported Lancer Car	Engine's V strap error	VINASTAR Company	
8	Ford Fiessta Car	Install additional pad separating wires and gearbox	Ford Vietnam Co. Ltd	
9	Nissan Pick up, Nissan Sunny, Nissan Xtrail, Nissan Patrol	Air bag errors	NISSAN Vietnam Co. Ltd (NVL)	
10	Kia Sorento car	Digital lock errors	Truong Hai Auto Joint Stock Company	The product was not available in Vietnam

No	Product	Technical error	Enterprise	Note
11	Honda SH (new model) 125cc/150cc	Smart key errors	Honda Vietnam Co. Ltd	Under investigation
12	Suzuki Swift car (AZF414F)	Hard Break pedal at low speed (less than 10km/h)	Suzuki Vietnam Co. Ltd	
13	Mazda 3 All New	Engine light errors	Truong Hai Auto Joint Stock Company	
14	Some models of Piaggio	Fuel pump errors	PIAGGIO Vietnam Co. Ltd	Products are not traded in Vietnam
15	Wall plug charger	Overheat leads to unsafety	Apple Inc	Already contacted Apple representative in VN and requested to comply with the law
16	Piaggio ZIP	Petrol tank error causes fuel leakage	PIAGGIO Vietnam Co. Ltd	
17	General Motors - Chevrolet Aveo	Takata airbag	General Motors Co	The product is not available in Vietnam
18	Honda Civic & CR-V & City	Takata airbag	Honda Vietnam Co. Ltd	
19	Toyota RAV4 & Lexus HS 250h	Damper system	Toyota Motor Vietnam Co. Ltd	The product is not available in Vietnam
20	Yamaha Nozza Grande	Fuel tank	Yamaha Motor Vietnam Co. Ltd	
21	Toshiba battery	Overheat leads to unsafety	Toshiba Consumer Products Co. (Toshiba Company)	
22	Mitsubishi Zinger GLS	Check and replace Tanaka airbag detonator on Zinger GLS	Mitsubishi Vietnam Co. Ltd	
23	SUZUKI UK110 ADDRESS	Unsqueezed nuts create noise and affect acceleration.	Vietnam Suzuki Corp	

No	Product	Technical error	Enterprise	Note
24	Toyota Camry E ASV51L-JETNHU	Update the engine control software	Toyota Motor Vietnam Co. Ltd	
25	Toyota Innova	Incomplete fusion causes sliver when in use	Toyota Motor Vietnam Co. Ltd	
26	Yamaha YZF-R3	Oil pump, clutch plate		
27	Honda CIVIC, CR-V and ACCORD	Replace blower of airbags in front passenger seats (right side) of HONDA car, models CIVIC, CRV and ACCORD	Yamaha Motor Vietnam Co. Ltd	
28	Ventilation and condensation dryer of Indesit S.P.A (Ariston and Indesit Brands)	Check and replace some parts of the dryer	Honda Vietnam Co. Ltd	Authorized Agents in Vietnam were not instructed by the foreign corporations
29	HP 450, HP 240, HP 246, HP ProBook 440 G0, HP ProBook 440 G1, HP 1000	Recall and replace the laptop battery	Indesit S.P.A Company	
30	Chevrolet Aveo	Tie rod errors in the steering system	HEWLETT-PACKARD Vietnam Co. Ltd	The company did not respond to the VCA's official letter
31	Mitsubishi Triton	Replace Takata air bag	General Motors Co. Ltd	
32	Piaggio Vespa LXV/ GTS and imported Beverly	The petrol pump rotor automatically stopped at high temperature	Mitsubishi Vietnam Co. Ltd	
33	Lexus RX200t and RX350	Repair and replace the passenger airbag pump clutch	Piaggio Vietnam Co. Ltd	
			Toyota Motor Vietnam Co. Ltd	

# C - STANDARD CONTRACT AND GENERAL TRANSACTION CONDITIONS

## 1. 1. HANDLING DOSSIERS REGISTERING FOR STANDARD CONTRACT AND GENERAL TRANSACTION CONDITIONS

In 2016, the number of dossiers registering for standard contract in banking sector increased sharply, with 921 dossiers, an increase of 260% compared to 2015 (921/349).

In the apartment sector, the number of registered dossiers remained stable with 202 dossiers in 2016, a slight increase of 114% compared to 2015 (204/179).

In the insurance sector, there was a light reduction in 2016 with 171 dossiers, a decrease of 17% compared to 2015 (205/171) as most enterprises were waiting for the issuance of

the Regulation on Coordination between the Ministry of Industry and Trade and the Ministry of Finance.

In the telecommunications sector, there were 40 dossiers registered in 2016 accounting for 40 compared to 3 dossiers in 2015.

The registration dossiers were processed by steps. The dossier results showed detailed contents in need of applicants’ revision to facilitate their due supplement and avoid risks if there shall be disputes later on

**Table 4: Statistics on handling registration dossiers on standard contracts and general trading conditions**

No.	Sector	Accepted	Requests for amendment and supplement	Dossier withdrawal	Supple-mented	Processing	Total
1	Banking	240	647	34	0	0	921
2	Apartment	103	94	7	0	0	204
3	Insurance	53	118	0	0	0	171
4	Telecommunica-tions	18	22	0	0	0	40
5	Clean living water	1	4	0	0	0	5
6	Electricity	0	1	0	0	0	1
	<b>TOTAL</b>	<b>415</b>	<b>885</b>	<b>41</b>	<b>0</b>	<b>0</b>	1.342





## D - ACTIVITIES TO SUPPORT IMPLEMENTING CONSUMER PROTECTION LAW AND POLICY

### 1. 1. DEVELOPING THE NETWORK OF CONSUMER ASSOCIATIONS

Up to now, there are 52 consumer associations in the whole country, including 51 local consumer associations and 01 national consumer association (Vietnam Standard and Consumer Association - VINASTAS). Among those, there are 17 associations assigned and partially funded by the provincial People's Committees and 7 associations were recognized as special associations (Binh Duong, Tien Giang, Dong Thap, Khanh Hoa, Dak Lak, Ca Mau, Ben Tre) which were regularly funded and staffed.

In order to strengthen the relationship among relevant enforcement agencies, the VCA built the Vietnam Consumer Protection Directory then published it on the VCA website and included it in the Q&A handbooks. The handbooks were distributed to all local DOITs and consumer associations.

### 2. SUPPORT FOR REGISTRATION FOR STANDARD CONTRACT AND GENERAL TRANSACTION CONDITIONS

In order to enhance the effectiveness of registration for standard contracts, general trading conditions, in 2016, the VCA has implemented supporting activities as follows:

- ✦ *Building reference materials guiding some main contents that should be noted by business organizations and individuals when drafting standard contracts and general transaction conditions.*
- ✦ *Gradually improving the internal processing of dossier registration in the direction of decentralization of responsibilities in a transparent and clear manner.*
- ✦ *Developing and completing inspection topics; developing an examination and inspection plan for 2017 in respect of controlling standard contracts and general transaction conditions within the scope of VCA functions and tasks.*
- ✦ *Participating in international cooperation and share experiences in controlling standard contracts, general transaction conditions and consumer protection.*



## 2. ADVOCACY ON CONSUMER PROTECTION LAW AND POLICY

### a. Advocacy seminars/conferences on consumer protection

The year 2016 marked the VCA's great effort of in implementing advocacy activities and especially celebrating Vietnam Consumer Rights Day (15/3). In particular, the VCA successfully held the Ceremony launching the Vietnam Consumer Rights Day (May 15) with the participation of Deputy Prime Minister Nguyen Xuan Phuc (currently H.E Prime Minister) and the leaders of relevant ministries and agencies. This was the first year when Vietnamese consumers have their own day and was also a turning point of consumer protection in Vietnam. Subsequently, the VCA supported 62 out of 63 provinces and cities nationwide to implement celebrating activities. The VCA cooperated with 12 provinces and cities to in conducting practical activities such as live broadcasting programs, regional seminars/conferences, introduction of the Action Month in Hanoi, etc.

