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## ABBREVIATION

<table>
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<th>Abbreviation</th>
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<tbody>
<tr>
<td>ACCP</td>
<td>ASEAN Committee on Consumer Protection</td>
</tr>
<tr>
<td>AEGC</td>
<td>ASEAN Expert Group on Competition</td>
</tr>
<tr>
<td>APEC</td>
<td>Asia - Pacific Economic Cooperation</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asia Nations</td>
</tr>
<tr>
<td>DoIT</td>
<td>Department of Industry and Trade</td>
</tr>
<tr>
<td>EC</td>
<td>European Commission</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>ICN</td>
<td>International Competition Network</td>
</tr>
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<td>JICA</td>
<td>Japan International Cooperation Agency</td>
</tr>
<tr>
<td>ICPEN</td>
<td>International Consumer Protection Enforcement Network</td>
</tr>
<tr>
<td>M&amp;A</td>
<td>Merger and Acquisition</td>
</tr>
<tr>
<td>MoIT</td>
<td>Ministry of Industry and Trade</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Cooperation and Development</td>
</tr>
<tr>
<td>VCA</td>
<td>Vietnam Competition Authority</td>
</tr>
<tr>
<td>Vietnamese Dong</td>
<td>VND</td>
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<td>VINASTAS</td>
<td>Vietnam Standard and Consumer Association</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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FOREWORD

The year 2013 was marked with many positive changes of Vietnam Competition Authority. In addition to the increase in the number of officers, VCA has strengthened and restructured the organization to meet the professional requirements.

With regards to competition, VCA has focused on improving the legal framework for effective enforcement of competition law and policies. Specifically, VCA issued legal documents to monitor multi-level sales activities in addition to setting fines for competition law violations. In terms of consumer protection, VCA has received and handled a significant number of complaints filed by not only Vietnamese consumers but also foreign consumers living and working in Vietnam. Concerning trade remedies, besides the positive results witnessed in appealing to lawsuits, VCA did investigations and issued decisions to apply safeguard measures on vegetable oil imported into Vietnam. Further, VCA for the first time launched an anti-dumping investigation on steel imports into Vietnam.

With an aim to review and evaluate the result of the performance in 2013 and to outline directions for 2014, VCA has compiled “Annual Report 2013” - a publication expected to provide related agencies and the business community with an insight into what VCA has been doing and is about to do in the future.

VCA would like to express sincerest thanks to the “JICA Project for the Improvement of Legal Framework for Competition Law and Policy in Vietnam” for its support and assistance in publishing this work.

Truly./.

Bach Van Mung

Director General
Vietnam Competition Authority
COMPETITION MISSION

DRAFTING LEGAL DOCUMENTS
COMPETITION LAW AND POLICY ENFORCEMENT
1. DRAFTING THE DECREE ON MANAGEMENT OF MULTI-LEVEL SALES OF GOODS

In 2013, VCA was assigned to act as the chairing organization to draft the Decree replacing the Decree No. 110/2005/ND-CP on management of multi-level sales of goods. Up to now, the drafted Decree has been submitted to the Government and it is expected to be issued and come into effect within Quarter II/2014. Comparing with the Decree No. 110/2005/ND-CP, the drafted Decree has many new provisions, details as below:

» The authorization of issuing the Registration Certificate of Multi-level sales activity shall be assigned to the Ministry of Industry and Trade instead of the Provincial Departments of Industry and Trade under the previous regulations;

» The first issued Registration Certificate of Multi-level sales activity shall have a validity of 05 years, which can be extended every five years;

» The drafted Decree stipulate a new provision on the legal capital of the multi-level sales company at 10 billion VND.

» The minimum deposit amount is increased to 5 billion VND (1 billion Vietnam Dong previously).

» The multi-level sales enterprise’s responsibility of notification with local level state agencies is also adjusted in order to establish a nationwide unified management mechanism with respect to the multi-level sales operation.

» The multi-level sales enterprises are only allowed to temporarily suspend its operation for a period not exceeding 12 months, should it exceeds the time limit, the business will be revoked its certificate of registration of multi-level sales. When the operation is suspended, multi-level sales enterprises have to complete all obligations to the participants in multi-level sales.

The drafted Decree amends and supplements some prohibited practices by multi-level sales enterprises as follows:

» it is not permitted to carry out service businesses under multi-level sales operation unless otherwise permitted by the laws;

» it is prohibited from carrying out business under pyramid model;

» multi-level marketing enterprises are prohibited from collecting any fee from those who wish to participate in the multi-level sale network under any form;

» multi-level sale enterprises are prohibited from irrationally limiting the rights of its participants to expand their own network;

» multi-level marketing enterprises are prohibited from entering into multiple contracts with a same participant to avoid any negative effect of the binary model;

» it is prohibited from selling or transferring the network except in case of economic concentration and enterprises are prohibited from inducing or backing its participants in carrying out prohibited acts.
2. DRAFTING THE DECREE REPLACING THE DECREE NO. 120/2005/ND-CP ON DEALING WITH BREACHES IN COMPETITION LAW

In accordance with the plan of making the legal regulations in competition, in 2013, VCA has drafted the Decree replacing the Decree No. 120/2005/ND-CP on dealing with breaches in competition law, the drafted Decree is named Decree providing the details of the Law on Competition on dealing with legal breaches in competition, including 5 Chapters, 52 Articles with some changes compared with the Decree No. 120/2005/ND-CP on dealing with breaches in competition as follows:

» The drafted Decree has amended the basis for determination of administrative penalty regarding the handling of practices in restraint of competition; specifically, it provides basis for determining the fine based on revenue from goods, services relating to the breach; it removed stipulation on minimum level as provided in level 2 of Articles on handling of practices in restraint of competition.

Regarding Articles on handling of practices in restraint of competition, the drafted Decree provides the level of fine is that: level 1 “up to 5%” and level 2 “up to 10%” of total revenue in the financial year prior to the year in which the breach was committed, but not the minimum of 5% in level 2 as provided before.

» Regarding the provisions on handling of unfair competitive practices and other practices in breaching the laws on competition: the drafted Decree has increased the fine for each breach to the maximum of VND 200 million and has detailed the competence to impose the maximum fine of the General Director of VCA regarding such breach at VND 200 million.

The drafted Decree has also added some unfair competitive practices of Article 130 of the Law on Intellectual Property and group of unfair competitive practices under Clause 3, Article 211 of the Law on Intellectual Property. The drafted Decree has also supplemented some acts of breaching the laws on multi-level sale operation since the contents of the new Decree replacing the Decree No. 110/2005/ND-CP on administration of multi-level sale operation have determined some new breaching practices that the penalties upon the same have not been provided in any legal regulations.
In order to meet practical requirements, VCA has cooperated with relevant agencies to submit to the Minister of Industry and Trade for issuing Decision No. 848/QD-BCT dated 5th February 2013 regulating the functions, duties and powers and organizational structure of the VCA. Specifically, two new specialized divisions were established, which contributes to specializing the organizational structure as well as improving the performance efficiency of VCA. The organizational structure of VCA includes:

**3. ADVISING LEADERS OF MINISTRY OF INDUSTRY AND TRADE ON ISSUING DECISION REGULATING THE FUNCTIONS, DUTIES, POWERS AND ORGANIZATIONAL STRUCTURE OF VCA**
1. COMPETITION RESTRICTION CASES

1.1. Initial investigation

In recent years, in addition to conducting investigations on violations of competition law, VCA has closely monitored the competition activities of enterprises on the market. For example, in 2013, VCA launched 12 initial investigations related to competition restriction acts, for instance, initial investigation on the increase in poultry egg price in early 2013, the increased rates of 3G data service by telecom companies, etc.

Table 1: Statistics of initial investigation in 2013

<table>
<thead>
<tr>
<th>No.</th>
<th>By sector</th>
<th>Number of cases</th>
<th>By behaviour</th>
<th>Number of cases</th>
<th>By outcome</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Goods</td>
<td>6</td>
<td>Cartel</td>
<td>7</td>
<td>Investigation</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>Service</td>
<td>6</td>
<td>Abusive behaviour</td>
<td>5</td>
<td>Watch-dog continuation</td>
<td>12</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>12</td>
<td></td>
<td>12</td>
<td></td>
<td>12</td>
</tr>
</tbody>
</table>

Although in 2013 no case had been initiated from the initial investigations, the collected information and documents were very useful for VCA in making direction for supervision activities, allowing VCA to timely detect signs of violations and take appropriate actions.
1.2. Investigation on competition restriction caseh

In 2013, VCA finished the supplemental investigation on a pupil insurance cartel conduct of 12 insurance companies in Khanh Hoa province who had been suspected of reaching agreement on the pupil insurance fee (Pupil insurance case No. 11 KXHCT 02). VCA then transferred the case dossier to Vietnam Competition Council (VCC) who subsequently issued a decision to suspend the resolution of this case.

