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<tr>
<td>CEG</td>
<td>Capacity-building for Effective Governance</td>
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<tr>
<td>CIEM</td>
<td>Central Institute for Economic Management</td>
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<td>CPRGS</td>
<td>Comprehensive Poverty Reduction and Growth Strategy</td>
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<td>CPV</td>
<td>Communist Party of Vietnam</td>
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<td>EL</td>
<td>Enterprise Law</td>
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<td>EU</td>
<td>European Union</td>
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<td>GCOP</td>
<td>Government Committee on Organisation and Personnel</td>
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<td>GDT</td>
<td>General Department of Taxation</td>
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<td>GOV</td>
<td>Government of Vietnam</td>
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<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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<td>JICA</td>
<td>Japan International Cooperation Agency</td>
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<td>LNA</td>
<td>Legal Needs Assessment</td>
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<td>LRD</td>
<td>Legal and Research Department</td>
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<td>MARD</td>
<td>Ministry of Agricultural and Rural Development</td>
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<td>MOF</td>
<td>Ministry of Finance</td>
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<td>MOI</td>
<td>Ministry of Industry</td>
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<td>MOJ</td>
<td>Ministry of Justice</td>
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<td>MUTRAP</td>
<td>Multilateral Trade Policy Assistance Programme</td>
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<td>NA</td>
<td>National Assembly</td>
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<td>NAPA</td>
<td>National Academy of Public Administration</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>ONA</td>
<td>Office of the National Assembly</td>
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<td>OOG</td>
<td>Office of Government</td>
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<td>PAR</td>
<td>Public Administration Reform</td>
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<td>PSD</td>
<td>private sector development</td>
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<td>PRGF</td>
<td>Poverty Reduction and Growth Facility</td>
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<td>PRSC</td>
<td>Poverty Reduction Support Credit</td>
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<tr>
<td>SPC</td>
<td>Supreme People’s Court</td>
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<td>SPP</td>
<td>Supreme People’s Procuracy</td>
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<td>SOCB</td>
<td>state-owned commercial banks</td>
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<tr>
<td>TAG</td>
<td>Technical Advisory Group</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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<td>USVNBTA</td>
<td>US-Vietnam Bilateral Trade Agreement</td>
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Summary

This report presents the results of a review of AusAID’s strategic framework for support in governance in Vietnam.

The review found that the objectives and broad areas of focus set out in the framework remain relevant and appropriate. No changes to these are recommended. However, recent developments in both the policy context and the donor environment do warrant some changes in the framework and in the orientation of the Capacity Building for Effective Governance (CEG) facility.

- Some refinements are recommended to the specific issues within each focus area on which the program should concentrate its efforts.

- Subject to the development of suitable management arrangements, it is recommended that AusAID support the proposed joint donor Trust funds for legal sector reform and public administration reform. In the case of the legal sector, AusAID should refrain from developing separate bilateral activities in these areas for at least two years (with the exception of a few specific proposals identified by the review team for attention by the CEG facility).

- For the CEG facility:
  - significant changes are recommended for the ‘scoping’ studies that were suggested in the report of the governance identification mission that proposed that the facility be established — three of these studies can be omitted altogether (mainly because of progress made by donor supported activities such as the Legal Needs Assessment and work on integration, which are providing a sound basis for donors to develop appropriate forms of support) and the remaining study should be redirected;
  - the appropriateness of the proposed Ministry of Agricultural and Rural Development (MARD) capacity building activity should be reviewed;
  - to ensure that the selection of activities for the CEG reflects Vietnam’s most important priorities, it is recommended that an advisory body of high level Vietnamese experts be appointed (on a part-time basis) to advise the Facility Coordination Committee; and
  - a number of high priority activities are recommended for urgent attention after mobilisation, as detailed below.
Areas suggested for urgent attention by the CEG

- Enterprise Law implementation, supporting the Central Institute of Economic Management (CIEM) to investigate ‘re-regulation’ of market entry.

- Real estate market reform — supporting CIEM to research and prepare policy advocating a real estate market and uniform land leasing systems. (Access to land and its use as collateral have been identified by successive studies as potent barriers to market entry and enterprise growth for the private sector.)

- Assisting the Department of Economics and Budget of the Office of National Assembly to build the capacity of delegates to discharge responsibilities with respect to budget oversight.

- Production of judicial bench books with the Supreme People's Court.

- Helping build the capacity of the Office of the National Assembly's Centre for Information, Library and Research to gather and analyse information for National Assembly delegates.
1 Introduction

A team comprising Bob Warner (team leader), John Gillespie (legal and judicial development), Martin Painter (public administration reform) and Patricia Dodson (Country Program Manager, AusAID) visited Vietnam between 20 January and 1 February 2002 to undertake a review of the framework for AusAID's support in governance in Vietnam. A list of agencies consulted on this visit is given in annex A.

The aims of the review were to:

- review the strategic framework for governance within the Vietnam-Australia bilateral development cooperation program set out in the report of an identification mission that visited Vietnam in February 2000 (Gillespie, Ives and Warner 2000);
- recommend any changes to the framework (particularly the focal areas) deemed appropriate to ensure that the program is as tightly focused as is feasible and desirable at this stage; and that it avoids as far as possible the risk of overlap and duplication with other donor programs;
- revise as appropriate the broad specifications for ‘scoping studies’ that will be implemented under the Capacity-building for Effective Governance (CEG) Facility, and the governance program in general; and
- recommend any further strategic/preparatory work deemed necessary to underpin the operations of the CEG Facility.

The framework

The strategic framework developed in 2000 specified that, in order to effectively target the overarching objective of poverty reduction, AusAID’s governance program should focus on supporting the development and implementation of government policies that will:

- promote sustainable growth — with a particular emphasis on private sector development and economic integration; and
- ensure more efficient and equitable use of public sector resources.

This focus is consistent with the findings of a recently completed poverty analysis undertaken to inform the development of a new country program
strategy for Vietnam (CIE 2001). This analysis pointed to the critical role that broad based growth and employment generation by an expanding private sector would have to play in poverty reduction along with improvements in access to social infrastructure and services.

The identification mission report proposed that the program should target the following four sub-objectives.

- Strengthening the capacity for and quality of analysis and policy research that guides legislative and policy formulation processes, and strengthening the information systems that support these processes.

- Promoting wider dissemination of information, greater public awareness and participation in planning and policy making — not only to improve transparency, but also to support better policy and implementation outcomes.

- Increasing the transparency and efficiency of legal, institutional and regulatory systems and processes.

- Increasing levels of competence, accountability and service orientation within the civil service and public administration generally.

The framework proposed that support should target these objectives within four areas of focus that contribute to the over-arching poverty reduction imperatives of AusAID’s country program in Vietnam. These areas were:

- private sector development;
- economic integration;
- achieving more efficient and equitable use of public sector resources; and
- promoting development of a more transparent, predictable and accessible legal and judicial system.