In addition, during the year 2016, the VCA cooperated with many DOITs to organize seminars/conferences/training courses targeted at business community, consumers and staffs in charge of local consumer protection.

### b. Advocacy materials

During the year, the VCA publicized some consumer protection materials such as consumer law and policy Q&A (Handbook), consultation handbook on consumer protection, leaflets on consumer credit, video clip on consumer protection, etc. These materials were printed and disseminated at the events organized by the VCA and/or DOITs and consumer associations nationwide.

### c. Short film Contest on consumer protection

In 2016, the VCA organized a short film contest on consumer protection which attracted much attention of the mass media and participation of various organizations and individuals. All films shortlisted for the final round of the contest were posted on social networking websites such as YouTube and Facebook for public comments and contest promotion. Within two weeks (from December 5 to 20, 2016), there were about 30,000 views; more than 10,000 likes and more than 6,000 shares at those two websites. The contest outcome lived up to organizers' expectation with respect to advocacy and dissemination of law, regulations and knowledge on consumer protection; building materials for upcoming consumer protection advocacy activities.

In addition, the VCA also promoted advocacy and dissemination activities indirectly via social networking sites and VCA's website.





#### d. Consumer awareness survey on consumer protection in Vietnam

In order to assess the level of consumer awareness as well as effectiveness of consumer protection activities by agencies and organizations, in the first quarter of 2016, with the support from GIZ, the VCA cooperated with the Trade Research Institute (MoIT) to successfully implement a consumer awareness survey on consumer protection in Vietnam. The survey was conducted in 12 major cities of 12 big provinces/cities across the country (where consumer protection has been well performed).

Positive results of the survey indicated effectiveness of relevant agencies and organizations (VCA, DOITs, consumer associations, mass media, press) of consumer protection at some localities in recent years. At the same time, it also showed that some local agencies need to be more proactive in promoting advocacy and dissemination activities, raising awareness and knowledge of the community and supporting

consumers, business organizations and individuals with regards to consumer protection. The survey also compiled and reflected many valuable recommendations from consumers in order to enhance consumer protection in the coming time.

#### e. Call Center 1800.6838

In 2016, there were 6,701 incoming calls via the Call Center of which VCA received and answered 4,053 calls, accounting for 60.48%. Of 4,053 responded calls, there were 1,193 calls requesting for assistance in resolving claims or complaints about consumer protection violations.

Above requests mainly dealt with a wide range of commodities, for instance, daily consumer goods, telephone, telecommunications, finance, banking, insurance, consumer electronics, of which the first got the biggest number of complaints.



### 3. COOPERATION WITH RELEVANT AGENCIES AND ORGANIZATIONS

With regard to domestic cooperation, in order to improve the effectiveness of law enforcement, in 2016, the VCA connected and cooperated with central and local agencies/organizations like DOITs, Consumer Associations, Departments of the Ministry of Health, the Ministry of Home Affairs, Ministry of Public Security, Ministry of Science and Technology, Ministry of Information and Communication, etc.

At the same time, in order to encourage the business community to be more proactive in socializing consumer protection activities, the VCA established cooperation with many large enterprises such as Prudential, TH True Milk, Samsung, etc. This contributed to enhancing the awareness of the business community on consumer protection and ensuring the interests of enterprises' customers and partners.

### 4. CONSUMER PROTECTION DEVELOPMENT PROGRAM IN THE PERIOD OF 2016-2020

On October 18, 2016, the Prime Minister signed the Decision No. 1997/QĐ-TTg on approval of Consumer Protection Development Program in the period of 2016-2020 with a view to:

- ✦ *Building and implementing policies, mechanism and measures in for support for consumer protection in Vietnam;*
- ✦ *Enhancing the responsibilities, expertise and capacity of the State management agencies, social organizations and enterprises; raising consumers' awareness so as to reach setforth targets on consumer protection, which shall contribute to social justice and national sustainable development.*





## 5. INTERNATIONAL COOPERATION ON CONSUMER PROTECTION

### a. ASEAN

In 2016, as a member of the ASEAN Committee on Consumer Protection (ACCP), the VCA actively contributed to the ACCP activities, for example, participating in regional conferences and jointly developing the ASEAN Action Plans on Consumer Protection towards 2025.

The VCA cooperated with the ASEAN Secretariat to successfully organize the ASEAN-Korea Workshop on Consumer Protection in E-commerce in Da Nang in September, 2016.

### b. International Consumer Protection Enforcement Network

In 2016, the VCA organized delegations to participate in the ICPEN Annual Conference and relevant events. The VCA also fulfilled her membership obligations via submitting reports/contributions upon request.

### c. Japan

Under the cooperation framework with JICA, the VCA continued implementing the Project “Technical support for enhancing capacity in implementing consumer protection laws and policies in Vietnam”, in details:

- ✦ *Enhancing the capacity in consumer consultation: focus on building the Q&A handbook on consumer protection legislations, Handbook for consumer counselors;*
- ✦ *Organizing advocacy seminars to celebrate the Vietnamese Consumer Rights Day (March 15 in Nghe An, Quang Tri, Ho Chi Minh City and An Giang;*
- ✦ *Organizing a study visit to learn experiences on consumer protection enforcement in Japan;*



### d. GIZ

GIZ supported the VCA to conduct several capacity building activities targeting nationwide DOITs and Consumer Associations.

In addition, the VCA received a delegation of the Ministry of Industry and Commerce of Laos PDR to exchange best practices and experiences on consumer protection enforcement in Vietnam.

The said international cooperation activities laid the foundation for connecting with regional and international consumer bodies and building effective information exchange channel to support handling cross-border cases.





# STATE MANAGEMENT ON TRADE REMEDIES



# A - TRADE REMEDIES ENFORCEMENT AND COMPLIANCE

## 1. TRADE REMEDIES INVESTIGATION

### 1.1. General assessment on trade remedies investigation in 2016

In the context of extensive international economic integration and trade liberalization, domestic goods are being subjected to fierce competition with imports, causing negative impacts and difficulties on domestic enterprises and industries. In the situation that the domestic industries are facing with difficulties and injuries caused by imports at dumped price or sudden increases, in 2016, the VCA conducted a number of trade remedies investigations to protect their legitimate interests.

Although the ordinances on trade remedies were promulgated more than 10 years ago, these tools have been really utilized only for the past 5 years. Particularly, since 2012, the investigating authority has conducted incessantly 07 cases (i.e 3 antidumping investigations and 4 safeguard investigations).

It could be seen that the year of 2016 marked the development of the investigating authority as well as the bold and active attitude of businesses towards the use of trade remedies tools. These cases were investigated in accordance with the law and timely protect the legitimate interests of domestic enterprises and industries against the negative effects of imported goods.



### 1.2. Overview on investigation case

In 2016, the VCA conducted trade remedies cases as follows:

#### **BOX 8** ANTIDUMPING INVESTIGATION ON PRE – PAINTED GALVANIZED STEELS (AD02)

On 3<sup>rd</sup> March 2016, the MOIT issued Decision No.818/QD-BCT on initiation of antidumping investigation against imports of pre – painted galvanized steels from China and the Republic of Korea.

On 1<sup>st</sup> September 2016, the MOIT issued Decision No. 3584/QD-BCT on the application of provisional antidumping measure on imports of pre – painted galvanized steels. Accordingly, the provisional dumping duties imposed for the products under investigation imported from China were 4.02 – 38.84% and from Republic of Korea were 12.40% – 19.00%.

