

# Solution to Overcome Import Tariff Barriers for Vietnamese Goods Exported to the European Union Market

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Project Leader: Research on Solutions to Overcome Non-Tariff Barriers in Vietnamese Exports to the European Union Market

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## Abstract:

The research aims to propose solutions for overcoming non-tariff barriers in the export of Vietnamese goods to the European Union (EU) market. The study identifies common characteristics within the bloc, using data collected from 2015 to 2022. Various methods such as statistical analysis, balance analysis, interpretation, deduction, synthesis analysis, logic methods, and forecasting were employed. Based on the research findings, the author suggests several groups of solutions to address non-tariff barriers when exporting goods to the EU market: Government-related solutions (Enhancing information dissemination, promoting EU trade laws and policies; Proactively addressing anti-dumping barriers); Association-related solutions (Improving information collection and processing capabilities; Willingness to litigate and counter-litigate); Legal consulting organizations' solutions; Business-related solutions; Solutions for the seafood industry; Solutions for the footwear industry; Solutions for the textile and garment industry.

**Keywords:** Non-tariff barriers, EU market, European Union, agreements.

## 1. Introduction

Since 1968, the European Union (EU) has been a common market with a unified tariff structure. On January 1, 1993, the Maastricht Treaty was signed in the Netherlands and came into effect, coinciding with the official establishment of the European Single Market, abolishing internal borders between member states. This created a unified internal market where the free movement of production factors faced fewer obstacles. Alongside the formation of the Single Market, a common trade policy was introduced to regulate import and export activities and the flow of goods and services within the bloc.

The EU boasts the world's second-largest trading bloc, with continually increasing import volumes from around the world. However, Vietnamese businesses currently face numerous challenges when accessing and penetrating this market. The primary reasons include technical barriers and non-tariff barriers imposed by the EU on imported goods. The EU market, being a common market, presents various business practices and habits, which can vary significantly in terms of business scale and region. Vietnamese exports face fierce competition due to the growing interest of global manufacturers and exporters in this market.

Vietnamese businesses are actively and will continue to penetrate the diverse and dynamic EU market. Success or failure in the face of market dynamics and policies is a significant opportunity and challenge for Vietnamese businesses. It is crucial to assess whether Vietnamese businesses have the capability to overcome EU barriers.

## 2. Research Overview and Theoretical Framework

The term "barriers" in trade is formally mentioned in the World Trade Organization's (WTO) Agreement on Technical Barriers to Trade (Van den Bossche, 2008). However, this agreement does not provide a clear definition of the term but acknowledges it as an agreement that no country should be prevented from taking necessary measures to ensure the effectiveness of its exports, protect human life, health, animal and plant life, protect the environment, or prevent deceptive practices. These measures should not be applied in a manner that constitutes arbitrary or unjustifiable discrimination between countries or disguised restrictions

on international trade. Currently, international trade barriers appear in almost all areas with diverse and sophisticated measures. These measures can be at the border or behind the border, involving tariffs and non-tariffs, environmental measures, and sanitary and phytosanitary measures. Barriers can be general or sector-specific, affecting goods and services, as well as investment related to trade. The term "trade barriers" is commonly used but is not a formal term. In WTO documents, it is used to name the Agreement on Technical Barriers to Trade. Therefore, in the broadest understanding, "international trade barriers are any measures or actions that hinder international trade activities."

### **3. Non-Tariff Barrier Concept**

While tariff barriers are an essential tool for governments to restrict imports from foreign countries, their role diminishes as countries participate in international economic agreements that involve tariff reduction and trade liberalization. Non-tariff barriers, on the other hand, gain prominence in such situations. Non-tariff barriers are now considered crucial and indispensable tools for discouraging investors and limiting the importation of goods into domestic markets.

