

POLICY BRIEF

Impact of Current & Proposed FTAs
and BITs on Vietnam's
Food Processing Sector

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List of abbreviations

AAV	ActionAid Vietnam
AFTA	ASEAN Free Trade Area
ATIGA	ASEAN Trade in Goods Agreement
AEC	ASEAN Economics Community
BIT	Bilateral Investment Treaties
CEP	Comprehensive Economic Partnership
CIEM	Central Institute for Economic Management
EFTA	European Free Trade Association
FDA	Food and Drug Administration (US)
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GDP	Gross Domestic Product
IPR	Intellectual Property Rights
MFN	Most-favored Nation
MNE	Multinational Enterprises
NDS	National Development Strategies
NTBs	Non-tariff Barriers
RCEP	Regional Comprehensive Economic Partnership
R&D	Research and Development Programme
SDT	Special and Differential Treatment
SPS	Sanitary and phytosanitary
SOE	State Owned Enterprises
TPP	Trans-pacific Partnership
TRIPS	Trade-related Aspect of Intellectual Property Rights
VCCI	Vietnam Chamber of Commerce and Industry
WTO	World Trade Organization

POLICY BRIEF

IMPACT OF CURRENT AND PROPOSED FTAs AND BITs ON VIETNAM'S FOOD PROCESSING SECTOR

Introduction

In an effort to mobilize external sources for production and economic growth, Vietnam has been deepening efforts towards international economic integration, whilst enhancing access to foreign markets. By mid-2015, Vietnam had proactively participated in various Free Trade Agreements (FTAs) under the ASEAN framework and is currently negotiating a new-generation of ambitious FTAs (namely Trans Pacific Partnership, Regional Comprehensive Economic Partnership, etc.) which also cover investment-related issues, as well as Bilateral Investment Treaties (BITs).

Though the implementation of commitments of existing and pending FTAs and BITs has some potential to provide some modest trade benefits, it poses serious challenges for the development of the local food processing sector which heavily relies on agriculture inputs. The elimination of trade barriers such as tariff regulations and so forth, for instance, may result in making the already vulnerable Vietnam's agricultural sector more vulnerable to the severe competition with worldwide dominant counterparts in agricultural sector.

This is in addition to the potential elimination of Vietnam's policy space to provide incentives and subsidies to help the sector grow. It should be noted that the food processing sector links small scale farmers to markets, therefore, any distortions in the sector would greatly threaten the livelihood of this vulnerable group who mostly live in rural areas with limited alternative economic opportunities.

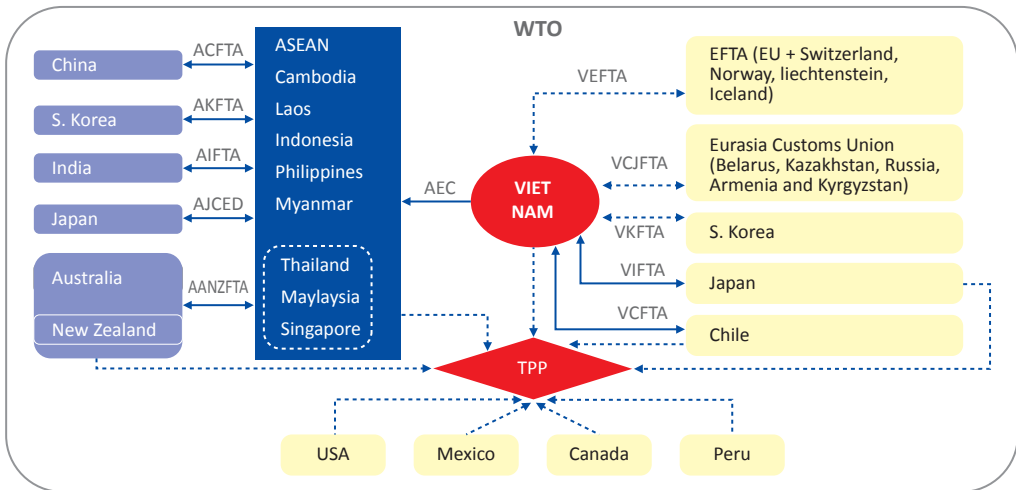
This policy brief therefore highlights the threats posed by Vietnam's blanket implementation of FTA and BITs agreements to the food processing sector and makes specific recommendations to strengthen government position to support the sector take the advantages of FTAs and BITs and at the same time avoid negative impacts of global integration.