The case is under investigation and is scheduled to be concluded in March 2017.



## BOX 9 ANTIDUMPING INVESTIGATION ON H-STEEL PRODUCT (AD03)

On 7<sup>th</sup> July 2016, the VCA received the petition requesting for the application of anti-dumping measure on H-Steel product imported from China with allegation that the dumped imports caused material retardation of the establishment of an industry. On 5<sup>th</sup> October 2016, the MOIT issued Decision 3993/QD-BCT on the initiation of antidumping investigation to the abovementioned product.

The VCA received the questionnaire responses from interested parties and completed verification of domestic producers. On 22<sup>nd</sup> December 2016, based on the request for extension from some interested parties, the MOIT issued Decision No. 4992/QD-BCT on the extension of 60 days (until 4<sup>th</sup> March 2017) for disclosure of the preliminary report.

## BOX 10 SAFEGUARD MEASURE ON MONOSODIUM GLUTAMATE (MSG) (SG03)

On 1<sup>st</sup> September 2015, the MOIT issued Decision No.9269/QD-BCT on the initiation of safeguard investigation on monosodium glutamate (MSG). Based on the VCA's findings, the MOIT, on 10<sup>th</sup> March 2016, issued Decision No.920/QD-BCT on the application of safeguard measure on MSG. Accordingly, the definitive imposed safeguard duties are as follows:

Effective Period	Definitive safeguard duties
25/3/2016 – 24/3/2017	4,390,999 VND/ton
25/3/2017 – 24/3/2018	3,951,899 VND/ton
25/3/2018 – 24/3/2019	3,556,710 VND/ton
25/3/2019 – 24/3/2020	3,201,039 VND/ton
From 25/3/2020	0 VND/ton (If not extended)

## BOX 11

### SAFEGUARD INVESTIGATION ON CERTAIN SEMI-FINISHED AND FINISHED PRODUCTS OF ALLOY AND NON-ALLOY STEEL (SG04)

On 25<sup>th</sup> December 2015, the MOIT issued Decision No.14296/QD-BCT on the initiation of safeguard investigation on certain semi-finished and finished products of alloy and non-alloy steel. On 18<sup>th</sup> July 2016, the MOIT issued Decision No.2968/QD-BCT on the application of definitive safeguard measure. Accordingly, definitive safeguard duties applied to the Semi-finished products of iron or non-alloy steel products is 23.3% and Bars & rods of iron or non-alloy steel increased from 14.2% to 15.4% in comparison with the provisional measure as provided in Decision No. 862/QD-BCT on 7<sup>th</sup> March 2016.

In accordance with the WTO Agreement on Safeguard in which Vietnam is a member, the MOIT decided the period for application of definitive safeguard duties as follows:

Effective period	Semi-finished products of iron or non-alloy steel products	Bars & rods of iron or non-alloy steel
22/3/2016 (the date on which the provisional safeguard measure took into effect) – 01/8/2016	23.3% (provisional safeguard measure)	14.2% (provisional safeguard measure)
02/8/2016 (the date on which the definitive safeguard measure took into effect) – 21/3/2017	23.3% (definitive safeguard measure)	15.4% (definitive safeguard measure)
22/3/2017 – 21/3/2018	21.3%	13.9%
22/3/2018 – 21/3/2019	19.3%	12.4%
22/3/2019 – 21/3/2020	17.3%	10.9%
From 22/3/2020 onwards	0% (if not extended)	0% (if not extended)

## **BOX 12** SAFEGUARD INVESTIGATION ON PRE-PAINTED GALVANIZED STEEL SHEET AND STRIP (SG05)

On 6<sup>th</sup> July 2016, the MOIT issued Decision No.2847/QD-BCT on the initiation of safeguard investigation against imports of pre-painted Galvanized steel sheet and strip.

Because of complexities in this case, on 22<sup>nd</sup> December 2016, MOIT issued Decision No.4993/QD-BCT on the extension of 2-month of investigation (i.e. until 6 March 2017). Currently, the case is under investigation and is scheduled to be concluded in March 2017.

### **1.3. Review the compliance of law on trade remedies application against imports into Vietnam**

*1<sup>st</sup> administrative review of antidumping measure on cold rolled stainless steel (code AR01.AD01)*

On 5<sup>th</sup> September 2014, the MOIT issued Decision No.7896/QD-BCT on the application of antidumping duties to imports of cold rolled stainless steel (Inox) from China, Indonesia, Malaysia and Chinese-Taipei. After one-year application of the measure, based on the request from the domestic industry, on 21<sup>st</sup> October 2015, the MOIT issued Decision No 11353/QD-BCT on reviews of antidumping measure. On 29<sup>th</sup> April 2016, the MOIT issued Decision 1656/QD-BCT on the results of the first administrative review after calculating and analyzing relevant indicators. Accordingly, the dumping duties rate have significantly increased as follows: dumping duties for exporters from China increased from 4.64% - 6.87% to 25.35% (only the exporter named TISCO got the dumping duties of 17.75%); dumping duties of exporters from Indonesia increased from 3.07% to 13.03%. However, dumping duties for exporters of Malaysia reduced from 10.71% to 9.55%.



## 2. TRADE REMEDIES COMPLIANCE

As the focal point, the VCA has coordinated and instructed state-agencies, industry associations, enterprises in dealing with anti-dumping, anti-subsidy and safeguards cases against Vietnam’s exports, in 2016, the authority handled 12 new cases of trade remedies (defense cases): 07 anti-dumping investigations (AD), 03 anti-circumvention of antidumping measure investigations (AC) and 02 anti-subsidy investigations (CVD); and continues to follow-up and deal with 25 cases of trade defense which have been investigated before.



**Table 5: Statistics of trade remedies cases against exports of Vietnam**

	Before 2009	2009	2010	2011	2012	2013	2014	2015	2016	Total
Anti-Dumping	25	4	1	3	8	3	5	12	7	68
Safeguards	6	2	1	2	2	1	4	1	0	19
Anti-Subsidies	0	1	0	1	1	2	2	0	2	9
Anti-Circum-vention	5	1	1	1	1	0	2	1	3	15
Total	<b>36</b>	<b>8</b>	<b>3</b>	<b>7</b>	<b>12</b>	<b>6</b>	<b>13</b>	<b>14</b>	<b>12</b>	<b>111</b>



## BOX 13 THE U.S

### **( 1 ) + ( 2 ) Anti-circumvention of antidumping duties and anti-subsidies investigation to corrosion-resistance carbon steel (CORE) and Cold-rolled steel (CR) (2 cases)**

In November 2016, the Department of Commerce (DOC) has initiated the 2 above mentioned cases.

The VCA is coordinating with Trade Office in US, Steel Association, interested exporters of Vietnam and their legal counsels to exchange the plans to deal with the cases and closely follow the proceedings.

### **( 3 ) Issuance of final determination on injury in antidumping investigation on Circular Welded Carbon-Quality Steel Pipe – CWP originating in various countries, including Vietnam**

On 18<sup>th</sup> November 2016, the US International Trade Commission (USITC) issued the final determination on injury issue in the antidumping investigation on CWP, accordingly, USITC concluded that the import volume from Vietnam is negligible.

Based on USITC's findings, DOC did not issue the antidumping order to imports of CWP from Vietnam.

### **( 4 ) The eleventh administrative review (POR11) of the antidumping duty order on certain warm water shrimp**

On November 9, 2016, the Department of Commerce (Department) published in the Federal Register the preliminary results of the eleventh administrative review (POR11, from February 01, 2015 to January 31, 2016) of the antidumping duty order on certain warm water shrimp from Vietnam.

