



Applying law to support for small and medium enterprises in some countries and lessons learned for Vietnam

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Abstract

Based on analysis and systematic evaluation, this article examines the current legal regulations concerning support for small and medium enterprises (SMEs) in several countries. It aims to draw lessons for Vietnam, contributing to the ongoing enhancement of legal provisions for SME support in Vietnam and promoting the development of SMEs within the context of a market economy and international integration.

Keywords: Legal framework, Small and Medium Enterprises (SMEs), experiences of several countries

Introduction

As of now, the Law on Support for Small and Medium Enterprises of 2017 has been in effect for over 7 years. Fundamentally, both the law and related legal documents have demonstrated their role in establishing a solid legal basis for state support measures to develop SMEs. The legal framework regarding SME support in Vietnam has been relatively well-established, creating a comprehensive legal corridor for supporting SMEs. It establishes principles and specific regulations for supporting activities for SMEs, as well as acknowledging the responsibilities of ministries, inter-ministerial agencies, provincial governments, and other relevant organizations and individuals in supporting SMEs. On July 15, 2020, the National Assembly issued Consolidated Document No. 20/VBHN-VPQH, the Law on Support for Small and Medium Enterprises, reaffirming the Party and State's attention to these business entities within the market economy and international integration, affirming the position and importance of this business model. However, alongside the advantages and achievements, the legal framework for supporting SMEs in Vietnam still faces many limitations and deficiencies. Although comprehensive support measures for SMEs have been developed and regulated, they are still heavy-handed and fail to meet the needs of SMEs. Furthermore, the responsibilities for implementing SME support activities involve the participation of numerous agencies, committees, ministries, etc., resulting in dispersion, lack of uniformity, and systemic issues, making it difficult to achieve the desired support effectiveness.

Given the aforementioned reasons, this article chooses to explore the regulations of several countries such as: the Law on Support for SMEs of the Russian Federation; the Laws on Support for SMEs of Western Balkans and Turkey; the Law on Support for SMEs of South Korea; the Law on Support for SMEs of Malaysia... From these, the author evaluates and draws out some experiential lessons to provide suggestions for Vietnam to continue improving its legal framework for supporting SMEs in the future.

Contents of the article

1. Legal Framework of Several Countries Regarding Support for Small and Medium Enterprises

1.1 Legal Framework for Supporting SMEs in Malaysia

Similar to Indonesia, Malaysia also has the National SME Development Council (NSDC). This council was established in 2004, with the Prime Minister of Malaysia serving as its Chairman. The main objective of the NSDC is to coordinate ministries, relevant agencies, support organizations, and SME support prCredit guarantee schemes (CGS) are a crucial policy in most of Malaysia's economic development policies and have been formed early on to maintain sustainable development and high levels of SME community growth. The CGS system is uniformly built from the federal level to the local level, divided by operational areas and implemented through three models: Government CGS, Association CGS, Private Sector CGS. In Malaysia, SMEs can access credit from four credit guarantee funds: (i) Credit Guarantee Corporation Malaysia Berhad (CGC) established in 1972 with capital from commercial banks and government financial institutions, (ii) Special Credit Guarantee System, (iii) Basic CGS system, and (iv) Mainly CGS system - new. The three CGS systems (ii), (iii), (iv) operate for profit, as they are privately established organizations to meet the diverse needs of SMEs with higher guarantee fees than CGC depending on agreements between parties involved.

In addition, the Malaysian government has developed a series of diverse financial support programs suitable for businesses from all economic regions to create a dynamic environment for SMEs. These programs include the Mobilepreneur program, which encourages young entrepreneurs to start businesses in new areas such as mobile sales; the Ikhtiar financial program aimed at reducing the poverty rate in Malaysia by providing financial support to empower the poor to enhance their income through business activities.

1.2 Legal Framework for Supporting SMEs in Korea

South Korea, following the examples of some other countries worldwide, enacted the Framework Act on Small and Medium Enterprises in 1966 to support and protect SMEs amidst the rapid development of large enterprises,

which dominated the SME sector due to the results of export-oriented policies. Similar to Japan, South Korea's SME support policies were sequentially introduced with the aim of supporting and developing SMEs, such as: the Law on Support for the Establishment of SMEs, the Law on Support for Human Resource Training for SMEs, the Law on Regulations for SMEs in economic zones, the Law on Specialized Support for Commercial SMEs, the Law on Promoting SME Innovation, the Law on Promoting Public Procurement for SMEs, the Law on Encouraging SME Technological Innovation, the Law on Promoting Links between SMEs and large enterprises, the Law on Special Measures for the Development of Small and Micro Enterprises, etc.

