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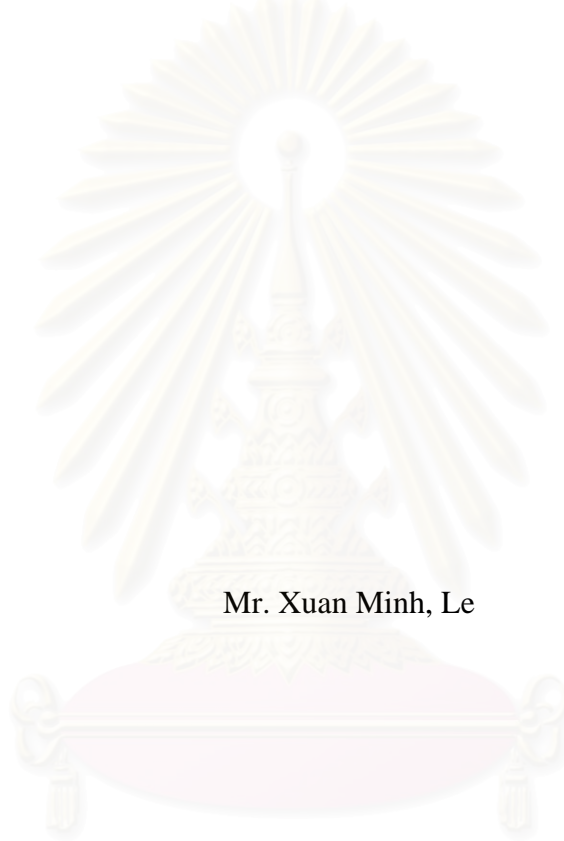
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STATE POLICY ON SMALL AND MEDIUM ENTERPRISES (SMES):

A CASE STUDY OF "MORALLY SENSITIVE" ENTERPRISES

OF DISTRICT 1 IN HO CHI MINH CITY



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สถาบันวิทยบริการ
จุฬาลงกรณ์มหาวิทยาลัย

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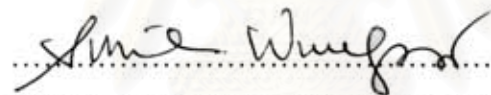
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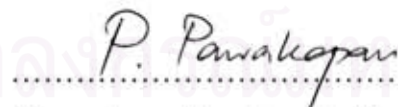
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การเปลี่ยนผ่านระบบเศรษฐกิจของประเทศเวียดนามเข้าสู่เศรษฐกิจการตลาดและการเข้าเป็นส่วนหนึ่งของเศรษฐกิจโลกมีผลสำคัญต่อธุรกิจภาคเอกชนในการเข้ามามีส่วนร่วมในเศรษฐกิจของประเทศเป็นอย่างยิ่ง ดังจะเห็นได้จากการขยายตัวของธุรกิจขนาดกลางและขนาดย่อย (SMEs) ที่เพิ่มขึ้นถึงร้อยละ 95 ของจำนวนที่มีอยู่ ปัญหาสำคัญของธุรกิจขนาดกลางและขนาดย่อยโดยเฉพาะธุรกิจที่ "อ่อนแอต่อศีลธรรม" คืออุปสรรคในกาขียนขอใบอนุญาตจดทะเบียนในนคร โฮจิมินห์

งานวิจัยนี้มีวัตถุประสงค์เพื่อศึกษาปัจจัยที่มีผลกระทบต่อการขอใบอนุญาตจดทะเบียนเปิดบริการธุรกิจขนาดกลางและขนาดย่อยที่ "อ่อนแอต่อศีลธรรม" ในบริบทของการเปลี่ยนผ่านเข้าสู่เศรษฐกิจการตลาดและข้อกำหนดขององค์การการค้าโลก (WTO) ผลการศึกษาพบว่าในทางปฏิบัติมีความยุ่งยากซับซ้อน ขาดความโปร่งใสและไม่สมเหตุสมผลในการดำเนินการขอจดทะเบียนทำธุรกิจดังกล่าว นอกจากนี้ยังพบว่าเจ้าหน้าที่รัฐมีมุมมองและอุดมการณ์ที่ต่อต้านการจดทะเบียน ซึ่งขัดกับสมมุติฐานของการศึกษา

จากข้อมูลที่พบ จึงสามารถสรุปได้ว่า นโยบายนี้ล้มเหลวเนื่องมาจากหลายสาเหตุดังต่อไปนี้ 1) อคติของเจ้าหน้าที่รัฐหัวอนุรักษ์ที่ต่อต้านธุรกิจ "อ่อนแอต่อศีลธรรม" 2) การตีความนโยบายที่คลาดเคลื่อนของเจ้าหน้าที่ระดับล่าง 3) การขาดความรู้ความเข้าใจของสาธารณชนเกี่ยวกับกฎระเบียบในการจดทะเบียนธุรกิจ 4) มุมมองที่เป็นอดีตเดิมของสาธารณชนและสื่อที่มีต่อธุรกิจภาคเอกชน โดยรวมอาจกล่าวได้ว่าในบริบทของการเปลี่ยนผ่านเข้าสู่เศรษฐกิจการตลาดและการเข้าเป็นส่วนหนึ่งของเศรษฐกิจโลก ความล้มเหลวของนโยบายดังกล่าวมาจากความขัดแย้งระหว่างหลักการของเศรษฐกิจการตลาดและหลักการทางจริยธรรมของสังคม

สุดท้ายนี้ ผู้เขียนเสนอให้นักวิจัยที่จะทำการวิจัยเกี่ยวกับผลการดำเนินงานตามนโยบายในเวียดนาม ควรให้ความสำคัญต่อบทบาทและเจ้าหน้าที่รัฐในระดับล่างให้มากขึ้น

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 HOCHIMINH CITY

XUAN MINH LE: STATE POLICY ON SMALL AND MEDIUM
 ENTERPRISES (SMES): A CASE STUDY OF "MORALLY SENSITIVE"
 ENTERPRISES OF DISTRICT 1 IN HO CHI MINH CITY: ASSOCIATE
 PROFESSOR PREECHA KUWINPANT, PH.D., 101 PP.


Thanks to the transformation to market economy and international integration of Vietnam, the role of private sector takes a vital part in the economy, in which SMEs take over 95% of the total number. However, despite their significant contribution, SMEs working in "sensitive" services still have faced many obstacles when obtaining the business registration certificate in Ho Chi Minh City.

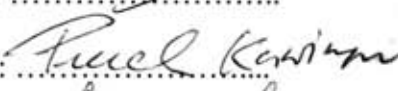
The purpose of the research is to study the factors influence issuance of business registration certificate for "sensitive" SMEs in the context of Vietnam's transformation to market economy and WTO penetration. Findings from the study prove that issuance of business registration certificate for sensitive enterprise is complicated, non-transparent, and unreasonable. Especially, contrary to the hypothesis, the study finds various opposite viewpoints of officials due to their ideology.

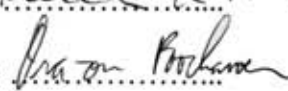
Based on the findings, it can be concluded that this policy failed due to some reasons: (i) bias of conservative officials against "sensitive" businesses; (ii) inadequate interpretation of the policy by street-level bureaucrats; (iii) poor knowledge of the public about regulations on the business registration; (iv) traditional prejudice of the public perception as well as mass media towards private sector. Overall, in the context of economic transition and global integration, two conflict principles market economy versus social morality also contribute to the policy failure.

Last but not least, in order to close this research, the author recommended prospective researches pay much more attention to actions and the role of street-level bureaucrats when studying policy implementation in Vietnam.

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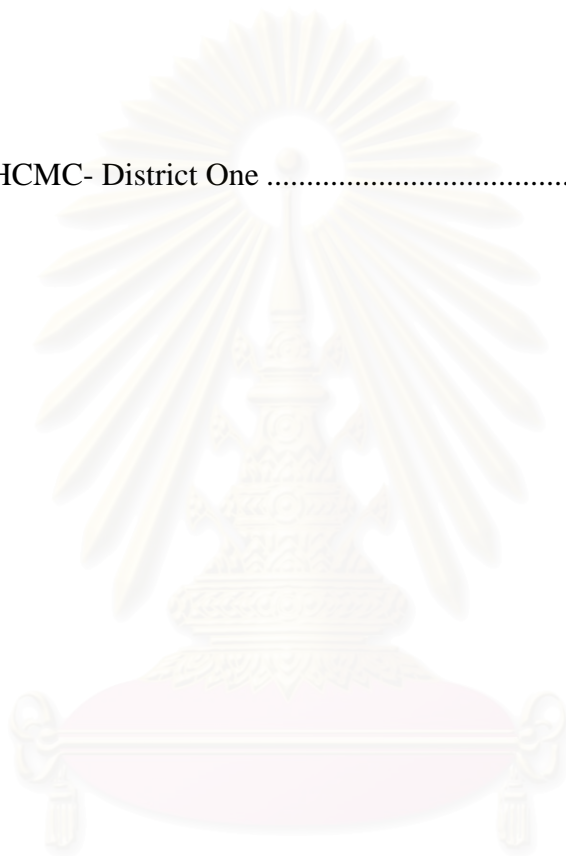
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ABBREVIATIONS

- SMEs** - Small and medium enterprises
- SSEs** - Small-scale enterprises
- MPI** - Ministry of Planning and Investment
- DPI** - Department of Planning and Investment
- HCMC** - Ho Chi Minh City



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CHAPTER I

INTRODUCTION

I. PROBLEM STATEMENT AND SIGNIFICANCE OF THE TOPIC

It is suggested that the SMEs play an important role in national economic development. Therefore, in the current Vietnam economic transition from centrally-planned to market-oriented economy and the context of international integration, the highest-level leaders of Vietnam have identified development of SMEs as an appropriate strategy for development of the country.

With the purpose of enabling SMEs `development, Vietnamese government launched Entrepreneur Law (2000, 2005) whose content focuses on new regulations of business registration. In Vietnam, enterprise registration is extremely important for those who wish to join to business sector. Through this process, firms are legally recognized by the State as legal entities.

As an integral part of private sector, SMEs operating in following industries : eating & drinking service, accommodation, dancing club, massage, karaoke, barber shop, and billiard/snooker have contributed greatly to the development of Ho Chi Minh City in term of economy, tourism, entertainment. Especially, these industries are highly appreciated because of its generating employment and income for a large amount of labors.

In this most important economic center of the country, these businesses are named “sensitive enterprises” because of its potential possibility of existing social evils (prostitution, drug, criminal, gambling) which are strictly prohibited by Vietnamese laws.

Surprisingly, despite their contribution, SMEs setting up in these industries have faced many obstacles to be issued business registration certificate at Ho Chi

Minh City. In practice, therefore, the problematic issuance of business license is said to constrain development of “sensitive” SMEs.

II. OBJECTIVES OF MY THESIS

This study aims to investigate the limited development of “sensitive” SMEs and the granting of business registration certificate for “sensitive” services at Ho Chi Minh City.

The purpose of the research is to study the factors influence issuance of business registration certificate for “sensitive” SMEs in the context of Vietnam’s transformation to market economy and WTO penetration.

III. RESEARCH QUESTION

Through the case study in District One, the research will attempt to answer the research question “What are factors that affect issuance of business registration certificate for “sensitive” SMEs at Ho Chi Minh City in the context of Vietnamese transition economy and WTO penetration?”

IV. HYPOTHESIS

- (i) The policy implementation of issuing business registration certificate for sensitive enterprises is complicated, non-transparent, arbitrary and unreasonable.
- (ii) Officials are likely to bias against “sensitive” businesses.

V. SCOPE OF STUDY

The study looks at “sensitive” SMEs in District One-Ho Chi Minh City in order to examine aforementioned hypotheses.

Ho Chi Minh City is the biggest and the most important economic center in Vietnam. As a political-economic center of the City, District One has the largest number of registered businesses in the city as well as Vietnam.

Because of its strategic importance, studying on “sensitive” SMEs in District One will be likely to draw a multi - faced landscape of “sensitive” SMEs as well their issuance of business registration certificate at District One in particular, and Ho Chi Minh city in broad aspect.

VI. SIGNIFICANCE OF THE TOPIC

Despite their importance, there hardly exists any research relating Vietnamese “sensitive” enterprises, officials and policy implementation of business registration certificate for “sensitive” services. Thus, the findings and recommendations may be useful for all – level leaders of public agencies, policy makers, implementers, entrepreneurs, donors and those who are interested in. The research will contribute to a greater understanding of Vietnamese enterprises, street-level bureaucrats, and policy implementation in issuance of sensitive business registration particularly and in other fields generally. From that, appropriated policies could be devised to promote the development of SMEs.

VII. RESEARCH METHODS

In Vietnam, it is not easy to interview officials or to asking for data from state institutions. The formal process to meet participants in public agencies for interviews or collect data is by the presentation of introductory letters (a kind of “to whom it may concern” letters) issued by state agencies to local authority. However, it takes much time, but not promising results because officials feel uncomfortable to be interviewed about political issues and dislike to share their agency data to outsiders. Consequently, a quantitative research method which involves many variables and numeric data is not suitable.

According to O' Sullivan, E., Rassel, G.R., & Berner, M. (2003), this kind of study needs to observe information of unique features and environment of "sensitive" businesses as well as examine unique factors affecting that unique entity. Therefore, a qualitative research method which can describe specific features of the researched entity and require broad fieldwork is an optimal research method to be applied to this study.

1. Review secondary data

The research carried out a review of secondary sources on SMEs in general and on policies concerning business registration. Accordingly, some academic studies, media publications relating to the topic; legal documents, official reports from government, ministerial agencies, Ho Chi Minh city's and District One's authority and unpublished data of District One (concerning on "sensitive" SMEs) were examined to serve for the thesis.

2. In-depth interview

2.1. Enterprise leaders

As mentioned in previous part, I interviewed five owners of businesses in "sensitive" industries comprised eating & drinking service, accommodation, dancing club, massage, karaoke, barber shop and billiard/snooker. This can help me to understand their obstacles; defining their opinions/ perception about SMEs' impacts to labors, to national development, about the weakness and the strength of current policy implementation; what they want to propose to public agencies or leaders.

2.2. Officials

I interviewed about twenty officials such as a former Vice Minister of MPI, a Head of Business Registration Division – DPI of HCMC, a Head of Economic Division – District One, officials in charge of business registration in District One and other districts such as Five, Seven, Tan Binh, Go Vap..., Presidents and Vice

President of five key wards in District One. Due to their differences in working places, job titles, duties, learning and political levels, the method of unstructured interview becomes more suitable than others. In in-person conversations, I did not follow the predetermined questionnaire, but concentrated on their viewpoints of the increasing social evils' real situation? Pros and cons of policies issued business licenses for sensitive business enterprises? Difficulties and obstacles for themselves and their offices? Suggested solutions to improve the situation? etc.

The talks helped me gather information on their attitude and perception about development “sensitive” SMEs and policy implementation of granting business registration certificate. In this way, it is helpful for me to analysis the policy implementation as well as the role of bureaucrats.

3. Focus group discussion

I conducted a focus group discussion of employees of Khuc Giao Mua (Changing Season) Restaurant to gather ideas about their work, incomes, and impacts of the business to their lives, their family. This also helps me to remark possibility of SMEs to job creation and income for labors.

Also, another group discussion was conducted with all officers of Economic Division of District One to collect what they think about sensitive SMEs, share their stress and pressure that they were carrying. I found it easier for them to express their thinking in such a sympathetically collective meeting.

CHAPTER II

LITERATURE REVIEW AND CONCEPTUAL FRAMEWORK

A. DEFINITIONS

1. Definition of SMEs

1.1. In Vietnam

At present, there is no legal document to distinguish between small and medium enterprise in Vietnam laws. Based on Decree 90/2001/ND-CP of the Government on SME Development, the only definition available is for small and medium enterprises, which are enterprises with registered capital of less than ten billion Vietnamese dong (about US\$ 630,000) or have fewer than 300 workers.

Based on the definition and National statistical annual reports, around 95% businesses operating in Viet Nam are SMEs.

1.2. In the world

Generally, though specific definitions of small and medium enterprise vary, the main measures are often employment and capital. Some examples are shown in the table next page

Table 1 Summary of main definitions of Small and medium enterprises (SMEs) in some economies.

Source: (Harvie s& Lee, 2002), (Vietnamese SMEs Decree, 2001), (Preecha Kuwinpant, 2002)

Country	Definitions of SMEs	Measures
Australia	< 500 employees	Employment
Canada	< 500 employees and up to CAD 20 million in sales	Employment; sales
Indonesia	< 100 employees	Employment
Japan	Mining, manufacturing, transportation, construction industry :<300 employees, or JPY 10 million invested capital (assets) Wholesaling: <50 employees, JPY 30 million assets Retailing: <50 employees, JPY 10 million assets	Employment ; assets
Korea	Manufacturing: :<300 employees, KRW 20-80 billion of capital (assets) Service:< 20 employees	Employment ; assets
Malaysia	Varies Manufacturing: up to 150 full time employees, annual sales turnover up to MYR 25 million.	Employment ; sales

Philippines	< 200 employees, PHP 60 million in assets	Employment ; assets
Singapore	Manufacturing: < SGD 15 million in fixed assets Service: < 200 employees & fixed assets < SGD 15 million	Fixed assets; employment
Taiwan	Mining, quarrying, manufacturing, and construction industries: < 200 employees, < TWD 60 million of invested capital Service industries and others: < 50 employees, < TWD 80 million of sales volume	Employment ; assets; sales
Thailand	Small enterprise: 1-49 employees Medium enterprise: 50-199 employees.	Employment
USA	Manufacturing: , 500 employees Non-manufacturing:< US\$ 5 million in sales	Employment; sales
Vietnam	< 300 employees or < VND 10 billion	Employment; capital

2. Definition of sensitive services (*dich vu nhay cam*)

At present, in Viet Nam, there has not yet any legal document, which gives a clear definition of “sensitive” services while, this phrase is widely used in public documents and newspapers.