There have been significant developments affecting the policy and operational environment for governance since the framework was developed, including:

- the signing of key agreements with the World Bank and the IMF in early 2001, specifying programs of reform in trade, private sector development, state enterprises, banking and public expenditure management to be supported by loans and credits from these agencies;

- approval of a new 10 year strategy for socioeconomic development by the Ninth Congress of the Communist Party of Vietnam (CPV);

- the signing and ratification of the US-Vietnam Bilateral Trade Agreement (USVNBTA); and
endorsement by the Prime Minister of a Master Plan for Public Administration Reform (PAR), and publication of Legal Needs Assessment (LNA).

This review has examined the framework in the light of these developments, and of changes in the programs of other donors. Chapter 2 discusses the implications for the framework, and chapter 3 discusses implications for the CEG facility and for management of the governance program.

The general conclusion of this review is that the sub-objectives and broad areas of focus laid out in the identification mission report remain relevant and appropriate. However, significant changes in the nature of strategic/ preparatory work — including CEG scoping studies — are warranted, and advantage should be taken of the enhanced environment for donor cooperation and partnerships. The assessment and recommendations of this review should be read in the context of the identification mission report, which discusses how the governance strategy should interact with AusAID’s country program strategy for Vietnam, and places governance assistance in the context of AusAID’s overall program objectives.
2 Key developments since 2000

There have been very significant developments since the strategic framework for governance was prepared. The Party and the Government have laid out key directions and intentions for the pursuit of economic development and reform. Key agreements with the IMF, the World Bank, and the Bilateral Trade Agreement with the United States reflect commitment to continued and far-reaching reform.

Donor-government partnerships have also flourished, and led to the articulation of more detailed programs of reform in key areas, along with frameworks for more coordinated donor support.

All of these developments have confirmed the relevance of the objectives and the four focal areas specified in the strategic framework, a conclusion that has been reinforced in the mission’s consultations with Vietnamese and donor agencies. However, they do have implications that should enable a more effective delimitation of targets of attention within the focal areas. They also have implications for the delivery of AusAID’s support to governance.

Broad developments in governance and partnerships

As identified in the terms of reference, there have been very significant developments since the strategic framework for governance was prepared. The resolutions of the Ninth Party Congress, and the strategic documents that were prepared for it, have laid out key directions and intentions for the pursuit of economic development over the current decade. They have also signalled some of the institutional and policy changes that are to be implemented to give effect to development objectives.

In the broadest sense, the Government of Vietnam (GOV) and the CPV now appear comfortable with the concept of governance and are more willing to countenance donor support in this area. The Socioeconomic Development Strategy adopted by the Party Congress placed key governance issues on the agenda for the current decade. These have been spelled out in the Master Plan on Public Administration Reform accepted by the Prime Minister in September 2001.
These documents all envisage a comprehensive recasting of the role of the state, and embrace a goal of creating a state ruled by law — a goal made more concrete by the action plan resulting from the Legal Needs Assessment process. The Grass-roots Democracy Decree is gradually increasing accountability and people’s involvement in processes of state decision making, and preparation of the Comprehensive Poverty Reduction and Growth Strategy (CPRGS) has extended participation in planning.

A more public dialogue with donors has emerged, with the World Bank addressing governance in two successive development reports considered at consultative group meetings, and the UNDP publishing a report on modernising governance. Decree 17 on management of ODA clearly identifies a role for grant funded ODA in governance. The CPRGS, which builds on the interim poverty reduction strategy paper prepared by GOV as a prerequisite for the agreements reached with the World Bank and the IMF in 2001, is being developed through a comprehensive process of consultation and collaboration with donors. It will provide guidance for future donor support to Vietnam’s economic development and poverty reduction efforts.

With the evolution of the partnership process under the Comprehensive Development Framework, donors are now pursuing more collaborative ways of addressing some of the challenging elements of the governance and reform agenda. This reflects a growing appreciation on all sides of the high costs of poorly coordinated support. It also reflects the need felt by donors for the development of more upstream strategic directions by the Government and the Party to guide lower level governance interventions. (This is most clearly felt in the area of public administration reform, where donors have had limited success with past activities, especially at the provincial level.)

Overall, the review of recent developments, and discussions with key informants in government and the donor community confirm that the objectives of the governance framework, and the broad focal areas, remain relevant and appropriate to guide a growing AusAID program in governance.

The growth of government-donor partnerships, and more effective coordination and collaboration amongst donors creates opportunities for better informed interventions, but may also require some changes in overall approach to the program, including areas of emphasis, timing, nature of support, and resourcing of AusAID’s management systems. One clear manifestation of this collaboration is the development of multi-donor trust funds to support work in PAR, LNA and public expenditure reform. Some important questions remain about the opera-
Governance sector strategic review

tion and control of these funds, which will support nationally executed activities. AusAID will need to explore how well these funds fit with its own approach to assistance, but in general this review recommends that participation in some form in these joint activities would be desirable. This is to provide AusAID with information on evolving Vietnamese priorities, and to provide a ‘place at the table’ on the development of key strategic positions.

Implications for sub-objectives

The four sub-objectives specified in the framework remain highly relevant and appropriate, and the mission does not propose that these be modified.

Implications for focal areas

Some of the key developments within each focal area are summarised below.

Economic integration

Developments

The uncertainties that surrounded Vietnam’s approach to economic integration in 2000 have been replaced by a clearly articulated commitment to engagement with the international economy and further liberalisation. Amongst other things, China’s accession to the WTO has eroded some of the ideological basis for opposition to integration, as well as foreshadowing much greater competition in export markets and for foreign direct investment. By signing and ratifying the USVN BTA — the most comprehensive agreement ever entered into by the United States — GOV has committed itself to wide ranging legal and institutional change.

- The CPV, the GOV and the National Assembly (NA) have made international integration a key socioeconomic objective. This is evidenced in the Socioeconomic Development Strategy for 2001-2010 endorsed by the Ninth Party Congress held in 2001, and in Resolution 7 of the Politburo. More concretely, the USVN BTA is now under implementation, as are preferential tariff reductions under the Common Effective Preferential Tariff system of the ASEAN Free Trade Agreement.
- The Government has been implementing trade reforms supported by programs agreed with the World Bank and the IMF and under the Miyazawa agreement. Some of these reforms are ahead of schedule.
Key developments since 2000

- The European Union (EU) has taken on the task of coordinating efforts directed at supporting WTO accession (which has been the target of support by a number of donors). A large USAID project aimed at supporting implementation of the BTA has just started. In addition, the has started a project aimed at undertaking a stock-take of the implications of all of the international integration agreements to which Vietnam is or may become a signatory. This project may help identify capacity building needs generated by these agreements — it is certainly expected to undertake an analysis of training needs.

Discussions with officials in the government and the Party confirm that integration is seen as a driving force behind a wide-ranging reform and transition agenda. Much of the agenda is being shaped by a perceived need to develop appropriate institutional mechanisms, a more competitive enterprise sector and a more efficient and responsive system of state management to take advantage of integration and to address its challenges.

These challenges are significant. Understanding of the nature and implications of the integration agenda is concentrated among a very small number of people directly involved in the processes. Coordination across the range of organisations that must oversee significant legislative and institutional change is weak. There are many aspects of the international agreements that are currently driving integration that are poorly understood and will require significant policy and institutional reform. More importantly, the capacity to address the domestic implications of integration, and to implement complementary reforms to maximise the benefits and limit the costs, is weak.