VCA has also conducted the supplemental investigation, for the second time, on the case No. 10 KNHCT 01 relating to the complaint filed by 04 Vietnamese cinema operators on the abuse of dominant position of Megastar Media Company Limited (Megastar case).

Table 2: Statistics of competition restriction cases during 2006 - 2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Initial investigation</th>
<th>Investigation</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2007</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2008</td>
<td>4</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2009</td>
<td>8</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>2010</td>
<td>10</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2011</td>
<td>10</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>2012</td>
<td>12</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>2013</td>
<td>12</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>64</td>
<td>10</td>
<td>4</td>
</tr>
</tbody>
</table>

Figure 1: Statistics of competition restriction case during 2006-2013
2. UNFAIR COMPETITION CASES

2.1. Investigation and settlement of unfair competition cases

In 2013, VCA investigated and handled 24 unfair competition cases (among those 03 cases were initiated in 2013 and 21 cases were initiated in 2012). Details are as follows:

» Regarding 3 cases initiated in 2013: 2 cases were related to advertisement for unfair competition purpose and 01 case was related to illegal multi level sales.

» Regarding 21 cases initiated in 2012, 17 cases were related to advertisement for unfair competition purpose; 03 cases were related to illegal multi level sales and 01 case was related to disturbing business activities of other enterprises.

Table 3: Statistic of unfair competition cases during 2009 - 2013

<table>
<thead>
<tr>
<th>Types of unfair competition acts</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertising for unfair competition purpose</td>
<td>5</td>
<td>20</td>
<td>33</td>
<td>37</td>
<td>2</td>
</tr>
<tr>
<td>Sales promotion for unfair competition purpose</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discrediting other enterprises</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Misleading indications</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illegal multi level sales</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Disturbing business activities of other enterprises</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>14</strong></td>
<td><strong>28</strong></td>
<td><strong>36</strong></td>
<td><strong>41</strong></td>
<td><strong>3</strong></td>
</tr>
</tbody>
</table>
In 2013, VCA Director General issued decisions for 20 cases (of the total 24 cases that VCA finished investigation in 2013), earning for the state budget total fine and administrative fees of VND 650,000,000 (six hundred fifty million VND).

In comparison with the previous years the number of unfair competition cases handled by VCA fell sharply in 2013 due to the obstacle in terms of legal basis on the competence to sanction unfair competition cases. The 2002 Ordinance on Handling Administrative Violations amended in 2008 stipulates that the VCA Director General (the Head of Competition Authority) has competence to impose fines up to VND 70,000,000. However, the Law on Handling Administrative Violations in effect from 7/2013 does not specify the competence of the Director General of VCA. This change makes it difficult for VCA to handle unfair competition cases. Therefore, VCA temporarily suspended handling such cases indeed and focused on consolidating the legal basis.

Currently, VCA has completed and submitted to the Government a drafted Decree to replace the current Decree No. 120/2005/ND-CP on handling violations of competition law. The purpose of the new Decree is to clarify the competence of the VCA Director General on handling and imposing sanctions over unfair competition cases. It is expected to be issued and come into effect within Quarter II, 2014.
2.2. Analysis of violation in 2013

Unfair competition cases handled by VCA in 2013 included following types of behaviours: advertising for unfair competition purpose, misleading indications, issuing misleading information for inciting other to joint multilevel sales network. Among cases above, the most common violation is advertising for unfair competition purpose, for example, false advertising, misleading advertising about product functions and utilities. The characteristics of the behaviour of this type does not change much in comparison with that in the previous years. Most of companies conducting false advertisement were the manufactures and the distributors of functional foods. The functional foods are often advertised with many functions and utilities which are inconsistent with Product Dossier registered at authorized agencies and are not the same as the actual benefits of the product. Although some functional products can just support disease treatment or improve health but are often advertised with magic functions and being able to treat all fatal diseases. Some cosmetics with overstated advertisement may make customers misunderstand the product as a panacea.
In the end of 2012, VCA collected information and some documents which showed the signs of multi-level marketing violation by the Synergy Limited Company.

The detection results indicated that Synergy provided false information about the product nature and utilities in the leaflet, the Starkit set and on the company’s website to incite people to join the multi level sales network. The involving products such as Mistica, Pro Argi-9 Plus, Chorophy11 Plus were advertised with many overstated contents as: “Mistica prevents aging and damage of the immune cells”, “Chlorophyll Plus stimulates enzyme and leucocytes cell, strengthens the body immune response, helps the body to eliminate toxins, improves anemia, increases the number of red blood cell, balances the body PH, etc”.

Synergy admitted that advertisement contents of the involving products had not been registered at the competent agencies, and contents in Starkit set were inconsistent with the Product Standard Dossiers. Throughout the investigation process, the defendant could not show any document proving the truthfulness of advertised contents of the involving products.

Therefore, the result of the official investigation showed that Synergy performed the act of “providing false information on the product nature and utilities for the purpose of inciting people to join the network” which was against the Clause 4 of Article 48 of Competition Law on “illicit multilevel marketing”.

On June 11th 2013, VCA Director General issued the Decision No 66/QD-QLCT on the sanctioning Synergy Limited Company with total VND 80,000,000 of monetary fine and investigation fee.
3. CONTROL OVER ECONOMIC CONCENTRATION

VCA continued to receive and process 04 economic concentration dossiers in some crucial sectors of the economy such as food manufacturing and trading; production, trading and transmission of electricity; import, export and distribution of steel.

Table 4: List of notifications of economic concentration 2013

<table>
<thead>
<tr>
<th>No</th>
<th>Time</th>
<th>Sector</th>
<th>Involved Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>January 2013</td>
<td>Production and trading of confectionery, food and beverage</td>
<td>Kinh Do Joint Stock Company, Vinabico Joint Stock Company</td>
</tr>
<tr>
<td>2</td>
<td>July 2013</td>
<td>Commercial production and trading of electricity</td>
<td>Hydropower Can Don Joint Stock Company</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Investment and trading of small and medium electricity works</td>
<td>Hydropower Na Loi Joint Stock Company</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Hydropower Ry Ninh II Joint Stock Company</td>
</tr>
<tr>
<td>3</td>
<td>July 2013</td>
<td>Construction of road, substation, water supply and drainage system</td>
<td>Song Da 11 Joint Stock Company</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Production and trading of electricity, trading electricity and materials</td>
<td>Song Da - Thang Long Joint Stock Company</td>
</tr>
<tr>
<td></td>
<td></td>
<td>rading houses and infrastructure</td>
<td>Song Da 11 Investment and Construction Joint Stock Company</td>
</tr>
<tr>
<td>4</td>
<td>December 2013</td>
<td>Im-export and distribution of steel, iron, ferrous metals, alloy, steel</td>
<td>Nippon steel Commercial Limited Liability company</td>
</tr>
<tr>
<td></td>
<td></td>
<td>equipments in toilets,..</td>
<td>Sumikin Bussan Viet Nam Limited Liability company</td>
</tr>
</tbody>
</table>

Besides, in 2013, VCA proactively consulted and received official request on consultation for provisions of competition policy relating to merger and acquisitions cases from enterprises and some State administrative agencies. This shows that awareness of the business community about the provision on economic concentration in the Competition Law has been improved dramatically.
In December 2012, the two companies submitted notification dossier of merger between Vinabico Joint Stock Company (Vinabico) and Kinh Do Joint Stock Company (KDC) to VCA in order to fulfill the legal liability relating to competition. These companies have great reputation and long standing on the market of producing and trading confectionery, food and beverages. Prior the merger, KDC held 51% charter capital of VINABICO.

In January 2013, after examining the notification dossier and evaluating the activities of enterprises operating in the relevant market, VCA sent official correspondence that the notified merger did not fall within prohibited cases stipulated in the Competition Law. Since KDC held dominant shares of VINABICO, the case was considered as capital owner restructuring from VINABICO to KDC.