In practice, it is often challenging to distinguish whether non-tariff measures qualify as barriers. For example, the export quota on textile and apparel exports to the EU was merely a non-tariff measure until the World Trade Organization's Agreement on Textiles and Clothing (ATC) came into effect. After the ATC expiration, if the EU continues to apply this export quota, it would then be considered a non-tariff barrier. EU's typical non-tariff barriers significantly impede Vietnam's export to the EU market, including: (i) customs procedures; (ii) import quotas (Santoni & Van Cott, 1980); (iii) import restrictions and bans; (iv) anti-dumping duties; (v) food safety and consumer health regulations; (vi) social responsibility standards (SA 8000); (vii) chemical registration, evaluation, authorization, and restriction (REACH); (viii) environmental regulations; (ix) consumer habits and preferences; (x) distribution systems; (xi) product labeling regulations; (xii) origin labeling requirements; (xiii) packaging and packaging material regulations for exports to the EU; (xiv) quality standards for imported goods; (xv) domestic taxes and related fees; (xvi) EU subsidy regulations (O'Brien, 2016).

### **3. Research Methods and Models**

This research employs various research methods, including statistical analysis, balance analysis, interpretation, deduction, synthesis analysis, logical methods, and forecasting, to address theoretical and practical issues.

### **4. Solutions to Overcome Customs Tariff Barriers when Exporting Goods to the EU Market**

To successfully achieve the growth objectives outlined above, with the immediate goal of maintaining export turnover as in previous years until 2010, followed by achieving an average export growth rate of 15% per year and reaching a total export value to the EU market of \$27 billion by 2015, Vietnam needs concrete and robust solutions. One of the crucial solutions is how to proactively deal with and overcome the trade barriers of the EU, especially considering that Vietnam has not yet been recognized by the EU as a market economy. This lack of recognition may put us at a disadvantage when trying to navigate the barriers imposed by our EU partners. Based on these general issues, in order to overcome these barriers and further penetrate the EU market with Vietnamese goods, there needs to be close coordination among various stakeholders, including the government, businesses, associations, and legal consulting organizations. Everyone must make concerted efforts to tap into the vast and potential EU market for the benefit of the nation. To address this issue, I propose specific solutions for each sector to overcome non-tariff barriers and boost Vietnam's exports to the EU market, as follows:

#### **\* Solutions from the government's perspective**

*Strengthen the dissemination of information, knowledge about EU laws, and trade policies.*

Currently, in the global context, there are many economic and political fluctuations. Member countries within the EU are constantly making legal and trade policy changes to respond to market dynamics. If Vietnamese businesses lack information or are unaware of these changes, these policies can become formidable international trade barriers. However, if Vietnamese businesses are informed and aware of these changes in advance, they can easily adapt and overcome these barriers. For example, if Vietnamese businesses are aware that the EU is preparing to implement the REACH (Athayde et al., 2022) policy

regarding the registration, inspection, and licensing of chemicals imported throughout the EU territory, they can proactively adjust their activities to comply from the beginning, making it easier for Vietnam to cope with this barrier.

Therefore, in order to proactively deal with changes in EU policies, the government must provide comprehensive and timely information to businesses to ensure they are well-prepared. Moreover, public information agencies and research and training organizations need to disseminate and provide specific guidance on effective measures to deal with these policies and barriers.

*Proactive readiness to address anti-dumping barriers:*

Vietnam has previously faced anti-dumping lawsuits from the EU related to seafood and footwear, and it has observed that the risk of the EU using anti-dumping laws as a barrier to protect domestic production is increasing. Therefore, the government needs to proactively support businesses in dealing with these types of barriers.

First and foremost, to effectively resolve disputes related to anti-dumping, the government needs to intensify public awareness campaigns and training so that businesses have a deep and thorough understanding of the WTO Anti-Dumping Agreement, enabling them to take preventive measures in advance. In the event of disputes, Vietnam should actively engage through various channels to ensure that businesses or competent authorities in the importing country do not file a complaint. If there is still a complaint despite efforts to engage, the competent authorities should assess the validity of the complaint based on three main criteria: whether the complaint represents the entire industry, whether supporting producers outnumber opposing producers, and whether the industry's products are similar to the allegedly dumped imports. Furthermore, the authorities should consider whether the margin of dumping exceeds 2% of the export price and whether the volume of imports exceeds 3% of the total imports of the product in question.