Implications

The identification mission suggested that AusAID should concentrate attention on assisting Vietnam to identify and address the domestic implications of integration, and to develop processes for formulating trade and investment policies and for dealing with industry policy and protection issues. This could build on past and current AusAID involvement in studies of the sectoral impact of liberalisation and analysis of the revenue consequences of tariff and related tax reform — particularly helping build capacity to undertake these kinds of analysis. AusAID can also assist Vietnam to address the critical challenge of developing appropriate institutions and mechanisms to achieve prudential, health and safety regulatory objectives. These are needed as integration — and
private sector development — mean that the objectives can no longer be pursued through controls on trade and on state enterprise behaviour.

For Vietnam to take best advantage of the opportunities created by integration will require that unwarranted impediments to adjustment and change are eliminated. In this regard, development and implementation of an appropriate approach to promoting competition will be important. The emphasis will need to be more on removing regulatory barriers to competition than on imposing controls on enterprise behaviour. Australia's process of regulatory review under National Competition Policy offers a possible model for this work.

These areas continue to offer an appropriate niche for Australian assistance that would complement the attention given by other donors to addressing issues related to negotiation of and compliance with international agreements. This said, there clearly is room to provide assistance also with promoting understanding of the implications of WTO, AFTA, and APEC agreements, although interventions in this area would need to take account of the coordination and cooperation frameworks being developed between donors. It would be sensible to let development of support in this area wait upon an assessment of progress being made in the UNDP stocktaking exercise.

**MARD TAF**

Based in part on the findings of the governance identification mission, AusAID designed a technical assistance facility for the Ministry of Agriculture and Rural Development (MARD). The broad objective of the facility was to strengthen MARD’s policy formulation and analysis mechanisms. The primary focus of the facility was to be on building staff capacity to deal with the range of issues relating to economic integration and regional and global agricultural trade liberalisation. It would aim to strengthen the ability of MARD staff to undertake sectoral analysis and to translate that analysis into policy advice, improved policy implementation, monitoring and evaluation. This facility was to be delivered through the CEG facility.

Since the design work was completed, there have been a number of developments regarding donor support to MARD that may impact on the need for the facility. The International Support Group for MARD has developed a Thematic Ad-Hoc Group on international agro-economic integration and policy, bringing together donors and relevant parts of MARD to assist in building MARD’s ability to address integration issues. DANIDA is currently investigating a possible
project with the International Food Policy Research Institute targeted at improving MARD’s capacity for policy analysis, and the Asian Development Bank is working on a technical assistance project to strengthen MARD’s planning capacity.

It will be important for AusAID to review the implications of these developments for the proposed facility, to see if it is still required, or if the nature of assistance should be restructured. (For example, specific activities could perhaps be supported directly through the CEG mechanism, without the need for a fully-fledged sub-facility.)

Private sector development

Developments

In the last two years, there have been some profound changes in public and official attitudes towards the role of the private sector.

- The status and role of the private sector in the economy has been endorsed by the Party and formally recognised in the Constitution. The forthcoming Party plenum is expected to consider the issue of whether members are allowed to be involved in private business. Government dialogue with the private sector has evolved through a donor supported Private Sector Forum.

- Largely due to the Enterprise Law (EL) reform, media and public perceptions of entrepreneurs have improved. Implementation of the EL and relaxation of controls over entry of the private sector into a wide range of economic activities (including international trade), have started to improve the enabling environment for development of the sector.

Despite these developments, there remain critical issues relating to regulation and control of both enterprises and factor markets that need to be addressed to facilitate the development of the private sector. Local level regulation of entry, and the related issues of land rights and access to credit remain important issues to be addressed in the coming years. Acceptance of the spirit of deregulation underpinning the EL remains patchy, as line ministries and provincial, district and commune authorities remain reluctant to relinquish control over business activities. Their reluctance may, to some degree, stem from a concern about the absence of more appropriate instruments to achieve legitimate regulatory objectives. But pecuniary and ideological motives still underpin much of this behaviour. Clarification of the rights of businesses to group together to represent
common interests and to more effectively advocate for reform depends in part of the outcome of drafting and deliberation on a law on associations. Over time, the evolution of more sophisticated systems of corporate governance will be required to underpin development of capital markets to provide more efficient mechanisms for mobilising capital and for sharing risk.

The pressures and opportunities created by continued integration and economic reform will also create demands on the labour market. Current donor knowledge of the functioning of this market is limited, but the need for changes to facilitate occupational and geographic mobility and human skills development is likely to be significant.

An equally critical arm of private sector development lies in developing and adopting an approach to state-owned enterprises that creates room for private enterprise. Party and sector strategies continue to identify a leading role for state enterprises, and the processes of reforming mechanisms for exercise of ownership and management control over SOEs are taking time. The close relationships between banks and SOEs, resulting from a combination of policy, historical and legal biases, continue to constrain development of a competitive banking system capable of making commercial decisions on lending. The Party’s Central Committee approved an action plan on SOE reform at the third plenum of the Ninth Congress (this work plan is reproduced in Annex 3.2 of the World Bank’s Vietnam Development Report for 2002).

Many donors are now developing programs to support development of small and medium enterprises, including work with the newly created SME Department in the Ministry of Planning and Investment, and some of this work involves addressing the issues of business associations. Much donor support in the area of legal and judicial development has focused on creating an enabling legal commercial environment. The World Bank is leading efforts to support GOV efforts in SOE and banking sector reform, as part of the program supported by its Poverty Reduction Support Credit, and the ADB has a large program of support in enterprise development and reform.

Implications

Official acceptance of the role of the private sector is an important development. But translating this acceptance into the creation of an enabling environment that actively encourages entrepreneurialism and the creation of viable private enterprises will require action on many fronts. It is proposed that AusAID support in
private sector development (PSD) concentrate in the following areas — some of which are closely linked to proposals to support integration.

- Continued deregulation of market entry, and removal of unwarranted regulatory constraints on competition.
- Development of private enterprise associations as a vehicle for advocacy and dissemination of information.
- Adoption of more effective instruments for health and safety regulation, and market-friendly use of standards.
- Creation of effective markets for factors of production, especially for land and real estate, which could help remove constraints on access to capital and facilitate transfer of land to its most productive uses.

As discussed in Annex B, AusAID has been specifically asked by the Central Institute for Economic Management (CIEM) to assist with ongoing work on development of a real estate market. This fits in well with the governance framework and deserves immediate attention by the CEG. AusAID is also supporting work being undertaken by the World Bank looking at issues in land management and administration (for both urban and rural land), and this may provide a basis for further activity in an area where Australia has some experience in the region.

AusAID currently has a project in micro-finance, which appears not to suffer the problems being encountered by other donors in this area caused by inappropriate regulation and crowding out by state owned institutions. There may be scope to build on the lessons in this field, but considerable caution would be required in expanding involvement in this area without assurance that a more appropriate regulatory environment is being created. In the meantime, the emphasis should be on using the experience of the project to influence decisions on regulatory reform.