This is the second case which Kinh Do submitted the economic concentration notification dossier to VCA. Therefore, VCA appreciated the competition compliance of enterprises when they implemented the economic concentration procedure in accordance with provisions of relevant laws.
On July 22\textsuperscript{nd} 2013, VCA received the economic concentration notification dossier of Hydropower Can Don Joint Stock Company about the merger of Hydropower Na Loi Joint Stock Company and Hydropower Ry Ninh II Joint Stock Company into Hydropower Can Don Joint Stock Company. After thoroughly assessing the case and basing on provisions of control over economic concentration of the Competition Law, VCA identified that the companies participating in the deal did not fall into the prohibited case. As a result, the companies were allowed for merger in accordance with relevant laws.

On July 23\textsuperscript{nd} 2013, VCA received the economic concentration notification dossier of Song Da 11 Joint Stock Company (SELCO) and Song Da 11 Investment and Construction Joint Stock Company (SINCO) into Song Da - Thang Long (SJE) Joint Stock Company. According to VCA evaluation and basing on the data available in the dossier, the combined market share on the relevant market of those companies was much smaller than the compulsory notification threshold and did not infringe the Competition Law. As a result, the companies were allowed for merger in accordance with relevant laws.
ACTIVITIES TO SUPPORT COMPETITION LAW AND POLICY ENFORCEMENT

1. COMPETITION POLICY RECOMMENDATION

In order to proactively play its functions of supervising competition policy, last year VCA conducted many activities to ensure the consistency between competition policy and sectoral policies, in details:

» Participating and contributing comments and recommendations to some legal documents as the draft of the Law amending and supplementing some articles of the Civil Aviation Law and the report on 6-year law enforcement, the Draft of Law replacing and supplementing some articles of the Drug Law,…

» Playing the role as the contact point of receiving request for consultation from domestic and foreign enterprises relating to competition law and policy, for example, VCA responded to the request for consultation on exemption submitted by Jetstar Pacific Airlines Aviation Joint Stock Company, Jetstar Airways parent company and subsidiary companies in the Jetstar system based in various countries like China (Hong Kong), Japan, Singapore, etc.

» Participating in building the competition policy part in the first review report on trade policy of Vietnam conducted by the WTO Secretariat. The report reflected and identified proactive changes in the environment and competition policy enforcement. This also marked a milestone in Vietnam’s achievement 6 years since its accession to WTO.

2. MARKET STRUCTURE STUDY

In 2013, VCA continued to conduct the report on competition assessment on 10 sectors in 2013 including car, motorbike, beer, beverage, sugar, pharmaceutical production, security, electric appliance retail, ATM service and postal service.

On the basis of analyzing market structure, impacts of institution, policy and legislation on competition environment, practice of competition on the market of each sector, the Report gave evaluation, remarks and recommendations towards state management agencies, policy makers and enterprises in order to maintain a fair and healthy competition environment.

To the end of 2013, VCA has conducted competition assessment in 30 economic sectors.
3. COMPETITION POLICY NEGOTIATION

In 2013, VCA took the lead in negotiating the content of competition policy in the Agreement on Trans Pacific Partnership (TPP), Viet Nam - EU FTA, FTA between Viet Nam and EFTA block, FTA between Viet Nam and the Russian Federation, Belarus and Kazakhstan Customs Union, Viet Nam - Korea FTA, Regional Comprehensive Economic Partnership (RCEP). Moreover, VCA actively negotiated the content of state owned enterprises in the TPP and others.

4. EDUCATION AND ADVOCACY

Practice of administration indicated that business awareness on competition legislation was still very limited, hence, in 2013 VCA also conducted the advocacy aiming at enterprises and associations through seminars, workshops and other indirect forms like brochure, internet, etc. The venue was mostly in such big cities as Ha Noi, Ho Chi Minh City, Da Nang where a lot of enterprises are based.

Regarding the advocacy strategy, activities were classified by economic sector. In details, VCA organized advocacy seminars on payTV, construction, pharmacy, marine transportation in 2013.

At the same time, in order to diversify the information channels on policy and law and to provide a forum for policy makers, researchers, enterprises and consumers to share expertise and experiences, VCA issued the “Competition and Consumers” Bulletin every two months in both English and Vietnamese version.
5. INTERNATIONAL COOPERATION

a. ASEAN

As a member of ASEAN Experts Group of competition (AEGC), VCA took the lead in collecting updates from AEGC members for the purpose of republishing the Handbook on Competition policy and law in ASEAN for Business.

Furthermore, VCA was also active in building and editing the contents of the website www.asiancompetition.org, advocacy leaflets and video clip introduced by AEGC.

b. ICN

Last year, VCA dispatched a delegation to attend the 12th ICN Annual Meeting in Poland. In addition, VCA also joined some teleconference for the purpose of sharing experiences under the framework of other working groups in ICN.

c. Japan

2013 is the second year in the framework of the “JICA Project for the Improvement of Legal Framework for Competition Law and Policy in Viet Nam”. The project continuously supported VCA to enhance investigation capacity and also promoted education and dissemination of competition legislation across the country.

The project has many advantages thank to the support of the resident advisor from JFTC - one of the most experienced competition agencies over the world. Therefore, enhancing investigation capacity achieved great success in way of referring to and exchanging with available experiences of Japanese counter partners.

On the occasion of the 40 year anniversary of Vietnam - Japan diplomatic relation (1973-2013), VCA and JFTC signed the Cooperation Arrangement on 28th August, 2013. The signing ceremony was conducted on the sideline of the 8th East Asia Meeting on Competition law and policy and the 9th East Asia High Level Official Meeting on competition policy which were organized on 28 - 29 August 2013.

The Arrangement which is expected to realize the provisions in the Competition Chapter stipulated in the Japan Vietnam Economic Partnership Agreement covers the main contents as below:

- Share and promote information exchange in the area of competition enforcement between the two agencies;
- Enhance technical cooperation between the two agencies.

The Arrangement will create a solid basis for promoting cooperation between VCA and JFTC in the coming time.
CONSUMER PROTECTION MISSION

CONSUMER PROTECTION MISSION
CONTROL OVER STANDARD CONTRACT AND GENERAL TRANSACTION CONDITIONS
ACTIVITIES TO SUPPORT ENFORCEMENT OF CONSUMER INTERESTS PROTECTION
1. DEALING WITH CONSUMER COMPLAINTS AND DENUNCIATIONS

In 2013, VCA received, provided consultation and handled nearly 200 cases of consumer complaints and denunciations relating a wide range of products and services. Obviously, this number marked a substantial increase in comparison with that of 2012.

**Box 5**

The defendant: The Sun Ltd Company (The Sun)

*Time:* From March to June 2013

*Content:* Seven consumers bought cell phones of The Sun via telephone. After getting their ordered products, those consumers found that the cell phones were not similar to previous description. So they requested the company make up for arisen damage and strictly followed the signed contracts.

*Case handling:* after a number of communications, VCA had a meeting with The Sun representatives on 28th August 2013 where The Sun reported that they settled down all seven complaints as well as revised the advertising content accordingly.
The defendant: Hanh Tung Electric Bike Shop

Time: March 2013

Content: A consumer bought an electric bike at 13.3 million dong after being introduced that this bike was jointly manufactured by Thailand and Taiwan. After buying the bike, the consumer was in doubt about its origin and price. Through cross checking and referring to the price on the market, the consumer saw that this kind of bike was only priced at about 11 million dong.

Case handling: VCA did inform that shop about the consumer’s complaint then the shop actively negotiated with the consumer. As a result, the consumer accepted receiving 1.8 million dong from the shop and withdrew the complaint.
The defendant: The branch office of Arla Foods Ingredients Amba

Time: March 2013

Content: A consumer bought Milex milk and found that the product was of bad quality and was not soluble in water.

Case handling: Milex representative visited the consumer’s home and apologized for that trouble then compensated reasonably for the consumer. Finally, the consumer was also satisfied with the way Milex handling the case.

The defendant: Honda Vietnam

Time: August 2013

Content: A consumer bought a SH125i motorbike since May 2013. After a short time of using, she found out that there would be inertia and muffling if the motorbike ran at the speed of 15km/h. After contacting and working with Honda without reasonable remedy, she asked Vietnam Competition for help.