Although independently stipulated in various legal documents, there exists a close and supportive relationship among them, which cannot be separated. Furthermore, the SME support policies are consistently regulated and aligned with the current provisions in fundamental laws such as the Enterprise Law, Tax Law, etc. In order to support commercial activities and commodity transactions of SMEs, it is essential to mention the Act on Facilitation of Purchase of Small and Medium Enterprises - Manufactured Products and Support for Development of their Markets, enacted in 2011. This law facilitates SMEs' operations in certain industrial sectors, providing them with advantages in signing and implementing contracts. Specifically, concerning national construction projects, SMEs will be given priority to sign contracts for the purchase of raw materials, related supplies if they meet the quality requirements stipulated in Article 4.

Furthermore, for products in the field of technology produced by SMEs, the South Korean government has implemented support policies by designating certain organizations and agencies to prioritize purchasing goods produced by SMEs in the technology sector. The Chairman of the SME Management Agency is responsible for requiring agencies, organizations, and production bases to purchase goods from SMEs. SMEs are responsible for fulfilling contractual obligations with public organizations and large enterprises as specified by law, ensuring the quality of goods required by legal documents and contracts (Chapter 3 of the Act on Facilitation of Purchase of Small and Medium Enterprises - Manufactured Products and Support for Development of their Markets, amended in 2011).

It can be seen that these regulations not only create a consumer market for SME products but also increase competitiveness against large enterprises and traditional businesses. Through support policies such as priority purchasing and contract signing, or requirements for large enterprises to purchase products produced by SMEs instead of manufacturing them themselves, these regulations have expanded the market and facilitated trade between businesses.

1.3 Legal Framework for Supporting SMEs in the Russian Federation

Since late 2016, there has been minimal change in the economic reform policies in Western Balkans and Turkey. In reality, financial accessibility remains a significant obstacle for SMEs in these regions. SMEs here mostly experience high growth rates, especially newly established ones, but they are significantly affected by limitations in

funding. The primary reason for this is the lack of tangible assets and collateral within SMEs. While local banks continue to impose high requirements on credit history and collateral assets, public financial support programs help fill the financial gap for innovative SMEs. The government here particularly emphasizes research and development (R&D), with various forms of support for businesses investing in R&D. Direct financial support may include grants, subsidized loans, loan guarantees, or venture capital investments. Additionally, the government may provide indirect financial support to SMEs through incentives such as tax reductions and credits for R&D expenditures, or purchasing innovative equipment. Other forms of indirect financial support include demand-driven tools such as emphasizing innovation in public procurement, which can stimulate companies to innovate to provide requested services and encourage the early adoption of commercialized innovations.

The experience of OECD countries shows that direct funding for SMEs is not the only policy tool available to promote business innovation. To stimulate business R&D, they use a combination of tools including both direct funding programs and tax incentives. Due to the overreliance on direct funding in the Western Balkans, policymakers are diversifying their policy tools and utilizing more tax incentives similar to OECD countries.

1.4 Applying Law for supporting Western Balkans in Turkey

Since the end of 2016, economic reform policies in Western Balkans and Turkey have changed little. In reality, financial access remains a significant barrier for SMEs in these regions. SMEs, especially newly established ones, experience significant growth but are often hindered by limitations in funding. The continuing imposition of high credit history and collateral requirements by local banks exacerbates this issue, while financial support programs in the region aim to fill the financial gaps for innovative SMEs. Governments in these areas particularly emphasize research and development (R&D) initiatives, with various forms of financial support for SMEs investing in R&D. These include both direct financial support and indirect financial assistance.

Direct financial support may include grants, subsidized loans, or venture capital investments. Additionally, governments may provide indirect financial support to SMEs through incentives such as tax reductions and credits for R&D expenditure, or purchasing innovative equipment. Other forms of indirect financial assistance include demand-driven tools, like emphasizing innovation in public procurement, which not only encourages SMEs to innovate but also promotes the early commercialization of innovations.

Experience from OECD countries shows that direct funding for SMEs is not the only policy tool available to promote innovation among businesses. In order to stimulate business R&D, they employ a combination of tools including direct funding programs and tax incentives. Due to the overreliance on direct funding in Western Balkans, policymakers are diversifying their policy tools and increasingly utilizing tax incentives, similar to OECD countries.

Regarding the tax incentives in Western Balkans and Turkey for SMEs, on March 1, 2016, the Turkish

government introduced a comprehensive support package for activities related to R&D innovation in its efforts to become a high-tech economy, aligning with its innovation-driven direction. The R&D reform package was announced by the Prime Minister of Turkey for the first time in January 2016 with the aim of enhancing the competitiveness of key industries, strengthening industry-university collaboration, and increasing R&D expenditure.

One of the provisions of this support package is the available grant until December 31, 2023, for companies engaged in R&D activities and meeting certain conditions. This grant covers 100% of R&D expenses, design expenses, and is deducted from taxable income according to regulations. Moreover, 80% of income tax on the salaries of R&D and design staff is exempted, and if employees hold a Ph.D. or Master's degree, they receive a 90% income tax exemption. However, to qualify for these benefits, R&D centers and design centers must have at least 15 full-time R&D employees and 10 full-time design center employees.