Accordingly, DOC preliminarily found that the 2 mandatory respondents selected for individual examination (whose export volume to the US is largest during POR) and 51 other exporters who requested for review have not responded to the questionnaire in its entirety, have not established their entitlement to a separate rate and are therefore being treated as part of the Vietnam-wide entity, subject to the Vietnam-wide entity rate of 25.76%. Under DOC's policy, the Vietnam-wide entity rate will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-Wide Entity, the entity is not under review and the entity's rate is not subject to change (i.e., 25.76%).

Regarding 12 exporters of Vietnam which were granted a separate rate, the preliminary duties is 4.78% (the rate is same as POR10 because 2 mandatory respondents were subjected to country-wide rate, consequently DOC issued appropriate instructions that are consistent with their regulations to determine a separate rate).

DOC also preliminarily determined that there were 13 other exporters of Vietnam which did not export to the US during POR, therefore, their entries after POR will be liquidated at the level of country-wide rate.

On February 23, 2017, DOC published the final results of the review in which they finally concluded that the preliminary results were not subjected to change because none of interested parties filed case briefs and no interested parties filed rebuttal briefs for DOC to review their preliminary determination.

#### **( 5 ) Twelfth administrative review of the antidumping order on Certain Frozen Fish Fillets**

On September 19, 2016, DOC determined the preliminary results of the Twelfth administrative review (POR12) of the antidumping order on Certain Frozen Fish Fillets imported from Vietnam for the period of August 1, 2014 - July 31, 2015.

The country-wide entity was unchanged at the rate of 2.39 USD/kg, duties for voluntary respondents were 0.69 USD/kg. The duties for mandatory respondents were country-wide entity due to lack of cooperation with the investigating authority.

On March 27, 2017, DOC issued final determination in which the results were unchanged.

#### **( 6 ) Rescission of third administrative review of the antidumping order on Utility Scale Wind Towers**

On October 21, 2016, DOC issued the notice of Rescission of the third administrative review (POR3) of the antidumping order on Utility Scale Wind Towers for the period of February 1, 2015 - January 31, 2016.

## BOX 14 AUSTRALIA

### **( 7 ) Antidumping investigation on Quicklime**

On April 29, 2016, the Antidumping Commission of Australia (ADC) initiated an antidumping investigation on imports of quicklime from Vietnam, Malaysia and Thailand.

On November 24, 2016, ADC issued the notice of termination of the investigation because they determined that material injury to the Australian industry, that has been, or may be, caused by that dumping is negligible.

### **( 8 ) + ( 9 ) Antidumping and Anti-subsidies investigations on Aluminum Extrusions**

On August 16, 2016, ADC initiated the abovementioned proceedings to the imports from Vietnam and Malaysia. This is first anti-subsidies investigation of ADC against exports of Vietnam.

On October 17, 2016, ADC issued preliminary findings which determined the subjected goods of exporters/producers from Vietnam was sold at dumped price with the dumping margin of 8.5% - 34.2%.

ADC is scheduled to conclude its investigation in May 2017.

### **( 10 ) + ( 11 ) Antidumping and Anti-subsidies investigations on Zinc Coated (Galvanized) Steel**

On October 7, 2016, ADC initiated the above mentioned proceedings to imports from Vietnam. ADC is scheduled to issue its findings in June 2017.

## BOX 15 INDONESIA

### **( 12 ) Antidumping investigation on Flat-rolled products of iron or non-alloy steel coated with aluminum zinc**

On December 23, 2016, Antidumping Komite of Indonesia (KADI) initiated the proceeding.

The VCA has worked with KADI and keeps following closely with the investigation to support exporters of Vietnam.

## BOX 16 INDIA

### **( 13 ) Antidumping investigation on spandex**

On January 27, 2016, India notified the initiation of the abovementioned investigation.

Earlier, India has conducted the safeguard investigation on the same products, however, no measure was applied because the domestic industry did not suffer from serious injury or threat thereof.

On March 8, 2017, India issued the disclosure statement, accordingly, the dumping margin for exporters of Vietnam is 1-10%.

### **( 14 ) Final decision of the antidumping investigation on AA-battery**

On September 27, 2016, India disclosed the investigation result. Accordingly, no measure was applied to the subject goods because the dumped import did not cause material injury to Indian industry, as well as the evidence of increase of import causing adverse effects to the domestic industry was insufficient when assessing the threat of material injury.

## BOX 17 KOREA

### **( 15 ) Republic of Korea (Korea) initiated the antidumping investigation on Ferro-Silico-Manganese**

On December 7, 2016, Korea initiated the antidumping investigation on Ferro-Silico-Manganese from Vietnam. This is the first case initiated against export of Vietnam since the FTA between Vietnam and Korea has been effective.

There is only one enterprise of Vietnam exported the subject goods and participated in the proceedings. The VCA is coordinating with the exporter to deal with the case.

## BOX 18 TURKEY

### **( 16 ) Final decision of the safeguard investigation on smart phone**

On March 4, 2016, Turkey terminated the case due to the withdrawal of petition from the petitioner.

### **( 17 ) Final determination of anti-circumvention investigation on granite**

On the February 17, 2016, the Ministry of Economy of Turkey issued the final determination which concluded that exporters/producers of Vietnam (except for 2 exporters which were identified as conducting actual manufacturing process) circumvented the dumping duties applied for imports from China. Therefore, the dumping duties applied for the granite imported from China shall be imposed for imports from Vietnam at the rate of 174 USD/ton. In addition, any change of duties applied to the imports from China shall be applied to imports from Vietnam.

### **( 18 ) Final determination on anti-circumvention investigation of Cold Rolled Stainless Steel Welded Tubes**

On March 18, 2016, the Ministry of Economy of Turkey issued the final decision on the abovementioned investigation. Accordingly, it was determined that 3 exporters/producers from Vietnam which fully cooperated with the investigating authority would not be subject to anti-circumvention measure.

The remaining exporters who did not respond to the questionnaire were considered to be uncooperative parties and were applied facts available. Therefore, the duties applied for them were the same rates with the imports from China (25.27%).



## BOX 19 THAILAND

### **( 19 ) Disclosure of Essential facts of antidumping investigation on Certain Hot dip plated or coated with aluminum zinc alloy of cold rolled steel**

On September 20, 2016, the Department of Foreign Trade under the Ministry of Commerce of Thailand issued the statement of Essential facts of antidumping investigation on Certain Hot dip plated or coated with aluminum zinc alloy of cold rolled steel. Accordingly, the proposed antidumping duties applied to exporters of Vietnam is expected to be 7.94% - 40.49%.

### **( 20 ) Disclosure of Essential facts of antidumping investigation on Painted hot dip galvanized of Cold rolled steel and painted hot dip plated or coated with aluminum zinc alloy of cold rolled steel**

On September 20, 2016, the Department of Foreign Trade under the Ministry of Commerce of Thailand issued the statement of Essential facts of antidumping investigation on Painted hot dip galvanized of Cold rolled steel and painted hot dip plated or coated with aluminum zinc alloy of cold rolled steel. Accordingly, the proposed antidumping duties applied to exporters of Vietnam is expected to be 4.51% - 60.26%.

## B- SUPPORTING ACTIVITIES FOR THE ENFORCEMENT AND COMPLIANCE OF TRADE REMEDIES LAW

### 1. LAW ADVOCACY

In the past period, the VCA has always strived to improve the legal framework to protect the legitimate rights and interests of enterprises. Specifically, the VCA has organized and/or co-ordinated with different agencies to organize training courses, seminars and presentations on trade remedies for institutions such as colleges, universities, research institutes, training centers to train central and local staff as follows:

(i) Training course on trade remedies, with the participation of enterprises engaged in manufacture and business, import-export, associations and representatives of some departments of local government in Hanoi in April 2016.