Some of the key aspects examined in this brief include:

- Local enterprises' knowledge of current FTAs and BITs
- Local enterprises' access to information on FTAs and BITs
- Impact of reduction of tariffs on local enterprises and government revenue
- Local enterprises' awareness about preferential treatment for FDIs in the same sector

- Policy support for food processing sector vs. other sectors
- Opportunities and challenges in Vietnam’s trade and investment commitments
- Impact of implementing FTAs and BITs commitments to Vietnam’s food processing sector
- The need for government policy space

Figure 1: FTAs that have been signed and under negotiation of Vietnam



Source: *Economica* 2015

As of May 23rd 2014, Vietnam had signed and participated in nine FTAs, six of which are regional agreements, including ASEAN Trade in Goods Agreement (ATIGA) - a fundamental agreement for the ASEAN Economic Community (AEC), ASEAN-China FTA, ASEAN-Korea FTA, ASEAN-Japan FTA, ASEAN-India, ASEAN-Australia-New Zealand. The other three bilateral trade agreements are between Vietnam with Japan, Chile and Korea. Vietnam has completed FTA negotiations with the Eurasian Customs Union, and the EFTA (including the European Union countries and Switzerland, Norway, Iceland and Liechtenstein).

The official approval of those agreements is expected to take place in 2015. Meanwhile, the most important FTA that Vietnam is negotiating is the Trans-Pacific Partnership (TPP), which consists of 12 countries, including the United States. In addition, Vietnam has collaborated with ASEAN to negotiate two other FTAs, namely the Regional Comprehensive Economic Partnership (Regional CEP or RCEP), also known as ASEAN +6 and the ASEAN-Hong Kong FTA. This is not to mention BITs with 62 countries in the world¹.

¹ UNCTAD, <http://investmentpolicyhub.unctad.org/IIA/CountryBits/229#iialInnerMenu>, accessed on 13/04/2015

Highlights in this policy brief are based on results of a National Development Strategies (NDS) research which was conducted in April 2015 by Central Institute for Economic Management (CIEM) in collaboration with ActionAid Vietnam in An Giang province. The policy brief further draws from Vietnam Chamber of Commerce and Industry's (VCCI) previous research and current work on trade, tax and labour issues in Vietnam. As a national organization that assembles and represents business community, employers and business associations of all economic sectors in Vietnam, VCCI's voice and recommendations are influential in Vietnam's policies and laws relating to trade, tax and labour.

While the research comprehensively examined other sectors including electronics and services, this brief focuses on the food processing sector due to its close connection to the plight and livelihood of rural small scale farmers.

Methodology

The NDS collaborative research adopted a case study approach and centered on exploring the impact of current & proposed FTAs and BITs on Vietnam's long term development goals with specific focus on food processing and electronics sectors.

The research involved 40 respondents from food processing and electronics sectors.

Table 1: Number of surveyed enterprises by ownership

	Number of responses	Share (%)
Domestic private firms	38	95.0
SOEs	2	5.0
Total	40	100.0