Case handling: VCA requested Honda and the consumer to go on negotiation to solve the problem among themselves. Until December 2013, after 3 official meetings, the consumer and Honda Vietnam could not reach any agreement, both requested VCA to mediate the case. On January 22, 2014, VCA chaired the mediation meeting and finally the case was settled. Both sides agreed that Honda would gave the consumer a new motorbike and bear all the plate registration cost of that new one.
2. INSPECT AND EXAMINE VIOLATIONS AGAINST CONSUMER PROTECTION LEGISLATION

2.1. Coordination in examining and inspecting violations against consumer protection legislation

In 2013, in accordance with the Decision No.7163a/QD-BCT on approving the examination and inspection scheme issued by Minister of Industry and Trade, VCA sent 9 delegations to provinces including Lao Cai, Yen Bai, Phu Tho, Thanh Hoa, Nghe An, Quang Binh, Hochiminh City, Kien Giang and Tay Ninh. Those delegations focused on examining and inspecting following areas:

» Consumer education and dissemination

» Conducting examination, inspection and settlement of violations against consumer protection at localities.

» Control over standard contracts, general trading conditions in accordance with the Decision No.02/2012/QD-TTg and handling violations in this area.

» Consultation and settlement of consumer complaints.

» Establishment and development of consumer associations
2.2. Recall of defective products

In 2013, VCA received and issued press release on 6 cases of recalling defective products including:

Table 5: List of recalled defective products in 2013

<table>
<thead>
<tr>
<th>STT</th>
<th>PRODUCT</th>
<th>REASONS</th>
<th>MANUFACTURER</th>
<th>DISTRIBUTORS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Noza motorbike - a Yamaha brand</td>
<td>The malfunctioning fuel pile might cause possible petrol leaks from the pipe connecting the fuel tank to the engine</td>
<td>Yamaha Vietnam</td>
<td>Yamaha Vietnam</td>
</tr>
<tr>
<td>2</td>
<td>SOFIX Parquet 3 hardwood floor cleaner made by Henkel</td>
<td>Containing micro-organism possibly having bad impact on the users with weak immunity system</td>
<td>Henkel Vietnam Ltd Company</td>
<td>Henkel Vietnam Ltd Company</td>
</tr>
<tr>
<td>3</td>
<td>Kanebo cosmetics - a Japanese brand</td>
<td>The elements of the product might cause allergy</td>
<td>LK Ltd Company - 5F, 41B Ly Thai To, Hoan Kiem, Hanoi</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Yaris car</td>
<td>Defect in the power steering glitch</td>
<td>Toyota Japan</td>
<td>Toyota Japan</td>
</tr>
<tr>
<td>5</td>
<td>Infected Fonterra milk</td>
<td>Infected with Clostridium botulinum bacteria that might cause toxicities and is potentially fatal</td>
<td>Fonterra, New Zealand</td>
<td>Abbott and Dummex Vietnam</td>
</tr>
<tr>
<td>6</td>
<td>Prado and Hiace cars</td>
<td>The corrosive pitting on the surface of the springs might cause cracks or break the springs</td>
<td>TMV Vietnam</td>
<td>TMV Vietnam</td>
</tr>
</tbody>
</table>
CONTROL OVER STANDARD CONTRACT AND GENERAL TRANSACTION CONDITIONS

1. RECEIVE AND HANDLE REGISTRATION DOSSIERS OF STANDARD CONTRACT AND GENERAL TRANSACTION CONDITIONS

In 2013, VCA received and dealt with 78 dossiers requesting for standard contract and general transaction conditions registration. As for each dossier, VCA strictly followed the current legal regulations and paid much attention to excluding contents violating consumer interests in those registered dossiers.

2. CONSOLIDATE THE PROCEDURE OF CONTROLLING STANDARD CONTRACTS AND GENERAL TRANSACTION CONDITIONS

In order to meet with the administrative requirement and handle arisen issues in the course of controlling standard contracts and general transaction conditions, VCA submitted to the MOIT leaders for issuing the Circular No.10/2013/TT-BCT dated 30th May 2013 providing the registration form of the standard contract and general transaction conditions in replacement for the Decision No.659/QD-BCT dated February 15th 2012 issued by MOIT.

In addition, to ensure transparency, VCA issued the Decision No.19/QD-QLCT providing the procedure of registering standard contract, general transaction conditions used at VCA (applied for the subjects under compulsory registration specified in the Decision No.02/2012/QD-TTg).

3. EXAMINE AND SUPERVISE THE STANDARD CONTRACT, GENERAL TRANSACTION CONDITIONS THAT WERE REGISTERED ALREADY

Post registration, VCA took initiative to implement examination and supervision on individuals and organizations using standard contract and general transaction conditions. For example, VCA requested 16 enterprises trading apartments and providing apartment service in Hanoi (including 13 enterprises with approved dossiers and 3 enterprises without approved dossiers) to report about the application of standard contract and general transaction conditions as the basis for VCA to examine and monitor.
ACTIVITIES TO SUPPORT ENFORCEMENT OF CONSUMER INTERESTS PROTECTION

1. DEVELOP THE NETWORK OF RELEVANT AGENCIES/ORGANIZATIONS IN CHARGE OF CONSUMER PROTECTION

Up to now, there are 48 province level consumer associations (witnessing an increase of 2 associations in comparison with 2012) and 1 central level association (Vinastas). In particular, seven out of those including Binh Duong, Tien Giang, Dong Thap, Khanh Hoa, Dak Lak, Ca Mau and Ben Tre were recognized as the special associations and receive regular funding for operation.

In 2013, there were two newly established consumer associations in Lai Chau and Bac Kan and one association namely Phu Yen turned being under the administration of Industry and Trade Department.

Furthermore, during those examining and inspecting missions, VCA also worked with DoITs on such issues as (i) promotion of establishing local associations; (ii) view exchange on how to assist local associations to be more efficient in the coming time.

2. EDUCATION AND ADVOCACY ON CONSUMER PROTECTION

This was also an area attracting a lot of attention from VCA. VCA mobilized provinces across the country to disseminate consumer protection on the occasion of the “World Consumer Day 15th March”. According to the statistics of VCA, in that spirit 55 out of 63 provinces organized various activities, for example, hanging banners on the streets, organizing seminars/roundtables, etc. In fact, Hanoi and Hochiminh City also advocated the ‘Action Program for consumer interests and the Action Month for consumer interests at supermarkets and shopping centers’.

In addition, VCA took the lead or coordinated with relevant agencies, organizations to organize more than 10 advocacy seminars throughout the country, three of which were about food safety, paid TV and e-commerce.

VCA also organized 10 in-depth training workshops aiming at three subjects including officials of local DoITs, business communities and social organizations responsible for consumer protection in Ninh Binh, Ca Mau, Phu Yen, Phu Tho and Quang Ninh.

VCA cooperated with the Korea Consumer Agency to organize the ‘Consumer Day’ on 17th November 2013 in Hanoi as a way of gratitude to consumers using LG and Samsung products in Vietnam. The Day attracted a lot of attention from mass media and consumers using those products.
3. THE CALLING CENTER AND THE CONSUMER WEBSITE

3.1. The Calling Center

VCAA received more than 100 calls from consumers via this Calling Center, increasing the total number of calls to 200 since the first day of operating the center.

Complaints and denunciations done by consumers via the Calling Center just focused on a group of specific sectors such as: industries (automobile, motorbike); real estates; food safety (milk, confectionery, etc); product warranty, product quality (relating to motorbike, refrigerator, table and chair, microwave, cell phone, cosmetics, etc); product recall and service supply of cable TV, internet, telephone, etc.

3.2. Consumer Website

The consumer website (http://bvntd.vca.gov.vn) came into operation and is seen as an official channel of consumer protection at present. Consumers could search every relevant information to consumer protection in Vietnam, for example, consumer rights, procedure of complaint handling, the State management system on consumer protection, the system of the social organizations working for consumer protection, standard contract, general transaction conditions accepted by MoIT, list of the recalled defective products.
4. INTERNATIONAL COOPERATION IN THE AREA OF CONSUMER PROTECTION

a. Cooperation in ASEAN

VCA fulfilled the role as the Chairman of ASEAN Committee on Consumer Protection (ACCP) when hosting the 7th ACCP Meeting on 6-8 May 2013 and the ASEAN Workshop on ‘The dispute settlement mechanism for consumers’ on 9-10 May 2013 in Nha Trang.