(ii) Conference to review trade remedies law enforcement. The conference provided a summary of the implementation of the three Ordinances on Safeguards, Antidumping and anti-subsidies from the state management's perspective; practices and issues of the enforcement of trade remedies law from enterprises' perspective; some current inadequacies and the need to improve the legal framework of Vietnam's trade remedies.

(iii) Seminar to advocate international economic integration. At this event, speakers kept participants updated on Vietnam's international economic integration - Opportunities and Challenges for Enterprises; Rules of Origin in Free Trade Agreements (FTAs) in which Vietnam is a member; The tendency to apply trade remedy measures in the post-FTA and the use of early warning system to limit the damage from trade remedies measures against Vietnam's exports.

To collaborate with line ministries and agencies (Vietnam Institute for trade and industry studying), Vietnam Chamber of Commerce and Industry (VCCI), WTO Center in Ho Chi Minh City and foreign organizations (MUTRAP, Aus-aid Project, etc.), Departments of Industry and Trade (Hanoi, Hai Phong, Dong Thap ...) to organize thematic presentations on trade remedies legislation, procedures of investigation of some foreign countries...

To study information and provide feedbacks, comments, suggestions, advice to government agencies, enterprises, exporters and associations in the field of trade remedies.

To send officials to participate in training courses at home and abroad for purpose of capacity building to serve the work.



## 2. CODIFY TRADE REMEDIES LAW

At present, our law on trade remedies still has certain limitations causing difficulties for enterprises who wish to file a petition as well as for the investigation process of the competent authority. Therefore, together with the application of the current provisions, the investigating authority must still refer to and apply WTO's law. However, the unconstitutional provisions have been creating unnecessary legal conflicts when applied in practice.

Therefore, the objective of completing the legal framework as well as improving the legal validity of the regulation has been reviewed, studied and designed by the VCA. These results have been presented in the Draft of Law on Foreign Trade Management with the highest level of completion which will provide a legal basis for the investigation and application of trade remedies.

In addition, to implement Decision 6897/QĐ-BCT dated July 7, 2015 promulgating the codification plan of the legal system under the Ministry of Industry and Trade, the VCA has carried out activities to collect data, synthesized and finalized the report on the trade remedies codification under each heading line. At present, the VCA has completed codification work on anti-dumping and safeguard items, contributing to the creation of a legal library for the business community and investors.



## 3. EARLY WARNING SYSTEM

In order to assist enterprises in the early detection of trade remedies cases, since 2010, the VCA has set up and operated an early warning system on anti-dumping cases. After being upgraded in 2015, the Early Warning System continued to operate effectively in 2016, providing early warning of potential anti-dumping cases to the business community.

Moreover, specialized divisions of the VCA have continuously been updating and publishing articles on domestic and foreign trade defenses on the website of the system. In addition to the function of early warning of anti-dumping cases, the system is also designed to provide quite up-to-date data on the import and export status of markets and commodities within the scope of System.

In order to strengthen the outreach of trade remedies measures and guide to use the early warning system to the business community, in 2016, the VCA has coordinated with some Departments of Industry and Trade at local level to organize workshops on trade remedies and guidance of early warning system to relevant authorities and exporters in some provinces and cities nationwide such as Hanoi, Hai Phong, Ho Chi Minh City... The workshops have provided participants with information on the current context of international economic integration, updated the use of trade remedies for imports and exports and guided enterprises how to use effectively the early warning system in early recognition of the potential of anti-dumping cases as well as in business activities.



## 4. NEGOTIATION OF TRADE REMEDY CHAPTER IN FTAS

### *(i) FTAs under negotiation*

In 2016, the VCA has actively participated in negotiating the content of trade remedy in 03 FTAs, including FTA Viet Nam – Cuba (2<sup>nd</sup> round), FTA Viet Nam – Israel (1<sup>st</sup> round), and RCEP (13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup> round) and in re-negotiation of FTA Viet Nam – EFTA.

### *(ii) FTAs that have completed negotiation*

The VCA has participated in the implementation of finished and signed FTAs (FTA Viet Nam – Korea, FTA Viet Nam – EAEU), in which the Parties focus on in-depth discussion of the mechanism of cooperation, technical support, capacity building and discussion of certain technical issues of trade remedies investigations.

Besides, the VCA also participated in the legal scrubbing of FTA Viet Nam – EU.

## C- EXPLANATION OF MARKET ECONOMY STATUS

Up to 2016, there are 66 countries/partners that have recognized the market economy status for Viet Nam.

In 2016, 7 partners have recognized Viet Nam as a market economy, specifically: (i) 04 FTA partners: Canada and Mexico recognized that Viet Nam's economy meets their domestic criteria on market economy at the time of signing TPP through Official Letters at ministerial level; Hong Kong and Israel recognized Viet Nam as a market economy within the framework of FTA Viet Nam – Israel and FTA ASEAN – Hong Kong; (ii) (03) Kuwait, Qatar and Paraguay recognized Viet Nam as a full market economy as the result of political and diplomatic lobby.

The United States and European Union (EU) – 02 most important trading partners which have domestic legislations on market economy status – have not recognized the market economy status for Viet Nam. The explanation of market economy with these partners is as follows:





**1. With EU**

Since its establishment in 2007, the Working Group on Viet Nam’s market economy status between Viet Nam and EU has held 06 official meetings. After the 6th meeting (in June 2014), the European Commission (EC) highly appreciated the progress of Viet Nam in reforming its legislations in order to meet the criteria and requirements of a market economy. Until now, EC preliminarily recognized that Viet Nam has met 02 out of 05 EC’s criteria on market economy.

On November 9, 2016, EC presented new proposed changes to anti-dumping and anti-subsidy legislations, accordingly, the criteria on market economy status are expected not to be effective anymore, which is assessed to have certain effects on the orientation and objectives of the Working Group. The VCA is coordinating with relevant agencies to study on new proposal and to have appropriate reaction.

**2. With the U.S**

Since its establishment in 2008, the Structural Issues Working Group between the United States and Viet Nam on Viet Nam’s market economy status has held 08 technical official meetings (the 8th meeting was held in October 2016) and 01 meeting at vice-ministerial level.

**D- DISPUTE SETTLEMENT  
AND WTO - RELATED  
ACTIVITIES**

Until 2016, Viet Nam has joined in 17 WTO dispute cases relating to trade remedy, of which Viet Nam joined 03 cases as Complainant (DS404, DS429 – against the United States concerning anti-dumping measures on shrimp and DS496 – against Indonesia concerning safeguard measure on certain iron or steel products); and 14 cases as Third Party.

In 2016, the VCA focuses on the following cases:

**1. DS429 - VIET NAM CHALLENGES  
THE UNITED STATES CONCERNING  
THE U.S.’S ANTI-DUMPING MEASURES  
ON IMPORTS OF SHRIMP  
FROM VIET NAM**

On July 18, 2016, the Ministry of Industry and Trade of Viet Nam signed with the U.S Department of Commerce and the U.S Trade Representatives agreements on implementation of WTO Dispute Settlement Body’s findings and recommendations in DS429. Accordingly, DOC has already issued the final determination changing dumping margin for Minh Phu Seafood Corporation (0%) and revoked the duty order for Minh Phu for meeting the conditions of revoking duty order for individual company (dumping margins of 0%/de minimis in 03 consecutive administrative reviews). By this, Minh Phu – Viet Nam’s leading shrimp exporter – is excluded from the anti-dumping duty order when exporting shrimp into the U.S. Furthermore, part of the duty paid by Minh Phu for the previous years shall be refunded to Minh Phu (for millions of US dollar).