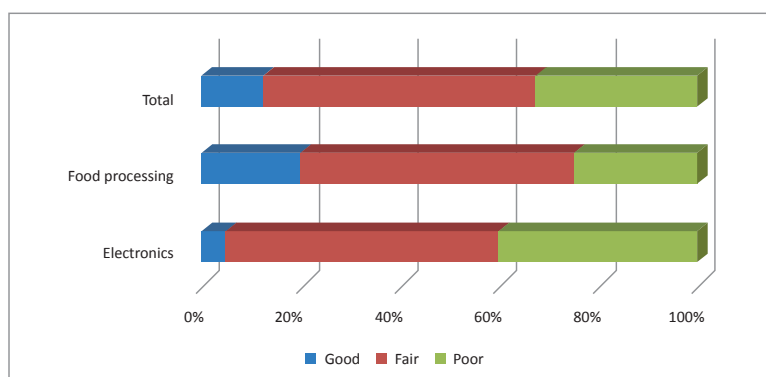
Source: NDS collaborative research 2015

By ownership, 95% of surveyed enterprises are private domestic enterprises and the rest are State-owned enterprises (SOEs).

Enterprises' general knowledge of FTAs and BITs of Vietnam

One of the key aspects the research sought to establish was the enterprises' level of understanding of FTAs and BITs that Vietnam is currently engaged since this has a bearing on the kind of strategic decisions they might have to take now or in the foreseeable future to ensure their survival in a very competitive market.

Figure 2: Knowledge about FTAs/BITs and related issues



Source: NDS collaborative research 2015

Figure 2 depicts surveyed enterprises' general understandings about FTAs and BITs that Vietnam is engaged in. As can be seen on the graph, only 12.5% understand FTAs and BITs quite well while 55% simply have fair knowledge. One third of enterprises retain poor understanding of such agreements and the pattern of responses hardly differs between food processing and electronics sector.

The lack of clear understanding of FTAs and BITs limits the ability of these enterprises to make sound decisions in this increasingly globalized market.

Access to information on FTAs and BITs

Adequate access to information on FTAs and BITs by enterprises is very important as it assists them to make calculated long-term investment decisions.

Table 2: Enterprises' access to FTAs and BITs information

	Good	Fair	Poor	Total
Number of responses				
Food processing	2	9	9	20
Electronics	1	8	11	20
Total	3	17	20	40
Share (%)				
Food processing	10.0	45.0	45.0	100.0
Electronics	5.0	40.0	55.0	100.0
Total	7.5	42.5	50.0	100.0

Source: NDS collaborative research 2015

In terms of access to information on FTAs and BITs, 55% of enterprises rated it as poor while 45% thought it is only fair.

Poor access to information on FTAs and BITs limits the ability of local enterprises to make practical commercial decisions necessary to sustain them in open competitive markets.

The findings above therefore justify the need for government to provide local businesses with basic information relating to FTAs and BITs, such as the negotiation process, orientation, priorities and assessment of both threats and opportunities.

Enterprises' knowledge about FTAs commitments related to tariff reduction

By participating in various FTAs and BITs, Vietnam is obliged to reduce tariff at least as committed. Import tariff on most products, including processed foods, will be reduced sharply, mostly lower than the most-favored nation (MFN) rate of the World Trade Organization (WTO).

In addition, Vietnam also commits to reduce tariff on many other processed foods. Import tariff on other important imported products of Vietnam such as meat and milk will be cut down in accordance with commitments. On one hand, consumers may enjoy benefits from tariff reduction but in the long run, local food processing enterprises will suffer from fierce pressure from external imports as a result of FTAs commitments.

Knowing and understanding these tariff measures and other FTAs and BITs commitments is strategically important for the local enterprises.

Table 3: Enterprises' knowledge about FTA commitments related to tariff reduction

	Don't know	Know a bit	Know thoroughly	Total
Number of responses				
Food processing	6	10	4	20
Electronics	10	6	4	20
Total	16	16	8	40
Share (%)				
Food processing	30.0	50.0	20.0	100.0
Electronics	50.0	30.0	20.0	100.0
Total	40.0	40.0	20.0	100.0

Source: NDS collaborative research 2015

According to the statistics above, only one fifth of the enterprises have thorough understanding of the committed tariff reductions while more than 40% don't know anything about these tariff reductions.

An important basic rule of thumb that has been historically understood by almost all successfully industrialized countries when they were first developing is that a country should not lower its trade protection for any industry until that industry is competitive in world markets.

