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Committee on Subsidies and Countervailing Measures

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SUBSIDIES**NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVI:1 OF
THE GATT 1994 AND ARTICLE 25 OF THE AGREEMENT ON
SUBSIDIES AND COUNTERVAILING MEASURES**

VIET NAM

The following communication, dated 26 February 2020, is being circulated at the request of the Delegation of Viet Nam.

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1 SUPPORTIVE PROGRAMS FOR ENTERPRISES USING LABOR WITH DISABILITIES

1. Title of the Program

Provide supports to production bases and trading enterprises in which either 30% or above of total employees are persons with disabilities, or 10 regular employees or above are disabled workers.

2. Objective of the Program

To encourage the recruitment of persons with disabilities in enterprises and organizations.

3. Legal Background and Authority for the Program

a. Legal Background

- 2010 Law on Persons with Disabilities (Law No. 51/2010/QH12);
- The Government's Decree No. 28/2012/ND-CP dated 10th April 2012 detailing and guiding a number of articles of the Law on Persons with Disabilities;
- 2013 Law on Employment and Government's Decree No. 61/2015/ND-CP dated 9th July 2015 on job creation policies and National Employment Fund (the legal document guiding the implementation of the 2013 Law on Employment);
- 2012 Labor Code;
- Circular No. 23/TC/TCT dated of 26th April 1996 of the Ministry of Finance guiding tax exemption procedures specifically for production bases and trading enterprises using disabled workers;
- The Government's Decree No. 218/2013/ND-CP dated 26th December 2013 detailing and guiding the implementation of the Law on Corporate Income Tax;
- Circular No. 78/2014/TT-BTC dated 18th June 2014 of the Ministry of Finance guiding the Government's Decree No. 218/2013/ND-CP dated 26th December 2013 guiding the Law on Corporate Income Tax.

b. Authority

- Ministry of Labor – Invalids and Social Affairs (MOLISA);
- Ministry of Finance (MOF);
- Vietnam Bank of Social Policies (VBSP);
- People's Committees of provinces and cities under central authority.

4. Form of the Subsidy

- Financial supports for improvement of working conditions for persons with disabilities;
- Exemption from corporate income tax;
- Concessional loans;
- Priority given with regard to leases of land, ground, and water surface.

5. To Whom and How the Subsidy is Provided

a. To Whom the Subsidy is Provided

- Production bases and trading enterprises where 30% or above of total employees are persons with disabilities;
- Production bases and trading enterprises where 10 regular employees or above are persons with disabilities.

b. How the Subsidy is Provided

For enterprises in which 30% or above of total employees are persons with disabilities:

- Financial supports for the improvement of working conditions for enterprises using persons with disabilities: the support value are based on the proportion of regular disabled workers in the production bases and trading enterprises, the level of impairment of workers, and the size of these enterprises, in accordance with Point a of Clause 1 of Article 9 of Government's Decree No. 28/2012/ND-CP dated 10th April 2012 guiding the Law on Persons with Disabilities.
- Chair persons of the People's Committees of provinces and cities under central authority shall decide the support value for the improvement of working conditions in production bases and trading enterprises in which the disabled employees proportion accounts for 30% or above of total employees.
- Exemption from corporate income tax: as stipulated in Circular No. 23/TC/TCT dated of 26th April 1996 of the Ministry of Finance on guiding the tax exemption procedures specifically for production bases and trading enterprises using disabled workers.
- Concessional loans: the amount, terms, conditions, and the interest rates of the loans are specified in Point c of Clause 1 of Article 9 of the Government's Decree No. 28/2012/ND-CP dated 10th April 2012 guiding the Law on Persons with Disabilities, which apply for the loans for job creation and disbursed from VBSP.
- Priority given for leases of land, ground, and water surface: in accordance with Points d and đ of Clause 1 of Article 9 of the Government's Decree No. 28/2012/ND-CP dated 10th April 2012 guiding the Law on Persons with Disabilities as follows:
 - Priority granted with regard to rents of land, ground, and water surface as promulgated by laws;
 - Exemption from rents of land, ground, and water surface used for production and trading purposes applied for enterprises in which 70% or above of total employees are disabled workers;
 - A 50% reduction on rents of land, ground, and water surface used for production and trading purposes applied for enterprises in which from 30% to below 70% of total employees are disabled workers.
- During the time of exemption from and reduction of rents of land, ground, and water surface, enterprises, according to legal provisions on land, must not do any of the following: convert, transfer, donate, grant, or lease use right of using land, ground, and water surface; mortgage, pledge, guarantee, joint venture contribution or an associate through the right of using land, ground, and water surface.