## 2. DS496 – VIET NAM CHALLENGES INDONESIA CONCERNING SAFE-GUARD MEASURE ON IRON OR STEEL PRODUCTS FROM VIET NAM

- On June 1, 2015, Viet Nam requested consultations with Indonesia regarding the safe-guard measure imposed by Indonesia on imports of certain flat-rolled iron or steel products from Viet Nam. This measure is applied from July 7, 2014 with the duty rate of nearly 50% of export price of the product.

- On September 17, 2015, Viet Nam sent to the WTO Dispute Settlement Body the request for establishment of a panel.

- On October 28, 2015, the panel was established.

- The Ministry of Industry and Trade (the focal point and chair-agency) has actively coordinated with lawyers and other interested parties to study and prepare submissions and to give oral statement in the 1st substantive meeting in October 2016 and the 2nd substantive meeting in December 2016.

## 3. CASES AS THIRD PARTY

- DS471 – China challenges the United States regarding certain methodologies and their application to anti-dumping proceedings involving China.

- DS464 – Korea challenges the United States regarding anti-dumping and countervailing measures on large residential washers from Korea.

- And other cases: DS474, DS490, DS504, DS509.

Some claims of these cases are issues that Viet Nam are interested in TRs investigations, especially anti-dumping proceedings, such as “zeroing” methodology, differential pricing methodology. Viet Nam has actively participated in some cases by studying and submitting submissions and making speech in substantive meetings (DS464, DS471).

Participation in dispute cases as third party enhances Viet Nam’s knowledge of regulations and practice in TRs investigation of other countries and the interpretation and views of DSB on these issues, and draws lesson and experience for Viet Nam in current and subsequent dispute cases.

## 4. MEETINGS OF 03 WTO COMMITTEES ON ANTI-DUMPING, SUBSIDY AND COUNTERVAILING MEASURES AND SAFEGUARD

The VCA chaired and coordinated with relevant agencies to participate in meetings of 03 WTO Committees on anti-dumping, subsidy and countervailing measures and safeguard in April and October. The VCA took advantage of this multi-lateral forum to express views and concerns on certain cases relating to exports of Vietnam in order to protect the rights and interests of Viet Nam’s enterprises..



## E. INTERNATIONAL COOPERATION IN TRADE REMEDY



### a) Cooperation with Australia:

In 2016, within the framework of the project “Strengthening Competition and Trade Remedies policy in Vietnam”, the VCA coordinated with the Australian Agency for International Development (Ausaid) to implement activities aiming at strengthening the implementation of Vietnam’s competition policy and trade remedy measures to be in line with its commitments in international economic integration, promoting a competitive environment and ensuring fair international trade.

### b) Cooperation with the Republic of Korea:

During the visit and working session of the Korea Trade Commission (KTC) to the VCA, two sides signed an MOU in cooperation in the field of Trade remedy.

In addition, the VCA also commented on cooperation in the trade remedy for a number of Joint Committees between Vietnam and its partners such as: Malaysia, India, Thailand, Republic of Korea, Philippines, etc and prepared trade remedy contents for working session, forums, bilateral and multilateral meetings at various high ranking levels such as Vietnam - Philippines bilateral conference, Vietnam - Indonesia bilateral conference, Bilateral exchange on the sidelines of the APEC Trade Ministers Meeting...







# OTHER ACTIVITIES

# A - CULTURAL ACTIVITIES

*Under the support of the VCA’s leaders, the social activities, such as sport, volunteer, art performance have been continuously developed.*

*These activities improve social engagement among staff and other departments within the Ministry.*



The VCA Youth Union cooperated with the MOIT Youth Union to conduct useful activities targeting community, for example, the Program Lighting candles and tributing gifts to people under preferential treatment policy on the occasion ò July 27, 2016 at Kim Son Cemetery, Gia Lam, Hanoi.

On celebrating national holidays such as April 30, May 1 and May 7, the VCA Youth Union organized the VCA SUMMER FANTASY OUTING 2016” in Dam Long, Ba Vi, Hanoi. The program attracted participation of almost VCA staffs, which tightened partnership and friendship among us.

In the mean time, taking care of and commending kids are also regular social activities done by the VCA Youth Union. For instance, it handed gifts and rewards to students with good academic records or excellence prizes or timely encouraged disadvantaged ones





## B - SPORT ACTIVITIES

The Youth Union of the VCA and MOIT successfully co-organized the MOIT Football League in May, 2016.

Sport also connected competition and consumer agencies in ASEAN region. The VCA and the Internal Trade – Ministry of Commerce, Laos joined a friendly football match on the sideline of the MOC's study visit to Vietnam on consumer protection.







# OVERALL ASSESSMENT OF 2016 **AND STRATEGIES FOR 2017**

# A- OVERALL ASSESSMENT

## 1. COMPETITION

### 1.1. Accomplishments

**T**he VCA participated in a number of legal documents on or relevant to competition in order to consolidate the legal system on competition, which will lay the foundation for investigating and handling competition cases in the coming time.

In the context that there was unexpectedly high increase in the number of illegal multi-level sales, which has caused serious impact on the socio-economic life, the VCA, within its competence, has been very active in and quickly-responding to oversight of those activities as well as settled them in due course. This has helped stabilize the market, ensure the legitimate rights and interest of the customers.

At the same time, outreach activities have been utilized by the VCA in parallel with enforcement activities so that the awareness of business community, relevant agencies and the whole society has been much improved. In particular, more and more enterprises are approaching the VCA to get consultation and assistance in the course of doing business. The VCA also got request from several State management agencies to build up cooperation and coordination mechanism as well as regular consultation with the VCA so as to ensure fair competition on markets and interest of the whole community.

Moreover, competition supervision gained encouraging results in the past year. Sector regulators have paid more attention to and focus on the role of competition policy towards the sector policies with a view to creating favorable business environment for all market players and laying the foundation for cooperation with the VCA on related matters. Domestic and foreign enterprises (operating in Vietnam) are now becoming more aware of complying with competition legislations. It's observed that the business environment has been much improved in Vietnam on recent days.



## 1.2. Drawbacks

**W**hen fulfilling her missions and goals, in addition to above mentioned achievements, the VCA also faced with difficulties and challenges stemming from objective and subjective factors.

Firstly, due to huge professional work vested in management over multi level sale acts so little resource has been mobilized to investigate and handle unfair competition cases.

Secondly, there is limitation on the number and experience of investigators at the VCA. In particular, many of investigators are young and lack experiences, which does not only affect the quality and progress of the investigation process but also the general VCA's performance.

Thirdly, the competition legislation itself also matters. The VCL (2004) is the first legal document regulating competition issues in Vietnam so its loopholes are unavoidable. It's observed that with its rigidity, form-based approach, improper competition regime, etc...the VCL has caused obstacles to the enforcement process.

Fourthly, due to the complexity of the anti-competitive cases, investigators and case handlers are required to be skilled, have concrete background and expertise in the sector/area under investigation so as to get the best results in information/evidence collection as well as case verification.





## 2. CONSUMER PROTECTION

### 2.1. Accomplishments

In 2016, State management on consumer protection gained accomplishments as below:

- Guiding and directive documents on consumer protection were consolidated in a more detailed manner to ensure that legal documents will be efficiently enforced in really life.

- More attention was granted for State management on consumer protection from central to local level so it has become more professional and effective.

- State management agencies were very supportive of social organizations' establishment and expansion. Consumer associations have set up their branches in wards, districts and have gained more influence in the society. The activities implemented by such associations turned to be more diversified and pervading.

- Individuals as well as organizations doing business were more aware of complying with the consumer protection legislation. A lot of enterprises showed their cooperativeness with the VCA in terms of handling consumer disputes, recalling products; notifying defective products and being active to register standard contracts and general transaction conditions with the relevant competent agencies.