Since the food processing sector in Vietnam is still uncompetitive, the right thing for government to do is to help it become more competitive with supportive public technology and R&D program, but not to let it be diminished by pre-mature trade liberalization as the case is today.

Impact of reduction of tariffs on local enterprises and government revenue

Apart from dislodging the local food processing sector from the market and indeed other local industries, the reduction of tariff will greatly lower tax revenues for the government, thus leading to smaller budgetary capacity to support domestic industries and provision of public services and social protection to citizens.

Knowledge about preferential treatment for FDI in the same sector

Local enterprises' clear knowledge and understanding of preferential treatment for FDI in the same sector is vital as it assists them to cope with external commercial pressures.

Table 4: Local enterprises' knowledge about preferential treatment for FDI in the same sector

	Don't know	Know a bit	Know thoroughly	Total
Number of responses				
Food processing	10	9	1	20
Electronics	10	7	3	20
Total	20	16	4	40
Share (%)				
Food processing	50.0	45.0	5.0	100.0
Electronics	50.0	35.0	15.0	100.0
Total	50.0	40.0	10.0	100.0

Source: NDS collaborative research 2015

According to the data above, only 10% of the surveyed enterprises have good understanding of the competitive advantages for FDIs as a result of preferential treatment, while 50% don't have any knowledge about such preferential treatment. This implies that majority of enterprises will have huge challenges coping with competition from FDIs.

Competition from FDI enterprises in the same sector

Vietnam is attempting to attract more and more FDIs due to the expected spillover effects, which relate to benefits in terms of increased productivity of local firms and technology diffusion from multinational enterprises (MNEs) to the domestic economy.

However, there are no clear positive spillover effects from FDI to local firms in developing economies. Instead, there tends to be negative intra-industry productivity spillover effects (i.e., spillovers between MNEs and local firms in the same sector). This is explained by the fact that MNEs crowd out local competitors that are not able to compete against MNEs, and by the concept of “absorptive capacity”, local firms may not be able to assimilate and absorb knowledge of MNEs.

Table 5: Perceived competition from FDIs in the same sector by local enterprises

	Very tough	As norm	Not tough at all	Total
Number of responses				
Food processing	4	13	3	20
Electronics	6	7	6	19
Total	10	20	9	39
Share (%)				
Food processing	20.0	65.0	15.0	100.0
Electronics	32.0	37.0	32.0	100.0
Total	26.0	51.0	23.0	100.0

Source: NDS collaborative research 2015

According to the table above, 26% of enterprises believe that competition pressure from FDIs is very tough while more than a half of the enterprises see no difference between competition from local enterprises and FDIs.

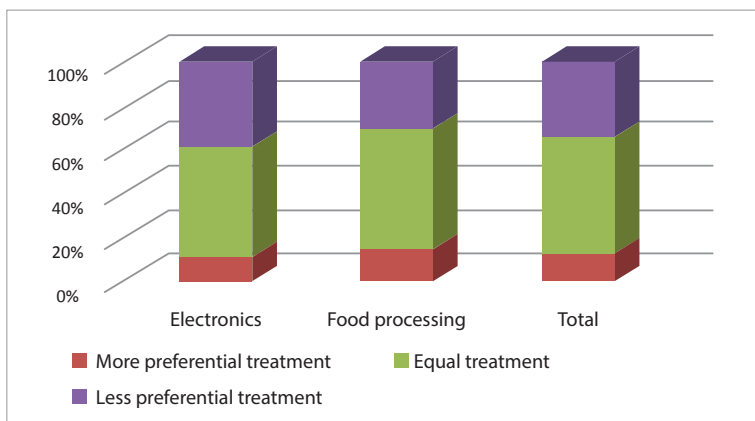
In particular, the food processing sector appears to be less exposed to competition from FDIs at least for now, as 65% of surveyed enterprises did not see significant

increase in competition. However, this varied view may be as a result of lack of clear understanding of what lays ahead for the sector due to limited knowledge about threats and opportunities in the FTAs commitments.