In reality, “sensitive” services can be understood as business whose owner and involved people such as hostesses and guests can easily engage in social evils or activities against the Vietnamese tradition and customs. Therefore, these services are especially sensitive to the society.

According to Ho Chi Minh authority, “sensitive” business is generally defined as five principal services: discotheque/dancing club, massage, karaoke, bar, tourist accommodation (hotel, guesthouse). Besides, several localities add some more services to the sensitive business list, that is, Internet, hair-cutting and air-conditioned snooker.

During the subsidy economy period, social evils hardly arose. However, since Vietnam opened and transformed its economy, the living standard has been significantly improved, social savings have increased and parts of population have fallen into a debauched life. Some sensitive businesses conduct disguised illegal activities, causing negative consequences. According to Directive 17/2005/CT-Ttg dated 25 May 2005 of Vietnamese Prime Minister on the eradication of the negative activities taking place in bars, restaurants, karaoke establishments and dancing balls; the negative activities and legal violations have, recently, been increasingly serious, that is, keeping open later than regulated time, playing music discs with prohibited content, organizing nude shows and sexy dancing, using drug and ecstasy, turning business establishments into evil venues with dissolute activities such as prostitution or prostitution brokerage, using weapons or murdering by hired gangsters. These negative activities have eroded the social morality and the healthy lifestyle, impacted the national culture, tradition and custom as well as the social order and the public security, causing worries among people and reaction from the public.

Similar to some other countries, Vietnam outlaws prostitution, prostitution brokerage, gambling and drug abuse. But in fact, the outlawed business brings about super profit, which induces many business owners to ignore the law to surreptitiously organize these activities.

The reality in Vietnam shows that some karaoke establishments, bars, restaurants, and massage establishments rent many young and beautiful hostesses. At private rooms, these hostesses often sit close to guests and have sexy acts in order to make them sexually excited. Then, these hostesses would even have sexual intercourse with guest's right at their workplace or at a hotel. For this reason, tourist accommodation service (hotel & guesthouse) is also regarded as a sensitive service because these business establishments are allegedly used as venues of prostitution.

Like karaoke, bar and restaurants, barber's shops, snooker establishments and dancing balls are regarded as venues of prostitution brokerage where guests can easily find prostitutes. Besides, bars and discotheques are also considered lucrative business relating to drug because these venues especially attract ecstasy addicts (a kind of drug that forces users gathering in places with heavy uninterrupted music such as discotheques and bars, so that, they can feel maximum satisfaction).

To prevent disturbance, many owners of discotheques, bars and restaurants often make a deal of protection with criminal gangs. Beautiful dancing-girls also have relations with gangsters as their bodyguards. Therefore, the fighting to win protection deals among criminal gangs seriously impacts the social order and the public security.

Internet service is also listed a sensitive business because governmental authorities hold that internet users can easily access black websites with pornographic or reactionary contents.

3. Definition of social evils (*te nan xa hoi*)

In her study of Vietnam social evils, Rydstrøm (2006) suggested that sexual desires tend to be associated with the officially introduced category of ‘social evils’ (*te nan xa hoi*) which because of vagueness in definition covers various and arbitrary kinds of practices in the country. Premarital and extramarital sex, homosexuality, pornography, prostitution, drug and alcohol addiction, gambling, theft, abuse and violence as well as paintings (e.g. pin-up calendars), music videos and music referring to sex thus have been linked with ‘social evils’ by the Vietnamese government. ‘Social evils’ is a category widely associated with the types of sexual practices condemned as being ‘dirty’.

B. LITERATURE REVIEW

I. SMEs

Since about the 1960s, the governments of many developing countries have been concerned about promotion of their small-scale enterprises. Nowadays, in all developing countries, small and medium enterprises play a key role in the economic landscape. Many Third World governments have recognized the contribution of these businesses to the creation of jobs and to the reduction of poverty.

During the last decade, rapid economic change and structural transformation has appeared all over the world. In developing economies, market-oriented approach is accepted broadly. Meanwhile, competitive market and business activities have been considered to enable a more efficient resource allocation. As a result, various policies to encourage the development of private sector have been implemented. Similarly, the economic transformation in Eastern Europe and other transitional economies have created a process of market-based structural change. Besides, the former centrally planned economies also attempt to development their nascent private sector in the context of market economies. The development of a dynamic private sector is an extremely necessary condition for developing nations in structural change towards market economy.

This section shows an overview about the important role of SMEs in national economies.

1. SMEs and economic development

Most of economies have a sector of business operating at a small scale and their roles in economic development have been regarded as significant.

Ronnas (1998) argued that the proliferation and endogenous growth of small and medium scale industries were of fundamental importance for sustainable economic development as well as for translating growth into enhanced employment opportunities and incomes, helping to alleviate poverty.

According to Hall (1995), SMEs were an important part of the national, regional and global economy. SMEs make up about 99% of enterprises in the Asian region. SMEs contribute to GDP for the region in somewhere between 30% and 60 % of GDP. They employ between 40% and 80% of the workforce. In Asia, SMEs contribute as much as 35% of direct exports, and the indirect contribution is ever higher.

There are different views about small-scale enterprises. Generally, two main broad perceptions are concerned: small is beautiful and small is not beautiful.

1.1. Small is beautiful

Small-scale enterprises (SSEs) have the potential ability to contribute in many of important ways to the development process. They are recognized as major source of employment and income in many countries around the world. These businesses contribute to household income and welfare by providing income maintenance for those with few options, providing a basic growth in income and welfare income through asset accumulation, skill development, and access to more rewarding economic opportunities, and providing employment. (Liedholm & Mead, 1999).

Schumacher in the book *Small is Beautiful* (1973) argued in support of intermediary technology and small-scale production by presenting four propositions: (i) work places have to be created in the area where people living; (ii) the workplaces must be on average cheap enough so that they can be created in large number s without calling for an unattainable level of capital formation and imports; (iii) the production methods employed must be relative simple, so that the demand for high skills are minimized; and (iv) production should be mainly from local materials and mainly for local use.

Besides, Elkan (1995) explained this development strategy as being in opposition to development based on capital – intensive technologies. He argued that managing a small enterprise was less difficult than a few larger ones in terms of disseminating managerial ability and familiarity with machinery. According to Elkan, situation where large-scale production for export was not immediately feasible, small-scale industry is likely to be more appropriate. Like Schumacher, he stressed the major advantage of small-scale industry: its ability to create more employment. Small-scale industry also spreads the benefits of economic development more widely and provides opportunities for nurturing entrepreneurship and acquiring business experience.

SSEs also contribute to distributional or development objectives by providing new opportunities to the poor, new opportunities for women, and new opportunities for those in rural areas, and in isolated locations (Liedholm & Mead, 1999).

1.2. *Small Is Not Beautiful*

Even though SSEs may have potential contributions to development as discussed above, there are also arguments against them. The opponents of SSEs hold certain skeptical views about the contribution from SSEs.

Because of their small scale, SSEs are considered not able to have development activities. Furthermore, SSEs are believed to lack of ability of accessing

information on markets, techniques and technology. Based on his research, Week (2002) found little support for the view that small enterprises had represented a more efficient response to market conditions than do medium and larger ones. He also noted that wages in small businesses typically were lower than in medium and bigger enterprises. He, therefore, concluded there would be no change in employment even if wages in the latter fell to the level of the former.

On the other hand, for most SSEs, Perkins et al., (2001) argued the ability to access international market is restricted. Thus, opponents of SSEs predicted that big firms will eventually beat out smaller competitors. Besides, he also realized, in the poorest economies, labor productivity was so low that most jobs in small enterprises provide little more than a chance to share in the general poverty. As such, the expectation that SSEs reduce poverty might end up.

2. SMEs and employment creation

Halberg (2000) argued, in most developing countries, small scale enterprises account for majority of firm and a large share of employment. Besides, the relative importance of small producers varies significantly across countries and within a given country, across stages of development over time. In low income countries, the vast majority of firms are micro or small scale, existing alongside with a few large scale enterprises. In middle-income countries, medium scale enterprises begin account for a relative larger of production and employment.

SMEs employ a large share of labor force in many developing countries; so, many analysts suppose that, within industries, SMEs are more labor intensive than large enterprises. Snodgrass and Biggs (1996) suggested that efforts to make economic growth more labor intensive should focus on labor intensive industries rather than on efforts to change the size distribution. From the point, we can say the main reason that SMEs play a key role to create jobs is not only they are more labor intensive than large ones, but also SMEs take a large number in the economy. Hence, total SMEs can attract much more labors. Consequently, there has appeared an

argument that establishment and development of SMEs would greatly encourage to create more jobs for society.

According to Per Ronnas et la (1998), the private sector in Vietnam became a source a wage employment rather than self employment by 1997. Wage workers engaged into the enterprises on a regular and usually also full time. His paper also confirmed that the importance of the private sector as a source of wage employment creation. Moreover, the remarkable point was that the private manufacturing sector provides employment opportunities for those with low educational level, a group that largely excluded from state employment.

3. SMEs in Asian developing economies

3.1. East Asia

Asia, particularly East Asia, has transformed greatly in the later half of the last century. Small and medium enterprises (SMEs) have been increasingly playing an important economic role in the individual economies of East Asia as well as the global economy. This is extremely meaningful, especially from the view of creating employment, as a source of innovation, generating exporting opportunities, and as the sources of future successful medium and large enterprises. (Harvie and Lee, 2002).

Currently, in East Asia, it is estimated small and medium enterprises (SMEs) made up over 95 percent of all enterprises. They have employed well over half of workforce and contributed about half the output. Thus, SME is economically and politically important. One salient characteristic of SMEs in the region is that most of them are very small. In APEC economies, over 80 percent of SMEs employ fewer than five people, which are categorized as micro enterprises (Hall, C. 2002).

Clearly, SMEs in the private sectors have been a major contribution to the success of East Asian economies. Those countries in Asia with high growth rates have relied heavily on private enterprises on export development to achieve the high rates (Wester, 1999).

In Japan, SMEs plays a key role during post World War II period. The share of Japan's SMEs in the total number of establishments has been remarkably constant in four decades from 1957-1996, fluctuating between 99.7 and 99.8 percent respectively. A similar pattern is also observed for the share of employment, although that went up and down over a slightly larger range.

3.2. NIEs

In newly industrialized economics (NIEs) of South Korea, Taiwan, Hong Kong and the Singapore both market and state were responsible for the creation of conditions conducive to entrepreneurship and SMEs initiatives. However, this balance was only achieved through a learning process, with the earlier policies of encouraging foreign investment and public enterprises growth (Regnier, 1998). This is make SMEs did not have a level playing field with either of foreign investors or state businesses.

Nugent & Yhee (2002) wrote South Korean industrial structure has changed dramatically in last quarter century reflecting much greater share in employment and value added shares by SMEs. They also emphasized that Korean SMEs have been important generators of income and employment in Korea despite the general perception that Korea's economy is heavily dominated by large conglomerates (cheabol).

Unlike Korea, Taiwan placed stress on the development of SMEs sector from the beginning of the country's industrialization. It is estimated that there almost exists one business per family in Taiwan. These SMEs exhibit vitality in penetrating export markets and contributing to the enormous trade balance and payments surpluses since the end of the 1980s (Regier, 1998).

In Hong Kong, the availability of entrepreneurial and industrious manpower combined with low cost in setting up business is the important factors enhanced the development of SMEs. Hong Kong government policy is to implement laissez-faire

doctrine, a kind of positive non-intervention. Hence, SMEs have to fend themselves since the government rejects any form of intervention (Regier, 1998).

As the last case of NIEs, Singapore had few SMEs in following years after its independence. In the period, SMEs did not play a key role in economy if the city state, but the MNCs and large local firms initiated by the public sector. Since the late 1980s, however, Singaporean strategy has emphasized on SMEs as key force of economy. In the wake of the financial crisis, a new element was added to this strategy: to gear the skills base and infrastructure of the economy into the “knowledge - based economy”. And SMEs are considered the logical entities to meet the challenge of this New Economy in Singapore (Lee & Tan, 2002).

3.3. Southeast Asia

In Thailand, statistics on 1997 showed that the medium and small enterprises covered 49% share of total labor employment in manufacturing sector. However, a series of SMEs were collapsed because of monetary crisis in 1997. As a result, many employees lost jobs and the gap of income between urban and rural areas has been significantly presented. The crisis enhanced realization of Thai government about the vital role of SMEs regarding stimulation of development of the country `s economy. As a result, more given priority to support and develop SMEs have been introduced. (Preecha Kuwinpant, 2002)

In other ASEAN economies, SMEs in Malaysia constitutes a large proportion of the total establishments in the various sectors, and this has been consistently the case for the last few decades (Abdullah, 2002). Malaysian SMEs play a key role in the production sector. Similarly to Indonesia, most SMEs are also indigenously-owned businesses. Their growth as well as expansion contribute to regional development greatly and create a more equitable income distribution (Abdullah, 2002). Nevertheless, Abdullah notes that there many challenges to establishment and development of resilient and promising Malaysian SMEs. At the same time, there is an emergence of SMEs in the Philippines after the big economic crisis in 1980s.

Then, they kept on experiencing economic reforms conducted in the late 1980s and early 1990s which consisted positive effects. By the mid 1990s, Philippine SMEs recovered after a long time of decline. However, their performances are likely not strong enough to boost the economy after the 1997-1998 crisis (Rodriguez & Berry, 2002).

4. SMEs in Transitional Economies

All the transitional economies from the former Soviet Union and central and Eastern Europe to China and Vietnam were similar in one important aspect: their planned economies had been dominated by large firms, producing few consumer goods. Small and medium firms were almost nonexistent, although they are a larger part of very market economy. In the countries, new firms are argued to be drivers of reform. The entrepreneurs in transition countries have produced real welfare gains by creating jobs, supplying consumer goods, constraining the market power of state run firms and building reform momentum (McMillan & Woodruff, 2002).

In Eastern Europe economies, Poland is among the most successful countries in fostering private firms. Small enterprises entry is said to be explosive in Poland (Berkowitz & Holland, 2001). In the context the transitional economy and the future accession to EU, Polish SMEs have an important role to play. They constitute a large part of the Polish economy in term of output and employment (Ghatak, Manolas, Rontos & Vavouras, 2002).

Rona-Tas (2002) observed that SMEs had been mushroomed in Central Europe countries and in particular in Czech Republic, Hungary, and Slovakia. Small scale entrepreneurship in the countries functioned as a type of self-employment who turns to individual labor activities as type of defensive survival mechanism. He argued that most of the small enterprises should not be viewed as the “winners” in the economic reform process but as extensions of the household economy with little prospect of becoming owners of medium-or large size firms. Thus, he concluded that

transformation out of recession in some countries was not doing of micro-businesses but that of medium and large-sized enterprises and foreign investment.

SMEs entry has been slow in Russia. The environment for entrepreneurship is found to be less friendly in Russia compared to other transitional economies with corruption and mafia as deterrents to entrepreneurship (Berkowitz & Holland, 2001:55; Mc Millan & Woodruff, 2002:158). In addition, privatization primarily implemented by the federal government enhances small enterprises formation. In contrast to the finding in Central Europe countries, both the individually self-employed and the small employers have been among the “winners” in Russia’s transition from state socialism (Gerber, 2002).

SMEs have been playing an important role in China’s national industrial economy and have achieved rapid growth since the introduction of broad market-oriented economic reforms in the late 1970s. SMEs are argued to be the backbone of China economic growth and the major contributor to newly created employment (Wang & Yao, 2002).

5. Importance of SMEs in Vietnam

The 5th Plenum of the 9th Vietnamese Communist Party Congress (2002) accentuated that the private sector is “an integral part of the national economy” and has played a crucial role in “generating more jobs and procuring further for the State budget and making an important contribution to GDP growth”. Besides, the Comprehensive Poverty Production and Growth Strategy (2002) emphasized that SMEs “play an important role in the nation’s economic growth, in creating employment and reducing poverty”. Sharing the similar comment of CPRS, Ho, X.P (2002) indicated that in the context of transition to market economy, the most important role of SMEs in economic and social development in Vietnam has been recognized to be: (i) production of goods for domestic consumption and export; (ii) creating jobs for a large number of laborers; (iii) harnessing resources for endogenous growth by developing and utilizing efficiently domestically mobilized resources; (iv)

contributing to the effort to spread industries to different geographical areas; (v) complementing large scale industries; (vi) acting as training ground for entrepreneurs.

II. Overview of Vietnam Economic Transformation and international integration

1. Centralized planning period

A centralized planning model with the Marxism - Leninism doctrine was applied in the North of Vietnam in late 1950s when the French colonial left the country after being defeated. As a member of the Soviet bloc, Vietnam pursued the so-called neo-Stalinist model. Responding land reform in 1954-1955, rural collectivization took place in 1959-1960. In the late 1950s, “socialist transformation” launched an offensive on the remnants of capitalism such as free market and private capital. By the beginning of the 1960s, the centralized planning institutions were fundamentally established (Fforde, 1999: 120-121).

The traditional Stalinist model bases on mandatory principle and a certain set of ordinances to create economic development. The young centralized planning model in Vietnam at that time, also called the Democratic Republic of Vietnam (DRV) model, was essentially similar to the above mentioned traditional Stalinist model. The highlighted characteristic of this model is the direct allocation of resources through the state distribution system. This thorough way of distribution permits national resources to be focused on priority sectors (Fforde, 1993: 297).

The centralized planning model was able to mobilize Vietnamese human resource to serve military purposes during the period of war struggling for the liberation of the South. However, it also cemented the country to imported resources and continual difficulties in finding adequate economic resources from the domestic economy for its needs in long term (Fforde & de Vylder, 1996:67).

When the fierce war was over in 1975, Vietnam defeated the America and won the national reunification. Despite the constraints of that model, centralized planning was also applied to the whole country (Beresford, 1993:216).