Over time, Vietnam will need to develop more appropriate forms of corporate governance, with respect to both the private and state sectors. At the moment, the legislative basis for more sophisticated forms of governance is lacking, and creating such a basis will involve complex processes of transplanting and adapting international norms and practices. The Government continues to place a high priority on developing better mechanisms to manage SOEs, and AusAID may receive requests for support in this area. It is proposed that involvement in this area, if envisaged at all, be limited to support for multilateral interventions.
Efficient and equitable use of public sector resources

Developments

The Prime Minister has now endorsed a Master Plan for Public Administration Reform that presents an ambitious and radical agenda for recasting the role of the state. This Plan, though based on a frank and detailed diagnostic study, largely comprises a statement of intentions and principles. It identifies seven areas of reform, and specifies lead agencies for each area. The agencies are: Ministry of Justice (MOJ), Office of Government (OOG), the Government Committee on Organisation and Personnel (GCOP), the National Academy of Public Administration (NAPA), and the Ministry of Finance (MOF) (see box 2.1).

Box 2.1 Reform areas under the PAR Master Plan

The seven programs identified in the PAR Master Plan are as follows.

- Program to renovate the development, issuance and quality improvement of legal normative documents (MOJ and OOG)
- Program on roles, functions, organisational structures of the agencies in the administrative system (GCOP and OOG)
- Staff downsizing program (GCOP)
- Program on quality improvement of the contingent of cadres and civil servants (GCOP and NAPA)
- Program on salary reform (GCOP)
- Program on renovation of financial management mechanisms for administrative and public service delivery agencies (MOF)
- Program on modernisation of the administrative system (OOG)

There are some gaps in the Plan, which does not directly encompass restructuring and regulation of financial institutions, SOE reform, taxation, fiscal relations between different levels of government to name a few important issues. Nor does it contain a separate, concerted anti-corruption program, although corruption is frequently highlighted by the Party and the Government as a critical problem.

In some areas of the Plan, considerable progress has been made in identifying needed changes. Donor collaboration with the Government over the last five years or more on public expenditure management has led to important changes in budgetary and financial processes.
Changes in the Budget Law have improved transparency, and changes in the Law on the Organisation of the National Assembly have laid the groundwork for improvements in the NA’s role in oversight and accountability.

GOV has articulated a clear program of required improvements in public expenditure and financial management. With support from the World Bank and the UNDP, a matrix of actions and required donor support has been developed (World Bank 2000). A multi-donor Bank managed trust fund has been established to fund technical assistance needed for some aspects of these reforms.

Work is now under way on restructuring the machinery of government in anticipation of the May 2002 National Assembly elections. A new Law on the Organisation of Government has been submitted to the Assembly to facilitate the reorganisation process, and key informants are foreshadowing a reduction in the number of Ministries and Prime Ministerial level departments.

At the same time, the Government has been pushing forward with decentralising and devolving powers to provincial authorities. Actions have included:

- further decentralisation of powers to approve and allocate funding to investment proposals;
- implementation of a system of block grants to cover recurrent expenditures of provinces; and
- pilot experiments with public administration reforms in selected provinces.

Considerable progress has also been made in the legal and institutional elements of the PAR — see below.

However, a clear framework for addressing structural and organisational aspects of PAR remains to be developed. And in general, the Master Plan does not address in any detail questions of sequencing, resource requirements and other implementation matters. Questions exist about the sequencing of elements of the plan (for example, salary reform is seen as a priority for action in 2002, and downsizing targets have been set for this year also — all this occurring before a clear assessment of the future roles and structures of government organisations).

Donor activity in the PAR field has been widespread and disparate, including activities in several provinces. The UNDP and GTZ have had projects with GCOP, the ADB and DANIDA have been working with the OOG, and the UNDP has worked on restructuring at MARD. A number of donors have supported
efforts to engage Government leaders and high level officials, and GTZ, DANIDA and SDC are working with the National Academy of Public Administration to improve capacity for training. A number of donors have been associated with PAR related activities at the provincial and local level (see annex D).

The results of these activities have been mixed, and there are few unambiguous successes in programs operating at the national level. Donors have in the past experienced problems with efforts to support administrative reform at provincial and lower levels. However, the scope for more effective assistance in this area of need has improved with the high level commitment to PAR and greater experience — for donors and administrators — at this level of government.

Many donors — and the Government — have come to the view that these wide-ranging PAR activities have suffered from a lack of coordination and the absence of clear directions guiding the overall PAR effort. A number of donors are now supporting a multilateral approach (funded through a UNDP managed trust fund) to help the PAR Steering Committee to articulate a coherent implementation strategy for the Master Plan (see annex D). This is expected to lead to a clearer framework within which donors can pursue bilateral activities. The modalities for managing the fund and the activities it might support are still being finalised, and some donors are concerned about the capacity of GCOP and the multilateral agencies to exercise leadership in such a challenging task. However, there appears to be a common view that more direction and coordination is essential to avoid the mistakes of the past.

Implications

It is recommended that AusAID should support — and keep track of — the work being carried out under the aegis of the proposed UNDP trust fund (assuming that acceptable management arrangements can be developed). Direct financial support could be relatively small — enough to ensure participation in the policy discussions surrounding the work of the Secretariat, and to provide access to information on progress with the implementation strategy.

Pending development of this strategy direct support in this area should be targeted at the following.

- The public finance dimensions of PAR, since this is an area where needs are being clearly articulated, where AusAID is already engaged (through VAMES and the UNDP debt management project), where Australia has relevant
key developments since 2000

expertise and experience, and where involvement is being sought. This could involve:

- supporting provincial public expenditure reviews in provinces in Australia's regions of geographical focus;
- contributing to the development of medium term expenditure frameworks in sectors relevant to AusAID's overall program;
- building on work on monitoring and evaluation in MPI, to extend to other agencies, or to other dimensions of M&E;
- assisting in the development of effective fiscal relationships between different levels of the administration; and
- supporting the Department of Economics and Budget in the Office of the National Assembly, to help improve its capacity to support Deputies to discharge the Assembly's role with respect to budget oversight.

- Building on local PAR issues that arise from other elements of AusAID's program or in locations where AusAID already has a strong presence and good working relationships with local authorities. Such interventions should be informed by and consistent with the emerging implementation strategy framework. This will require developing a better understanding of the nature of centre-local interactions in the context of Vietnam's de-concentrated rather than decentralised system of inter-government relationships. Such an understanding may be beneficial for AusAID's overall country program. It is proposed that the CEG undertake a scoping study to help shed light on these issues — see chapter 3 and annex E. Support in this area should target strengthening mechanisms for learning from successful experiments, and could involve partnerships with other donors.

- Collaborating with multilateral donors (such as the ADB) and bilateral donors in targeted support for the PAR process in key agencies. This could include support for training agencies and institutions that will have to assist in re-skilling government officials.

Legal and judicial development

Developments

The Legal Needs Assessment (LNA), the US-Vietnam BTA and the processes involved in accession to the WTO have together transformed policy and donor coordination in the Legal and Judicial Sector.