Policy support for food processing sector vs. other sectors

Under the government strategy for the food processing sector, some preferential treatment has been earmarked specifically in terms of incentives like land allocation under specific circumstances, tax exemptions on certain products as well as support in training labor force, market development and application of technology². However, it is evident that similar or better preferential treatment is also accorded to other sectors such as the electronics which is almost 90% FDI.

Figure 3: Level of policy support for food processing sector vs. other sectors



Source: NDS collaborative research 2015

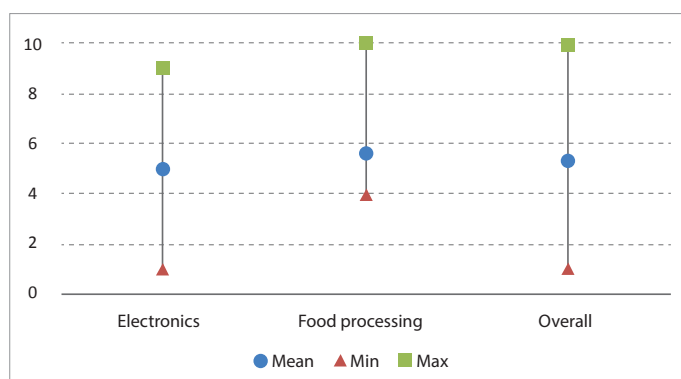
Data above shows that more than 52.6% of enterprises suppose that preferential treatment was almost equal between the selected sectors. Only about 13.2% contend that the sectoral policy support went beyond the national level while a third of food processing enterprises think that they are not sufficiently supported compared with other sectors.

Preferential treatment in terms of land allocation for food processing

Once the investor has a contract for the linkages of a stable material production with farmers, he/she is entitled to privileges of investment support including easing or cutting the fee for land use, land hire and receives support when making deals for hiring private land.

² The strategy of industrialization of Vietnam in the framework of Vietnam - Japan cooperation towards 2020, Vision 2030.

Figure 4: Benefits from preferential land access



Source: NDS collaborative research 2015

Figure 4 illustrates the enterprises' assessment of preferential benefits on a scale from 1 to 10, where 1 reflects lowest benefits and 10 represents highest benefits. As can be seen, the preferential land access by enterprises only stays above-average level. The average benefits of preferential land access appear to be higher for food processors than for electronics producers and are more concentrated in the range from 4 to 7, as reflected by the small distance between the mean and minimum ratings.

Vietnam food processing sector at a glance

Food processing sector is an important sector in the economy of Vietnam. The industry has witnessed a steady growth in the last decades. In 2012 the industry contributed about 20% of the country's GDP and the value of its exported products reached 18.1 billion USD³. As Vietnam is integrating increasingly into the world economy, FTAs and BITs which the country is adhering to may usher in short term advantages but certainly will bring huge challenges to the domestic industries if the government does not come up with stringent measures to safe guard the market.

It should be noted that food processing sector in Vietnam is still at infant stage and can hardly compete with foreign enterprises in the absence of policy support, yet in practical terms; the commitments and disciplines of trade and investment agreements that Vietnam is currently negotiating shall restrict the available domestic "policy space".

FTAs commitments shall reduce Vietnam's ability to use traditional regulatory interventions such as tariffs, non-tariff measures, temporary trade protection and subsidies for domestic farmers.

Given Vietnam's agrarian economy, food processing has been a key industry which transforms and adds value to the outputs of agriculture activities - including horticulture, livestock raising and fish farming. Since the Food processing industry is often tied to the sources of raw materials and the market demand, it helps link small farmers in the market thereby contributing to their livelihood.