2. Economic transformation

By and large, Vietnam economic reform started in 1986. Indeed, important changes happened as early as late 1970s. In August 1979, a number of economic system reforming policies were approved by socialist leaders of Vietnam. The reform was characterized by the “step-by-step approach” with a more liberalized attitude towards economic activities (Fforde, 1993:301). The new policies emancipated enterprises from set plans. Enterprises were allowed using their own initiatives to find inputs for production and selling their products in the free market. By 1985 there was a combination of the “untying” economy and policy concessions that terminated the hegemony centralized planning model existing for decades. National plans had to exist side by side with autonomous transactions in the hybrid transitional model. Prices, costs, and market began to play a considerable role, and economic agents became used to the way of market oriented thinking. Independent commercial capital went forth and grew significantly (Fforde & de Vylder, 1996:13).

In December 1986, at the Sixth Communist Party Congress, Doi Moi was launched to accelerate economic reform. This officially harbingered the motion towards market economy. Crucial features describing this period are the acceptance of impuissance existing in the previous models and the willingness to adjust policies in recognition of market economy comprising of multi-sectors. Doi Moi, therefore, effectively abandoned the neo-Stalinist DRV model in Vietnam (Fforde & de Vylder, 1996). As a result, a Foreign Investment Law was adopted in December 1987. In March 1988, the Politburo issued Resolution No. 10, which effectively led to the de-collectivization in agriculture. The response to this reform was positive and in 1989 Vietnam renewed the country image from a pure importer to the third largest exporter of rice (Beresford, 1997). In 1989, the transition process was once again speeded up. The reform took an evolutionary step by moving into a market economy with the

removal of price controls for significant development of factor markets (Fforde & de Vylder, 1996). A series of reform measures for the purpose of macroeconomic stability were prioritized: exchange rate was let floated; positive exchange rate was introduced in banking systems; hyperinflation was brought to a halt; SMEs were required to manage themselves. Other reform measures were also applied to such areas as legal, trade, finance and capacity building (Dollar & Ljunggren, 1997:145147). With all these important renovation, Vietnam basically transformed to a market economy after 1989 (Fforde, 1999:121).

3. International economic integration

Integration is an indispensable phenomenon of economic development process. In the world, the seed of international economic integration has made its appearance since the prevalent period of Trade Liberalism found by Adam Smith and David Ricardo at the end of the XVIII century. The trend of integration became most ebullient from the middle of the XX century.

As a matter of fact, countries that are able to adapt themselves to the movement of integration with appropriate policy adjustments, measures to open their economies have achieved considerable success. On the contrary, countries that are against this tendency by closed economic policy, import replacement have experienced failures.

Nguyen, X.B. (2006) suggested that Vietnam has attached much important to extending international economic relationship. Since 1986, the perfect economic transformation has brought changes to the point of view and the awareness of international economic integration. The Sixth Party Congress in 1986 asserted that participating in international work allocation is essential and mandatory. Moreover, the Sixth Party Congress also advocated pushing export, encouraging foreign direct investment, taking advantage of international aids and long term loans.

In the process of transformation, market economy is an important driving force of foreign economic development and market expansion. The Seventh Party Congress in 1991 advocated to “develop a wide - open, diversified and multipartite economy basing on the principle of fortifying independence, sovereignty, equality and mutual benefit”; “to link domestic market to the world market”; and “Vietnam would like to be friend of the world community, would like to strive for peace, independence and development”. These policies marked the turning – point of international economic integration process of Vietnam. This is the sound foundation for further important stage to smooth the relationship with international organizations, to lift embargo and to expand foreign economic relation. After 15 years of interruption, since October of 1993, Vietnam has restored the normal relationship with international monetary and financial organizations, such as IMF, WB, and ADB. In 28 July 1995, Vietnam became an official member of ASEAN. In 01 Jan 1996, Vietnam committed to carry out duties of members of AFTA. Together with normalizing the relationship with the USA, being a member of ASEAN is a significant step in the process of international economic integration. That is the first time Vietnam has engaged in implementing an international agreement on trade liberalization according to common laws and standards of the world.

The standpoint of international economic integration was more developed in official documents of subsequent Party Congresses. The VII, IX, X Party Congresses affirmed the determination of building a wide - open, diversified and multipartite economy and pushing export. This is a long term strategy of Vietnam. Basing on that principal, the Government has launched the National action plan of international economic integration, especially the mission of becoming a member of WTO. In 2000, Vietnam and the USA concluded the Bilateral Trade Agreement. In 11 Jan 2007, Vietnam became an official member of WTO.

During the past ten years, Vietnam has been executing international economic integration process with the following major contents: concluding bilateral and multilateral agreements; engaging in international organizations and implementing international commitments; adjusting public policy and carrying out social –

economic innovation conformable to international practices. Till end of 2005, Vietnam has established diplomatic relations with over 170 countries and territories.

III. The Vietnamese law system in the process of international economic integration and WTO penetration.

The General Council approved Vietnam's accession package on 7 Nov 2006, and then Vietnam became the WTO's 150th member on 11 Jan 2007.

Building, completing and revising the law system is a crucial content preparing for international economic integration. Thus, at the very beginning of integration process, building, completing and revising the law system has been put forwards.

According to Vietnam Ministry of Planning & Investment, in 1993, The Law of Foreign Investment in Vietnam was revised and has been considered one of the most favorable investment laws in the area. In 1998, National Assembly revised the Laws of Import and Export Taxation to apply The Harmonized Commodity Description and Coding System (HS) of tariff.

In company with the above mentioned laws, a series of other laws was issued, such as: Law of State Owned Enterprises (1995), Laws of Co-operatives (1996), Law of Enterprises (1999), Law of National Budget (1996), Laws of Taxation, Law of Credit Organizations (1997), Laws of land, Civil Law...

Becoming a member of WTO is to guarantee that Vietnamese law system, regulations and administrative formalities are consistent with WTO agreements. It also means that, the government of Vietnam must execute WTO stipulation. This execution comprised building, completing and revising the law system

In order to establish a legal foundation for effective execution of WTO commitments, Vietnam has to build, complete and revise the law system as well as

public policies. In other words, Vietnam must construct a legal strategy to serve the stage of post WTO penetration.

Industry Newspaper of Vietnam (2007) says that improving the Vietnamese law system to conform to international agreements of organizations of which Vietnam is a member or is going to be a member is a preeminent approach. This revolution shows great effort of Vietnam in the tendency of international economic integration. However, the international law system compatibility is not required to reach 100%. Each country has its particular characteristics, so its law system must be appropriate accordingly. But, being a member of an international organization, international commitments are prioritized to be applied.

BTA between Vietnam and the USA signed in 2000 is a turning point of Vietnamese law system development. The commitments in this agreement became common principal in building national law system. Executing BTA commitments is a start to touch minimum requirements of WTO application.

The advantage of transforming WTO commitments into Vietnamese law system is to create transparency for stakeholders. At the same time, this proves explicitness of Vietnam to WTO members.

IV. Policy implementation and street-level bureaucrats

1. Policy implementation

1.1 Definition

A study of policy implementation is a study of change: how change occurs, possibly how it may be induced. It is also a study the micro-structure of political life; how organizations outside and inside political system conduct their affairs and interact with one another; what motivate them to act in the way they do, and what motivate them to act differently (Jerkin, 1978:203). In other words, policy implementation is stage of the policy process during which policies are put into effect.

Practically, a policy is generally useless if it is not implemented, which can be considered as a policy failure.

1.2 Policy failure

A policy fails not only because it is not implemented well. In order to understand why a policy fails, what is a policy failure should be studied. In practice, it is very difficult to define what policy failure is because success or failure are the relative concepts and usually interpreted differently by different policy actors. As Bovens & T Hart (1995) noted, Failure is not inherent in policy events themselves. Failure is a judgment about events. Failure is, therefore, a “slippery concept”, which has no fixed criteria for success and failure, and can be applied regardless of time and place. In fact, policy can fail in numerous ways. Some time an entire policy regime fails while some specific programs of this regime are considered success. Some time both policy regime and its programs fail.

In general, these are some of many reasons for a policies fail, such as: the program could not be implemented as designed or; the policy was run as designed but did not produce the desired results because the underlying theory was incorrect. Sometimes, changing circumstances may also turn success into failure. According to Parsons (2003), many policies and programs had recently not performed as well as their advocates had aimed. Many of policies have not solved problems; but made them worse. Some of reasons for not achieving the stated goals are their definition. Therefore, researchers of public policy began to shift their attention from inputs and processes towards the withinputs, outputs and outcomes.

In order to solve the issues, some models were framed. Next section will take a glance at the so called “top-down” model and then focus on “bottom-up” one.

1.3 Top-down and Bottom-up model

Parsons (2003) said the top-down model has been greatly criticized for not taking into account the role of other actors and levels in the implementation process.

Seeking an alternative to the 'top down' theory of implementation, Hjern & Hull (1982) developed the model of 'bottom up' implementation. This model of implementation acknowledges the power of actors at different levels in the hierarchy.

'Bottom-uppers' view implementation is relative rather than objective terms. The meaning of the policy is socially defined and dependent on the perceptions of the contributors. This concept enables analysis of players at all levels in a hierarchy, as it brings affected stakeholders into the process of designing and implementing reforms; proceeds incrementally to build a consensus for change; leads to proposals that allow for greater discretion and flexibility at the ground level. In other words, the bottom-up view of implementation holds that the most important variable is the commitment and skill of the "bottom-level" (or so-called 'street-level') actors involved in implementation of government programs.

2. Street-level bureaucrats

Lipsky (1979) defined that street-level bureaucrats were public field-workers who are interacting directly with citizens in implementing and delivering public policies. Most of these bureaucrats regard their work as a technical job remote from the realms of politics. Otherwise, Parsons (2003) implied street-level bureaucrats were, indeed, important actors in the implementation process. For example, a reform is nothing but papers until street-level bureaucrats have delivered the policy to the citizens. And these bureaucrats often have substantial discretion in performing their daily jobs.

Nevertheless, in practice, most citizens do not read the law. Accordingly, they perceive the way street-level bureaucrats behave and make decisions in delivering services or enforcing regulations to be the law. Besides, actions of grass-root bureaucrats are seldom monitored or evaluated, and their distance from the decision making body, and their relative autonomy in day to day work allows wide interpretation or even ignoring of policy directives.

3. Policy implementation and street-level bureaucrats in Vietnam

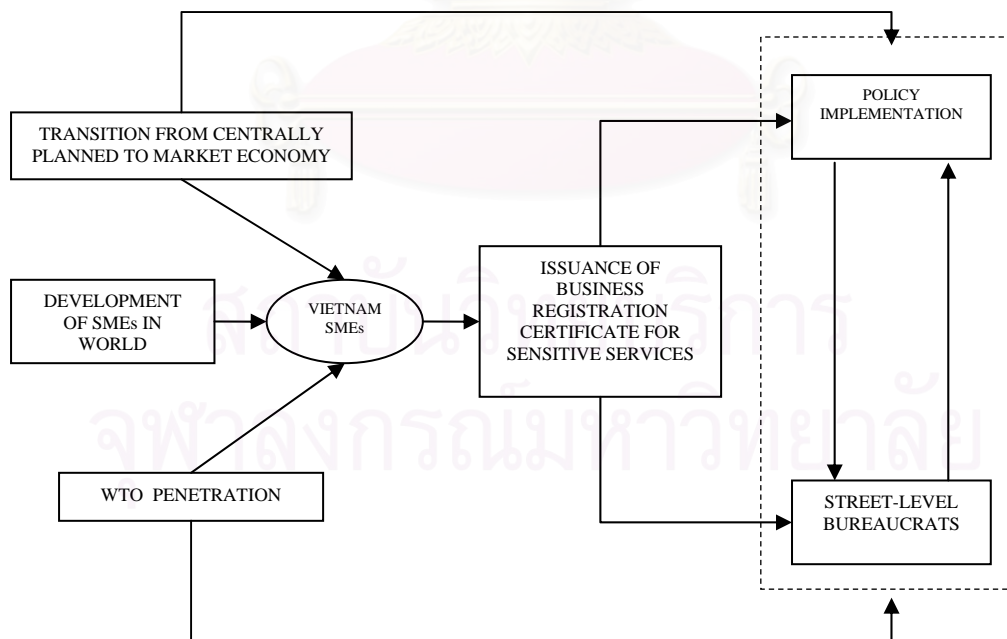
Regarding to policy making and implementation, Webster (1999) showed that Vietnamese government policies had been unclear and frequently changing without warning, which had directly impacted on businesses. More seriously, he pointed out that the lack of specificity of laws and regulations had allowed mid-level officials too much discretion. Moreover, considering the implementation the Enterprise Law, Webster (1999) argued this new law was considered broadly as a very positive addition to Vietnam's legal framework for development of private sector. In this process, Government required its cabinet agencies as well as provincial/municipal authorities to abolish all rules and registrations that had been contradictory to the Enterprise Law. However, as is normally the case in Vietnam, effective implementation of this law depends heavily on the effectiveness of implementation regulations.

Besides, ADB (2004) also remarked that creation of an enabling business environment in Viet Nam had been challenging due to features common to developing economies in transition. Regarding Enterprise law, they stressed the inconsistent new provisions for simplified business registration made the process more complicated; moreover, some provinces had not approved the setting up of businesses. Business registration system was not unified on a national basis, nullifying many of the benefits of this law. Many SMEs had still suffered from inconsistent and inefficient business registration system; thus, compliance costs were increasing. Carty (2002) also suggested the structure of the relationships, and allocation of powers and responsibilities, between different levels of administration, had been still evolving at Vietnam. The current system involves complex management relationships, with a mixture of horizontal and vertical channels of authority. Provincial authorities actually exercise considerable autonomy with respect to policies and their implementation. Furthermore, private businesses seem still face over regulations and excessive controls from various government agencies. Besides, institutional capacity of various state agencies and working attitude of some staff are worthy of further attention (Freeman & Nguyen, V.L & Nguyen, H.N, 2005). Studying about

Vietnamese policy process, Mallon (2002) reminded the important role of Vietnamese provincial and district level in policy implementation. He insisted where policy reforms had clearly been top-down, implementation was often problematic.

Last but not least, according to Le, M. (2005), the policy implementation in Vietnam has still remained many shortcomings. Many policies themselves contain conflicting or inconsistent terms for the real situation of enterprises' business. Moreover, relating guiding documents for implementation of the policy are often issued lately, which can leads to the misunderstanding and different implementing from the street-level bureaucrats. Even worse, some street-level bureaucrats can abuse these loop-holes in the law to make difficulties for the enterprises in order to take illegal benefits. This is also one of the main reasons for the severe situation of corruption and authoritarian in Vietnam.

C. CONCEPTUAL FRAMEWORK



EXPLANATION FOR CONCEPTUAL FRAMEWORK

In the context of transition from centrally-planned to market-led economy and international integration, Vietnam gradually realizes the important role of private sector, especially SMEs that occupied around 95% businesses operating in Viet Nam. Following the steps of experienced developed as well as developing countries throughout the world, Vietnam has been implementing many incentive policies to impulse the development of Vietnamese SMEs.

However, despite of their contribution, SMEs operating in “sensitive” services have been facing many obstacles to be issued business registration certificates in Ho Chi Minh City.

Hence, this research investigates the limited development of “sensitive” businesses and the granting of business registration certificates for “sensitive” businesses in Ho Chi Minh City. The purpose of this thesis is to study those factors influencing the issuance of business registration certificates for “sensitive” SMEs in the context of Vietnam’s transformation to market economy and WTO penetration.

In this process, policy implementation in the field of business registration for sensitive businesses and viewpoints of street level bureaucrats are studied carefully. Besides, the research also considers impacts of transition from centrally planned economy to market economy, residue of Vietnam War and WTO penetration on policy implementation along with street level bureaucrats in Vietnam.

From that, the author suggests some recommendations with respect to Central Government as well as Ho Chi Minh City authorities in order to impulse the development of sensitive businesses. Moreover, some directions for future researches and advice for prospective researchers to study about Vietnam policy implementation are also mentioned.

CHAPTER III

FINDINGS AND ANALYSIS

A. Issuing the business registration certificate in the sensitive fields is complicated, non-transparent, and unreasonable.

In fact, the proportion of enterprises doing business in sensitive fields, which are involved in social evils, is not high. But, “one rotten apple spoils the barrel” and because of various reasons, which will be analysed in the following parts, the process for issuing the business registration certificate to enterprises operating in sensitive fields has become complicated and significantly different from the normal process, which is mentioned in the next section.

I. A more complicated process of issuance business registration certificate for sensitive enterprises

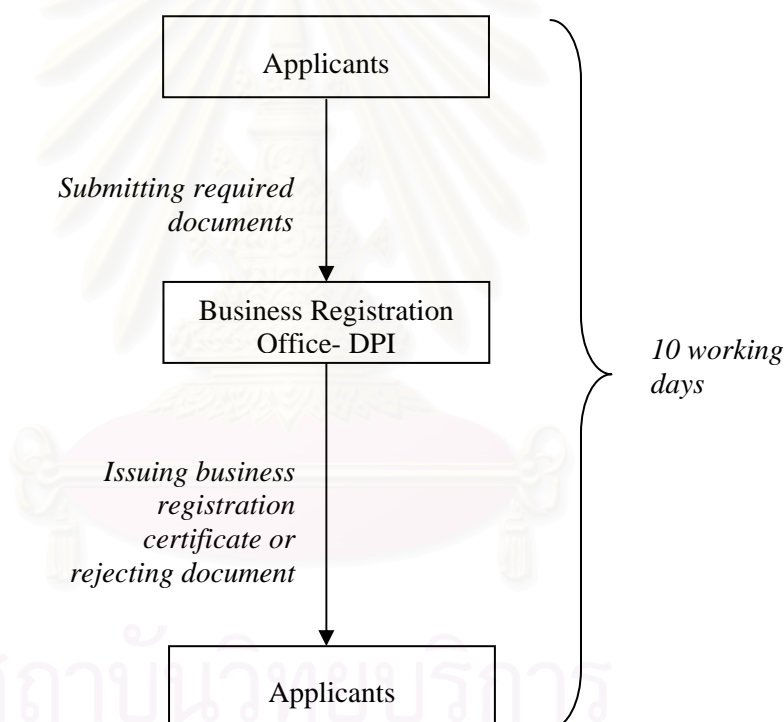
As mentioned in the general introduction, the largest success of the Enterprise Law is that the procedure for the business registration and the establishment of enterprise is very simple and propitious.