- Reports compiled under the LNA have significantly increased knowledge about legislative, institutional and educational conditions, and made sweep-
Legal reform has been given a clear direction and urgency by economic integration imperatives. The Party and State are now showing a commitment to legislative and institutional reform that has not existed since the major changes following the 1992 Constitution.

Coordination has increased to the point where most bilateral donors have agreed, subject to greater scrutiny, to expand the role of the LNA beyond mapping and sequencing reforms to implementation. A trust fund administered by the UNDP (subject to donor supervision/oversight) will finance further reform analysis and implement proposed interventions. Existing bilateral interventions will continue, but under the LNA framework, donors (with the exception of JICA) have agreed that future interventions will, in principle, proceed through the Trust Fund, unless a particular donor has demonstrated expertise. Both the GOV and donors want to avoid the current situation where MOJ coordinates over fifteen separate donors providing almost one hundred separate projects.

Although the administrative structure of the Trust Fund has not yet crystallised, current proposals are encouraging. Resolution No.8 of the CPV Central Committee establishes a high-level inter-agency Steering Committee for Judicial Reform, which will expand to oversee the LNA. Operating under the President, this high-level body will reduce institutional rivalries that have emerged under the LNA process to date.

Another area of change concerns the expanding role of the National Assembly in overseeing the actions of the Government. The revised Law on the National Assembly has increased the number of full-time deputies (initially to 125) and the total number of deputies (to 500). In addition, the new law empowers the whole assembly to decide on the structure and composition of the Government’s budget (a task previously entrusted to the NA Standing Committee).

Implications

It is proposed that AusAID should support the LNA trust fund, and refrain from developing bilateral initiatives in areas covered by the LNA process for the next two years. Despite some current uncertainty about the operational modalities for the fund, there are compelling reasons for AusAID to support multilateralism as a principle in its own right.
AusAID can learn about the most effective form for delivering legal and judicial sector interventions from participating in the LNA process.

The Trust Fund will maintain donor discipline, reduce damaging donor competition and promote a cooperative multilateral approach to law reform.

The Fund will reduce costly administrative duplication.

As the LNA process has already demonstrated, the donors’ collective voice carries more authority than individual initiatives.

In this area of governance, these advantages are likely to outweigh the loss of direct control over activity design and contracting and clear identification of AusAID contributions. National execution of activities also brings with it risks, and much will depend on the effectiveness of the formal structures controlling Trust Fund disbursements. AusAID should be involved in setting up these structures, where a number of models are currently under consideration.

Over the next two years, as the Fund is established and assessed, AusAID should restrict bilateral activities in the legal and judicial area to those that will not undermine multilateral cooperation.

There are two specific areas where support is being sought by Vietnamese agencies and where Australian assistance is feasible and would not undermine the multilateral approach.

The first concerns the development of judicial bench books, an area where exploration commenced before the LNA process. A project in this area would work with the Supreme People’s Court to produce simple, ethical and procedural manuals for judges in inferior courts.

The second concerns support for the Center for Information, Library and Research in the Office of National Assembly, where the Legislative Research Division has requested training and technical and material assistance to upgrade the ONA database with legal material (see annex C).

There are also opportunities to support the Department of Economics and Budget of the Office of the National Assembly, and perhaps through them, Provincial Peoples Councils. These fall outside the boundaries of the LNA. AusAID may also support building understanding of the legislative and judicial implications of integration, and analysis aimed at developing policies that will eventually need to be addressed in legislation (for example, in the area of real estate).
Revised strategic framework

The foregoing discussion suggests that the strategic framework developed by the identification mission can be more sharply focused over the coming two years. In particular, the emphasis of activities in the area of legal and judicial development should be quite narrow, pending the outcome of the multilateral LNA process. To this end, it is proposed that the focal area be renamed to reflect a more limited scope of support to the legislature and the judiciary, rather than to legislative processes and other institutions such as the procuracy. Table 2.1 reflects revisions proposed by the review.

The categories identified in the revised framework hold the potential for high impact interventions. However, AusAID — particularly where the activities of the CEG facility are concerned — will need to carefully assess GOV priorities, the current and potential involvement of other donors as well as the availability of relevant Australian expertise when considering possible activities in these areas.

In using this framework, AusAID would also need to address the implications of Vietnam’s transition process. As the identification mission report pointed out, much of the transition is about governance and this wide ranging transformation continually ‘turns up’ new governance challenges as it progresses. AusAID will need to be alert to the potential for new opportunities. The CEG itself, especially in its early stages, may serve as a useful search mechanism as it responds to proposals coming from Vietnamese agencies. But they will also need to gather intelligence about emerging opportunities — one important way of doing this would be through involvement in key partnership activities.
### Table 2.1 Revised strategic framework for the governance program

<table>
<thead>
<tr>
<th>Objective</th>
<th>To improve capacity for policy analysis, supported by sound research and information systems</th>
<th>To improve processes for public participation in and awareness of policy issues and outcomes</th>
<th>To increase transparency and efficiency of legal, institutional and regulatory systems and processes</th>
<th>To increase levels of competence, accountability and service-orientation of public sector employees</th>
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<tbody>
<tr>
<td><strong>Priority focus area</strong></td>
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<td><strong>Private sector development</strong></td>
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<tr>
<td>Enabling environment, including deregulation of market entry and business activities</td>
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<td>Business support mechanisms</td>
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<tr>
<td>Facilitating development of competitive factor and product markets</td>
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<tr>
<td><strong>Economic integration</strong></td>
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<tr>
<td>Improving understanding of the implications of integration</td>
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<tr>
<td>Developing policies to optimise the domestic consequences of integration</td>
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<td>Tax policy and administration in support of integration</td>
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<tr>
<td>Procedures for trade policy formulation</td>
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<tr>
<td><strong>Efficient and equitable use of public sector resources</strong></td>
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<tr>
<td>Planning and resource allocation: public expenditure and financial management</td>
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<tr>
<td>Building institutional capacities to support civil service skills development</td>
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<td></td>
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<tr>
<td>Strengthening local administrative capacities (to wait on scoping study)</td>
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<tr>
<td><strong>Development of the Legislature and the Judiciary</strong></td>
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<tr>
<td>Support for the NA’s and People’s Councils’ representative functions</td>
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<tr>
<td>Judicial training (limited activity pending evaluation of outcome of LNA process)</td>
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</tbody>
</table>
3 Implications for delivery and management of the program

- The complexity and rapid rate of change of Vietnam’s governance agenda poses challenges for AusAID: it would help if AusAID were to engage more intensively in relevant partnership groups and extend the TAG to include locally based experts.

- Recent developments substantially alter the need for the scoping studies proposed as early priorities for the CEG, and it is now proposed that only one study should proceed: examining inter-government relationships that impact on service delivery.

- These developments have, however, created a number of immediate opportunities for the CEG, which should be followed up with pre-feasibility or feasibility studies.

- Strategic management of the CEG would benefit from creation of a facility advisory committee made up of high-level Vietnamese experts in key fields of governance.