For enterprises in which 10 regular employees or above are disabled workers:

- Financial supports for the improvement of working conditions for enterprises using persons with disabilities: the support value are based on the proportion of regular disabled workers in the production bases and trading enterprises, the level of impairment of workers, and the size of these enterprises, in accordance with Point a of Clause 1 of Article 9 of the Government's Decree No. 28/2012/ND-CP dated 10th April 2012 guiding the Law on Persons with Disabilities.
- Concessional loans: the amount, terms, conditions, and the interest rates of the loans are specified in Point c of Clause 1 of Article 9 of the Government's Decree No. 28/2012/ND-CP dated 10th April 2012 guiding the Law on Persons with Disabilities, which apply for the loans for job creation and disbursed from VBSP.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

Since 2012 until present.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.

2 SUPPORT PROGRAM FOR ENTERPRISES USING HIGH NUMBER OF FEMALE EMPLOYEES

1. Title of the Program

Provide supports for enterprises using high number of female employees.

2. Objective of the Program

- To encourage the investments in construction of kindergartens, health facilities, cultural establishments, and other welfare works for employees;
- To encourage employers to use high number of female employees.

3. Legal Background and Authority for the Programa. *Legal Background*

- 2012 Labor Code;
- The Government's Decree No. 85/2015/ND-CP dated 1st Oct 2015 detailing a number of articles of the Labor Code on policies applied for female employees;
- Circular No. 78/2014/TT-BTC dated 18th June 2014 of the Ministry of Finance guiding the Law on Corporate Income Tax.

b. *Authority*

- Ministry of Labor – Invalids and Social Affairs (MOLISA);
- Ministry of Finance (MOF);
- Ministry of Construction (MOC);
- People's Committees of provinces and cities under central authority.

4. Form of the Subsidy

- Policies encouraging socialization in accordance with existing provisions of the State, which apply for activities in the fields of education and vocational training, health care, culture, sports, and environment;
- Preferential policies in accordance with the Law on Housing applied for activities relating to investment in housing construction for employees;
- Reduction of corporate income tax;
- Deduction of additional expenses for female employees when determining corporate taxable income.

5. To Whom and How the Subsidy is Provideda. *To Whom the Subsidy is Provided*

Employers that satisfy the conditions stipulated in Decree No. 85/2015/ND-CP and Circular No. 78/2014/TT-BTC.

b. How the Subsidy is Provided

For employers investing in construction of kindergartens, health facilities, cultural establishments, and other welfare works:

if they meet the Prime Minister's requirements regarding size and standards, they shall be entitled to policies on promoting socialization in accordance with existing provisions applied for activities in the fields of education and vocational training, health care, culture, sports, and environment (Article 11 of the Government's Decree No. 85/2015/ND-CP detailing and guiding a number of articles of the Labor Code with regard to policies applied for female employees).

For employers using a high number of female employees:

- Entitled to reduction of corporate income tax in accordance with the laws on corporate income tax;
- Entitled to deduction of additional expenses for female employees when determining corporate taxable income, as stipulated in Article 6 of Circular No. 78/2014/TT-BTC dated 18th June 2014 of the Ministry of Finance guiding the Law on Corporate Income Tax.

In addition, enterprises must fulfil other relevant requirements and conditions so as to be granted preferences in corporate income tax, as specified in Article 20 (Clause 5) and Article 22 of Circular No. 78/2014/TT-BTC dated 18th June 2014 of the Ministry of Finance guiding the Government's Decree No. 218/2013/ND-CP guiding the Law on Corporate Income Tax.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

Since 2014 until present.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.

3 PREFERENTIAL POLICIES ON CORPORATE INCOME TAX

1. Title of the Program

Preferences in corporate income tax given to enterprises investing in preferential sectors or preferential areas.

2. Objective of the Program

To encourage enterprises to invest in difficult economic growth areas, or in sectors lacking investments for development.