2. Lesson of experience learnt for Vietnam

1. The legal framework for supporting SMEs in various countries always consists of a system of legal documents with different legal values, but the top of that system must always be a law enacted by the National Assembly. The existence of such a legal system is common because even though specific and detailed regulations may vary, the Law on SME Support always has a framework nature, unable to stipulate all the details of the state's policies in this field. The law can only regulate general and fundamental issues, while specific matters are always left to subordinate regulations. By adopting this method of legal construction, new states ensure the stability of their policies and also guarantee the flexibility of the state in adjusting issues arising from SME support activities.

Practical research on legislative practice in various countries shows that the method of constructing state laws on SME support in Vietnam in recent times is not only suitable for Vietnam's circumstances but also for the experiences and legislative situations of many countries worldwide. Therefore, it needs to be maintained and strengthened in the near future.

2. Research shows that besides building and perfecting the system of legal normative documents, countries are also very concerned about how to establish a unified system of institutions (agencies, organizations) to effectively enforce these laws in society. In many countries, including the Russian Federation, apart from the Economic Development Board, other state agencies are established to implement policies and measures to support small and medium-sized enterprises on behalf of the government. The experience of Moscow in establishing an agency called the Department of Science, Industrial Policy, and Business of Moscow City is also a good lesson for Vietnam in organizing the implementation of the Law on SME Support.

3. SME support needs to be identified as a fundamental function of the state, rather than merely a random activity where the state does it if it wants to and stops if it doesn't.

In reality, SME support was first implemented in the United States in 1953. Since then, the SME support policy has gradually been accepted and creatively applied by other countries according to their specific circumstances. Thus, SME support has become a rule-based and essential economic function of every state, regardless of the nature of

its political system and the stage of its socio-economic development. Understanding this issue reinforces the viewpoint that Vietnam, more than anyone else, needs to implement and pay increasing attention to the field of globally common support activities.

4. SME support is an important task of the state, but the state is not the sole entity responsible for implementing this task. World experience shows that besides the efforts of state agencies, social organizations, professional associations, and unions are also very concerned about supporting their SME members. The experience of the Russian Federation, with the establishment of a corporation with full functions and expertise as presented above, demonstrates the role of professional social organizations in supporting SME activities in countries undergoing the construction of a new economy – a socialist-oriented market economy.

5. SMEs always encounter many difficulties in their production and business activities. In different countries, these difficulties vary in scale and nature, so support solutions must be flexibly determined by the state to suit the economic and social development situation as well as the capacity of SMEs operating in the country. Even within one country, different stages of socio-economic development create different challenges for businesses, so the support policy of a country also needs to be adjusted to be suitable for each stage of national development.

6. The support needs of SMEs are diverse and extensive, while the state's capacity to respond is always limited. Therefore, for support to be effective, states must continuously research to clarify temporary difficulties, long-term difficulties, minor difficulties, and major difficulties in order to find appropriate and timely solutions. In wealthy countries, support usually takes the form of financial support. However, in poor countries like Vietnam, this form of support is very difficult to apply widely in reality. In such conditions, the state's increased attention to other forms of support (non-material support, such as legal support) is very appropriate and has been warmly welcomed by SMEs. The simple reason is that businesses in Vietnam not only face financial difficulties but also encounter many challenges in accessing other issues, including technical support, legal support, administrative procedure support, etc.

Overall, support policies cannot remain unchanged but must always be researched to be amended and supplemented to suit the economic and social development situation of the country and the needs of businesses in each period of development. This lesson helps us always have to pay attention to studying the business environment of the country in order to propose appropriate policies and measures to support according to the specific circumstances of each stage of national development.

References

1. Nguyen AT, Vu TH, Nguyen TTM. Support for small and medium enterprises in accessing state innovation funds: International experience and lessons for Vietnam. *J Econ Bus.*,2018;34(1):73-82.
2. Nguyen PT. Speech at the ceremony commemorating the 90th anniversary of the establishment of the Communist Party of Vietnam (3/2/1930-3/2/2020). Hanoi., 2020.
3. National Assembly. Law on Enterprises, 2020. Hanoi., 2020.

4. National Assembly. Law on Cooperatives, 2023. Hanoi., 2023.
5. National Assembly. Law on Support for Small and Medium Enterprises. Hanoi, 2017.
6. Schrör H. Business demography in Europe: employers and job creation. Stat Focus, 2008, 100.
7. Thanh LN, Dang HD. Economic Rights and Right in Rem in Vietnam and Russia: Comparative Legal Research. Russ J Leg Stud,2019:6:53-57.