One important reason for undertaking the review of the governance framework is to provide clearer guidance to the Capacity Building for Effective Governance (CEG) Facility, which is expected to come into operation early in 2002. The review also serves to stimulate thinking about how best AusAID can deliver its overall governance program as the context — especially for donor coordination — evolves.

Implications for management of the governance program

Vietnam’s governance agenda is complex and continually evolving — as are the programs of donor support. Given the size of AusAID’s likely governance program and overall resources for Vietnam, the most feasible approach is one of well-informed reaction rather than a tightly focused proactive approach. The challenge is to have processes that keep AusAID alert to good ideas and able to identify effective partners and appropriate modalities.
To effectively engage in this sector, AusAID will need to be able to keep track of developments and to identify emerging opportunities. The CEG facility will help with this as it will fill an important search role in its early stages. In addition, AusAID will need to participate in a number of the partnership activities that have developed over the last few years. Obviously, AusAID should be involved in partnership groups where there are existing governance activities — such as integration, and legal and judicial development. But, given the inter-linkages discussed earlier, effective intelligence gathering will also require tracking developments in sectors where no activity may be forthcoming, such as banking and SOE reform.

AusAID’s capacity to manage an effective governance program would also be enhanced if additional expertise were engaged to help in tracking developments and making program judgements in key professional and substantive areas. This review suggests that AusAID should extend the Governance Technical Advisory Group to include locally based experts who can provide more responsive guidance on emerging issues than can Australian-based members of the Group. Local experts would be able to provide the Post and the Desk with timely evaluations of developments in key governance areas, undertake in-country investigations (for example, the proposed investigation into the changed circumstances for the MARD technical assistance facility). They could provide advice of a more short-term tactical nature to complement the more strategic inputs from the Australian-based members. Because there are so many donor and government activities with governance dimensions under way in Vietnam, AusAID needs access to intelligence and quick assessments with respect to new developments that are best provided by locally based experts.

One additional advantage of this extension of the TAG would be to further enhance AusAID’s ability to implement a strategic approach to governance, and ensure that all activities in the program — including those supported by the CEG — are driven by the overall objectives of the country program. It would also help in identifying synergies and complementarities between different parts of the program. This could be complemented by initiatives to ensure better interaction of the governance program with other projects through, for example, regular meetings with Australian team leaders to discuss governance issues arising in their projects.

Opportunities to advance the governance agenda

One of the key objectives of the governance strategic framework is to improve capacity for policy analysis, supported by sound research and information systems. In Vietnam, significant inputs into policy making are made by research
institutions attached to Ministries or under the umbrella of the National Centre for Humanities and Social Sciences Research. Universities are typically less involved in this kind of work. In all of these institutions, the capacity for evidence based policy analysis is in need of strengthening. One way that AusAID could support this would be to foster linkages between Vietnamese and Australian institutions, focusing on collaboration and transfer of research technology and techniques. A possible model is provided by the current Capacity-building for Agriculture and Rural Development facility: but it may be desirable to consider an arrangement that facilitates search for partners by Vietnamese institutions.

**Implications for the CEG**

The foregoing review of recent developments suggests that some changes in the structure and immediate activities of the CEG would be desirable, as well as with arrangements providing advice on the directions taken by the facility.

**Scoping studies**

Following the work of the identification mission, which recommended establishing the CEG, it was decided that one of the first actions for the facility would be to conduct four scoping studies proposed in the mission’s report. The intended purpose of these studies was to:

- facilitate a learning process for AusAID and GOV identifying the institutional and policy context for program activities;
- achieve efficiencies in the use of Australian and local expertise in assessing specific activities that could be addressed under a flexible program approach;
- support development of a progressive engagement and iterative approach to program development and implementation;
- contribute directly to governance objectives by using locally commissioned research and participatory information gathering; and
- generate specifications for pre-feasibility or feasibility studies, advise on delivery mechanisms and develop sub-objectives and performance indicators for identified activities.

The areas to be covered by the scoping studies were: supporting representative processes and structures in the ONA; economic integration, deregulation and
enterprise development; commercial law and related judicial and regulatory systems; and civil service capacity building.

These studies were proposed as a means to achieve a better understanding of key issues and potential areas for support. Given the developments described in chapter 2, the need for the studies as they were originally specified has changed considerably.

The LNA process effectively eliminates the need for a study in the legal and judicial area. It also impacts on the need for a study of representative processes in the ONA, where it would now be more appropriate to move directly to pre-feasibility work. Similarly, progress in activities funded by other donors (particularly the World Bank, UNDP, EU and USAID), along with the preparatory work undertaken for the MARD technical assistance facility, largely eliminate the need for a scoping study dealing with integration and private sector development. However, it may be useful for AusAID to commission a brief ‘stocktake’ exercise to provide an update on the status of developments in key areas. This could synthesise outputs from current coordinating activities (such as the projects supported by the EU and UNDP, which seem to be coming up with differing reports on the nature and extent of donor activity) as well as documenting the status of efforts in related areas — such as competition policy, deregulation and factor market development. Such a stocktake could be undertaken by a locally based consultant, through the CEG or otherwise.

Given developments on Public Administration Reform, it seems sensible to defer indefinitely any study on civil service capacity building, pending assessment of the achievements of the multi-donor program with the PAR Steering Committee. In place of this, it is proposed that the CEG undertake a study of inter-governmental relationships that impact on service delivery. Such a study could draw on experiences of other AusAID activities in Vietnam, to develop a clearer understanding of institutional and policy issues that may need to be addressed in PAR related activities. A specification of this study is given at annex E. The study would involve the following.

- An overview of the current distribution of powers, functions and resources between central and local units of the GOV.
- A case study within at least two provinces of the operation of local units of central ministries and other agencies, and of the units of local government (commune, district and provincial), including systems of local representation and participation.
Governance sector strategic review

- A case study of one ministry (provisionally identified as the Ministry of Agricultural and Rural Development (MARD), of the relations between central and local units of administration, including channels of communication and control between stakeholders and decisions makers, and the mechanisms in place for the effective delivery of services to local clients and communities.

- A case study of one service delivery field (provisionally identified as support for participation by individual farmers in the market for agricultural goods) to analyse the effectiveness of service delivery and the satisfaction of clients.

Immediate opportunities for assistance through the CEG

A further consequence of developments since the identification mission is that there is a number of immediate opportunities for assistance that the CEG can pursue through pre-feasibility or feasibility studies. These include the following.

- Enterprise Law implementation, supporting the Central Institute of Economic Management (CIEM) to investigate ‘re-regulation’ of market entry.

- Real estate market reform, supporting CIEM to research and prepare policy advocating a real estate market and uniform land leasing systems. Access to land and collateral have been identified by successive studies as potent market access barriers.

- Assisting the Department of Economics and Budget of the Office of National Assembly to build the capacity of Delegates to discharge responsibilities with respect to budget oversight.

- Production of judicial bench books with the Supreme People’s Court.

-ONA Center for Information, Library, and Research, supporting the capacity of the Centre to gather and analyse information for National Assembly delegates.