According to the Law, the business registration office under the Department of Planning and Investment (DPI) of a province or city is the relevant body responsible for issuing the business registration certificate to enterprises located in that province/city.

A legal entity, that wants to establish an enterprise, shall submit the business registration office three following documents: application for the business registration certificate, company’s charter, and a list of the company’s members (or founding share-holders).

Article 15 in the Enterprise Law says that within maximum 10 days as from receiving a sufficient documentation, business registration offices shall issue the business registration certificate to the applicant for establishing an enterprise. Besides, the business registration office shall consider and take responsibility for the legitimacy of the application documentation when issuing the business registration certificate. The business registration office shall not request applicants any extra-document, which is not stipulated in the Law.

Chart 1 FLOWCHART OF ISSUANCE OF BUSINESS REGISTRATION CERTIFICATE FOR NORMAL BUSINESS



1. Process for issuing the business registration certificate in “sensitive” fields

The process for issuing the business registration certificate to enterprises operating in sensitive fields in Ho Chi Minh City includes the following steps:

Step 1: upon receiving sufficient documentation (the filled application form for the business registration certificate, company’s charter, and a list of the company’s

members (or founding share-holders) from an applicant for establishing a new enterprise, the business registration office under the DPI sends a public note asking the people's committee of the district, where the applicant wants to locate its enterprise, whether it consents to the establishment of that enterprise.

Step 2: The District People's Committee passes the public note on to its Economic Division (an advisory body of the District People's economic and business registration fields).

Step 3: The Economic Division assigns its officials to investigate the real situations and discuss with the enterprise (recorded in a minutes); at the same time, the Economic Division sends the people's committee of the ward, where enterprise wants to do business, a public note requesting its opinions.

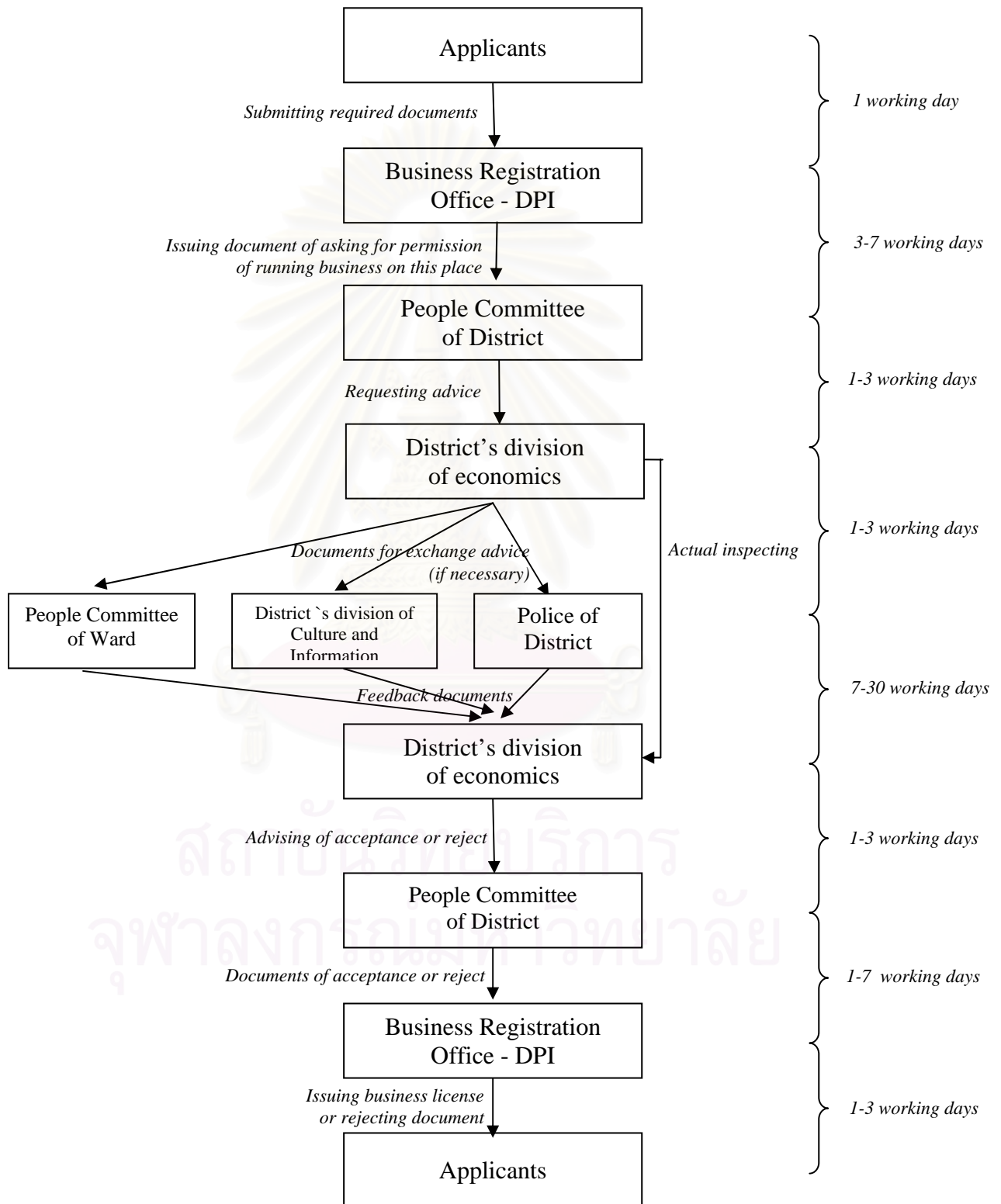
Step 4: while requesting opinions from the ward people's committee, the Economic Division might issue another public note asking other relevant bodies and the district police for opinions if it does not feel secure.

Step 5: based on the response from the ward people's committee and relevant bodies and the results of the investigation and documentation screening, the Economic Division drafts a replying note for the District People's Committee showing its approval or disapproval for the establishment of the enterprise.

Noting that if only one of the above-mentioned bodies including the Economic Division disapproves, the District People's Committee will have a negative response to the application for establishing the enterprise in the district.

Step 6: based on the negative or positive reply from district people's committee, the DPI issues the business registration certificate or a public letter informing the applicant its disapproval for the establishment of enterprise.

Chart 2 FLOWCHART OF ISSUING BUSINESS REGISTRATION CERTIFICATE FOR SENSITIVE ENTERPRISE



Looking at these two diagrams, it can be said that the process, in which the business registration office - DPI, must ask Districts for opinions in writing before issuing the business registration certificate to enterprises, has spoiled the achievements of the Enterprise Law regarding the simplification of the administrative procedures and creation of favorable conditions for establishing enterprises easily.

To applications for the business registration certificate in non-sensitive fields, after lodging sufficient documentation requested and taking a receipt, applicants can feel easy to go home and wait until the appointed date (after ten working days) to obtain the business registration certificate. But particularly to applications for the business registration certificate in sensitive fields, due to the process of documentation involving many other bodies at different levels rather than the business registration office only, while the DPI does not have power to push these bodies to process documentations quickly, it often takes longer time than the maximum level of 10 working days as stipulated in the Enterprise Law. In addition, the fact that documentation is slowly forwarded from one to another relevant body or lost during the transferring process is not rare.

2. Extra-documents requested during the process of issuing the business registration certificate in sensitive fields.

In order to have a firm foundation to issue the business registration certificate to enterprises, based on specific characteristics of each business form, the district Economic Division, the ward people's committee and/or other relevant bodies can request the persons, who apply for the establishment of a new enterprise, supplement various documents such as:

The drawing plan, the perspective drawing, the construction license, the document certifying the completion of construction, the decisions on the treatment of violations in construction, the certificate of fire prevention and fighting; commitment of business owners, house owners to observing the legal regulations on business activities if being issued the business registration certificate; the document certifying

the dissolution of the former enterprise located at the same address (if the former enterprise had also done business in sensitive fields); commitment of the business owner and house owner to not letting social evils happen in their business establishment; the house renting contract, the house ownership certificate, etc.

The Economic Division under the district people's committee, the ward people's committee and other relevant bodies might request applicants supplement various documents because the legal regulations do not stipulate a specific maximum duration within which these bodies shall reply the DPI. Therefore, the time duration for consulting with districts' authorities regarding business venue in sensitive fields is long (about 15 working days on average), which hinders the business registration office from abiding by the Law (Report of The Implementation of The Business Registration Duty in 2005 and The Working Plan for 2006- The Business Registration Office- DPI).

3. *“Unofficial” cost to conduct business registration*

Generally, the promulgation of the Enterprise Law has led to a significantly increased number of enterprises.

Comparing with the period before the Enterprise Law, there has been a breakthrough in the procedure of business registration. However, particularly to sensitive business, the registration procedure has suffered a significant backward.

Table 2 Comparing table

	Before the Enterprise Law	After the Enterprise Law	Sensitive business company (after the Enterprise Law) (*)
Duration (days)	99	15	From 30 to 120
Average numbers of required documents	7.4	03	03
Additional required documents	4	None	from 2 to 7
Average Costs for registering	3,000,000 VND (~ 190 USD)	550,000 VND (~ 35 USD)	550,000 VND (~ 35 USD)
“Unofficial” costs (if any)	From 1 to 10 millions VND (~ 65- 650 USD)	2.9 millions VND (~ 185 USD)	From 5 to 40 millions VND (~ 350 – 3200 USD)

Source: The VCCI, 2000, survey of enterprises, () individually collected data*

The outstanding issue in this table is “unofficial” sums of money enterprises might have to pay.

In this case, businessmen have to grit their teeth to pay the service fee in order to have their application processed quickly, so that, their enterprises could come into operation soon. Time is money; the longer time the process of applications for business registration take, the more money enterprises lose, because enterprises, though not being inaugurated, must pay many fixed fees such as land or house rental which is very high in District One, staff salary, tax, etc., in the waiting time.

At present, in the market, service providers (often lawyers' offices) offer assistance service in paperwork for establishing an enterprise with the normal fee of some VND 1.5 million (equivalent to USD 85); but particularly to "sensitive" business, the normal rate is offered from USD 350 to 1000, to some complicated cases, this rate might be up to several thousands dollars. Noting that in many cases, service providers might offer fraudulent service, because they cannot intervene in the process of issuing the business registration certificate.

The waiting time, various licenses, numerous documents requested by local authorities and "unofficial" fees born by enterprises (as showed in the above table) have posed questions for corruption and the current administrative reform process in Vietnam. It can be said that, in spite of many efforts and positive achievements in the administrative reform, the capacity and effectiveness of the Vietnamese administrative apparatus and public servants still need to be continuously reviewed and improved. Particularly, their thinking ways are still affected by the "beg – grant" mechanism, a product of the former centrally planned subsidized economy; so that, many officials at governmental bodies still consider themselves as grantors to enterprises. They are not yet aware that they and their organizations are living on tax paid by people and enterprises; their duty is to service people and enterprises; what they are doing shall be in compliance with the law, they are not allowed to create any additional rules hindering enterprises from being established. Thus, The Asian Development Bank (2004) has advised that Vietnam should follow the international common practice: "keeping the procedure of business registration simple and ensuring the consistent and fair implementation of the regulations encourage the establishment of enterprises. The best practice is to shorten the waiting time and reduce paperwork,

number of involved bodies, and comprehensive cost for enterprises who apply for establishment” (Enterplan, 2003).

II. Non-transparency and inconsistency of the legal regulations on business registration in sensitive fields

1. Non-transparent and unreasonable process for issuing the business registration certificate to enterprises

After studying the market demand, many enterprises are eager to rent a venue to start a business in the fields of restaurants or hotels, snooker, barber’s shop, etc. They hope that with a favorable location in District One, their business would “lay golden eggs”. After paying a rental deposit or signing a house-renting contract (the average rental rate is 17 USD per square meter, and the rented area is about 150 m² on average with a deposit of 6-month rental), they start applying for the business registration certificate. Until the appointed date to receive business registration certificate, they are stunned by knowing that their application has been rejected; that means they are not allowed to do the business. A public note rejecting an application for the business registration certificate issued by DPI normally says that because of the disapproval of the district people’s committee, the business registration office, DPI, rejects the application for business registration.

Followings are the reasons used by the responsible bodies of District One as well as other districts to explain their disapproval:

- The previous business owner was forced to suspend his business or his/her business registration certificate was revoked by responsible authorities;
- The former business owner had many administrative violations in his/her business activities

- Another enterprise doing the same business is existing at this venue (in fact, this enterprise had stopped doing business but did not do the procedure to dissolve yet; so that, in the enterprise management file, this enterprise is still existing)
- Local residents do not like (!) or even the ward people's committee is afraid that social evils would be emerged in the locality, though at this moment, there is not any signal (!)
- The previous business owner closed his/her business but still owes tax; therefore, the ward people's committee disapproves the birth of a new business.
- The applicant for business registration has had administrative violations regarding the construction or refurbishing of the business venue.
- At present, along the road where the applicant plans to do business, there are so many people doing the same business already; therefore, the local authorities think that it is not necessary to have any more business there, etc.

Ridiculously, the abovementioned reasons are not mentioned in the Enterprise Law as the reasons for prohibiting business registration. Moreover, many reasons stated by the people's committees of districts and wards are very irrational and not relating to business registration, but the DPI, based on the negative response from the district people's committees, firmly rejects the issuance of the business registration certificate to enterprises.

The point here is that this information is not publicized widely. A person, who wants to establish an enterprise, cannot anticipate whether his/her application is rejected, because relevant bodies would consider and make decisions based on the sensitiveness and the venue of the business he/she applies for being registered. In many cases, a negative or positive decision made by relevant bodies is strongly dictated by subjective feelings of these bodies and officials who directly process documentation. In reality, there is not any legal regulation on specific criteria applied to the process for issuing business registration certificates in sensitive fields.

Besides, another notable point is that the consideration for issuing the business registration certificate to enterprises is not based on the personal record of the business owner (e.g. whether he/she used to have any criminal record or go bankrupt, etc) of the applicants for establishing a new enterprise, but on the history of the business venue. If the previous business owners at the venue had committed many administrative violations in their business or their business registration certificate had been revoked by responsible authorities, according to an unwritten rule, it shall take at least 2 years to allow another enterprise doing business at the same venue since the latest enterprise closed its business. The following case study will demystify this unreasonable issue.

2. A Case study

In January 2007, Ms Trieu Thi Tam bought a house at 154-154A Tran Quang Khai Street, Tan Dinh ward, District One.

On 12 March 2007, Ms Tam lodged an application for registration of a business, that is, Khanh Ngoc Hotel liability limited company, at the address of 154-154A Tran Quang Khai Street, Tan Dinh ward. The company would run business in hotel and car renting services.

However, the previous owner had rented this house to Mr. N.D.C who had opened Tay Ho Hotel. On 12 June 2006, the Tay Ho hotel was fined (recorded in Document 5024/ QĐ-UBND) by the Police of Da Kao ward for its irresponsible management, which had let drug-using acts take place in the hotel. Because of this legal breach, the Tay Ho hotel had been forced to close. The hotel manager had resented the punishment, because he thought that how could he know his guests using drug in their room, while the police had detected the drug using acts because they incidentally checked every room. Then, the house owner sold this house to Ms Tam with a price of about USD 800.000. Ms Tam's family spent a large amount of money to buy, and refurbish this hotel.

After refurbishing of the house, Ms Tam started applying for business registration certificate. She was surprised when she knew that her application would certainly be rejected because many administrative violations had been taking place in the house at 154-154 A Tran Quang Khai Street in the past (though these violations were caused by the former business manager). This made Ms Tam extremely panic because if she could not obtain the business registration certificate, her family would not pay back loans, which had been used to buy this house, and go bankrupt.

Then, Ms Tam approached the Economic Division many times to plead for reconsideration, submitted supplementary documents and made commitments to strictly abiding by the law in the future. After consulting with the ward people's committee, the district police and the district office of culture and information and its leader had gone down to check the venue, the Economic Division, which finally felt that Ms Tam appeared to be an honest businesswoman, allowed her to establish Ngoc Khanh Hotel. It took 50 days to process this case.

This case is not a special one in HCMC. When discussing Ms Tam's case with the officials, who were in charge of business registration in sensitive fields in districts of Tan Binh, Phu Nhuan, etc., they said that similar cases like Ms Tam's would immediately be rejected in their districts, except there was a personal message asking for assistance or strong intervention from the city's authorities.

The question here is that, at present, in HCMC, the governmental authorities from the city to the ward levels regarded the house (an inanimate object) as a subject which shall be subjected to the administrative regulations. No business registration certificate would be granted to any one attempting to do business at a venue, where the former business owner had breached the law; though the only legal entity subjected to punishment should be the previous business owner. Moreover, the personal ownership rights of the current owner had been violated. The current owner was not allowed to use and exploit business advantages of her own house just because of sins caused by the previous house owner's tenant. This was very irrational but common in HCMC.

Why does this abnormal unwritten rule exist? We will find the answer in the following parts of this research.

3. Sensitive Business Planning- an arbitrary implementation

As stated above, the approval or disapproval for business registration depends on subjective feelings of the governmental relevant bodies but not on any specific criteria; this fact makes people discontented and governmental bodies embarrassed because there is not any legal foundation for rational explanation. Against that backdrop, in 2004, the HCMC People's Committee requested districts do planning for the sensitive business for 2004-2005 period, which had to be suitable to the local socio-economic development situation.

Different from urban planning which can be based on the available specific standards for design and construction, districts had to do planning for sensitive business based on their own ideas. The City People's Committee did not set out any guideline or criteria, which districts can base on to concretize, but only requested districts consult their plans with relevant departments (DPI, Department of Trade, Department of Culture and Information, etc.)