3. Legal Background and the Authority for the Program

a. Legal Background

- Law No. 14/2008/QH12 on Corporate Income Tax;
- Law No. 32/2013/QH13 amending the Law on Corporate Income Tax;
- The Government's Decree No. 218/2013/ND-CP detailing and guiding the Law on Corporate Income Tax (in effect from 15th February 2014);

- The Government's Decree No. 12/2015/ND-CP dated 12th February 2015 on elaboration of the law on amendments to tax laws and amendments to some articles of decrees on taxations.

b. Authority

- The Government;
- Ministry of Finance (MOF).

4. Form of the Subsidy

Preferences in income tax given to enterprises investing in preferential sectors or preferential geographical areas.

5. To Whom and How the Subsidy is Provided

a. To Whom the Subsidy is Provided

- Enterprises established in accordance with Vietnamese legal provisions;
- Enterprises established in accordance with foreign legal provisions, and either with or without a base in Viet Nam;
- Organizations established in accordance with the Law on Cooperatives;
- Specialised bodies established in accordance with Vietnamese legislation;
- Other entities which carry out production and trading activities generating income.

b. How the Subsidy is Provided

- Exemption and reduction of corporate income tax as stipulated in Articles 15 and 16 of Decree No. 218/2013/ND-CP guiding the implementation of the Law on Corporate Income Tax dated 3rd June 2008, and in the Law No. 32/2013/QH13 amending and supplementing a number of articles of the Law on Corporate Income Tax dated 19th June 2013.
- Preferential tax are specified from Clause 9 to Clause 16 of Article 1 of the Government's Decree No. 12/2015/ND-CP dated 12th February 2015 on elaboration of the law on amendments to tax laws and amendments to some articles of decrees on taxations. Tax exemption and reduction cases, as well as requirements to be granted preferential treatment, apply to enterprises that invest in preferential sectors and geographical areas, adopting a bookkeeping system with valid receipts and invoices, and pay taxes by declaration. The income subject to preferential tax must be journalised separately in their accounts.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

2014-2016.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.

4 PREFERENTIAL POLICIES ON IMPORT TAX

1. Title of the Program

Preferential import tax given to enterprises investing in preferential sectors or preferential geographical areas.

2. Objective of the Program

To encourage enterprises to invest in difficult economic growth areas, or sectors lacking investments for development.

3. Legal Background and the Authority for the Program

a. Legal Background

- Law No. 45/2005/QH11 on Export and Import Tax;
- Law No. 107/2016/QH13 on Export and Import Tax (in effect since 1st September 2016);
- Decree No. 87/2010/ND-CP detailing and guiding the Law on Export and Import Tax;
- Decree No. 134/2016/ND-CP detailing a number of articles and guiding the Law on Export and Import Tax (in effect from 1st September 2016).

b. Authority

Ministry of Finance

4. Form of the subsidy

Preferential import tax given to enterprises investing in preferential sectors or preferential geographical areas.

5. To Whom and How the Subsidy is Provided

a. To Whom the Subsidy is Provided

- Enterprises established in accordance with Vietnamese legislation;
- Enterprises established in accordance with foreign legislation, and either with or without a resident base in Viet Nam;
- Organizations established in accordance with the Law on Cooperatives;
- Specialised bodies established in accordance with Vietnamese legislation;
- Other entities which carry out production and trading activities generating income.

b. How the Subsidy is Provided

- Preferences in import tax by sectors and geographical areas are specified in Clauses 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Article 12 of Decree No. 87/2010/ND-CP; and in Chapter II (from Article 5 to Article 37) of Decree No. 134/2016/ND-CP (in effect since 1st September 2016).
- The aforementioned documents detail eligible cases for exemption, reduction, and reimbursement of export and import taxes; and dossiers and procedures for exemption, reduction, and reimbursement of import tax.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

2014-2016.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.

5 PREFERENCES IN LEASES OF LAND AND WATER SURFACE

1. Title of the Program

Preference in leases of land and water surface used for business purposes in compliance with the 2013 Land Law.

2. Objective of the Program

To encourage enterprises to invest in sectors and geographical areas promoted under the investment laws.

3. Legal Background and Authority for the Program

a. Legal Background

Before 1st July 2014:

- 2003 Land Law;
- Decree No. 142/2005/ND-CP guiding land rents and water surface rents;
- Circular No. 120/2005/TT-BTC guiding Decree No. 142/2005/ND-CP;
- Circular No. 94/TT-BTC amending and supplementing Circular No. 120/TT-BTC.