Moreover, VCA also participated in building up the training strategy under the ASEAN framework and drafting advocacy publications like leaflet on consumer protection in ASEAN, the ASEAN consumer website, etc.

b. Japan

The JICA Project on ‘Enhancing management capacity for consumer protection’ supported VCA to conduct training and capacity enhancement for local officials in charge of consumer protection under the framework of short term training courses in the North (Quang Ninh) and the South (Tay Ninh) with the presence of Japanese experts. In addition, the Project also supported VCA to build a Handbook providing instruction on standard contract, general transaction conditions useful for examining and controlling standard contract and general transaction conditions registration at localities.

c. South Korea

In 2013, VCA initiated a cooperation program with the Korea Consumer Agency (KCA). The Program will last 3 years (from 2013 to 2015) aiming at:

» Transferring Korean experiences in administering and building the consumer protection policy to Vietnam with a view to building a progressive system and consumer policy in Vietnam.

» Enhance consumer awareness and trust in the legal system on consumer protection.
TRADE REMEDY MISSION

TRADE REMEDIES LAW ENFORCEMENT
ACTIVITIES TO SUPPORT TRADE REMEDY LAW ENFORCEMENT
ACTIVITIES SUPPORTING ENTERPRISES TO HANDLE TRADE REMEDY CASES
With function and responsibility as the national focal point to conduct investigation on applying anti-dumping, anti-subsidy and safeguard measures, in 2013, based on the petitions submitted by domestic industries, VCA conducted 01 investigation on safeguard measure and 01 investigation on anti-dumping measure against imports into Vietnam.
a. Case information

On November 30, 2012, VCA received a petition requesting the safeguard measure adoption on imports of refined vegetable oil into Vietnam, including Refined Soybean Oil and Refined Palm Oil of Vietnam Vegetable Oils Corporation (Vocarimex).

Based on VCA’s assessment on Vocarimex’s petition, on December 26th 2012, the Ministry of Industry and Trade officially issued a decision to initiate the safeguard investigation on imports of vegetable oils into Vietnam. The products under investigation were Refined Soybean Oil and Refined Palm Oil with HS code: 1507.90.90, 1511.90.91, 1511.90.92 and 1511.90.99.

b. The investigation process

After 8 months spending efforts to examine information, collect data and conduct on-site verification in facilities of domestic vegetable oil manufactures, VCA completed a final report on the case. Accordingly, during the investigation period, there was a relative and absolute increase in the volume of subject product. Such the increase in imports has caused serious injury to the domestic industry of vegetable oil, namely the reduction of market share, domestic sales revenue, profit, labor in the year 2012.

c. Conclusion

Based on VCA’s recommendations, on August 23, 2013, the Minister of Ministry of Industry and Trade (The Minister) issued Decision No. 5987/QD-BCT on the official application of safeguard measures. According to this Decision, the duty rate of 5% within 5 years, which is adjusted gradually by years, is imposed on the imports of vegetable oil into Vietnam.

It was the first time, a trade remedy investigation of Vietnam have led to a duty application.
a. Case Information

On May 06, 2013, Vietnam Competition Authority received an application request of antidumping measures on products of certain cold-rolled stainless steel imported from the People’s Republic of China, Chinese Taipei, Malaysia and Indonesia. The complainants are Vietnamese Stainless steel manufacturers, including POSCO VST Co. Ltd. and INNOX HOA BINH Joint Stock Company.

The two domestic stainless steel manufacturers (accounting for 89% of the production of similar product) have filed a petition against four above countries for dumping and causing injury to the domestic industry. Imported volume of the product under investigation account for 73.45% of total imports into Vietnam during the investigation period (from 1/4/2012 to 3/31/2013).

Imported products subject to investigation are certain coldrolled stainless steel in sheets or in coils, which contain 1.2% of carbon or less and at 10.5% of chromium or more, classified under HS code: 7219.32.00; 7219.33.00; 7219.34.00; 7219.35.00; 7219.90.00; 7220.20.10; 7220.20.90; 7220.90.10; 7220.90.90.

b. The investigation process

On July 02, 2013, based on VCA’s recommendations, the Ministry of Industry and Trade issued Decision 4460/QD-BCT on initiation of anti-dumping investigation of cold rolled stainless steel imported to Vietnam from China, Malaysia, Indonesia and Taiwan.

After initiating the investigation, VCA sent questionnaires to 16 exporters in China, 2 exporters in Malaysian, 15 exporters in Taiwan and 1 exporter in Indonesian in order to collect related information for further analysis. Based on the investigation results, VCA preliminarily determined that the product under investigation of the 4 countries was being dumped and this act had caused injury to the domestic industry of Vietnam.

c. Preliminary determination

Based on the preliminary report of the VCA, on December 25, 2013, the Minister officially issued Decision 9990/QĐ-BCT on the application of provisional anti-dumping measures. Accordingly, the varied antidumping duty rate applied for related countries: China from 6.45% to 6.99%, Taiwan from 13.23% to 30.73%, Malaysia 14.28% and Indonesia 12.3%.

Currently, VCA continues reviewing related information, data and method so as to prepare for the on-site verification in the countries of investigated exporters before completing the official final report.
In 2013, VCA cooperated with Hanoi Department of Industry and Trade; Training School for official of Ministry of Industry and Trade, WTO Center in Ho Chi Minh City, the Ministry of Agriculture and Rural Development, Ministry of Justice to organize technical seminars, in which VCA delivered presentations on the trade remedies law of some countries in the world; the processes and procedures for the investigation of anti-dumping, anti-subsidy and safeguard in some countries such as USA, EU; regulations on dispute settlement in WTO in order to enhance awareness of trade remedy measures for the business community in Vietnam ...

Moreover, VCA cooperated with the Industry and Trade Publisher to write the book “The risk of being imposed double tax of anti-dumping and anti-subsidy towards the non-market economy - Experience for Vietnam”.

1. EDUCATION AND DISSEMINATION OF TRADE REMEDY LEGISLATIONS

ACTIVITIES TO SUPPORT TRADE REMEDY LAW ENFORCEMENT
The Early Warning System on Anti-dumping cases against exports of Vietnam has been established and operated by VCA - Ministry of Industry and Trade since 2010 (via the website canhbaosom.vn or earlywarning.vn) to provide the business community with useful supporting tools that help them predict possible anti-dumping cases and actively cope with the lawsuit in certain circumstances. In addition, this system also allows business to access a bundle of beneficial information related to imports and exports of some markets in the world, accordingly, help enterprises adjust their manufacturing and exporting plans to adapt the demand of their targeted exporting markets.

In 2013, the Early Warning System continues (EWS) providing the early warning for enterprises regarding the anti-dumping cases against Vietnamese exports, including 12 main types of product: seafood, plastics, rubber, paper, textiles, footwear, electrical appliances, machinery spare parts, electronic components, furniture, measurement, steel and metal products in 08 major exporting markets, namely the US, the EU, Japan, Australia, Canada, South Korea, India and Brazil.

With the pursuit to further strengthen the (EWS) functions to provide user with better services, in 2013, VCA focused on upgrading the System software and the website. Thank to this efforts, users when visiting the website would have more look-up options which are viable and informative. For example:

- Looking up information under HS description;
- Looking up imports and exports data in various ways, such as looking up in groups HS (2 number code, 4 number code, 6 number code, 8 number code); looking up according to countries, products, periods; volume, value.

Besides, with the purpose of disseminating the system to more users and improving efficiency of the system, in 2013, VCA organized 02 Workshopsto introduce the Early Warning System and guidelines of supporting tools in 02 cities wherenumerousexporters of Vietnam locate, such as Vung Tau and Hai Phong.
3. INTERNATIONAL COOPERATION IN TRADE REMEDIES ISSUES

Under the Memorandum of Understanding between the Ministry of Industry and Trade of Vietnam and the Ministry of Knowledge Economy (MKE) dated October 21, 2009 in the field of trade remedies, VCA and the Korea Trade Commission - KTC (under MKE) are the two agencies responsible for implementing the cooperation and experience exchange in enforcement of trade remedies law between the two countries for the period of 5 years (2009-2014).

In 2013, VCA and KTC conducted a number of coordinated activities under the framework of the Experiences Sharing Program of Korea (KSP 2013), such as dispatching Survey teams to KTC to share and learning experience of the WTO law enforcement in Korea; organizing propagation workshops for Vietnam enterprises on the impact of double-counting on non-market economy in anti-dumping and anti-subsidy investigation.
In 2013, VCA handled 07 new cases on trade remedies, including 04 anti-dumping cases, 02 anti-subsidy cases, and 01 safeguard case.