Without any consistent guideline and criteria, districts did planning for sensitive business based on their own ideas. For example:

Tan Binh District and District 5 planned a number of enterprises along every street; i.e. along street A, the number of businesses operating in restaurant or hotel services shall not exceed "n". In some particular streets, no sensitive business shall be allowed to emerge at all.

District 4 decided to prevent all kinds of sensitive business from emerging. This was the simplest way favorable to the district but tragic to enterprises who had invested in construction and refurbishing of their business venue or signed contracts to rent a business venue.

Phu Nhuan District and District 3 did planning for each ward, which meant enterprises had to locate its business in ward X if they attempted to open restaurant, or ward Y if it wanted to do business in hotel service.

District One worked out a plan including specific numbers of enterprises located in the district. For example, according to the plan, the district would allow only 100 restaurants operating in the locality; so that, first applicants for business registration would be approved.

Particularly, District One did planning for sensitive business as follows:

3.1. Sensitive Business Planning in District One for the 2004-2005 period

In November 2004, District One carried out a study to find out the exact number of businesses operating in cultural services and then held a meeting with the relevant bodies (DPI, Department of Trade, Department of Culture and Information, and Department of Tourism) on 20 January 2005 to reach a consensus on its plan. Based on this result of the meeting, District One built a detailed plan. On 9 June 2005, the HCMC People's Committee issued Decision 93/2005/QĐ-UBND on the approval of the adjustments to the planning for some trade and service occupations in the socially and culturally sensitive fields which could easily make social evils emerge.

สถาบันวิทยบริการ
จุฬาลงกรณ์มหาวิทยาลัย

**Table 3 SCHEME OF FIRST DISTRICT
(2004-2005)**

	Karaoke	Internet	Massage	restaurants having live music or drinks of above 30 degree of alcohol	Dancing club	Hotel, Guesthouse	barbershop for men (having female staff)
Units having business licenses	90	145	54	264	30	580	115
Working units	63	145	54	264	16	580	115
Suspended units	27	0	0	0	14	0	0
Planned units	63	145	54	264	16	580	115
Future scheme	<i>No more units.</i>						

The above table shows that District One's plan for 2004-2005 periods was inclined to inhibit emergence of new businesses and try to reduce the existing businesses gradually. An important reason was that during the development process of the market economy, sensitive services with a rapid growth had been out of state bodies' control. Therefore, when districts did not yet find an optimal solution, they would continue to inhibit the sensitive business development.

Because of many complaints from businesses about the non-transparency and the inconsistency of the regulations on sensitive business registration as well as significant loss suffered by enterprises, the HCMC People's Committee issued Directive 35/2006/CT-UBND dated 06 November 2006 on the planning for discotheque, karaoke, bar, massage and tourist accommodation services for 2006-2010 period. With this Directive, the HCMC People's Committee requested districts base on the following guidelines to do planning for services of discotheque, karaoke, bars, massage, and tourist accommodation:

a/ Temporarily suspending of the issuance of new business registration certificate for the services of karaoke, discotheque, and bars.

b/ To massage service, only issuing new business registration certificate to traditional medicine establishments which run massage service in hospitals and star-level recognized hotel.

c/ only issuing new business registration certificate to star-level recognized hotels (from one star)

d/ To other sensitive services such as restaurants, air-conditioned coffee bars, air-conditioned snooker, barber's shop, internet, the City advocates the resumption of issuing the business registration certificate, provided that this shall be executed in compliance with the particular plan of each district. However, if a district sees any sensitive service should be temporarily restrained and not be given the business registration certificate, the district can write that in its plan.

e/ Establishments of tourist accommodation service, which have been recognized in term of star level, are allowed to do business in discotheque, karaoke, bars, and massage services without applying for the business registration certificate but have to be registered at relevant governmental bodies before conducting the business; and these enterprises must ensure their business activities in compliance with the regulations.

The City People's Committee requested that every district complete its plan by December 2006 and submit it to the City authorities for approval. But up to now, no plan has been approved yet.

3.2. Sensitive service planning for 2006-2010 period in District One

In District One, based on the abovementioned guideline of the City, its plan for sensitive services from 2006 to 2010, which has been implemented, includes:

1/- Continued suspension of the establishment of new businesses in karaoke, discotheque, bars, massage, and tourist accommodation services (except the hotels with at least one star standard).

2/- Continued issuance of the business registration certificate without limitation to eating and drinking services coupled with music performance or 30⁰ alcohol sale, internet service, hair-cutting service for males (barbers can be female).

3.3. Analysis of the new planning for sensitive services of District One for 2006-2010:

With this plan, District One's authorities have adopted a more open view about sensitive services, which is demonstrated by their approval for establishing businesses in eating-drinking, internet, and hair-cutting services without any limit. Comparing with other districts, the business circle say that the business registration process in District One is still more favorable and shorter than any other district. The criteria for making decisions on approval or disapproval for the issuance of the business registration certificate to restaurants and star-level hotels, etc, though not being widely publicized or standardized, are considered better than other districts'. Up to now, District One is the only district in HCMC has given the green light to DPI issuing business registration certificates to restaurants, hotels with star standard, internet services, etc. without any limit. District 5 cited the fact that the district people's council had not approved the submitted plan as the reason to deny issuing the business registration certificate to sensitive services. Tan Binh District, Phu Nhuan District, etc. still apply their plans stipulating specific numbers of restaurants, hotels,

Internet shops, etc. in every street, every neighborhood and every ward. Especially, in Tan Binh District, enterprises are only allowed to apply for the establishment of Internet business in the neighborhoods which have achieved the title of culturally advanced ones.

It is the inconsistency in the policy regarding business registration between District One and other districts that have led to a small increase of enterprises doing sensitive business in District One. As of June 2007, District One had 52 establishments of karaoke, 14 discotheques, 52 massage establishments, 652 tourist accommodation service establishments, 130 barber's shops, and 203 restaurants. (*Year 2006 Report of District One` Economic Division*)

4. General assessment

From the abovementioned contents, it can be said that:

a/ The process of issuing the business registration certificate is fairly non-transparent; and the planning for sensitive services of districts is inconsistent, creating difficulties and obstacles to the development of this service section.

b/ In the transitional process to the market economy, the governmental bodies have lagged behind the development of enterprises in particular and the social development in general. Hence, the governmental bodies have chosen the following solution: the services, which they cannot control, shall be prohibited or indefinitely suspended regarding the issuance of the business registration certificate to new enterprises.

This solution partly shows the weakness of the legal system and the state management of enterprises. This solution appears to be inappropriate while Vietnam is building a market economy and integrating into the international economy. It is a remnant of Vietnam's previous command economy, in which the government decided all production relations. In comparison with the process of issuing the business registration certificate to sensitive services, the local government has roughly

intervened in the self-regulating rule of the market, e.g. forcing enterprises to do business of restaurants in one street or establish hotels in another street. The local governmental bodies have never conducted any market survey to know if the position of a street is suitable and profitable to the businesses; they had simply imposed. They just only want subjectively enterprises doing business in some specific residential areas that they think appropriate.

Moreover, the temporary suspension of the establishment of new enterprises in sensitive services has unfortunately created an unhealthy competition, breaking the social fairness. The enterprises, who are the first applicants or relatives of a city or district authority, can obtain the right to do business regardless their business quality and effectiveness. At the same time, many honest enterprises cannot find way to achieve the business right in any sensitive service. In order to have the right of doing business in a sensitive service, which is limited in term of numbers, a new comer will have to buy a business priority right from another enterprise at a steep price with many complications attached. In an interview, Mr. T.Minh, owner of Nghe Thuat Karaoke establishment, said that his company had paid another business owner about USD 10,000 for the karaoke business right.

c/ In the context of Vietnam's international integration and WTO accession

According to Vietnam Economics Times, the services sector accounts for nearly one fourth of the merchandise trade value and three fifth of the total investment capital all over the world. According to the assessment of economists, the value of the services sector in the trade realm of Vietnam in particular and the globe in general is the largest with the most rapid growth and regarded as the first priority in the WTO integration process.

But, at present, in Vietnam, this sector accounts for only some 40 % of the gross product value and employs about 24 % of the labor force, much lower than the rate of 55% in developing countries with middle income level and 70% in industrial countries with high income level. There is a disparity in the proportions of different

service kinds in the services sector, that is, the trade and consumer goods repairing service account for the largest proportion (40%), financial and credit service accounts for 5.1 %, hospitality service makes up only 7.9 % and shows the decreasing trend over the last years. One of reasons explaining the weakness in the development of services sector, especially sensitive services, is that the state policy is inappropriate. With the current restraining policy applied to the service business registration in HCMC, the number of enterprises doing business in sensitive services trends to shrink significantly, resulting in many consequences such as the significant reduction of budget income from tax collection (while the tax collection target assigned by the central government to HCMC increases year by year); loss of new jobs or job opportunities; limiting the public and tourist demand for healthy recreation services, etc.

In addition, in the context of globalization, countries are pushing their economic reform, improving their investment environment, creating a competitive market in order to attract further investment. Like other members of WTO, Vietnam, in its process of opening market, shall adopt the following rules: transparency and publicity of policies and governance create equal opportunities for every enterprise and person to access information and do business. Transparency and publicity are considered a precondition for fighting against corruption. Corruption distorts the business environment, increases cost and reduces the effectiveness and quality of the growth. Regarding the current situation of issuing the business registration certificate in District One in particular and HCMC in general, the rules of transparency, publicity and consistency seem not to exist. Enterprises attempting to do business in sensitive services are not advised about the plans for these services as well as specific criteria for approval or disapproval of business registration applications. The contents of plans are inconsistent and easily changed according to subjective thinking of the local authorities. From that, the sprouts of corruption will undoubtedly emerge.

The following remark of Madam Pham Chi Lan, member of the Vietnamese Prime Minister's Research Board, are considered a temporary closing for this point "Vietnamese enterprises are not afraid of strong competitors and ruses in both

domestic and international business markets, but their greatest fear is the invisible barrier stemmed from the business environment which lacks of transparent and consistent policy”.

B. Lacking concrete regulations on revoking the business registration certificate of violating enterprises

Up to now, the Enterprise Law is considered a breakthrough, which has received the great approval from the public during the national transition period into the market economy. One of the most successes of the Enterprise Law is the simple and favorable procedure for establishing a new enterprise. In the spirit of creating the most favorable conditions for all organizations and citizens to exercise their freedom of doing business under the law, which has been stated in the Constitution, the legal regulation on revoking the business registration certificate stipulates only eight following cases at point 2- Article 165:

The business registration certificate of an enterprise shall be revoked and its name shall be removed from the business register in the following cases:

- (a) The content stated in business registration documents being faked;
- (b) Establishment of an enterprise by persons who are prohibited from establishing enterprises as stipulated in clause 2 of article 13 of this Law;
- (c) Failure to register a tax code within one year from the date of issuance of the business registration certificate;
- (d) Failure to conduct its operation at the registered head office for duration of six consecutive months from the date of issuance of the business registration certificate or certificate of the change of [the address] of the head office;
- (d) Failure to report on business activities of the enterprise to the business registration body for twelve (12) consecutive months;

(e) Cessation of business activities for one full year without notifying the business registration body;

(g) Failure to send reports as stipulated in clause 1(c) of article 163 of this Law to the business registration body within three months from the date of written demand;

(h) Conducting prohibited lines of business.

Therefore, beyond these eight cases, responsible bodies are not allowed to revoke the business registration certificate of enterprises.

To enterprises, the business registration certificate is the highest legal evidence certifying the existence of an enterprise; so that, it is of great significance to enterprises.

In fact, enterprises doing business in sensitive services hardly violate the regulation on revoking the business registration certificate. Even comparing with normal enterprises, sensitive enterprises often better abide by the regulations on labor registration, periodic health check for employees, fire prevention and fighting, tax, financial report, etc., because they are periodically checked by responsible authorities.

Besides, Decree 59/2006/NĐ-CP dated 12 June 2006 issued by the Vietnamese Government stipulated that the goods and services prohibited from doing business are all kinds of drug, business in prostitution, organization of prostitution and gambling under any form. That means the sensitive services such as karaoke, snooker, restaurant, massage, bar, hotel, and Internet are not included in the prohibited service list. Under the legal regulations, only in case relevant authorities witness the acts of prostitution or drug using and trading or gambling (these acts shall be recorded in video tape which will be used as evidence) at the business venue of an enterprise, the relevant bodies can use the point *h* of article 165 in the Enterprise Law, regarding “doing business in the prohibited services” to revoke the business registration certificate of that enterprise immediately.

Some business owners in sensitive services (karaoke, hair-dressing, massage, snooker, etc.) disguise their illegal activities very cleverly. They do not allow their hostesses to have sexual activities with guests in their own business establishments. These establishments are used as venues for recreation services and prostitution brokerage. After reaching a deal, the hostesses will go out with guests to rent a room outside their business establishments. In this case, the business owners are seen innocent, based on the premise that they were not involved in the personal life of their hostesses, though the fact that they get commission from the prostitution activities of their hostesses.

Some daring enterprises, who want to attract more guests, have arranged for their hostesses to do striptease in private rooms at their business venues. The young and attractive hostesses have sexy acts with guests to earn money. To cope with unscheduled inspections by relevant authorities, the business owners have designed an alarm system with special lighting at every private room; or some enterprises even build underground rooms for their staff to hide.

So, during the inspection, relevant authorities can only fine them for normal administrative violations such as using of labor without signing contracts, private rooms with insufficient light, hostesses sitting with guests (according the law, hostesses are not allowed to share a table with guests), etc.

Applying Decree 88/NĐ-CP issued by the Vietnamese Government dated 14 December 1995 on administrative punishment regarding cultural activities, cultural services and prevention of social evils, the most serious violations for which inspectors can only fine the enterprises include hostesses wearing sexy and scanty clothes, the irresponsibility of business managers letting drug abuse acts happen in their business establishments (the results of testing guests' blood, who are dancing in the business establishments, show that the guests abuse drug (ecstasy)).

With the abovementioned violations, the Enterprise Law does not allow to revoke their business registration certificate. In many cases, the enterprises, who

commit administrative violations, often flatly deny their violations and appear to be innocent. They blame the violations on hostesses. In case the group of inspectors detect guests using ecstasy, the enterprises will blame guests for using drug before entering their discotheque or bars; so that, enterprises are considered to be totally innocent.

Practical situation demonstrates that the fight against social evils in the business field is fiercely taking place. In case, an enterprise is detected and fined many times by relevant authorities for its administrative violations, there is still insufficient legal foundation to revoke its business registration certificate; because the Enterprise Law does not provide that if an enterprise repeatedly commit administrative violations, relevant bodies shall revoke its business registration certificate.

Therefore, the most feasible method, which is implemented by the police, is to disguise policemen as guests going to restaurants and hotels. The disguised policemen can catch red-handed prostitutes, heroin smokers or users, gamblers, etc.

However, this method is very costly because enterprise owners only allow their hostesses to do striptease or have sexual activities at their business establishments with quite familiar guests (who have gone to their business establishments at least 10 times). Due to its high cost, the police only apply this method to treat the enterprises, which have excessive actions and disregard the law.

Another difficult problem arises from the simple requirements for establishing a new enterprise stipulated in the Enterprise Law. That is the case when the police or relevant governmental bodies had just closed Dream Girls restaurant, the Hot Girls restaurant appeared at the same venue. The owner of the previous restaurant had hired another person to apply for establishing the new Hot Girls restaurant. The repeated trick of changing a new jar for old wine makes the public feel that the business establishment with so many social evils still exists and operates, regardless the law.

To treat the businesses that repeatedly violated the administrative regulations (but not falling into the 8 cases where the business registration certificate shall be revoked as stipulated in the Enterprise Law), the authorities of District One like other districts suggested in writing the business registration office, the HCMC and DPI, to issue a decision on revoking their business registration certificate. The DPI consulted with the MPI about this problem, but the MPI requested the local authorities to follow the Enterprise Law.

Besides, based on proposals of districts, the HCMC DPI also suggested the Ministry of Planning and Investment to propose the National Assembly to supplement some cases, in which the business registration certificate shall be revoked, to the Enterprise Law. However, the addition to the Enterprise Law requires many complicated formalities; thus, these proposals, so far, have not yet received any response.

C. The governmental bodies apply under-law documents such as public notes or hand-writing letters to replace the Enterprise Law

According to Pham, D.N (2007), the Vietnamese legal system took an odd shape. During the first half of the first decade of the 21st century, Vietnam had created 52 codes and 20 ordinances which were guided for implementation by over 1000 decrees and dozens of thousands of circulars, directives, and decisions issued by governmental bodies at various levels. Besides, there were thousands of directives and decisions issued by the Prime Minister and Ministers and legal documents issued by local governments. The more broadly the state management scope expands, the more legal documents are issued. However, in reality, there are some cases in which legal documents issued by junior bodies conflict with those issued by senior bodies.

Studying the legal document system regulating the issuance of the business registration certificate to sensitive services, we will understand this issue more clearly.

According to the Enterprise Law, Decree 02/NĐ-CP dated 03 February 2000 issued by the Vietnamese Government on business registration and Decree 03/NĐ-CP dated 03 February 2000 providing guidance on the implementation of some articles in the Enterprise Law, applicants for establishment of enterprise have the right to register their business which is not prohibited by the law. However, facing the increased social evils upon promulgating the Enterprise Law, the Ho Chi Minh City People's Committee, on 2 July 2001, issued Directive 17/2001/CT-UB on streamlining of organization and management of social and cultural activities and strengthening of the fight against social evils. Accordingly, Ho Chi Minh City itself indefinitely suspended the issuance of the business registration certificate to sensitive business.