From 1st July 2014:

- 2013 Land Law;
- Decree No. 46/2014/ND-CP dated 15th May 2014 regulating land rents and water surface rents;
- Circular No. 77/2014/TT-BTC dated 16th June 2014 guiding the implementation of Decree No. 46/2014/ND-CP.

b. Authority

- The Government;
- Ministry of Finance.

4. Form of the Subsidy

Exemption from and/or reduction of land rents and water surface rents.

5. To Whom and How the Subsidy is Provided

a. To Whom the Subsidy is Provided

All entities that are entitled to lease land, water surface, and water surface using land, to invest in preferential sectors and geographical areas under the investment laws.

b. How the Subsidy is Provided

Through land rents; and reduction and exemption from land rents.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

2014-2016.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.

6 SUPPORT AND PREFERENTIAL POLICIES FOR DEVELOPMENT OF SUPPORTING INDUSTRIES

1. Title of the Program

Development of Supporting Industries.

2. Object of the Program

To support individuals and organizations to improve their capacity through activities to develop supporting industries.

3. Legal Background and Authority for the Program*a. Legal Background*

- Law on the Organization of the Government No. 32/2001/QH10 dated 25th Dec 2001 of the National Assembly;
- Investment Law No. 67/2014/QH13 dated 26th November 2014 of the National Assembly;
- Law on High Technology No. 21/2008/QH12 dated 13th November 2008 of the National Assembly;
- Law on Export and Import Tax No. 45/2005/QH11 dated 14th June 2005 of the National Assembly;
- Law on Corporate Income Tax No. 14/2008/QH12 dated 3rd June 2008; Law on Amendment to the Law on Corporate Income Tax No. 32/2013/QH13 dated 19th June 2013 of the National Assembly;
- Law on Value Added Tax No. 13/2008/QH12 dated 3rd June 2008; Law on Amendment to the Law on Value Added Tax No. 31/2013/QH13 dated 19th June 2013 of the National Assembly;
- Law on Tax Management No. 78/2006/QH11 dated 29th November 2006; Law on Amendment to the Law on Tax Management No. 21/2012/QH13 dated 20th November 2012 of the National Assembly;
- Law No. 71/2014/QH13 dated 26th November 2014 of the National Assembly, amending and supplementing the laws on taxation;
- Land Law No. 45/2013/QH13 dated 29th November 2013 of the National Assembly;
- State Budget Law No. 01/2002/QH11 dated 16th December 2002 of the National Assembly;
- Prime Minister's Decision No. 68/QĐ-TTg dated 18th January 2017 on Approval of Development Program for Supporting Industries (from 2016 to 2025);

- The Government's Decree No. 111/2015/ND-CP dated 3rd November 2015 on development of supporting industries;
- Circular No. 55/2015/TT-BCT dated 30th December 2015 of the Ministry of Industry and Trade on Guiding the orders and procedures to certify preferences and post-preferential examination for projects of supporting industry products of development priorities.

b. Authority

- Ministry of Industry and Trade (MOIT);
- Ministry of Finance (MOF);
- State Bank of Viet Nam;
- Ministry of Planning & Investment (MPI);
- Ministry of Natural Resources and Environment (MONRE);
- Ministry of Labor – Invalids and Social Affairs (MOLISA);
- Ministries, ministerial-level agencies, and government bodies shall, within the scope of their respective tasks and powers, coordinate with the Ministry of Industry and Trade to perform state management functions on development of supporting industries in compliance with laws.

4. Form of the Subsidy

- Preference in corporate income tax;
- Preference in import duties;
- Preference in crediting;
- Preference in VAT;
- Preference in environmental protection;
- Preference for SMEs, including:
 - In investment credits;
 - In land rents and water surface rents.
- Preference in investment by geographical areas.

5. To Whom and How the Subsidy is Provided

Individuals and organizations that carry out activities for development of supporting industries in Viet Nam.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

From 1st January 2016 until present.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.

7 FISHERY DEVELOPMENT POLICIES

1. Title of the Program

Fishery Development Policies.