³ *Economica 2015.*

Table 6: SWOT matrix for food processing sector within the FTAs framework

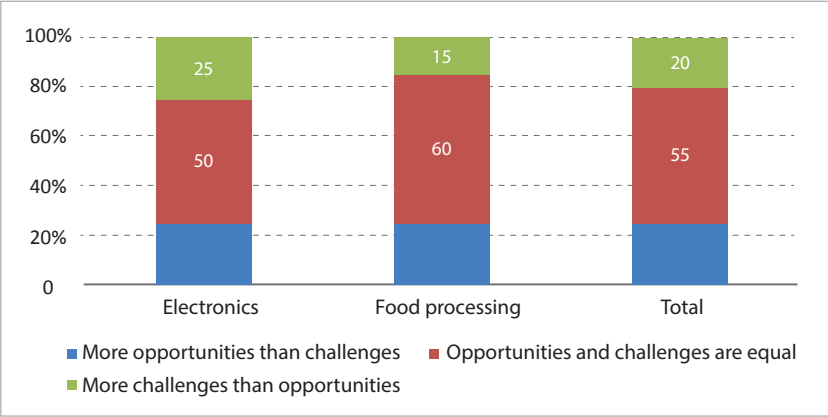
SWOT matrix for food processing	Opportunities (O) <ul style="list-style-type: none"> • Robust demand of domestic market; • Strong growth in foreign demand; • Good export prices; • Creation of value chain agriculture/farmers and processing industry/product distribution 	Threats <ul style="list-style-type: none"> • Quality control of products; • Technical barriers to trade imposed by importing countries;
Strengths (S) <ul style="list-style-type: none"> • Diversity of locally produced agricultural-fishery products; • Competitiveness in some market segments (seafood, noodle, canned food, etc.); 	S/O <ul style="list-style-type: none"> • Enhancing linkages between farmers and processing industries; • Improving marketing activities of processed food products in domestic and foreign markets; 	S/T <ul style="list-style-type: none"> • Enforcing quality standards on processed food products; • Working with FTA partners to improve mutual recognition;
Weaknesses (W) <ul style="list-style-type: none"> • Food quality and sanitation; • Low capacity to adopt clean processing technology; • Weak capacity for storage; • Weak linkage between farmers/agriculture and industry 	W/O <ul style="list-style-type: none"> • Increasing consumers' and producers' perception to safe food products; • Improving presence of high-tech FDI in food processing; • Contract farming of high quality agricultural inputs; 	W/T <ul style="list-style-type: none"> • Negotiating for SDT treatment in FTAs; • Enforcing regulations on clean and safe food processing; • Credit support for agricultural storage;

Source: NDS collaborative research 2015

Opportunities and challenges in Vietnam's trade and investment commitments

Unlike government agencies and FTAs/BITS negotiators' high optimism, most local enterprises appear to be less optimistic about the future implementation of trade and investment commitments. Many are concerned about the uncertainties awaiting them in a very competitive market.

Figure 5: Comparison of opportunities and challenges in Vietnam’s trade and investment commitments



Source: NDS collaborative research 2015

According to the statistics above, one fifth of the enterprises believe that the challenges would overwhelm the opportunities while 55% think that the opportunities and challenges would be equivalent. Again, this varied view may be a result of information deficiency, thus highlighting the need for government close engagement of local enterprises in the FTAs and BITs negotiation processes.

Impact of implementing FTAs and BITs commitments to Vietnam’s food processing sector

Key among FTAs and BITs commitment is the reduction of tariff barriers. While reduction of tariff barriers by participating countries may in the short term promote exports, significant challenges lay ahead for Vietnam. For example, chances are so high that richer countries will build other sophisticated non-tariff barriers (NTBS) to protect their domestic industries, thereby in effect preventing Vietnam’s exports.

Previous experiences demonstrates to us that commodities exported by Vietnam often face real challenges with these strict NTBs of importing countries. Many kinds of non-tariff barriers, SPS, TBT and provisional safeguard measures have already created problems for Vietnamese processed food products.

A typical example is the standard set for processed shrimp product. Vietnamese processed shrimp have repeatedly been queried by importing countries as its residues and chemical impurities go beyond the permissible limits.