In each case mentioned, VCA provided its solid support for business community, such as:

» Developing counter arguments to represent Vietnamese Government’s viewpoints for each case;

» Informing and working directly with related parties, e.g. Associations and Vietnam exporters of products under investigation in order to exchange information and provide consultation on how to deal with the cases effectively;

» Closely cooperating with related agencies to develop plans to cope with trade remedies cases; providing consultation; disseminating legal regulations of investigated countries on anti-dumping, anti-subsidy and safeguard measures to relevant associations and enterprises.

» Organizing the orientation workshop for enterprises, related Ministries and agencies in order to provide guidance on completing the Questionnaire of the Investigating authority (in the anti-subsidy case); and providing recommendations for relevant enterprises on how to respond to the Investigation Authority in order to achieve the best result.

Table 8: Trade remedies cases against Vietnam exports

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti-dumping measure</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>Safeguard measure</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Countervailing duties measure</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>7</td>
<td>3</td>
<td>7</td>
<td>10</td>
<td>6</td>
</tr>
</tbody>
</table>
The United States:
Countervailing against imports of frozen warm water shrimp from 07 countries, including Vietnam

On May 18, 2013, the U.S. Department of Commerce (DOC) officially initiated an anti-subsidy investigation concerning imports of frozen warm water shrimp from Vietnam.

However, on August 08, 2013, U.S. International Trade Commission (USITC) issued the final determination in which affirmed that the domestic industry of the US was not materially injured (or was threatened to be materially injured) because of shrimp product imported from Vietnam. Accordingly, the investigation is terminated and exporters/producers from Vietnam did not suffer the countervailing duty imposed on their products.

To achieve this success, VCA actively coordinated with relevant ministries, lawyers and enterprises during the investigation in order to collect information and respond to the questionnaire subjected to Vietnam Government effectively as well as fully prepare for the on-site verification of investigating authority.

The United States - 7th Administrative Review on imports of certain frozen warm water shrimp from Vietnam

On September 10, 2013, DOC issued final determination on anti-dumping duties applied on frozen warm water shrimp imported from Vietnam into the US market in the period from 1/2/2011 to 01/31/2012 (7th administrative review on antidumping duties - POR7).

According to the determination, the DOC asserted that the entire of 33 Vietnamese shrimp exporters in this review were not selling dumped products into the U.S. market. Thus, the 33 shrimp exporters would be exempted from any anti-dumping duty for this review period. Since the U.S. imposed anti-dumping duty to frozen warm water shrimp from Vietnam (2004), it is the first time that all the companies involved in the administrative review carried the duty rate of 0.00%. This positive result was achieved thanks to the concerted efforts of business community, lawyers and their effective cooperation between with the government agencies, such as the Ministry of Industry and Trade, Ministry of Agriculture and Rural Development, Vietnam Association of Seafood Exporters and Producers (VASEP) and other relevant authorities.
On July 23, 2013, DOC officially initiated an anti-dumping investigation on imports of steel pipe from Vietnam and a countervailing investigation on imports of this product from other countries.

On August 16, 2013, USITC issued a preliminary determination in which stated that there were evidences to prove that the domestic industry of US was materially injured due to the imports of the products under investigation. Previously, based on the fact that there was a sharp increase on exports of this product into the US market, VCA signaled the possibility of an antidumping investigation initiated by the DOC in the Conference for enterprises organized in August 2012.

In February 18th 2014, the DOC issued the final determination. Accordingly, the duty rate for the mandatory respondents from Vietnam is 9.57%; the nation-wide duty rate for other enterprises is 11.47%.

It is scheduled that the DOC would issue the final determination on July 8, 2014. In addition, the USITC also continues to analyze evidences and plan to release a final determination of injury on in August 2014.

On December 19, 2013, European Commission (EC) announced its decision to initiate the anti-subsidy investigation against imports of PSF yarns from China, India and Vietnam. Since this is the first countervailing investigation of EU against imports from Vietnam, it is important that Vietnam should be well prepared because the consequence of this case would become a precedent for the future cases of EC (if any).

Shortly after receiving the notification, VCA announced the news to related ministries/agencies, studied on the case and drafted a verbal note to the Minister for approval. The paper then was submitted to the Trade Commission of EC in order to express the view of Vietnam Government on this case as well as to provide legal arguments to defend and protect the legitimate rights of Vietnam respondents.

On December 20, 2013, the EC sent a questionnaire to the Government of Vietnam. VCA actively coordinated with related ministries and Government’s lawyer to answer the questionnaire (sent to the EC on February 18 2014), as well as develop technical tactics for the next steps of proceeding.
Brazil
- anti-dumping investigation on motorcycle tires imported from Vietnam

On June 25, 2012, the Ministry of Development, Industry and Foreign Trade of Brazil (MDIC) officially announced its investigation on motorcycle tires items imported from Vietnam.

Shortly after the notification, VCA cooperated with Vietnam Trade Office in Brazil to send a verbal note to MDIC to express its objection on the case.

On May 31, 2013, MDIC announced an extension of investigation duration on this case, in which stated that the case would end on December 25, 2013.

On December 19, 2013, MDIC issued the final determination, accordingly, MDIC decided to apply anti-dumping measures against motorcycle tires imported from Vietnam for a period of 5 years with the applied duties of 1.80 USD/kg for mandatory respondents, and 7.79 USD/kg for other related exporters.

Brazil
- Anti-dumping investigation on cold rolled steel imported from some countries, including Vietnam

On April 13, 2012, the Ministry of Development, Industry and Foreign Trade of Brazil (MDIC) initiated an anti-dumping investigation against cold-rolled steel imported from Vietnam. After receiving the notification, a verbal note was prepared by VCA and sent to MDIC. In this note, VCA presented its opinion and concern, and requested MDIC to exclude Vietnam from the list of countries under the investigation due to the shortage of legal basis and precedent.

On December 19, 2012, MDIC organized the first hearing, in which interested parties (importers, exporters, related governmental agencies etc.) presented their comments and views on the case to protect their rights. VCA also cooperated with Vietnam Trade Office in Brazil to draft comments to express Vietnam view on this case.

On March 14, 2013, MDIC announced a 6-month extension of investigation for the case.

On October 5, 2013, after 18 months from its initiation, MDIC issued the final determination. Accordingly, mandatory respondents in this case received the duty of 35.6%.
On October 18, 2012, the Turkish Ministry of Economy officially initiated an anti-dumping investigation on imports of yarns from several countries, including Vietnam.

With an aim to maximize the support for related enterprises to deal with the case, immediately after receiving the notification, VCA informed the case to the Vietnam Association of Cotton yarn, and closely coordinated with the Vietnam Trade Office in Turkey to send a verbal note to express Vietnam views on the issue.

The anti-dumping duty rate applied on Vietnamese producers ranges from 19.72% to 31.10%.

On September 27, 2013, the Import Department - Ministry of Industry and Trade of the Philippines initiated an investigation on application of safeguard measures against galvanized steel (GI) and color-coated steel (PPGI) imported to the Philippines.

On November 08, 2013, VCA sent a verbal note to the Import Department - Ministry of Industry and Trade of the Philippines to express its concerns about the case and requested an adequate consideration to exclude Vietnam from the list of countries under the application of safeguard measures according to WTO regulations towards developing countries.

Currently, VCA continues to coordinate with related companies to keep track of this case.
On July 26, 2013, the Antidumping Committee of Australia officially initiated an anti-dumping investigation on imports of transformers from Vietnam. Thereafter, the Committee conducted an on-site verification at facilities of mandatory respondents in Vietnam in the mid-November 2013.

On November 20, 2013, the Committee issued a preliminary positive determination on dumping with the preliminary duty rate of 3.4% applied for Vietnam.

It is scheduled that final decision on the case would be issued at the end of April, 2014.

2. EXPLANATION OF VIETNAM MARKET ECONOMY STATUS

Regarding the United States, on May 01, 2014, VCA coordinating with related ministries, agencies organized the 5th meeting of the Vietnam - U.S. Bilateral Working Group on market economy and trade remedies issues. In the meeting, the Vietnamese side presented the updated legal framework of policies, legislations and actual implementation in Vietnam; informed the renewal of Vietnam’s legal policies regarding the criteria on market economy status and responded to the US side’s concerns.

Regarding the EU, upon the result of the 05th session of the Working Group between Vietnam - EU on Vietnam market economy status, in response to the list of concerned issues requested by the European Commission (EC), VCA sent the Supplemental Report on market economy to the EC in April 2013 based on the information and data provided by the related ministries and agencies.