This Directive created great difficulties for the enterprises that had attempted to do business in sensitive services. Facing that situation, the Ministry of Planning and Investment requested Ho Chi Minh City wave this Directive 17 which conflicted with the Enterprise Law many times. However, in spite of the opposition from some relevant Ministries and departments, the Ho Chi Minh City authorities insisted that its temporary suspension of the issuance of the business registration certificate with a view to gradually planning sensitive services was very adequate to the socio-economic development situation in Ho Chi Minh City.

Besides, there was a disagreement between the Ministry of Planning and Investment and the Ministry of Culture and Information. While the Ministry of Planning and Investment strongly opposed the restriction of the development of sensitive businesses by Ho Chi Minh City and some other provinces because that restriction infringed the Enterprise Law; the Ministry of Culture and Information supported the view of restricting the establishment of enterprises in sensitive areas. Despite the objection from the business circle, the Ministry of Culture and Information lobbied the Prime Minister for issuing Directive 17/2005/CT-Ttg dated 25 May 2005 on eradication of negative activities in bars, karaoke establishments and dancing balls. The main point of this Directive was the temporary suspension of the issuance of the business registration certificate to dancing balls, karaoke service, and

bars nationwide, so that, relevant bodies had time to search management solutions and do planning for sensitive services.

The Directive of the Prime Minister reinforced Ho Chi Minh City's view about restriction of sensitive business development. The Office of Ho Chi Minh City People's Council and People's Committee issued Report No 233/TB-VP dated 14 April 2006 regarding the conclusion by Mr. Nguyen Thanh Tai, Vice Chairman of HCMC People's Committee, at the discussion on 12 June 2006 about the planning orientation of sensitive services for 2006-2010 periods. The report said that the fact Ho Chi Minh City, recently, focused on the implementation of its plan for some cultural sensitive services and commercial activities, which was prone to social evils in districts, was a creative and responsible breakthrough, bringing about quiescence and security to the public life and a healthy environment to businesses. Hence, in spite of the disapproval from some Ministries, departments and the business circle, the City authorities affirmed that the recent planning and implementation of the plans were totally right and adequate to the city's reality!!!

As mentioned in the previous parts, under this Directive, Districts basing on their subjective thinking and criteria set up by them have been planning for the issuance of the business registration certificate to sensitive business. However, depending on their leaders' opinions at each particular point of time, the Department of Planning and Investment and the people's committees of districts could issue public note and notice about approval or disapproval of some certain sensitive services.

At the end of 2004, District One adopted the plan for 2004-2005 periods, which was inclined to ban the establishment of all new sensitive businesses. This restriction negatively impacted the economic development of the District. Thus, the District One, in 2006, rebuilt the plan for 2006-2010, which only restricted the business registration of some certain services such as bars, karaoke, dancing, etc. in compliance with Directive 17 of the Prime Minister. Other services like restaurant, café, hotel, Internet, were allowed to be registered without any limitation.

Vietnam issued the Law on Promulgation of Legal Normative Documents in 2002, which stipulated the effective levels of legal documents. The adjustment or replacement of an effective legal document can only be done by another effective legal document at the same or higher effective level.

Therefore, it can be said that the Directive issued by the Prime Minister, the decisions and directives issued by HCMC People's Committee and District One's plan, which have mentioned above, did not comply with the legislative procedure regarding the promulgation of the legal documents to implement the Enterprise Law. The Enterprise Law was adopted by the National Assembly of the Socialist Republic of Vietnam and took effect nationwide. Only the National Assembly has the right to amend the Law. Lower level bodies shall abide by the Law.

Moreover, like China, many people regarded the Vietnamese economy as an economy of "relations". The more and closer relations enterprises establish with state bodies, especially senior bureaucrats, the greater advantages those enterprises can enjoy in their business operations. As a Vietnamese saying goes "close friend's first, acquaintances second". Thus, it is lucky for any businessman whose relatives and friends are state officials because they can ask those officials for assistance to their business. The Vietnamese bureaucrats often please one another; if you give my son a helping-hand today, I will assist your nephew tomorrow. The norm of "close friends first, acquaintances second" strongly developed in the centrally command economy via the "plea – grant" mechanism. The supply of goods was planned for production and distribution. Therefore, if any one had good relations with distributors, those would be granted high quality goods. Similarly, in the transitional period to a market economy where the legal system is still incomplete and inadequate, close relations with senior bureaucrats become extremely significant to resolve great difficulties, which seem not to be able to overcome.

At the beginning of 2004, the heads of the DPI and District One received a public note from HCMC administration, which requested them issue the business registration certificate to restaurant W in Nguyen Dinh Chieu Street (the restaurant's

owner was a relative of that chairman). Although, according to the regulations, the certificate could not be granted to that restaurant because it was located in the area of the diplomatic corps (where many consulates were located), the business registration bodies, finally, had to approve under the pressure from their senior official.

At the beginning of 2006, a similar case also took place in District Five. Thanks to the strong intervention of a senior official in HCMC, hotel X in Ham Tu Street was allowed to be established, though according to the plan of District 5, no further certificate would be granted to any hotel. This senior official wrote a handwriting letter that was enclosed to application form of the enterprise as follows: “requesting the DPI and District 5 issue the business registration certificate to this particular case”. According to an internal source, the owner of hotel X was a bosom friend of a Vice Chairman of the City People’s Committee.

The two foregoing cases show that personal handwriting letters of senior bureaucrats are also a source of documents, which can change the policy and have the same effect as legal documents in HCMC particularly and in Vietnam generally.

At present, in Vietnam, using under-law documents and public notes to replace legal normative documents is popular and implicitly recognized. Noting that the issuance of under-law documents is totally based on the objective thinking of state management bodies rather than surveys or public opinion polls. Mr. Tran Quoc Khanh, Vice Head of the governmental mission of negotiators, Director of the Department of Multi-border Trade Policy (Ministry of Trade) said “though Vietnam has the regulations on the issuance of legal normative documents under which a legal document can only come into effect after being publicized for public opinion contribution or put in the gazette. But in fact, public notes are still being used to regulate or replace legal normative documents”. Besides, Doctor Peter Naray – Chief of the European Trade Technical Assistance Group for Vietnam – also warned that there were many criticisms from foreign experts regarding the fact that Vietnam was using public notes to replace policy.

Therefore, when Vietnam joined WTO, the report of the working group on Vietnam's WTO accession said: "The Vietnamese government has made commitment that it would not use public notes, notice and guiding documents to administer affairs; and functional bodies would only be allowed to use legal normative documents to execute their functions. Vietnam has guaranteed that public notes would not be considered legal normative documents, so that, they would not be publicized".

It can be said that the biggest challenge facing the state executive sector upon Vietnam joining WTO is the implementation of Vietnam's commitment to transparency. This commitment will bring about huge interest to people and enterprises.

As a member of WTO, Vietnam is committed to following the international standards regarding the transparency, consistency, fairness and reasonableness in its legal system. Laws, decrees, and court's decisions regarding trade must be publicized widely before they come into effect.

Comparing with this principle, the legal system regulating sensitive business has not integrated in Vietnam yet, that means local governments can create particular laws by themselves which are not consistent and in compliance with the Enterprise Law. Especially, the fairness, under which any partiality in the implementation of the Law is unacceptable, has been seriously infringed.

The WTO accession of Vietnam is a guarantee for the consistency of the Vietnamese legal system, administrative regulations and procedure with the WTO agreements and Vietnam's Accession Protocol. That also means Vietnam shall implement WTO's rules, which require Vietnam quickly build a mechanism of supervision, suspension and abrogation of documents issued by ministries, departments and local governments in case these documents violate the constitution or effective laws (Industry Newspaper of Vietnam, 2007).

Therefore, it is high time local officials must be familiar with and deeply understand the rules and regulations of WTO.

D. OPINIONS OF OFFICIALS ABOUT SENSITIVE SERVICES

1. Public perception regarding to private sector

In Vietnam's traditional agricultural society, farmers were valued and respected. Merchants were placed at the bottom of the social hierarchy. Businessmen were ranked in the lowest social stratification – equivalent to “the fourth class citizen” (scholars first, farmers second, craftsmen third, and businesspersons the fourth).

When Vietnam implemented centralized planning model, small and medium enterprises (SMEs) were disregarded. The notions that private ownership of production means are roots of personal enrichment and human exploitation tied the private sector to difficult situation. Thus government policies were to bind the development of private sector (Pool, 1999). Private enterprises in Vietnam were even considered the “enemy” of socialism in late 1970s. According to the government observation, “markets and the private sector could not be trusted” in that period (Fforde and de Vylder, 1996:69).

According to the survey of MPDF (1999), total sample groups thought that private entrepreneurs have common characteristics such as authoritarianism, greed, exploitation, untrustworthy, unreliable, responsibility for corrupting government officials.

Although a negative image of the private sector is consistent across sample groups, on a more positive note, 90% of the participants believe that the private sector plays an important role in the national economy.

In Vietnam, people tends to bias against those who working at sensitive services. If employees could not prove that they are working for a famous wholesome establishment, they will be easily considered as a staff of a certain social evil unit.

2. Mass media

In many countries all over the world, the press shall deeply understand the law and help disseminate the law to the public. However, many journals and newspapers in Vietnam, when reporting about enterprises, often focus on the thrilling stories relating to social evils taking place in dishonest enterprises. The press little mentions the good examples or praise honest enterprises for their achievements in the sensitive business field.

As mentioned above, due to many reasons, the public view about the private sector has not been improved yet and now is continuously distorted by the articles going deep into negative site of enterprises in the sensitive business field. It is proved that all participants of a survey of Mekong Economics were in agreement that the image of private sector shown up by the media has largely been negative though 85% of survey groups listed media as the main source of information about private enterprises (Carty, 2002: 12).

To meet readers' predilection, a majority of newspapers in Vietnam in general and HCMC in particular deliberately support the following public opinions that social evils arise because of the mistakes made by the business registration bodies. If the business registration office did not issue the certificate to the enterprises doing sensitive business, the society would have been better.

Ridiculously, the business registration office, DPI, sometimes, was brought to the administrative court by enterprises for rejecting their applications for the business registration certificate under the Enterprise Law. In that case, some newspapers have criticized the business registration office for not fulfilling their duties assigned by the state.

3. Opinions of officials in different levels

In order to study this issue, I conducted some interviews with government officials at central and local levels, who are related to granting business registration

certificates to sensitive businesses. The interviewees are a former Vice Minister of Ministry of Planning & Investment (MPI), a Head of Business Registration Division – DPI of HCMC, a Head of Economic Division – District One, officials in charge of business registration in District One and other districts such as Five, Seven, Tan Binh, Go Vap..., Presidents and Vice President of five key wards in District One. The result shows different schools of opinions toward granting business registration certificates to sensitive businesses, which can be finally classified into two groups based on the interviewees' ages:

3.1. Group 1 comprises of senior officials at the age of 45 and older.

They are conservative leaders who desire to restrain or even stop granting business registration certificates to sensitive businesses.

At the age of 45 or older, most of these officials grew up in the context of the war before 1975. They joined the revolution force to fight the enemy. Most of them were combatants, political prisoners or progenies of Vietnamese revolutionary cadres. Post war, they were assigned to hold key positions in the governmental and political system at central and local levels as a compensation for their dedication to the independence of Vietnam. In their lives, they witnessed three historical periods: wars, centrally planned economy and market economy. When they are retired, their influence on the local society is remained much important.

The thought of simplifying business registration certificate granting formalities stipulated in the Enterprise Law has been stuck in entanglements of objection at the very beginning. In the interview with me on 05 Jul 2007, Mrs. Do Ngoc Trinh, a former Congress Delegate – Vice Minister of MPI, said that: “I can remember clearly that during the Congress in May 1999, many delegates had severe reaction while considering draft of Enterprise Law. Some of them suggested rewriting the draft to add more documents in the business application formality. Their worry was that the number of enterprises would have a boom epoch thanks to an open Enterprise Law. That worry became reality. Nowadays, there are too many social evils. I do not

understand why the authorities in charge granted too many licensees to hotels, restaurants, dancing clubs, pubs bringing about series of social evils which is ruining the Vietnamese youth, harassing the society. Ideology error is popular among our present youth living style. Heedlessness of Marxist – Leninist ideology as well as Ho Chi Minh Thought brought their lives to an ambiguous future. I think we must tighten the procedure of granting business registration certificates to sensitive businesses to prevent social evils from spreading far and wide.

Sharing the same viewpoint of Mrs. Trinh, Mrs. Nguyen Thi Hue, Head of Social Evil Prevention Bureau of Vietnam – MOLISA, talked to Vietnamnet that: The government should not grant too many licensees to businesses in line of massage and karaoke. According to her, these kinds of businesses are favorable environment for prostitution to expand.

Spending time with me in the interview on 03 Jul 2007, Mr. Tam Tien, Secretary of District One Committee (the highest political leader of District One) criticized: “My generation sacrificed our youth, our lives to fight against the American Empire for the independence of Vietnam. We always wish to witness the development of Vietnam. Young generation must be conscious of their responsibility of succeeding to socialism. Social evils are products of market economy. Previously in the centrally planned economy, although the living standard was low, the society was wholesome and social evils were not as popular as present. I did request the Economic Division of District One as well as DPI of HCMC to be cautious about the operation conditions of business owners as well as related documents before granting business registration certificates to sensitive businesses. For there are too many sensitive businesses located in District One, the more we confine sensitive businesses, the better the society is.

When being asked about the booming situation of sensitive businesses in Ben Nghe ward on 20 Jun 2007, Mr. Thu – President of Ban Nghe ward in District One, said: “I disagree to let too many sensitive businesses operate in this ward of which I am in charge. All 5 among 7 most famous dancing clubs locates in my ward, let alone

100 restaurants, 30 massage services, 60 hotels. The resident in this ward do not have high demand of these luxury kinds of entertainment. The heavy density of sensitive businesses in my ward has been causing much difficulty in public management. I suggest that these businesses should be relocated in the suburb!”

What can be learnt from the interviews with the above government officials is that they do not appreciate positive role of enterprises. They just focus on the negative impacts caused by some disguised enterprises; consequently, they do not trust the private sector. Moreover, they have been impregnated with Marxist - Leninist ideology they for their youth experienced the violent war and then the centrally planned economy. They are afraid that the sinewy market economy would gradually push Vietnam off the socialism orientation. The rapid growth of private sector, especially sensitive businesses, is the germ of social evils. Corruption and depraved officials are originated from the same cause. Correspondingly, their attitude toward private sector in general and sensitive businesses in concrete is full of harshness.

Bias of central government officials towards private sector was noted by MPDF (1999) that some officials, especially policy makers in Hanoi said: “The private sector is responsible for the blight of corruption that hangs over Vietnam transitional economy, claiming that corruption did not exist before unleashing of the private sector”. In line with this thinking, they advocate further controls on the private sector to ensure that it will develop along socialist guideline.

A noticeable highlight is that many of key leaders in every governmental administrative level in Vietnam as well as HCMC are of the ages of group 1. Although there are a few radical officials in this group who understand clearly the Enterprise Law, a remarkable number of conservative ones do not appreciate private sector and feel antipathy for sensitive enterprises. For not understanding the Enterprise Law thoroughly or not admitting of open stipulation on business registration certificate issuance, the majority of officials subjectively judge that the larger the number of sensitive enterprises there are, the worse the society is. It is the

responsibility of the offices in charge of issuing business registration certificate that create favorable conditions for social evils spring up.

3.2. Group 2 civil servants at the age of 30- 45

This unreasonable opinion of senior leaders in group 1 has been causing negative impacts to officials in group 2 at the age of 30-45. Those officials in group 2 are radical. Through my interviews with officials of this group, those pressures imposed by senior leaders that they have to bare will be exposed.

During group discussion with officials of Economic Division – District One on 1Jul2007, all of them complained that: because state leaders also assumes that the increased social evils are attributed to the mistakes of the business registration bodies which have rampantly issued the business registration certificate.

Therefore, if only one article in a newspaper reports that social evil activities are taking place in Karaoke establishment A or Bar B or Hotel C, senior officials will impose pressure on the Business Registration Office, the DPI, or the district's Economic Division, request them explain in writing, and then discipline individuals or the whole body. When applying the Enterprise Law to grant business registration certificate, the Economic Division usually suffers writing reports or discipline. Therefore the Division has no longer been awarded with annually prizes in emulation movement as usual.

Responding to a question why the HCMC Planning and Investment Department does not comply with the Enterprise Law in the interview on 25 Jun 2007, Mrs. Nguyen Thi Huu Hoa – Vice President of HCMC Planning and Investment Department in charge of business registration certificate issuance - explained: “Actually, we have desired to conform to the Enterprise Law so that investors can apply business registration certificate easily. But as a factor of fact, whenever there is any problem caused by sensitive businesses, we receive reprimand from higher authorities”.

At the interview on 01 July 2007, sharing the same plight, the head of Economic Division – District One complained that they are usually questioned why company X was granted certificate to operate at the address Y, where social evils are taking place as a corollary.

Ms Kim Oanh, Head of Business Team – Economic Division of District One acknowledged on 02 July 2007: This fact leads to a consequence that leaders of districts' economic divisions and officials in charge of business registration are often labeled "having problems"; because there are many rumors that these officials must be involved in corruption in their work relating to business registration, otherwise, they would not have been easy in issuing the business registration certificate to sensitive enterprises. Therefore, these officials often face difficulties in their career promotion. A typical example was the case of Mr. P, one of the best Heads of the District One's Economic Division in the past. Although Mr. P had achieved much in his work, he, finally, was transferred to another position which was less important than his former position in the previous office.

He was not been promoted because he had been over-enthusiastic and open-minded in facilitating enterprises operating in sensitive business fields develop. The more enterprises he helped to be issued licenses, the more negative rumors as well as pressure he had to bear. Nowadays, the view of District One's authorities is more open; they are better aware of the business registration reality. But, the political career of Mr. P had never been recovered. Mr. P's case was not a special one. Enterplan (2003) also surprisingly reported about some cases detected in which a number of district officials in charge of business registration were disciplined for related enterprises in conflict with the district people's committee, though these officials had strictly abided by the Enterprise Law.