In 2012 and 2013, the export of shrimp to Japan nearly stalled due to the regulation on the limit of Ethoxyquin residues and in the first two months of 2015, the U.S Food

and Drug Administration (FDA) announced that it had rejected 107 shipments of shrimp from Vietnam for violation of U.S sanitary standards. The number of rejected shipments to U.S market in these two months increased by 224% compared to the same period in 2014⁴. The US and Japan also slapped strict controls on Vietnamese shrimp which limits Vietnam's ability to access these advanced markets.

The EU has also previously expressed reservations on vegetables and fruits exported from Vietnam due to high pesticide residue specifically in basil, peppers, celery, bitter melon and coriander.

Intellectual Property Rights (IPRs) vs. food processing sector

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international agreement which lays down minimum harmonized standards of protection of IPRs, or the ownership of ideas, knowledge and technology, for the smooth conduct of free trade.

However, the high cost of conforming to the intellectual property is difficult to meet by developing countries like Vietnam since the costs of applying for intellectual property instruments, as well as complying with others' intellectual property rights are extremely expensive.

Vietnam's food processing sector still lags behind when it comes to registration of IPRs such as patent trademarks, collective marks, and geographical indications.

Until now, only Phu Quoc Fish Sauce has successfully registered for geographical indication in Vietnam. In some recent FTAs, developed countries want to impose on Vietnam and other less developed countries IPR commitments that go beyond WTO's TRIPS commitments. This will affect agriculture and food processing enterprises significantly because large amounts of inputs for food processing industries are agriculture products.

FDIs vs. local food processing enterprises

The increasing presence of FDI enterprises in Vietnam with advantages over technological, financial and managerial expertise may result into total capture of market shares and crowd out domestic enterprises. Since almost 98% of enterprises in Vietnam are micro- small- and medium-sized, the potential opportunities from the FTAs and BITs might instead become challenges if Vietnam fails to undertake relevant policy measures to support its domestic food enterprises. As an example, just over 20% of Vietnam's exports to ASEAN were under preferential treatment of AFTA/ATIGA.

⁴ VASEP (Vietnam Association of Seafood Exporters and Producers), Vietnam Fishery Export Report at http://vasep.com.vn/Bao-cao-xuat-khau-thuy-san/777_38894/Co-hoi-thach-thuc-cua-nganh-thuy-san-Viet-Nam-nam-2014.htm

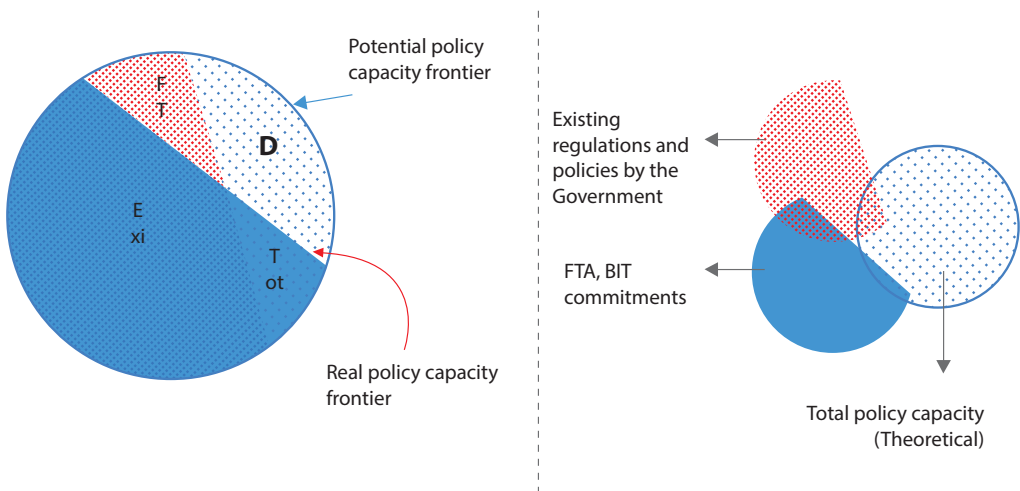
The need for government policy space

A point of departure is that in order to promote development of local enterprises, Vietnam needs to be able to define the best policies according to the country's specific needs and capacities.