2. Objective of the Program

- Upgrade and build fishing ports, fishing wharves, vessel anchoring areas, and other infrastructure and facilities at fishing ports so as to improve capability of management, monitoring, supervision, and inspection of fishing activities;
- Upgrade and modernize primitive vessels, converting from wooden to steel vessels to increase safety and minimize risks for fishermen participating in activities on the sea;
- Promote poverty alleviation;
- Maintain and develop traditional fisheries in a sustainable manner;
- Support the conversion of fishing gears, aiming to eliminate completely the use of destructive gears.

3. Legal Background and the Authority for the Program

a. Legal Background

- 2003 Law on Fisheries;
- 2002 Law on State Budget;
- 2013 Law on Corporate Income Tax;
- 2013 Law on Personal Income Tax;
- 2013 Law on Tax Management;
- The Government's Decree No. 67/2014/ND-CP dated 7th July 2014 on a number of fishery development policies;
- The Government's Decree No. 89/2015/ND-CP dated 7th October 2015 amending and supplementing a number of articles of Decree No. 67/2014/ND-CP;
- The Government's Decree No. 172/2016/ND-CP dated 27th December 2016 amending Government's Decree No. 67/2014/ND-CP on a number of fishery development policies;
- The Government's Resolution No. 113/NQ-CP dated 31st December 2016 allowing extension of implementing Decree No. 67/2014/ND-CP until 31st December 2017.

b. Authority

Ministry of Agriculture and Rural Development (MARD).

4. Form of the Subsidy

- Preference in investment policies;
- Preference in credit policies;
- Preference in insurance policies;
- Preference in tax policies;
- Other relevant preferential policies for fishery development.

5. To Whom and How the Subsidy is Provided

a. Whom the Subsidy is Provided

- Owners of fishing vessels, fishermen, and establishments of vessel-building, vessel-repairing, and logistical services for fishing in coastal provinces;
- Organizations and individuals involved in infrastructure investment projects for fishing purposes.

b. How the Subsidy is Provided

- Investment policy: Investment in essential infrastructure at fishing ports and storm shelters shall be derived from the state budget.
- Credit policy:
 - For building new fishing vessels: this credit policy grants to owners of fishing vessels, who order newly built steel vessels with a main engine capacity of 400CV or above to be used for offshore fishing activities and to provide logistics services for offshore fishing;
 - Working capital lending policy: this credit policy grants to owners of fishing vessels, who fish and provide logistics services for fishing. They shall operate in an effective manner, and have a stable financial capacity as well as specific business plans.
- Insurance policy: The government shall support 100% of the annual cost to purchase accidental insurance for each crew member working on board; hull insurance, equipment insurance, and fishing gear insurance of each vessel (insurance for all kinds of risks), in accordance with the cost norms specified in the Government's Decree No. 67/2014/ND-CP dated 7th July 2014 on fishery development policies.
- Tax policy:
 - Exemption from natural resource tax for wildy caught seafood;
 - No registration fee imposed on vessels fishing marine and aquatic products;
 - Exemption from personal income tax for individuals and households directly fishing seafood;
 - Exemption from corporate income tax upon income generated from seafood fishing activities; income generated from logistics services directly serving offshore fishing activities; and income generated from newly built and upgraded fishing vessels with a main engine capacity of 400CV or above and in service of fishing activities;
 - Exemption from import duties upon machineries, equipments, raw materials, and components, which have yet to be locally produced, in order to newly build or to upgrade vessels with a main engine capacity of 400CV or above.
- Other support policies:
 - Support 100% of training cost for crew members operating vessels with hulls made of steel or of new materials; Provide guidelines on utilization and maintenance of products with new technology, which applies for vessels with a main engine capacity of 400CV or above;
 - Support 100% of design cost for models of steel vessels for fishing and logistics service vessels for offshore fishing, which have the main engine capacity of 400CV or above;
 - Support 100% of periodic maintenance and reparation costs not exceeding 1% of the cost for a newly-built steel vessel whose capacity of the main engine is 400CV or above, on the basis of economic and technological cost norm for periodic maintenance and reparation.

6. Subsidy per unit

Statistical data not available.

7. Duration of the Subsidy

From 2015 to 2018. At the moment, this Program is under evaluation before taking further actions.

8. Statistic data permitting an assessment of the trade effects of the subsidy

Not assessable.