On November 08, 2013, VCA received the 2013 preliminary assessment report on Vietnam market economy status.

Currently, VCA is actively coordinating with the Vietnam Trade Office in the European Union - Belgium to prepare for the next meeting with the EU side scheduled in March 2014.
3. DISPUTE SETTLEMENT AND OTHER WTO RELATED WORK

WTO dispute settlement of Shrimp case

Following the positive results gained in WTO1 cases (DS404), with the aim to help all shrimp exporters and/or some large Shrimp exporters of Vietnam to escape from the anti-dumping duty order imposed since 2005, on December 17, 2012, Vietnam continued sending her request to the WTO Dispute Settlement Body to establish the Panel for WTO2 case (DS429).

From 11th to 12th, December 2013, VCA, the Vietnam Delegation in Geneva and Vietnam’s lawyers participated in the first litigation with the Panel.

Currently, VCA cooperates with the Vietnam’s lawyers and the Vietnam delegation to prepare the arguments against US Panel’s response to the questionnaire as well as for the second hearing (taking place at the end of March 2014) and the next steps of proceedings.

Participate in meetings of Committees on Anti-dumping, anti-Subsidies in WTO

VCA coordinating with related agencies participated in the meeting of three Committees on Anti-dumping, Anti-subsidy and Safeguards in April and October 2013. In these multilateral meetings, VCA expressed its opinions and concerns on some cases involved Vietnamese exports to protect the legitimate rights of Vietnam producers/exporters.

4. NEGOTIATION ISSUES

VCA participated in negotiations on trade remedies issues in several free trade agreements (FTA), namely Trans-Pacific Partnership Agreement (TPP), Vietnam - EFTA free trade agreement, Vietnam - EU free trade agreement and Vietnam - South Korea free trade agreement, VCU free trade agreement (between Vietnam and the Custom Union of Russia, Belarus and Kazakhstan)

Participating in some WTO dispute cases as a third party

In order to gain experience as well as obtain information and other documents that could be useful for Vietnam, in 2013; VCA coordinated with the Vietnam Mission in Geneva to register as a third party in the following cases:

» DS437: China challenges the US in WTO regarding the approach the US used to define “public body “in the countervailing duty investigations against non-market economy.

» DS449: China requested consultations with the United States concerning the US anti-subsidy law and the double-counting issue.
OTHER ACTIVITIES

CULTURAL ACTIVITIES
SPORT ACTIVITIES

With the encouragement of VCA leaders, such social activities as sports, art performance, charity and volunteer have continuously expanded. These activities contribute positively to developing good relationship not only between officials in VCA but also among units in the MOIT.
CULTURAL ACTIVITIES

On the occasion of “Youth month”, during the first few months of 2013, VCA Youth Union continues carrying out one of its regular activities - raising money for “VCA Charity Fund” to support seriously ill children from disadvantaged families. Accordingly, in 2013, thanks to the information source of Dan Tri online newspaper, we visited 03 critically injured and disadvantaged children in the hospital. With the financial support from our charity fund, we hope to give these children the encouragement to struggle with the disease. This is realised as a meaningful activity for the good of the society and community.

Also in 2013, VCA Youth Union organized the “VCA Dressing-up Contest 2014”, in which attracted full attention of almost VCA members. The program contributed to enrich the spirituality of the whole VCA community.

Child care and education is also another frequent activity at VCA. Annually, VCA organized the celebrations to commend and bear the gifts to excellent pupils and pupils with underprivileged conditions. On 1st June, more than 20 VCA kids achieved high results during the school year of 2012 - 2013, or in the national, provincial or city contests and 50 children of VCA officials and staffs were awarded.

SPORT ACTIVITIES

Following the guiding principle “Khỏe để học tập và công tác tốt”, literally interpreted as you always need good health to study and work well, VCA was not only active to participate in sport activities launched by MOIT but also hosted several ones, for example the MOIT Tennis Tournament in 2013.
OVERALL ASSESSMENT OF 2013 AND STRATEGIES FOR 2014

ASSESSMENT OF 2013 WORK STRATEGIES FOR 2014
1. COMPETITION LAW ENFORCEMENT

1.1. Achievements

The year 2013 highlights VCA’s success in the formulation of legal documents on competition, namely the draft Decree on management of multi-level sales operation and the draft Decree replacing Decree No. 120/2005/NĐ-CP on handling competition violations. These draft Decrees were timely made and met the requirement of current context, as well as opened the development opportunities for the competition management in Vietnam.

Moreover, the competition law enforcement activities constituted certain achievements, for example 10 additional sectors were studied and assessed with regard to competition aspects, and the competition chapter is promoted in the TPP (Trans-Pacific Partnership) negotiations and also in many FTAs with other countries. With these accomplishments, 2013 is considered as a foundation year, which stimulates improvement for VCA in the future. VCA acknowledge the following factors contributing to these successes:

» Firstly, VCA officials and staffs have demonstrated a strong sense of solidarity and positive working attitude.

» Secondly, the Competition Law penetrates into our lives; the business community’s knowledge about law on competition has been improved considerably etc.

» Thirdly, though VCA’s working area is specialized, the international cooperation activities were implemented effectively; which helped in facilitating the technical support from many countries and gaining experience while in operation.

1.2. Shortcomings

With the goal pursued, VCA have achieved steady progresses. However, VCA also had to deal with difficulties and challenges stem from both subjective and objective limitations:

a) Limitations derived from human resources

The investigators for competition restriction cases are expected to have professional knowledge as well as a grasp of the questioned area, and especially the investigation skills. However, the majority of VCA staffs is young and lack of practical expertise and case handling skills.

b) Limitations derived from the competition law

The competition law is the first legal document regulating the competition relationship in Vietnam; therefore definite limitations do exist and restrain the law enforcement.

In the future, a review study is crucial in order to improve the legal document system as well as enhance the effectiveness of the law enforcement.

c) Limitations derived from the enterprises’ awareness about the competition law

In practice, the knowledge of enterprises in Vietnam on competition law and policy has been improved but still limited. For example, there were several companies that failed to cooperate positively with VCA regarding information disclose; hence negatively affected the investigation.

Enterprises are not active in detecting and reporting the violations of competition law without knowing that if they are, they will be able to protect their own legitimate interest and right.
2. CONSUMER PROTECTION

2.1. Achievements

The state management over consumer protection in 2013 achieved positive results, such as:

» The consumer protection law has been gradually brought into lives; the awareness on consumer protection has been dramatically improved, particularly a lot of enterprises actively recalled the defective goods, or registered their standard contract form and general transaction conditions to the state management agencies.

» The social organizations joined the consumer protection affairs have been established at provincial level, expanded and initially have their voice in the community. Their activities are more diversified and receive support from not only the state agencies but also the business organizations.

» The consumer protection in the market economy has been socialized due to the demand set out in current context. Besides, the state management over consumer protection from the central to provincial level has drawn great attention and been implemented in an effective and professional manner.

» The control on standard contract form and general transaction conditions has been implemented in the right track and gained positive results.

2.2. Weaknesses and shortcomings

Regardless such achievements in 2013, there remains weaknesses and shortcomings in the state management on consumer protection:

» The law advocacy activities are not diverse and of intensive knowledge, at the same time still demonstrative. Besides, VCA have not conducted any training course for business community operating in important retails sectors that have great impacts on consumers.

» The operation of consumer Call Center as well as consumer protection website is not really effective since both did not get much attention from the majority of consumers.

» Several issues were legalized but lack the implementation guidance, for example the dispute resolution at the court by applying the short-cut procedure.
3. TRADE REMEDIES

3.1. Achievements

The year 2013 highlights the maturity of VCA in trade remedy affairs with numerous achievements in different areas:

» Regarding the application of trade defence measures on goods imported into Vietnam market: for the first time, Vietnam applied the safeguard measure on the vegetarian cooking oil product and investigated the anti-dumping case on stainless steel product.

» Regarding the work dealing with trade remedies against Vietnamese exports, VCA successfully handled a number of cases. Particularly, in the anti-subsidy case that the U.S sued against Vietnamese warm water shrim, with the coordinated efforts of VCA and other relevant agencies, the U.S concluded to cease the case as well as remove the anti-subsidy tariff.

