

DOCTORAL THESIS IN BRIEF

NGUYỄN NGỌC ANH ĐÀO. *Law on the current usage of economic tools in environmental protection in Vietnam**Specialty: Economic law**Code No.: 62.38.50.01*

Nowadays, pollution is one of the acute problems of many nations. Along with significant achievements in economic development, Vietnam is also facing environmentally considerable challenges. Pollution aftermaths can be instant or difficult to be recognized, leading to the untimely or inconsiderable reactions of the society. In combination with administrative measures and propaganda, the increased usage of economic tools is quite an effective measure to protect our current environment. Law on using economic tools in environmental protection in Vietnam, however, is hardly being studied in a comprehensive and indepth manner.

For this reason, the author has selected the topic entitled *Law on the current usage of economic tools in environmental protection in Vietnam* for the dissertation. Along with the introduction, conclusions and references, the major contents of the dissertation shall be presented in chapter 4.

Chapter 1 shall include the *overview of the study, theoretical basis and research methodology*.

Chapter 2 shall include the *general theories on the law on using economic tools in environmental protection*.

Law on using economic tools in environmental protection is considered a part of the law on environment, including a system of legal norms, legal principles on economic tool using subjects, rights and obligations of such subjects, sequences, procedures and measures to handle violations related to the usage of economic tools in environmental protection.

Connotation of the law on using economic tools in environmental protection includes two aspects. *Firstly*, regulations of the law on using economic tools in environmental protection related to activities of enterprises, production- trading facilities having impacts on the environment. *Secondly*, insitutions to enforce the law on environmental protection. The law on using economic tools in environmental protection is developed and implemented on the basis of the internationally accepted fundamental principles, including: polluter paying principle; beneficiary paying principle; economic benefit stimulation principle; focused funding usage principle.

There are 4 basic criteria to identify the suitability of using economic tools in environmental protection, including: the comprehensiveness; synchronism; suitability; and the necessity of being developed at a high legal level. Moreover, some other criteria are also important and essential under the current circumstances such as those on the transparency, publicity and accessibility.

Along with general theories related to the law on using economic tools in environmental protection, the author, in chapter 2, shall also briefly introduce experiences of some nations worldwide in order to have some lessons learnt for Vietnam.

Chapter 3 shall clarify *legal situation of using economic tools in environmental protection in Vietnam*, presented in 4 groups:

- *Law on sponsorship policy* for environmental management and protection: *Environmental protection budget* is part of the state budget and a financial plan in which the anticipated incomes and expenditures of the state have been decided by the state authorities and implemented within the year to ensure the fulfillment of the environmental protection obligations of the State. *Environmental protection fund* is also an effective economic tool in environmental management and protection which has been specifically regulated in the laws. This is the funding reserved for environmental activities, support of environmental management, pollutant processing, even for the creation of environmental welfare and the improvement of environmental quality of various sectors, localities, areas and nation. It is stipulated by the Article 115 of the Law on environmental protection 2005 that “Environmental protection fund is a financial organization established at the central level, sectors, fields, localities to support for environmental protection activities”.
- *Law on economic tools stimulating economic benefits*: In terms of

environmental management and protection, *tax* is an important tool. Tax is an income aiming to regulate environment affected activities and control pollution. Environmental protection tax aims at generating income for the state budget from people producing and trading products whose production and consumption have potentially adverse impacts on the environment to compensate for social costs. It is clearly stipulated in the Article 112 of the Law on Environmental Protection 2005 that: “Organizations, households, individuals producing and trading some products having long-term adverse impacts on the environment and health shall have to pay environmental tax”. *Environmental protection fee* is also an economic tool aiming to encourage producers investing money to minimize pollution, altering environmental behaviours in a positive manner beneficial to the environment; generating income for the state budget to invest into, deal with the pollution and improve the environment. At present, there are two basic environmental protection fee, including wastewater fee and urban wastewater fee.