Officials in charge of business registration of Economic Division of other District (Tan Binh, Phu Nhuan, Binh Thanh, Five and Seven) they also have the same idea that managing leaders of authorities in their districts are prejudiced against officials in charge of business registration. Social evils are always blamed on them.

According to Mrs. Huu Hoa – Vice President of HCMC Planning and Investment Department Over the last years, although the DPI and district Economic Divisions had had to continuously introduce about the procedure for issuing the business registration certificate under the Enterprise Law, the public opinions and many leaders still did not understand the problem. The mass media continued to press enterprises being involved social evils. Hence, difficulties and pressure facing the business registration bodies had not been removed yet. In this the situation, to protect itself, the business registration office, the DPI, took an additional prudential step, which is not stipulated in the Enterprise Law, that is, consultation with the related districts before issuing the certificate to sensitive business.

Mrs Binh Minh, Head of business registration division – DPI, spoke up frankly (on my interview 25 Jun 2007): "Our division is aware that consultation with the related districts before issuing the certificate to sensitive business is breaching the law, especially, breaking the commitments in WTO; moreover, we are fidgety of being sued for not granting business registration certificate. Facing unwelcome pressure of both the higher authorities and the society, we have not found a better solution."

The districts' Economic Division, in turn, consulted with the people's committee of the related ward, other relevant bodies and the police. Mrs Minh Ngoc, Head of Economic Division – District One – remarked that this solution is considered to be a step backward, but it has helped to lighten the psychological burden and multilateral pressure on the bodies and officials in charge of business registration, because the responsibility of issuing the business registration certificate has been turned into the collective responsibility with the collective leadership and the participation of many various bodies.

The mechanism of collective management in Vietnam is understood as follows: when a decision is needed to be made (e.g. approval for issuing the business registration certificate to an enterprise), the body, which is processing the documentation, must consult with series of other related bodies; if only one body

disapproves, the documentation will be rejected. Therefore, Mr. Charles Ray, former Consul-General of the United States to HCMC, said: “Vietnam is a country of veto”. A mechanism, which was regarded a democratic one, has become a mechanism in which every one has the decision-making power but no one has to take responsibility for their decision. Thus, the relevant bodies can irresponsibly give reasons for their disapproval; and they will never be criticized or punished for these reasons.

For example, Mr Le Minh Phat, Vice President of Nguyen Thai Binh ward – District One, said to me on 15 Jun 2007 that the Nguyen Thai Binh ward’s authorities did not issue the business registration certificate to some enterprises who rented houses to do hotel business because these houses owners hadn’t applied for the house building permit at the District One’s Urban Management Office. It is clear that the permit for house building and the certificate of business registration belong to different fields; if the house owners breached the law in the field of construction, they should be punished under the Construction Law.

Besides, on 23 Jun 2007, Mr Kien, President of Ben Thanh ward – District One revealed: in some cases, enterprises applied for opening restaurants in Ben Thanh ward. The ward authorities could not know if the enterprise would conduct honest business activities in the future, but they did not have any reason to reject their applications. Therefore, the ward authorities consulted with the neighbourhoods. Of course, there was not any household which preferred a bar or a restaurant close to their house because it would definitely damage the existing peaceful environment. Based on the disagreement of the neighbourhoods, the people’s committee of Ben Nghe ward disapproved the opening of restaurants. In turn, the Economic Division, the District One People’s Committee, also disagreed. Because of the disapproval of the District One, the Business Registration Office, the DPI, would notify in writing its rejection to these enterprises!

So, it can be seen that the disapproval for issuing the business registration certificate to these enterprises might stem from various reasons which are not

completely provided by the law but depend on subjective feelings of related bodies and organizations.

Everyone in Economic Division of District One agreed that at the time of applying for business registration certificate, governmental authorities cannot anticipate whether an enterprise would do honest business or be involved in disguised business relating to social evils activities. If disguised evil businesses were allowed to be established, a lot of complicated problems for the locality such as negative impact on social order and safety, public protesting opinions, criticisms from senior leaders would arise. Therefore, using every method to restrain the development of the sensitive business is the optimal way for lightening responsibility.

What we can learn from the interviews with Mrs. Huu Hoa and Mrs. Binh Minh is that: the business registration bodies also see it irrational, but they do not want to displease each others. Consequently, enterprises have to suffer. Thus, if an enterprise wants to make sure that its application for the business registration certificate will be approved, it must have good relations with all relevant bodies and individuals. However, enterprises often do not know whom they should have good relations or talk with. This makes the transactional cost increase and the economic effectiveness decrease. The role of the leaders of the business registration bodies is eclipsed because they have only way to accept compromised solutions. These compromised solutions, which can please all people, are not breakthroughs.

Another reason revealed by Mrs Huu Hoa and Mrs Binh Minh is that some related government authorities force us to consult their opinions of granting business registration certificates to investors despite they do understand the Enterprise Law. It becomes evident that they are trying to maintain the “begging – granting” mechanism of the centrally planned economy to reinforce their patronising position. Enterprises have to beg these authorities’ favour if they would like to do anything. These bureaucratic authorities have perceptive feel that their power has been lessened and their unofficial benefit exploited from enterprises has been reduced as the validity of simple business registration certificate procedure stipulated in the Enterprise Law.

A positive conclusion learned from the interviews with government officials group 2 on 30 May 2007 is that they recognize the importance of SMEs, sensitive businesses are included, to the development of Vietnam. They credited to SMEs by the official line include: job creation, poverty alleviation, contributions to GDP growth. This group also desires to impulse the development of SMEs; however, too much pressure imposed by higher authorities has tied their hands although they are willing to help SMEs.

On 19 June 2007, I conducted a group discussion with Presidents and Vice Presidents of five key wards in District One (Nguyen Thai Binh, Ben Thanh, Ben Nghe, Pham Ngu Lao, and Nguyen Cu Trinh). Most of them are at the age of 33. They all assume that not granting business registration certificates to sensitive businesses is unreasonable and harmful to investors. 20% of tax income at their local sites has been lost because of restraining sensitive business.

According to Mr. Nhon, President of Pham Ngu Lao ward – the center of back - packer tourists in HCMC: “Most of the foreign tourists are bored when coming to the “street of foreigners” located in Pham Ngu Lao ward. In their perception, HCMC is rather quiet and boring because there are few entertainment services. They do not know what to do at night. Our Vietnamese leader should study the model of Thailand to have an open mind toward entertainment. I dream of a crowded and animated “street of foreigners” in my ward like Khao San Road in Bangkok.”

Mr. Hung, President of Nguyen Cu Trinh ward agreed that our leaders do not save time to visit countries in the area to study their models. They are always afraid that if the process of issuing business registration certificate is normalize, social evils will be disseminated, youth will be ruined rapidly like what have been reported about Thailand by some newspapers. In fact, according to his experience of visiting Thailand, Thai youth is hospitable, polite and confident. He can not be satisfied more with Thai tourism services. Those are worth to be studied and applied by Vietnamese leaders or youth.

Younger government officials do not have sympathy for bounding the development of sensitive businesses. However, they are so young to hold key positions in their authorities; therefore, their voice is not strong enough to change the viewpoint of their leaders as well as the pressure of the society (especially pressure imposed by retired officials).



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Table 4 Some differences between two bureaucrat groups

	Group 1 (age of 45 and older)	Group 2 (age of 30-45)
General characteristic	Conservative	Radical
Biography	Were born and participated in Vietnam war (war veterans or political prisoners)	Were born and matured in peace (after Vietnam Reunification 1975)
Ideology	Deeply saturated with Marxism-Leninism and President Ho Chi Minh Thought	Selectively absorbed with Marxism-Leninism, President Ho Chi Minh Thought as well as internationally radical thinking.
Academic background	Domestic in - service training programs (most are political and state management courses)	Well-educated at domestic or overseas universities.
Opinion	Prejudice against private sectors, especially “sensitive” businesses	Appreciate the important role of private sector; recognize the contribution of “sensitive” businesses
Tendency	Restrict or even stop issuance of business	Open minded in issuance of business registration

	registration certificates to “sensitive” businesses	certificates to “sensitive” businesses
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In my opinion, Vietnamese young government officials are affected by different schools of advance ideology for they were borne in peace grew up in the context of a transforming Vietnam to build market economy and join the international integration process. They are not purely saturated in Marxist – Leninist ideology, which appreciates collective model and regards private sector as of little value. Consequently, they group of government officials are more radical toward private sector.

The difference in viewpoints of those two government official groups is originated from their ideology. The older group is saturated in Marxist – Leninist ideology in the centrally planned economy, which defines market economy as a product of capitalism, and private sector is the enemy of socialism. So, they are conservative and reluctant to get along with the movement of Vietnam in the trend of international integration. In coming years, I hope that the radical generation will predominate over the conservative inhibition of the older generation.

On the other hand, basing on the above findings, the degree of legal awareness of Vietnamese officials needs to be reconsidered, especially in term of Enterprise Law.

In principle, state bodies and public servants shall master the law; but in fact, some leaders at all state levels do not clearly and rightly understand the Enterprise Law’s new articles on business registration. It’s painful to learn the comment of Carty (2002) that the capacity of legislators from central to local levels is low. The legal knowledge of state officials, especially local officials, is far from meeting the requirements of the functions and tasks they required to perform.

However, the process of improving the awareness of public servants is time-consuming, demanding efforts from the public officials themselves who should

acknowledge the importance of the legal knowledge and master it. The capacity and responsibility spirit of the public servant pool will be a decisive factor for the success or failure of Vietnam's transitional process into a market economy and international integration.



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CHAPTER IV

CONCLUSION & RECOMMENDATIONS

In the context of Vietnam's transformation to market-led economy and international integration, this research investigate the limited development of "sensitive" business and the granting of business registration certificate for "sensitive" services at Ho Chi Minh City.

Based on the Vietnamese definition of SMEs and national statistical annual reports, around 95% businesses operating in Viet Nam are SMEs. "Sensitive" services can be understood as business whose owner and involved people such as hostesses and guests can easily engage in social evils or activities against the Vietnamese tradition and customs. "Sensitive" business is generally defined as five principal services: dancing, massage, karaoke, bar, tourist accommodation (hotel, guesthouse). Besides, district-level authorities can objectively add some more services to the sensitive business list such as internet, hair-cutting and air-conditioned snooker.

The purpose of the research is to study the factors influence issuance of business registration certificate for "sensitive" SMEs. The first hypothesis is the fact that policy implementation of issuance of business registration certificate for sensitive enterprises is complicated, non-transparent, arbitrary and unreasonable. The second one comes from suggestion that officials are likely to be bias against "sensitive" businesses. Data collection comes from review secondary data, in-depth interview, and group discussion. The research is applied qualitative analysis with some statistic data from reports of public agencies.

This research seems to be the first one relating "sensitive" enterprises and issuance of business registration certificate for "sensitive" services in Vietnam. Thus, the findings and recommendations may be useful for all – level leaders of public agencies, policy makers, prospective researchers and those who are interested in.

This chapter starts by a section summarizing major discussions and findings in the earlier chapters. It verifies the hypotheses in the research. The section also draws some conclusions and highlights important issues including those consistent and those contradictory with earlier results or common perceptions in the literature. The chapter is not only closed with some recommendations with respect to Government as well as Ho Chi Minh City authority but also a section of some limitations and direction for further research.

I. CONCLUSION

The earlier chapters have discussed different ideas about the role of SMEs in national economies around the world. In the progress of transition to market economy and global economic integration, Vietnam leaders realizes the importance of private sector, especially SMEs in Vietnam. To deeply understand this progress, sections of overview of Vietnam Transformation from centrally planned to market – led economy, international integration and the Vietnamese law system in the process of WTO penetration are mentioned.

As an integral part of private sector, SMEs operating in sensitive industries have also contributed greatly to the development of Ho Chi Minh City in term of economy, tourism, entertainment. However, despite their contribution, sensitive SMEs setting up in these industries have faced many obstacles to be issued business registration certificate at Ho Chi Minh City. In practice, therefore, the problematic issuance of business license is said to constrain development of “sensitive” SMEs.

The first hypothesis suggests that issuance of business registration certificate for sensitive enterprise is complicated, non-transparent, arbitrary and unreasonable.

A matter of the fact, process for issuing the business registration certificate in sensitive fields is longer and more complicated than ordinary industries. Besides, through service provider, businessmen tend to suffer some “unofficial” costs to gain their business registration.

Especially, more public agencies which are not stipulated in the Enterprise Law have participated into the process of issuing the business registration certificate in sensitive fields. Consequently, they request applicants many extra-document, which hurdles public administration reform in Vietnam.

According to Enterprise Law 2000 (amended 2005), “the citizen has the right to do any businesses except those prohibited by the law” and HCMC Department of Business Registration is the solely agency responsible for solving applications. However, applications for the sensitive business registration certificate could be rejected because of either the disapproval of the district People’s committee, the wards` People committee or District Police with many irrational reasons. In many cases, a negative or positive decision made by relevant bodies is strongly dictated by subjective and arbitrary feelings of these bodies and officials who directly process documentation. Through a case study of Mrs. Tam `s application for a hotel business certificate, a location (an inanimate object), not a legal person, is regarded as a legal entity which shall be subjected to the administrative regulations. No business registration certificate would be granted to anyone (even house owner) attempting to do business at a venue, where the former business owner had breached the law.

The research also points out the lacking concrete regulations on revoking the business registration certificate of violating enterprises has contributed to the development of social-evil-business. When drafting Enterprise Laws, law makers were not able to foresee complexity of all socio-economic aspects. They could not imagine the fight against social evils in the sensitive fields would be fiercely taking place. The Law stipulates only eight normal cases at Article 165 in order to revoke the business registration certificate. In practice, enterprises relating social evils cleverly avoid not to violate the regulation on revoking the business registration certificate. Thus, although an enterprise is detected and fined many times by relevant authorities for its administrative violations, there is still insufficient legal foundation to revoke its business registration certificate.

From the two Sensitive plans of District One for 2004-2005 and 2006-2010 periods, it can be said that in the transitional process to the market economy, the governmental bodies have lagged behind the development of enterprise. Hence, for the services which they cannot control, the governmental bodies shall be prohibited or indefinitely suspended regarding the issuance of the business registration certificate to new enterprises. This solution can be seen as a remnant of Vietnam's previous command economy, in which the government decided all production relations.

Besides, the contents of plans are inconsistent and easily changed according to subjective thinking of the local authorities. From that, the sprouts of corruption will undoubtedly emerge. Moreover, prohibition or temporary suspension of the establishment of new enterprises in sensitive services has unfortunately created an unhealthy competition, breaking the social fairness.

As a member of WTO, Vietnam is committed to following the international standards regarding the transparency, consistency, fairness and reasonableness in its legal system. Regarding the current situation of issuing the business registration certificate in District One in particular and HCMC in general, the rules of transparency, publicity and consistency seem not to exist.

A considerable finding is that the governmental bodies apply under-law documents such as public notes or hand-writing letters to replace the Enterprise Law, a recognized legal normative document. Personal handwriting letters of senior bureaucrats are also a source of documents, which can change the policy and have the same effect as legal documents in HCMC particularly and in Vietnam generally. This enhances the Vietnamese saying "close friends first, acquaintances second". The more and closer relations enterprises establish with state bodies, especially senior bureaucrats, the greater advantages those enterprises can enjoy in their business operations.

The second hypothesis suggests that Vietnamese officials be bias against sensitive businesses. There is enough evidence to confirm that the public have a bad

perception about enterprise. In Vietnam's traditional agricultural society, based on Confucianism, businessmen were placed at the bottom of the social hierarchy. It was getting worse when Vietnam applied Marxism-Leninism and established central planned economy. In the period, private enterprises in Vietnam were even considered the "enemy" of socialism. Recently, according to the MDPF 1999 survey, a negative image of the private sector is consistent across sample groups.

The public view about the private sector has not been improved yet and now is continuously distorted by many newspapers going deep into negative site of enterprises in the sensitive business field. To meet readers' predilection, a majority of newspapers in Vietnam in general and HCMC in particular deliberately support the following public opinions that social evils arise because of the mistakes made by the business registration bodies. To lighten the psychological burden and multilateral pressure that the public, mass media, and other public organization putting on them, the bodies and officials in charge of business registration has turned the responsibility of issuing the business registration certificate into the collective responsibility with the collective leadership and the participation of many various bodies. This collective mechanism, which was regarded a democratic one, has become a mechanism in which every one has the decision-making power but no one has to take responsibility for their decision. Thus, the relevant bodies can irresponsibly give reasons for their disapproval; and they will never be criticized or punished for these reasons.

Findings also prove that some public organizations and bureaucrats are trying to maintain the "begging – granting" mechanism of the centrally planned economy to reinforce their patronising position. In this mechanism, enterprises have to beg these authorities' favour if they would like to do anything. These bureaucratic authorities have perceptive feel that their power has been lessened and their unofficial benefit exploited from enterprises has been reduced as the validity of simple business registration certificate procedure stipulated in the Enterprise Law.

One of the most surprising findings comes from interviews with officials at various levels. The result shows different schools of opinions toward issuance of

business registration certificates to sensitive services, which can be finally classified into 2 groups. Group 1 comprises of senior officials at the age of 45 and older. They are conservative leaders who desire to restrain or even stop granting business registration certificates to sensitive businesses. Hatred for imperialism, impregnation with Marxist - Leninist ideology, which once defined market economy as a product of capitalism and private sector as the enemy of socialism, are regarded as causes of conservative officers` bias. They are, therefore, reluctant to get along with the movement of Vietnam in the trend of international integration.

Especially, opinions of Group 2- civil servants at the age of 30-45- considerably contributes the perceptive change of the second hypothesis. It draws more positive and optimistic colors into a dark picture of sensitive businesses. This group disagrees about the constrained policy of issuance business license. Born and grown up after Vietnam War, they are not purely saturated in Marxist – Leninist ideology. Thus, their viewpoint is likely to be more radical than the older group`s. However, they are so young to hold key positions in their organizations; therefore, their voice is not strong enough to change the current situation.