» Moreover, VCA actively participated in WTO related activities in order to protect the legitimate rights of Vietnamese enterprises in the trade remedy cases. These efforts contributed to strengthening VCA position among other WTO members.

3.2. Shortcomings

The trade remedy cases against Vietnamese exports tend to increase considerably. The subject of these cases is not only in the group of Vietnamese major exports (e.g. shrimp, catfish, steel etc.) but also those of great potential (e.g. paper, fibre, vehicle tyre etc.).

Besides, though VCA actively initiated the investigation against the imported products in Vietnam market, the reality of numerous unfair competition practices of international trade in Vietnam demonstrates that what VCA have achieved does not fit with its potential.

Those shortcomings exist due to the following reasons:

» The export enterprises and associations do not have sufficient knowledge about legal regulations in general and the law in trade remedies in particular; therefore, they are not proactively apply the trade defense measures to protect their legitimate rights in international trade;

» Though the Vietnamese staffs charged with trade remedies have grown up dramatically, they are still reluctant to keep up with the practical situation of trade defense in Vietnam;

» The state agencies’ awareness and knowledge about trade defense is still limited, which leads to the introduction of policy contradict to WTO laws and causes a number of cases related to anti-subsidy against Vietnamese exports.
1. CONTEXT AND CHALLENGES FOR 2014

In 2014, the world economy signaled the recovery but not identically in countries and states, and also revealed the instabilities. Domestically, numerous enterprises met difficulties with regard to capital and competition in the market. The socio-economic situation in Vietnam has improved but still presented challenges. Besides, such missions related to the economic restructuring, lessening the difficulties and creating favorable conditions for enterprises, will be implemented in 2014 and have great impacts on the business environment.

The deeper economic integration and the increasingly important FTA negotiations create more cooperation opportunities but more complicated trade disputes. There will be more challenges for the state management agencies, such as more M&A and economic concentration activities; the reduction of state interference into the business of enterprises, the severe competition in the market, and the threat of increasing unfair competition practices and consumer violations.

Under this context, a number of requirements set for Vietnam Competition Authority in 2014 are as follows:

» Firstly, the capacity of VCA’s staff and officials must be really talent and experienced applying with the demanding tasks of protecting the interests of business and consumers.

» Secondly, the legislation on competition, consumer protection and trade remedies must be really effective in order to create and maintain a healthy competitive environment, protect the legitimate benefits of the consumers. This requires further research to advise the competent authorities properly.

» Thirdly, the understanding of business and the awareness of consumers need to be improved. The economic integration and competition bring many opportunities, benefits to the enterprises and consumers; however, in cases when the businesses and consumers lack of knowledge about the law, they might be the subjects of law violations. Hence, the advocacy to increase the awareness of enterprises and consumers are very important to respond and protect their legal rights.

» Fourthly, VCA must focus more resources to enhance the investigation and handle more cases on violations of competition, trade remedies and consumer protection, contributing to an equal competition in the market.
2. STRATEGIES FOR 2014

2.1. Drafting legislations and consultation

Provide consultation to the Ministry leaders to promulgate the new Circular replacing the Circular 110/2005/NĐ-CP dated August 24th 2005 on the management of multilevel sales etc.

Research, review and provide recommendations on competition to adapt with international regulations and practical conditions in Vietnam.

Cooperate with the supreme court to build the joint Circular guiding on solving the consumer’s complaint based on the shortcut procedure.

Build the Study to work on the Decision 02/2012/QĐ-TTg of the Government on publicizing the List of essential products and services compulsory to register the standard contract, the general transaction conditions on such areas as banking, insurance, public health, education etc.

2.2. Legal advocacy

Disseminate and provide guidance (in various means) on provisions of competition law, multi-level sales to managers at the provincial level and businesses across the country.

Actively develop propagation and advocacy activities on trade remedies provisions on imported goods in Vietnam, legal documents and guidelines to the businesses, industrial associations, domestic producers and concerned parties to protect their legitimate rights as well as fair trade in the context of deeper opening market and trade liberalization.

Continue to promote education, advocacy and increase the awareness of the consumers, business organizations and individuals on consumer protection. Especially focus on the nationwide celebration of “Consumer day - March 15th”.

2.3. Competition law enforcement

Strengthening the monitoring and management of competition; actively study and review the articles on economic concentration in the Competition Law so as to fit with practice; continue the control of economic concentration, assess the competition in important sectors of the economy; coordinate with the relevant state agencies to build the database of enterprises that have the dominant position in the market, the monopolies, the competition principles in associations and the leniency program.

Update and build the annual report on economic concentration.

Build the database of enterprises that have the dominant position in the market and M&A.

Set the goal in 2014 to complete the investigation report and transfer to the Competition Council. Besides, pursue to conduct 02 to 03 new cases on the basis of pre-litigation investigation result or information provided by the Complainant.

Set the goal in 2014 to carry out 10 - 15 pre-litigation investigations.

Plan to handle 45-50 cases of unfair competition with a focus on advertising, sales and promotion for unfair competition purpose, misleading indications, defamation of other enterprises, and disturbing business of competitors.

Organize inspection tour to supervise the implementation of regulations on multilevel sales, working directly with enterprises operating the multi-level sales at their base and impose fines on those having violated conducts.

2.4. Consumer protection

Focus on implementing the consumer protection in the area of banking and insurance;

Focus on “socialized” activities on consumer protection;

Enhance the effectiveness of the Consumer Call center and the consumer protection website;

Conduct studies and propose recommendation on applying measures to enhance the quality and effectiveness of handling consumers’ complaint;

Continue the support for provinces to establish the Association (15 provinces have yet established); focus on the mountainous areas in the North. In 2014, VCA support provinces to establish at least 2 to 3 new associations;
Continue supervising and promoting the business organizations and individuals under the scope of regulation in the Decision 02/2012/QĐ-TTg to make the registration;

Checking the standard contract, general transaction conditions of the business organizations and individuals that are not compulsory to make registration according to the Decision 02/2012/QĐ-TTg;

Enhance the inspection activities, complaint and violation handling regarding the standard contract and general transaction conditions.

2.5. Trade remedies

Follow up and update information on the anti-dumping, anti-subsidy and safeguard cases against Vietnamese exports. Cooperate with and provide technical consultancy to enterprises and trade associations in the course of coping with such cases.

Follow up, update information, review and give warning on products at high risks of circumvention investigation via trade fraudulent acts, transferring and foreign investment moving from countries exposed of anti-dumping, anti-subsidy and safeguard measures into Vietnam in order to protect the common interests of Vietnam’s production and exporting.

Continue holding technical dialogues with partners/ countries for granting market economy status for Vietnam, stressed on such major partners as EU, the U.S, etc.

Actively provide the support for the business community to utilize the Early warning system so as to enhance the effectiveness of trade defense and to deal with the trade barriers set by the important trade partners of Vietnam; cooperate with Ministries and relevant state agencies to cope with the antidumping cases and prevent the dumping in Vietnam market.

Proactively work with Associations and domestic enterprises to apply the trade defense measures so as to support the sectors that have difficulty in competing with the unfair practices of imported products.

2.6. Complete the Thinkfair System

Cooperate closely with Korea partner to complete and run the Thinkfair system. At present, the System is in the translation process and completing the functions and expected to be in pilot operation in the second Quarter of 2014.

2.7. Other supportive activ

2.7.1 International cooperation

Proactively improve VCA’s position and its role at the international forums and organizations, such as AEGC, APEC, ICN and so on.

Actively cooperate with other foreign partners to expand bilateral and multilateral cooperation.

2.7.2 Activities of information and publication

Duy trì, phát triển trang thông tin điện tử của Cục và Maintain and develop VCA website (in English and Vietnamese). Operate and administer the server system to better provide information to state management agencies, business community and the consumers.

2.7.3 Supportive work

In addition to regular tasks according to main function and duties, in 2014, VCA office continues to promote the administrative reform (under the Project 30, 30c, 896), standardizing the process, procedures of VCA’s work and applying the ISO 9001-2000 quality management system on the performance of the VCA. Apply the Thinkfair System into the operation of VCA.

Provide consultation on building long term training plan for officials and other intensive training activities in order to gradually standardize the working staff; conduct training programs (certificate awarded) on the field under VCA working scope.

For the operation of VCA representative offices, in 2014, focus on organizational structure, strengthening human resources, facilitates to ensure stable support for VCA activities. Gradually expanding and upgrading relations with other authorities, develop close coordination among departments of VCA in professional operations.