If the competent authorities of the importing country continue their investigation, Vietnam should persuade them not to apply provisional measures (with the argument that imported goods have not caused material injury to domestic production). In cases where the imposition of anti-dumping duties cannot be avoided, Vietnam can proactively propose commitments to increase export prices, leading to the termination of the investigation and dispute resolution through reconciliation.

Finally, if the commitment to increase export prices is not accepted, the possibility of imposing anti-dumping duties cannot be avoided. However, efforts should continue to persuade for the lowest possible anti-dumping duty (possibly by persuading EU producers who use imported goods as input materials to exert pressure on the competent authorities to apply a lower duty than the dumping margin). Additionally, to proactively initiate a "safeguard" or "appeal" when necessary, Vietnam needs to prepare the necessary documents related to determine the dumping margin and whether Vietnam's export volume has exceeded 3% of the total imports of the product. The government should efficiently implement programs and action plans to enhance competitiveness, helping businesses better meet and easily overcome barriers related to EU technical standards and food safety regulations.

#### **\* Solutions for associations:**

*Enhance information gathering and processing capabilities*

Associations must establish or strengthen their information departments to collect and process specialized information about major export markets. It's crucial for businesses in the industry to know what trade barriers exist, their nature, and how to overcome or cope with them. However, most of our associations currently only have access to information about the domestic market and domestic trade policies, but they lack in-depth information to serve export activities and address trade barriers. Currently, we have not been recognized by the EU as a market economy; therefore, associations need to proactively collect information about the market conditions and prices in a third country that is equivalent to our level. This will enable them to proactively handle cases of anti-dumping and anti-subsidy lawsuits in favor of Vietnamese businesses. Simultaneously, it is necessary to gather sufficient information to demand GSP benefits for low-income developing countries.

*Willingness to initiate lawsuits and defend against them*

In most countries, initiating and defending against lawsuits is the responsibility of associations, not state management authorities. The issue of initiating lawsuits in international trade disputes is not about determining winners or losers but about asserting equal treatment rights based on non-discrimination principles. Historically, our associations have mainly focused on initiating lawsuits but have not been

proactive in starting and defending against lawsuits. Therefore, depending on their specific conditions, associations should be willing to initiate and defend against lawsuits.

*Further harness the role of regulating production and export scale, prices, and product quality*

According to the provisions of the WTO Anti-Dumping Agreement, the importing country can only apply anti-dumping measures if three criteria are met: Firstly, imported goods are being sold at a dumping margin greater than or equal to 2% of the export price, and the volume of imports from each country exceeds 3% of the total import volume of similar imported products. Secondly, this dumping is causing or threatening to cause serious injury to domestic production. Thirdly, the anti-dumping investigation must follow proper procedures.

#### **\* Solutions for legal consulting organizations:**

The state should select a number of Vietnamese lawyers with good political integrity, professional competence, and foreign language proficiency for overseas training. This will add international-level economic and trade arbitrators who can effectively participate in resolving disputes in the EU market.

#### **\* Solutions for businesses**

Businesses are identified as the key entities in dealing with and overcoming barriers in the EU market to boost exports. Therefore, the solutions for businesses are as follows: Develop various forms of enterprises, expand and strengthen connections between enterprises and economic components.

#### **\* Solutions for the seafood industry**

One, companies must make an effort to understand the laws of importing countries, enhance their knowledge of economic forces and factors influencing the markets of these importing countries.

Two, Vietnamese seafood processing and exporting companies need to thoroughly understand EU import laws, regulations on technical, environmental, quality, and food safety standards. They should also conduct regular market research in the EU to meet the preferences of consumers in that market.