One of the major concerns raised by the business community and civil society organizations is that FTAs and BITs commitments will lock in necessary policies and thus limit the possibility of Vietnam to define and to change her policies to support future development of local enterprises.

Vietnam needs policy flexibility to use traditional regulatory interventions in future such as tariffs, non-tariff measures, temporary trade protection and subsidies to develop future local industries.

Figure 6: Available government policy space in the implementation of FTAs & BITs commitments



Source: NDS collaborative research 2015

Table 7: Illustration of available government policy space in the implementation of FTAs & BITs commitments

A + B + C + D	Total policy capacity
A	Regulations/policies issued by the Government that are in line with (compatible with) FTA, BIT commitments
B	Regulations/policies issued by the Government that should be eliminated or adjusted to be in line with FTA, BIT commitments
C	Policy space = (1) Regulations/policies in line with FTA, BIT commitments which have not been issued by the Government; (2) existing regulations/policies that exceed standards in comparison with FTA, BIT commitments (more advantages for international firms or more strict regulations for Vietnamese firms) and can be adjusted; (3) forms of policy supports that are not prohibited or limited or have not been regulated in FTAs, BITs.
D	Gap = Regulations/policies that are not in line with FTA commitments and have not been issued by the Government.

Source: NDS collaborative research 2015

Analysis of Vietnam policy space (table 7) indicates that the country’s policy flexibility relating to tariffs is now limited but there is still some reasonable degree of policy space relating to technical barriers in trade, sanitary and phytosanitary measures or trade protective tools such as anti-dumping and anti-subsidy measures. Vietnam should therefore seriously consider employing some of these tools still at her disposal to protect and support local enterprises.

Conclusion and recommendations

Food processing sector is vital to the economy of Vietnam and indeed to the livelihood of majority of Vietnamese small scale farmers in rural poor areas but liberalization of trade and investment in this sector is rapidly exposing it to significant challenges.

The perceived benefits of existing support to food processing sector are just above-average, implying that such support is ineffective yet room for manipulating policy supports (i.e. policy space) for domestic enterprises is shrinking very fast.

This problem is further magnified by the inadequate understandings of existing and pending FTAs/BITs by majority of local enterprises to possibly strategically respond to the changing market landscape.

The bound rate on tariff is higher for food processing sector than for electronics sector; yet it fails to overshadow the fact that the current tariff structure is weakening competitiveness and value addition of food processors. Trading rights related to agriculture and fishery products have been expanded for foreign investors thus

solidifying a growing survival concern for the less protected local food processing sector once several FTAs become effective.

Policy recommendations

- Government should establish a standard coordination unit under the Ministry of Industry & Trade to provide local enterprises with timely information relating to FTAs and BITs, such as orientation, priorities and assessment of both threats and opportunities.
- Government should retain a reasonable degree of policy space flexibility to ensure appropriate policy adjustments should the context and economic/social circumstance change given the risks and volatility related to agriculture.
- Government market development strategies should focus on standards and technical regulations in order to meet regional and international standards, which in turn will not only expand Vietnam's market access but also help protect the domestic enterprises against competition from foreign low-quality food products
- Government should promote joint ventures in the food processing sector in order to connect domestic enterprises to the global distribution network and value chains.
- Government should ensure that import guidelines put priority on products that cannot be produced locally and prioritize imports of advanced and energy-saving technologies to ensure competitiveness of locally produced goods.
- Government should develop sophisticated protection measures - non trade barriers (NTBs) in accordance with commitments under trade agreements to limit the amount of low tariff goods entering the country as a way of protecting local producers.

A full report can be downloaded from:

<http://www.actionaid.org/Vietnam/publications>

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