Management and other issues

The CEG is likely to receive requests for assistance covering a very wide range of sectors and aspects of state management in Vietnam. In the early stages of the facility, such a range of requests should not be discouraged. Selection of a tighter focus for the facility should be undertaken after more experience has been gained in identifying areas for effective engagement, good partners and appropriate modalities for assistance. Until then, subject to the limitations discussed in chapter 2, the facility should be allowed to respond to opportunities consistent
with the areas defined in the strategic framework. This will require that the facility be able to make judgements about a wide range of potential activities. In order to help the facility to chart directions and establish broad priorities, it would be desirable, therefore, to establish a facility advisory committee, comprising Vietnamese experts in relevant fields that can offer advice and guidance to the Facility Coordination Committee.

The specifications for the facility envisage that it would provide technical assistance and training, among other forms of support. Consultations in Vietnam confirmed the very high regard in which Australian training provision is held — by Vietnamese officials and by other donors. Many requests for training were made to the review team. It makes good sense for the CEG to provide some kinds of training, but it is not the facility’s role to become a general source of training. Training provided by the CEG should typically be part of a broader program of assistance, and of a one-off and technical nature in areas specific to a particular facility objective.

The CEG also has the capacity to play an important role as a resource to support dissemination of information about governance related activities — not only those it is undertaking itself, but also those supported by other donors and agencies of GOV. Consideration should also be given to supporting translation and dissemination of relevant English language research and consultancy publications, since access to such material is still constrained.
## Agencies visited

### Table A.1  List of agencies visited

**Monday, 21 January 2002**

Dr Duong Duc Ung  
Director General  
Foreign Economic Relations Department  
Ministry of Planning and Investment

Mr Tran Nam Binh  
Manager  
International Support Group  
2 Ngoc Ha  
Telephone: 7336610

Mr Le Dang Doanh  
CIEM  
68 Phan Dinh Phung  
Facsimile: 8456795

**Tuesday, 22 January 2002**

Mr Alan Johnson  
Head

and

Ms Jane Rintoul  
Senior Governance Adviser  
DFID  
Central Building  
31 Hai Ba Trung  
Telephone: 9344404

Christine Johansson  
First Secretary  
Swedish Embassy

Mr Jean Baneth  
Adviser UNDP Project VIE/97/001 at GCOP  
37 A Nguyen Binh Khiem

(Continued on next page)
Wednesday, 23 January 2002

Economic and Financial Management

Dinh Van An
President
CIEM
Telephone: 7339534
Mobile: 0913248301

Mr Nguyen Van Phuc
Director Department on Economy and Budget
Office of National Assembly
35 Ngo Quyen
Telephone: 08046856 / 08046505/6
Facsimile: 08046997

Mr Kenny Tharnstrom
PAR consultant
SDC at Guoman Hotel room 605

Michael Winther, Counsellor, Danish Embassy

Le Van Su
CIEM

Steve Parker
Project Direct
Star Vietnam
17 Ngo Quyen
Telephone: 9349814

Public Sector Management

Ms Mia Steninge
First Secretary
Danish Embassy

Mr Nguyen Ngoc Hien
Director
National Institute of Public Administration
Telephone: 8343261/8353455

Legal and Judicial Development

Hank Baker
Resident Trade Lawyer
Star Vietnam
17 Ngo Quyen
Telephone: 9349814

(Continued on next page)
A Agencies visited

Table A.1 List of agencies visited  Continued

Thursday, 24 January 2002

Economic and Financial Management and Public Sector Management

Departments of International Cooperation
External Finance and Finance Policy
Ministry of Finance
Telephone: 9341540 Fax 8262266

Kazi Matin and Mr Minh
WB

David Truong
MUTRAP
1 Vong Duc
Telephone: 9347933

Mr Marizio Caldarone
Economic Counsellor
Ly Thai To

Legal and Judicial Development

Hanoi Provincial Court
Mr Hoang Huu But
Vice Chief Judge
Economic Division
Room 203 building C
43 Hai Ba Trung
Telephone: 8254586

Takeuchi Tsutomo
Legal Expert
JICA
Daeha 360 Kim Ma

Supreme People’s Court
Mr Dang Quang Phuong
Director
Institute for Judicial Science
Telephone: 8248075 Facsimile: 8252966
Mobile: 090421907 Mr Dung 8264307

Mr Minh Speilmann
Coordinator
UNDP Joint Project Support Office
Telephone: 0903297946 at Hanoi Tower

(Continued on next page)
Table A.1  **List of agencies visited**  Continued

**Friday, 25 January 2002**

**Economic and Financial Management and Public Sector Management**

Mr Nguyen Phuong Vi  
Director  
Department of Agricultural Policy  
MARD  
2 Ngoc Ha  
Telephone: 8454419

Maurice Dewulf, Rini Reza and Soren Davidson, UNDP  
Phan Boi Chau  
Ray Mallon, Private consultant  
Telephone: 8273906, mobile 0903404949

Nguyen Dinh Cung  
CIEM  
Facsimile: 8456795

Robert Glofcheski and Vu Quoc Huy, UNDP  
Ms Marit Roti, Counsellor  
Embassy of Norway  
56 Ly Thai To  
Telephone: 8262111

**Legal and Judicial Development**

Nguyen Dinh Cung  
CIEM

(Continued on next page)
Monday 28 January 2002

Ministry of Trade:
Mme Trinh Thanh Hien
Director General
National Committee on International Economic Relations
Multilateral Department and Planning Department
21 Ngo Quyen
Telephone: 8262531
Facsimile: 8262531/ 8264696
Mr Le Phu Cuong

Adam McCarty, National Economics University
Mobile: 0903419442

Mr Truong Tan Sang
Chairman
Economic Commission of the Communist Party of Vietnam
1B Hoang Van Thu
Telephone: 8231472
Facsimile: 8234514

Mr Vo Tuan Ngoc
Expert
External Affairs Department
Mr Kien 08045993

MPDF
56 Ly Thai To
Telephone: 8247892
Chief of Mission IFC and Business Support Services Manager
Tel. 9342282

Legal and Judicial Development

Supreme People’s Procuracy:
Mr Van Danh Hong
Director of Economic Crimes Prevention
4 Quang Trung, Floor 2
Telephone: 7321615

(Continued on next page)
Table A.1 List of agencies visited  Continued

Tuesday, 29 January

**Economic and Financial Management**

Rob Swinkles  
Poverty Specialist  
World Bank

Australian Ambassador at the Australian Embassy

Lunch with Nguyen Huy Duc  
Public Policy Project Coordinator  
HCM National Political Academy

Ms Mandy Woodhouse  
Representative, Oxfam GB

Mr Koos Neftjes, Consultant  
PO Oxfam Group

La Thanh hotel, 218 Doi Can  
Telephone: 8325491  
Facsimile: 8325247

ATLs at Australian Embassy

**Public Sector Management**

Mr Nguyen Quang Ngoc  
Program Officer  
Embassy of Sweden  
2 Nui Truc

Mr Nico Bakker  
First Secretary  
Netherlands Embassy

**Legal and Judicial Development**

Pham Duy Nghia  
Lawyer  
Law Department  
National University  
Telephone: 0903276538