- *Law on groups of social responsibility enhancing tools* in environmental protection: *Environmental rehabilitation deposit in mineral, resources exploitation* is one of the effective economic tools for the environmental management and protection that has been specified in the Law on environmental protection. Moreover, *law on deposit and refund* is also an important economic tool. In Vietnam,

however, the law on deposit and return has not been specifically regulated. Another tool in environmental protection is *eco labelling*. In order to promote businesses to develop their own eco-labelling, General Department of Environment launched Vietnam Green Label Program to continuously improve and remain the living environment quality. Vietnamese goods are ecologically labelled according to the ISO 14024.

- *Law on sanctions of handling legal violations* in environmental protection: Vietnam is having about 88 legal documents related to the administrative handling of violations related to the environmental protection.

Evaluating the efficiency of the state management in checking, inspecting and handling violations of the law on environmental protection, it is admitted by the author that in general, the state management in this sector of our country is ineffective. Between 2005 and mid-2010, the number producers, service providers under the authority of inspection and checking of ministries, ministerial-level agencies, Governmental agencies was limited, the observance of Article 126 of the Law on environmental protection 2005 at various levels was insignificant. In 2009, 55 out of 63 Department of Natural Resources and Environment established missions to check and inspect the observance of the law on environmental protection of facilities under their authority and was only managed to check 3,000 facilities. This number is very marginal compared with the number of producers and

service provides on the territory of these 55 localities. Within six months in the early 2010, only 44 out of 63 Department of Natural Resources and Environment established inspection missions with 306 missions and 1,960 inspected facilities. On average, each department only inspected 49 facilities which was marginal in comparison with tasks to be implemented by each department.

According to the author, there remain numerous shortcomings in the sanctions of handling violations of law on environmental protection in Vietnam. Specifically, the handling framework puts much attention to the preventative and warning measures without emphasis on adopting economic tools suitable to the market economy. Some violations of law on environmental protection have not been specifically and clearly regulated; some violations have not yet had any handling sanctions. Furthermore, the handling is sometimes untimely while the fine is remained low.

Accordingly, the author shall, in chapter 4, express some *opinions, requirements and solutions to completing the law on using economic tools in environmental protection in Vietnam*.

According to the author, environmental protection should be firstly considered an important part of the economic development strategy and of the industrialization- modernization. It is essential to gradually eliminate grants that encourage resources and environment degrading activities. The state should create favorable conditions and decentralize localities to manage the

environment, promoting environmental protection socialization. Moreover, it is needed to develop a legal system on environment to create legal basis for the environmental management and protection, use economic tools in a synchronous manner for a common purpose of environmental protection.

The completion of the legal system on using economic tools in the environmental protection in Vietnam should aim at the general objective that is to supplement the the system of environmental management and protection tools and policies. Simultaneously, it is essential to ensure that the management system is synchronous with the market economic institutions; ensuring the sustainable development of the environmental sector; creating income for the state budget, enhancing the contributions of the environmental sector to the national economy. The law on using economic tools in the environmental protection is synchronously designed and used with other measures.

According, the author would like to propose some general measures to complete the law on using economic tools in the environmental protection in Vietnam, including: Completing the legal documents about the environmental protection; Doing administrative reform, innovating the state organizational structure on environment; Enhancing the study capabilities, developing state management staff in the environmental sector, ensuring the comprehensive knowledge about the economics, society

and environment; Promoting the study and gradually applying law on using economic tools and other supplementary tools in the environmental protection; Promoting the propaganda and education to enhance the public awareness of the environmental protection; Promoting the investment and socialization of the environmental protection.

With specific measures, the author puts a special emphasis on measures to complete law on the environmental tax such as: Adjusting polluting activities of both producers and consumers; Enhancing the public awareness of the environment; Fortifying income for the state budget, making contributions to ensuring the expenditure for the environmental protection; Promoting the usage of clean technologies in producing taxable products as well as studying about waste processing before discharging into the environment; Limiting activities changing the natural scenes or natural eco-system during the economic development.

Regarding sanctions of handling violations of the law on environmental protection, it is needed to: have timely and determined fines; increase the fine to ensure its deterrence; further specify fines; supplement and further clarify some violating behaviors.

The thesis was successfully defended at thesis Assessment Council of Academy level, at the Academy of Social Sciences in 2013.

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