Learning from the aforementioned issues, we can conclude that there are obviously problems in policy implementation in Vietnam, which is in the necessity of more careful reconsiderations.

In theory, the current principle of policy implementation in Vietnam is generally based on the top-down model, in which power flowed from elite decision-makers down to grass roots implementers. It is an objective view in which ‘policy’ is accepted as a given, based on an assumption that the policy is feasible. The focus is on analysis of implementers work quality. Solutions to implementation problems are achieved by those at the top gaining better control over the process.

However, in practice, the bottom-up model seems to be prevailed, and the process of issuing business registration certificates for “sensitive” businesses is a

typical example. What is happening in this process became an evident for (Parsons, 2003) the statement: “bottom-up models lay great stress on the fact that “street –level” implementers have discretion in how they apply policy”. This mean that the policy formulation process may be skewed by the implementation which is dominated by professionals (Dunleavy, 1981,1982).

A problem with both the top-down and bottom-up frameworks is that they tend to over-simplify the sheer complexity of implementation. To deal with the situation, Vietnam has a tendency to follow Principal-Agent Models which emphasize the delegation of authority and resources to an agent to act on behalf of a principal (or a group of principals). However, with a long period following centrally-planned economy; collective leadership mechanism has still predominated. As above mentioned in chapter IV, a mechanism of collective management in Vietnam, which was regarded a democratic one, has become a mechanism in which every one has the decision-making power but no one has to take responsibility for his decision. Thus, relevant bodies can irresponsibly give reasons for their disapproval; and they will never be criticized or punished for these reasons.

With this reason, we are able to say that collective management mechanism with collective responsibility has constrained development of applying thoughts of Principal-Agent Models in Vietnam.

In the context that Vietnam is an official member of WTO and Vietnam would like to speed up the transition process toward market economy, I suggest that Vietnam should refer to the present tendency of developed countries in the world to admit to Public Participation in Policy Implementation. It is evident that engaging the public in policy implementation (and in other aspects of the policy process also) has several advantages. Moreover, this innovation can win public support and build a sound foundation of trust on government policy.

However, because of the specific economic – political condition of Vietnam, the degree of public participation in policy implementation has been executed prudently following such steps as merely informing the public, consulting them on implementation matters, and then collaborating with them to implement various programs.

In my opinion, public participation in policy process in general and policy implementation in particular is a content of equal importance to build a socialist juridical government of Vietnamese people, led by Vietnamese people, and for Vietnamese people. The overall purpose is for “wealthy Vietnamese people, powerful Vietnam, equitable and civilized Vietnamese social” proposed by Vietnamese Communist Party and the State of Vietnam.

Although Enterprise Law of Vietnam is regarded as a breakthrough with the progressive in the formality of issuance of business registration certificates, this policy could not be implemented as designed. This can be considered as policy failure. In the case study of District One, policy fails because: (i) Bias of conservative officials against “sensitive” businesses; (ii) Inadequate interpretation of the policy by street- level bureaucrats; (iii) poor knowledge of the public about regulations on business registration;(iv) traditional prejudice of the public perception as well as mass media towards private sector.

Policy failure in issuance business registration certificates for sensitive businesses also exposes an internal conflict of Vietnamese society between two principals, namely: market economy and social morality. Historically, the foundation of Vietnamese social morality is established on the Confucianism and Vietnamese traditional culture. In the period of centrally planed economy, Vietnamese social morality was enriched with Marxist – Leninism ideology. This ideology considers private sector as enemy of socialism and private ownership of production means as a symbol of human exploitation as well as personal enrichment. In the transition to

market economy, these erroneous conceptions about private sector and private ownership have been removed gradually. Especially, in contrary to the Vietnamese feudalism, the Socialist Republic of Vietnam appreciates the important role of women in the society. They achieved the equality in the eye of law. Moreover, the regime of “one wife – one husband”, responsibilities of family members is stipulated clearly in the Law of Marriage and Family. Consequently, social evils are key components causing damage to the traditional values in the family relations

In recent transformations of Vietnamese society, the pervading tradition of Confucianism continues to influent social life. In the context of international integration, the society has become increasingly and critically focused on the negative consequences on Vietnamese culture of Western lifestyles. Social evils are recognized as threatening of Vietnamese values as well as social fabric and are categorized as ills that ‘are to be countered by a stress on happy “Asian Families” and conventional morality.

Hence, an inextricable conflict is taking place. On one hand, Vietnam would like to build a market economy based on socialist orientation and to enhance international integration. On the other hand, like other countries, Vietnam also would like to maintain Vietnamese ethnic identity in the development process; preventing the national characteristic from dissolving in Western cultures. Recognizing the worry of the society, the Vietnamese Communist Party Secretary, Mr Le Kha Phieu, stressed the importance of protecting the young generation from ‘social evils’ to ensure that the future decision-makers of Vietnamese society can remain ‘non-polluted’ (Le Kha Phieu, 2001). This is considered as being crucial because if adolescents were to be influenced by foreign ‘dirty’ forces, the future of Vietnam would be jeopardized (Marr, 1997; Rosen & Marr, 1999; Stivens, 2002).

From what mentioned above, it can be said that policy failure in granting business registration certificates for sensitive enterprises is an evidence of an ongoing struggle between what is acknowledged as more original Vietnamese values, on one hand, and values from the West which are considered to overflow the country’s

borders. Stephen McNally (2003) argues that even though the attack on ‘social evils’ cannot be reduced to a fight against Western decadence, campaign against social evils does expose how more conservative forces in Vietnamese society challenged the reform policy and Vietnam’s increased process of globalization by defining it as fuelling the rise of ‘social evils’.

Consequently, honest enterprises have to bare consequence of this conflict. They are under the pressure originated from multi sources, such as the public, the mass and conservative officials. Moreover, several street bureaucrats take the advantage of this conflict to pester enterprises. They just inform enterprises that the authorities in charge are considering issuance of business registration certificates because they are worrying of the potential of social evils, which cause negative impacts on social morality. Thus, in some cases, corruption is inevitable.

However, in the near future, I have a firm belief in great advance of Vietnam. The continuing transition process to build market economy, the international integration intensification will surely create certain positive impacts on both the public and Vietnamese government officials. Legal knowledge of the public will be improved. Bias against private sector, especially “sensitive” ones, originated from the public as well as the conservative officials will be fading. We believe that the capacity and responsibility spirit of the public servant pool will be a decisive factor for the success or failure of Vietnam’s transitional process into a market economy and international integration.

II. RECOMMENDATIONS

The findings from this research have some implications for Government as well as Ho Chi Minh City. In the context of transformation to market economy and international integration, the potential of SMEs in general and sensitive businesses in particular to contribute to national development is undeniable.

Therefore, in order to impulse the development of sensitive businesses, the policy of granting business registration certificate to sensitive businesses must be adjusted appropriately.

A. WITH RESPECT TO THE GOVERNMENT

1/ The government must request HCMC to stop issuing arbitrary regulations that restrict the development of sensitive businesses. The process of granting business registration certificates must conform sternly to the Enterprise Law, especially to the article no. 7: "Enterprises of every economic sector have the right operate in any business line which is not forbidden by law".

For some special reasons, the government is forced to stop temporarily or limit on granting business registration certificates to certain sensitive business lines. In those cases, the government has to promulgate stipulations applied in a nationwide scope. Those stipulations must be explicit, consistent, and stable for mutual benefit of the government and Vietnamese people.

2/ Basing on gathered ideas of provinces, cities and the public, beside eight cases of withdrawing business registration certificates stipulated in the Enterprises Law, I would like to suggest that the Congress should complete this Law with detailed cases of withdrawing business registration certificate of sensitive businesses.

Simultaneously, in order to diminish social evils, the government should have detailed regulations of operation conditions applied to each kind of sensitive business. For example: such sensitive services as massage, barber shop, billiard, karaoke... must be equipped with transparent glass doors and windows which can be supervised from outside; such sensitive services as restaurant, karaoke must comply with regulation of waitress like waitresses are prohibited to sit at the same table with customers, number of waitresses hired must be conformable to number of customers (not more than 10 customers per waitress)... Mandatory operation conditions are sound legal foundation that will help local government authorities in social evil prevention duty.

3/ The State and Government must establish and complete stricter forms of administrative violation punishment, criminal prosecution; repress those sensitive business owners who are related to social evils with heavy punishments. Customers who use services related to social evils must receive heavy penalties too like financial fine, public announcement, and acknowledgement to organizations where they are working for, public apology in periodic domicile meeting, or even criminal prosecution.

4/ The government must direct the Ministry of Justice's portal and the People Committee of provinces/cities to organize movements of updating Enterprise Law, especially regulation of granting as well as withdrawing business registration certificates, for government officials, for mass media and for the public. The movement of legal knowledge must be conducted regularly, carefully and extensively in the public by diversified forms such as newspaper, TV commercial, radio broadcast, seminar hosted by lawyers... to ensure a better legal awareness among the public.

B. WITH RESPECT TO HCMC

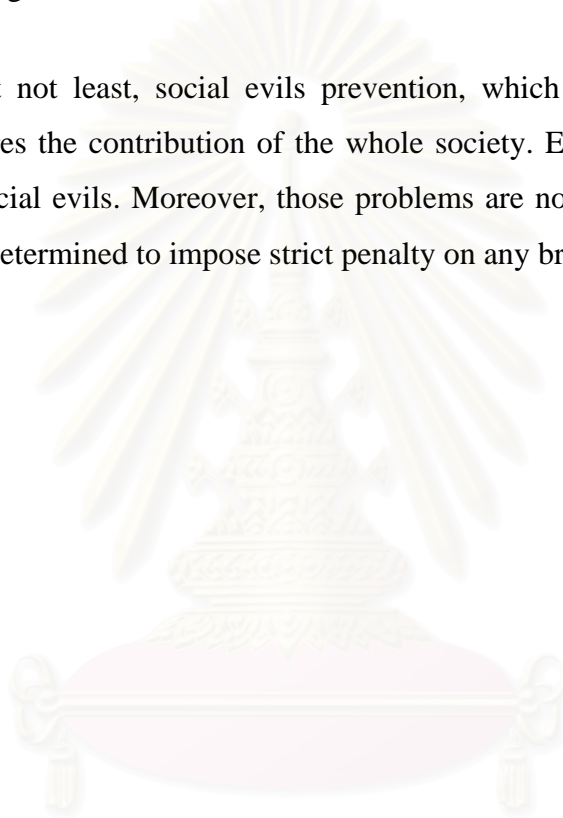
1/ HCMC and its districts must stop their unmethodical issuance of regulations imposed on sensitive businesses which are holding the development of these businesses back. Those typical regulations could be applied if they are ratified by the State and put in a nationwide unity norm.

2/ The DPI co-ordinates with the Department of Justice's portal to organize seminars majored in laws of business registration and social evils. Participants of those seminars will be senior leaders of municipal and district government authorities, press, administrative court, police and other people (businesses owners, retired cadres...).

Those seminars will help to clear away difficulties in granting business registration certificates. People will be aware of legal regulations of business

registration, burden of pressure incurred by government authorities in charge of business registration, as well as economic toll of enterprises caused by policy which prevents sensitive businesses from development. The expectation is that government authorities in charge of business registration will no longer be blamed as a root of social evils expansion when they conform to the Constitution and Enterprise Law to issue business registration certificates to sensitive businesses.

Last but not least, social evils prevention, which is always important and essential, requires the contribution of the whole society. Everyone must be ready to fight against social evils. Moreover, those problems are not able to spread out if the government is determined to impose strict penalty on any breach or violation.



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C. RESEARCH LIMITATIONS AND DIRECTIONS FOR FUTURE RESEARCH

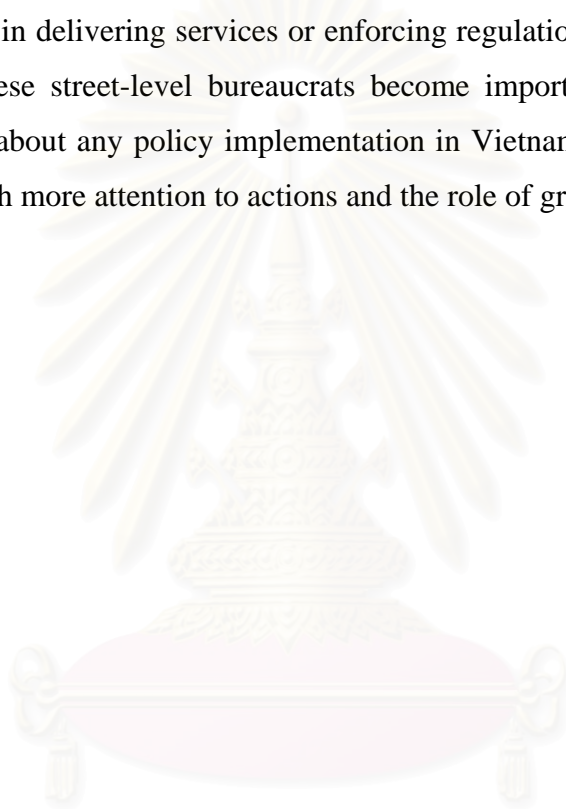
Although this research has mentioned many issues about Vietnamese sensitive enterprises, there remain some limitations. First, it is merely my own research about sensitive businesses in Ho Chi Minh City and cannot be considered representative for the whole country. Secondly, as mentioned earlier, this research is a case study and thus few generalizations can be made. I have conducted this study with the simple hope of providing some insights into sensitive SMEs in HCMC.

Last but not least, there are very limited sources of information and data available in the public related to the field of “sensitive” businesses in Vietnam. As a matter of fact, in Vietnam, it is not easy to interview government officials or to request for data from state authorities. It is likely to be certain that most Vietnamese officials tend to be uncomfortable and afraid to join any formal interview relating political or policy issues. Especially, public agencies seem unwanted to share their own information to other bodies. As a result, a quantitative research method which involves many variables and numeric data is not suitable for my research.

I hope future researchers who share the similar topic with me could be able to carry surveys of statistical data relating sensitive businesses in the City as well as other provinces. These studies using quantitative data would have given us a clearer picture about sensitive enterprises of Ho Chi Minh City in particularly and Viet Nam in generally. In that way, these prospective researches would also support my arguments strongly.

Fforde (1997) described Vietnam as a “weak state” in the sense of the inability of the central authorities to impose their will upon lower levels. This is a characteristic of many developing countries, and in Vietnam it is associated with the saying: “The rule of the Emperor stops at the village gate”. From my research, I find that street-level bureaucrats have played the most important role in Vietnamese policy

implementation. In my opinion, although policy making is clear, policy may be fail due to inadequate interpretation coming from local implementers. These bureaucrats often have substantial discretion in performing their daily jobs. Parsons (2003) suggest that a reform be nothing but paper until street-level bureaucrats have delivered the policy to the citizens. In practice, most Vietnamese citizens have seldom read the law. Accordingly, they perceive the way street-level bureaucrats behave and make decisions in delivering services or enforcing regulations to be the law. In many cases, Vietnamese street-level bureaucrats become important policy-makers. Thus, when studying about any policy implementation in Vietnam, prospective researchers should pay much more attention to actions and the role of grass-root bureaucrats.



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APPENDICES



Map 1 Map of VN



Map 2 Map of HCMC & Dist 1

APPENDICE 1 ABOUT HO CHI MINH CITY

Ho Chi Minh City is the largest city in Vietnam and covers an area of 2,095 km² (0.63% of the surface of Vietnam).

The municipality has been divided into twenty-four administrative divisions since December 2003. Since December 2006, Ho Chi Minh City has had 259 wards, 58 communes.

The population of Ho Chi Minh City, as of 2006 the city's population was estimated to be 6,239,000 or about 7.4% of the total population of Vietnam; making it the highest population-concentrated city in the country.

Ho Chi Minh City is the most important economic center in Vietnam. Saigon accounts for a big percentage of Vietnam's economy. In 2005, the city's Gross Domestic Product (GDP) was estimated at USD 11.6 billion, or about USD 1,850 per capita, (up 12.2% on 2004) and accounting for 20% GDP of the country. Ho Chi Minh City has also contributed about 30% to the national budget's revenue annually.

As a leader of the strategic polygon of Vietnam, Ho Chi Minh City is the most important hub of economic development, culture, tourism, education, science and health care of Vietnam.

APPENDICE 2 ABOUT DISTRICT ONE - HO CHI MINH CITY

District One is the center of HCMC. The city's population I estimated to be 226.000 in 2006, including many ethnics. With the area of 7.6 km², District One has a very important position in HCMC. There are more than 800 offices of central government based in District One. The developing strategy of District One is to utilize the diversify potential of the district to promote all economic sectors, to push distribution and production, to create a new turning – point for economic development of the District in term of trade – service – tourism – import and export – industry – small scale industry. According the general plan of HCMC, District One is the heart

of HCMC, a center of trade – service – tourism, attracting many investors and tourists. This is a favorable condition for the social – economic development of District One.

Service activities grow significantly, especially tourism and entertainment services. With the above mentioned advantage social economic situation, accompanied by a large and powerful business organizations, District One remains an impressive economic development pace.



สถาบันวิทยบริการ
จุฬาลงกรณ์มหาวิทยาลัย

BIOGRAPHY

Le Xuan Minh was born and raised in Ho Chi Minh City, Vietnam.

After graduating his universities, he began his career as a civil servant of The Communist Party Committee of District, Ho Chi Minh City.

Besides, he also joined The Jurist Association of Ho Chi Minh City. As a registered member of the organization, he freely consults legal matters for the inhabitants of some districts.

In 2005, after competing with thousands of young talent civil officials and passing many tough tests conducted by The Communist Party of Ho Chi Minh City – the municipal highest political public agency of the City, he appointed to be a member of the Prospective Key Leader Training Project of Ho Chi Minh City.

He is very proud to be a student of MAIDS Programme, Chulalongkorn University. Excellent education of Chula has greatly contributed to his promotion in his career.

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