With regards to management over standard contracts, though there was an dramatical increase in registration compared to that of the previous year, the VCA well handled all application dossiers in due course.

- Complete the internal procedure of processing standard contract registration dossiers with a focus on transparent and clear levelling to assure responsiveness and effectiveness.

- Enterprises' awareness has been improved and the number of violation acts has been reduced thanks to advocacy and dissemination activities; training workshops or consultations. At the same time, enterprises also received a lot of assistance for completing the application dossiers (regarding standard contracts and general transaction conditions) in a timely manner by laws.



## 2.2. Drawbacks

**T**hough a lot of achievements were gained, there were still drawbacks in fulfilling this mission, namely:

- Advocacy and dissemination activities just touched city downtowns or centers, not really pervading mountainous and remote or rural areas.

- Not many inspection and examination activities were conducted throughout the year. Most of consumer cases were settled via mediation or negotiation.

- Consumer associations weren't all established in all cities and provinces, which led to lack of inconsistency at nationwide level. At a number of DOITs, there existed differences in assigning which unit to be in charge of consumer protection.

- There was still limitation on the human resources dedicated to consumer protection especially at local level. At most of DOITs, only one staff is tasked with this mission together with others. What's more, they lacked expertise and experience in the said area.



## 3. TRADE REMEDIES

### 3.1. Accomplishments

**R**egarding lawsuits, the VCA was active in taking lead and tightly cooperating with relevant parties to follow cases in order to protect the legitimate rights and interests of Vietnam's involving enterprises.

As for investigating trade remedies cases, in the course of wider and deeper international economic integration (particularly with the negotiation and formation of more and more bilateral and multilateral FTAs in recent years), domestic products have faced fierce competition from imported ones. In that context, using trade remedies measures accepted by the WTO so as to protect domestic industries from unfair and fierce competition of imported products has proved to be quite useful and effective in the sense that it helps:

- ✦ *Lessen pressure of increase in imports.*
- ✦ *Reduce or recover damage caused by unexpected increase/unfair competition in/of imports.*
- ✦ *Protect nascent industries against fierce competition of imports.*
- ✦ *Prevent the threat of deterring the establishment of a new industry posed by unexpected increase/unfair competition in/of imports.*

Trade remedies applied by Vietnam in recent time have supported protecting nearly twenty thousand employees and contributed to around 2.9% of the whole country's GDP, which helped balance the international trade deficit. As for Vietnam, a small and long country with limited natural resources and huge population, production in the skeleton of the economy. That's why protection of the domestic production and jobs for the labor force (in conformity with international regulations) is the key mission of the Party, Government and management agencies including the MOIT.



### 3.2. Drawbacks

- *Nature of work:*

- + Due to complexity and technicality of trade remedies work, personnel in charge are required to have wide background of law, economics and trade as well as good command of foreign languages. At the same time, regulations on trade remedies over the world keep changing and updating from time to time, therefore, in-depth understanding and timely updates should be in place. Furthermore, there is also work pressure from passiveness, unpredictability and time difference between Vietnam and other countries (e.g., EU, the US), etc.

+ Cases were detected passively, mainly via the channels of Trade Offices, trade representatives of Vietnam in other countries so there was certain delay in handling cases.



- + In the course of investigating cases with foreign substances, the VCA faced language barriers because foreign investigating agencies such as Turkey, Indonesia, Thailand or Brazil don't use English and they even requested provision of documents in their native languages.





# B- DIRECTION IN 2017

## 1. CONTEXT OF 2017

The legal system on competition, consumer protection and trade remedies are becoming more consistent and full fledged and the pool of staffs have gained more experiences while the modern facilities and equipments are available to support the whole agency's performance.

The national economy is predicted to grow at the GDP increase of about 6.7% in all three groups including agriculture, forestry and fisheries; industry and construction; service.

However, the economic development plan above won't be easily implemented due to a number of factors such as ratio of investment/GDP, inflation, overspending of state budget and slow growth of exportation.

With a view to hitting 2017 targets, it's necessary to perform well from the stage of planning till implementing, for example, promote equitizing SOEs especially increase start-up to increase the proportion of non-State capital so as to enhance competition and investment efficiency vested in economic development.

In the context of wider international economic integration, from now till 2020, Vietnam continues fulfilling her commitments on tariff as well as benefiting from reduction of tariff granted by other countries. Free market areas will be expanded such as EU, ASEM, RCEP. Except for TPP, 80% of the exports through the border of Vietnam will be free of export tariff. However, one barrier is reduced while another barrier might be set up. Together with technical barriers,

trade remedies barriers are predicted to be the key "card," to be used by countries to protect domestic production.

New consumption trends are also forecast to be in place in 2017. In addition to traditional transactions, namely direct transactions, on-line ones seem to robustly grow and account for great part in the digital era. Therefore, increase in the number and complexity of online fraud not only at national level but also international level has posed more challenges to the competent agency.



*Under that circumstance, there are some requirements for the VCA in 2017, details as below:*

Firstly, the pivotal focus of the VCA is to amend the VCL as tasked by the Government and the National Assembly to meet required quality and deadline.

Secondly, regarding trade promotion and market development inside and outside the territory, it's essential to utilize trade remedies tools to protect the domestic market. This falls one of six key assignments of the MOIT. Accordingly, the VCA needs to have a timely strategy responding to trade remedies barriers posed by other countries and take the advantage of FTAs to help Vietnamese enterprises compete with foreign ones in a fair manner.

Thirdly, it's important to promote advocacy, education and dissemination on consumer protection on nationwide basis. In parallel, activities to boost enterprises' responsibility towards consumer should be conducted, consultations should be provided for consumers to improve effectiveness of consumer protection.

Fourthly, more resources should be mobilized to enhance the capacity of investigating competition, consumer protection and trade remedies cases to protect the legitimate rights of true businesses and those of consumers to create a level playing field for all market players.



## 2. KEY MISSIONS IN 2017

With the achievements of 2016 and the context of 2017, the VCA identifies the directions and missions in 2017 as below:



### 1. The advisory mission on building legal documents

**T**he VCA will be active and take lead in amending the VCL to ensure the law's good quality and due submission to the Government and the National Assembly.

She will continue participation in building legal documents such as Decree No. 42/2014/ND-CP on management over multi level sales; Decree amending and supplementing some articles of Decree No. 71/2014/ND-CP detailing the VCL's provisions on handling competition violation.

### 2. Competition enforcement

The VCA sets targets of:

- ✦ *Investigate one or two new anticompetitive cases based on the results of pre-litigation investigation or information provided by complainant.*
- ✦ *As for pre-litigation investigation, the VCA identifies this as a key and regular mission in support for reviewing and detecting signals of violating the law, collecting information, data and evidence to serve preliminary and official investigation. Therefore, the VCA will make efforts to conduct pre-litigation investigations against 7 to 10 cases.*
- ✦ *Investigate and handle from 20 to 30 unfair competition cases.*
- ✦ *Inspect and examine multi level sales activities by plan and by accident when necessary.*



### 3. Competition management

Trong năm 2017, Cục sẽ tiếp tục làm việc với cáThe VCA will continue her cooperation with relevant agencies to improve supervision of competition, control over economic concentration. She will also provide contributions to legal documents related to competition upon request of other ministries/branches so as to create a favourable legal environment for fair competition. In addition to well performing the regular tasks, the VCA always attach importance to giving enterprises consultation and support to increase their awareness of competition law and policy.

Besides, the VCA will select market(s) for review and analysis to assess competition and point out competition concerns. The VCA plans to update information and changes in structures of such markets as petroleum, milk, coal, steel and sugar, which were under review in the previous years.

Also, the VCA will actively review and respond to administrative papers containing items against competition as well as enhance consultation from relevant parties upon request.