Three, Vietnamese seafood processing and exporting companies need to invest in improving production technology, applying quality management processes according to international standards like HACCP, which is a standard of the EU. This way, their seafood products can have a competitive edge in the European market.

Four, Vietnamese seafood exporters should also pay attention to the fact that the Vietnamese community living in European countries is a significant competitive resource. They have native language proficiency, knowledge of the local geography, an understanding of consumer psychology, familiarity with local customs and practices, and knowledge of the laws of the respective countries.

Five, companies should absolutely avoid using seafood ingredients of unknown origin in processing exports to the EU.

#### **\* Solutions for the footwear industry:**

*Compliance with EU Market Requirements:*

Labeling of leather shoes: Companies involved in the production, export, or sale of leather shoes must ensure that their products are labeled clearly, specifying the materials used in the product, such as the toe, lining, and sole.

Adherence to EU Environmental Regulations: Comply with environmental requirements in the production of leather shoes for the EU market, including restrictions on the use of hazardous substances (azo dyes) in leather products, as well as compliance with regulations (EC 338/97) regarding leather products containing materials from endangered species (DER RAT DER EUROPÄISCHEN, 2006).

*Meeting Specific Requirements of the Footwear Industry:*

Quality Requirements: Implement thorough inspections of raw materials to ensure that they meet the standards set by EU consumers. Technical testing methods should be developed based on European standards, national standards, or ISO standards. Furthermore, companies should ensure that their production processes and supply chains, along with detailed record-keeping and stringent inspection procedures, allow for product traceability and the prompt detection and rectification of defects.

#### **\* Solutions for the textile and garment industry:**

### *Meeting EU Standards to Enhance Exported Apparel Products:*

Enhancing the quality of exported apparel: This is a crucial solution, and companies are responsible for implementing it effectively, as it determines the competitiveness of Vietnamese apparel in the EU market. To enhance the quality of Vietnamese apparel products for export, companies should aim to obtain certifications in quality management such as ISO 9000 (Chow-Chua, Goh, & Boon Wan, 2003), environmental standards like ISO 14000 (Corbett & Kirsch, 2001), and social responsibility certifications like SA 8000 (Gilbert & Rasche, 2007). This approach is also an effective means of meeting EU requirements for imported apparel. Companies that have not yet obtained these certifications should strive to do so before exporting to the EU, as this is the best approach for Vietnamese apparel to access and penetrate the EU market. Thus, international quality standards become an indirect criterion for evaluating the quality of apparel products, while also being an indispensable tool when entering the EU market for Vietnamese companies.

Vietnamese companies should have contingency plans to prevent Vietnamese apparel from being subject to anti-dumping duties or the reinstatement of quotas. (Although the imposition of quotas on Vietnamese apparel has currently been lifted). To implement this, Vietnamese companies need to improve their accounting and statistical systems, providing specific figures and the origin of raw materials, appropriate payment documents, and complete tax settlement reports on a monthly, quarterly, and annual basis, confirmed by tax authorities. Ideally, Vietnamese companies should hire auditing firms to conduct annual financial assessments of the company's financial situation to demonstrate transparency in business operations, revenue, and expenses.

## **5. Conclusion**

Overcoming non-tariff barriers in the global market in general, and the EU market in particular, to boost exports is a major economic policy of the Vietnamese government. The goal is to transform the economic structure towards industrialization and modernization with a focus on exports. Since its formation, the European Union (EU) has continuously expanded both in breadth and depth, playing an increasingly important role in almost all economic, political, and security areas worldwide. The EU has created the world's largest economic center, a region full of potential for economic and trade exchanges between the Union and non-member countries.

Based on research and systematic analysis of the EU's non-tariff barriers, especially those expected to be applied by the EU from now until 2015 to restrict Vietnamese exports to this market, this project has proposed several solutions from both the government and business perspectives. These solutions aim to assist Vietnamese enterprises in overcoming these non-tariff barriers, enabling them to access and penetrate the EU market more effectively and seize the tremendous potential it offers.

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