### 4. Consumer protection

Focus on implementing the Decision No. 1997/QĐ-TTg dated October 18, 2016 by the Prime Minister adopting the Program supporting consumer protection in the period of 2016-2020.

- Build and complete the network of consumer associations in a professional and consistent manner from central to local level towards socialization of consumer protection, details as below:

+ Supporting the DoIT to establish social organizations as the helping hands for the government agencies; guiding the consumer protection associations to improve their operation structure, uniting the name, mission and goal;

+ Guiding the DoIT in organizing and implementing the consumer protection activities, including setting up mediation team, procedure of mediation, complaint handling, standard contract and general conditions etc.





- Supervise and speed up the individuals and organizations doing business on goods and services under the management scope of Decision No. 02/2012/QĐ-TTg and Decision No. 35/2015/QĐ-TTg to register the standard contract/ general trading conditions.

- Promote the inspection, the handling of complaints and breaches of consumer protection law nationwide, the focus is put on controlling standard contract and general trading conditions and enterprises' compliance with their obligations specified in the Consumer protection law. Implement the duty of sectoral inspection in consumer protection area.

- Strengthen the operation of the Call Center for consumers 1800.6838, regularly integrating the center with hot lines of DoITs, associations and enterprises.

- Enhance the recall of defective goods; enhancing the cooperation of enterprises as well as their participation in consumer protection activities.

**+ Implement the program “enterprises for consumer”**

- Enhance effective enforcement of regulations on standard contracts and general transaction conditions via education and training activities targeting relevant parties like the DoITs, enterprises; advocacy and dissemination like publication and leaflets; receiving and processing application dossiers and other supervision activities like inspection and examination.



## 5. Trade remedies

*Investigate and handle trade remedies cases:*

- ✦ Complete the legal system on trade remedies: tightly cooperate with the other bodies to build up sub-law documents under the Foreign Trade management Law project to make up for current loopholes in investigation.
- ✦ Consolidate the organizational structure dealing with trade remedies to meet requirements on human resources and professionalism in investigation.
- ✦ Enhance the knowledge and capacity of investigators via training and internship programs.
- ✦ Build up a standard investigation procedure and establish a calculation software to make the investigation more professional and limit errors due to manual works.
- ✦ Put in place an appropriate and effective coordination and consultation mechanism between the investigating agency and enterprises.
- ✦ Study and collect information on selected goods or services having signs of breaching trade remedies regulations such as circumvention, antidumping, subsidized import, etc.
- ✦ Improve the effectiveness of advocacy and dissemination activities aiming at increasing enterprises and associations' awareness of utilizing trade remedy measures to protect their legitimate interests.





*In order to strengthen the capability of dealing with trade defense lawsuits, in 2017, the VCA will focus on the following missions:*

- Actively follow up trade defence lawsuits that might occur in 2017.
- Follow up current trade remedy cases relating to Vietnam's exports especially cases that are important to Vietnam and initiated by major markets.
- Enhance utilizing the Early Warning System to forecast markets which are likely to launch lawsuits against Vietnam so as to prepare appropriate responding options.
- Continue studying and updating regulations of the WTO and other countries on investigation and application of trade remedies measures.
- Continue cooperation with the US to organize bilateral working group meeting on MES.
- Cooperate with EC to organize Vietnam-EU meeting on MES explanation as well as discuss further new regulations on antidumping and anti-subsidy of EC.
- Cooperate with relevant agencies to lobby and follow up countries' recognition of Vietnam's MES

#### **WTO Dispute Resolution**

- Study and follow up the Mission and lawyers in the next steps of DS496.
- Follow up cases where Vietnam joined as the third party and actively take part in those cases.
- Continue in-depth research and join the WTO dispute resolution mechanism as a party or the third party of a case.

#### **FTA negotiation**

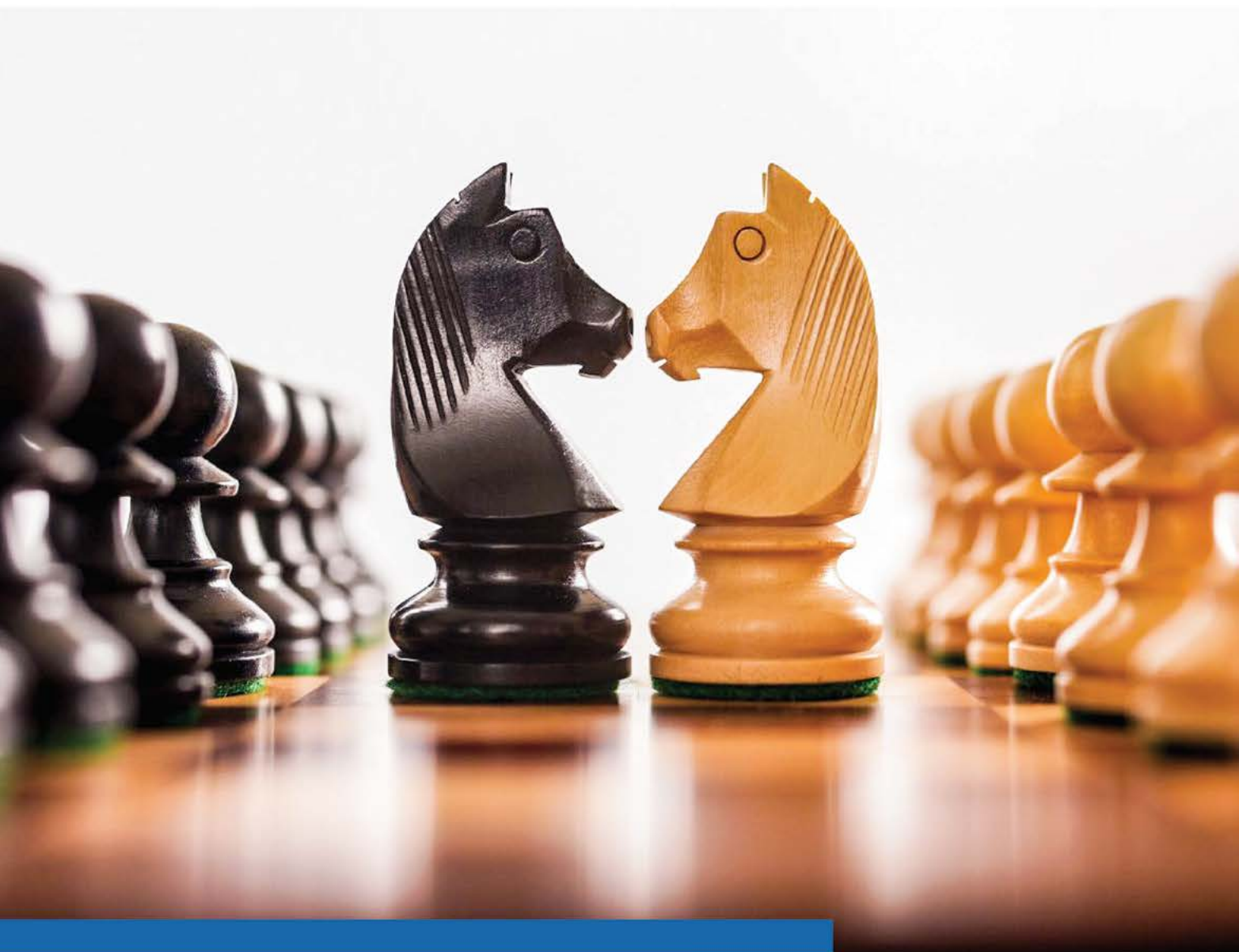
Actively cooperate with relevant agencies to participate in FTA negotiation content on trade remedies and implement such part of valid FTAs.

Cooperate with related departments within the MOIT to study the possibility of negotiating FTA(s) with new partners.









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