Mr John Bentley  
Ted Parnell  
International Legal Advisers  
Strengthening the Legal Capacity in Vietnam Phase II UNDP  
25A Cat Linh  
Telephone/Facsimile: 8430712 / 0903419766

(Continued on next page)
Table A.1 List of agencies visited  Continued

**Wednesday, 30 January**

**Economic and Financial Management**

Jean Gilson  
USAID  
Rose Garden Building  
6 Ngoc Khanh  

Andrew Steer, Country Director  
World Bank  

Mr Wolfgang Farnz  
CTA  
GTZ project at GCOP  
Telephone: 9740252  

Mr Tran Anh Tuan  
Director  
International Cooperation Department  

and  

Mr Dinh Duy Hoa  
Government Committee on Organisation and Personnel (GCOP)  
37 A Nguyen Binh Khiem (MP and BW)  
Telephone: 9760025  
Facsimile: 9769925  

Emmanuel Cuvillier  
International Resident Adviser, PER Project  
41B Ly Thai To (Bangkok Bank building) 7th floor  
Telephone: 8249097  

**Public Sector Management**

Mr Walter Meyer  
Counsellor  
SDC  
Hanoi Central Office Building  
44B Ly Thuong Kiet  

Mr Mike Slingsby  
SDC adviser  
Mobile: 0903269713/ 8243428 ext 226/ 33  

**Legal and Judicial Development**

Werner Prohl  
Representative  
Konrad Adenauer Stiftung  
7 Trieu Viet Vuong  
Facsimile: 9432790  
Telephone: 9432791  

(Continued on next page)
Table A.1  **List of agencies visited**  Continued

**Thursday, 31 January**

**Economic and Financial Management**

Do Hoai Nam  
Institute of Economics  
Room 317, 27 Tran Xuan Soan  
Telephone: 8245098

Mr John Samy  
Mr Alexandro Pio  
Principle Program Officer

Mr Dao Viet Dung  
ADB 23 Phan Chu Trinh  
Telephone: 9331414

Mr Masumoto Akira  
Senior AID Adviser  
JICA

**Legal and Judicial Development**

Pham Thi Thu Hang  
Deputy Director  
SMEs Promotion Center  
VCCI  
9 Dao Duy Anh  
Telephone: 5742022

**Friday, 1 February**

Strategy advisory mission for German - Vietnamese Cooperation on SMEs promotion, Nga  
8224902 (confirmed) at the Embassy
B Integration and private sector development

Assessment of changes since 2000

There have been a number of very significant developments in the areas of integration and private sector development since the governance identification mission visited Vietnam in 2000.

The resolutions of the Ninth Party Congress, and the documents prepared for the Congress (especially the Socio-economic Development Strategy and the Political Report) articulated a strong commitment to economic integration and a clear recognition of the role of the private sector. In this regard, the Congress appeared to resolve uncertainties that were apparent during 2000 about the direction to be taken on these issues. Key elements of the approach to be taken to integration and private sector development were specified in the action program for legislative reform presented by the Legal Needs Assessment (see annex C) and in the Public Administration Reform Master Plan approved by the Prime Minister in September 2001 (see annex D).

More specific actions were detailed in the agreements reached with the World Bank and the IMF shortly after the Congress. These agreements laid out a program of actions to be supported by the Fund’s Poverty Reduction and Growth Facility (PRGF), and the Bank’s Poverty Reduction Support Credit (PRSC). This program (which is consistent with, though more rapid than, the program agreed with the Government of Japan for support under the Miyazawa initiative) involves specific actions to be implemented over a three year period. Box B.1 summarises the actions to be taken under the headings of trade reform and private sector development.

The program also includes actions in complementary areas of state enterprise and banking sector reform.
Box B.1  **Actions under the PRGF and PRSC programs**

**Trade reform**

The government will between 2001 and 2003 implement the following measures under its trade liberalisation program:

- QRs will be removed multilaterally from clinker and paper by end 2002 and from cement, remaining types of steel, construction glass, vegetable oil, ceramic and granite tiles, motorcycles and cars by early 2003;
- the share of garment-export quotas to be auctioned will be raised each year from 20 per cent in 2000;
- rice exports will be further liberalised to allow exporters to buy and export rice more freely; and
- tariffs will be reduced to 20 per cent on AFTA-imports for most of the tariff lines by early 2003.

The following actions are to be taken in the *first year* of the program:

- removing QRs vis-à-vis all countries, from all tariff lines for clinker and paper, replacing them with tariffs where necessary and appropriate; and
- increasing the share of garment export quotas to be auctioned to 25 per cent.

**Private sector development**

The government plans to continue liberalising the climate for private investment and hence to take the following steps over the period 2001–2003:

- remaining business license restrictions on entry in industries, trades and services will either be eliminated or modified; where modified, they will become conditions that all businesses have to satisfy after they begin operation;
- registration of private SMEs in the provinces will be monitored and the comparative ease with which they can expand in different provinces assessed;
- a new decree will be issued to establish various credit and guarantee mechanisms as well as support institutions for SMEs;
- the government will facilitate the formation of Vietnamese business associations consisting only of private sector firms, so that they can share information and establish support services for members. This is also part of the Miyazawa program for private sector development;
- the private sector’s access to land and credit will be improved by allocating land more transparently and by removing restrictions on allocation of agricultural land for industrial purposes. In addition, secured transactions’ registration offices will be established in the first year of the program. There will also be a ‘national data system’ on secured transactions which will permit registration of mortgages of land-use rights and of buildings;
- the dual pricing system will be gradually dismantled and the revised foreign investment law fully implemented.

With the following actions to be taken in the *first year* of the program:

- removing or modifying business licenses of at least 50 trades, industries and services, so that entry in those sub-sectors is eased.
Integration and private sector development

The state enterprise reforms include:
- general measures designed to create greater transparency, accountability and financial discipline;
- enterprise specific measures that will permit varying degrees of non-state ownership; and
- social safety net measures aimed at mitigating the social (and political) cost of reform.

These reforms set targets for equitisations, diagnostic audits and restructuring of selected general corporations to be completed at the end of the first year of the program.

The banking sector reforms involve:
- reorienting the operation of state-owned commercial banks (SOCB) to phase out directed lending;
- recapitalising SOCBs and resolving their non-performing loans; and
- introducing independent audits.

Underlying the state enterprise and banking sector reforms is an objective of creating more room for the private sector to grow and reduce institutional impediments to provide sector access to resources — particularly finance. These reforms are also linked to the imperative of integration, as financial sector regulation is brought into line with international practice and the state enterprise system is restructured to meet with competition that integration will bring.

Of even greater political significance was the ratification in 2001 of the US VNBTA. This agreement commits the United States to extend temporary MFN status to Vietnam, and commits Vietnam to undertake a wide range of actions in areas of market opening, protection of intellectual property rights, trade in services and investment liberalisation. The key features of Vietnam’s commitments under the agreement are summarised in box B.2.

One important feature of the agreement is that a number of its elements will improve the enabling environment for domestic enterprises as much as for US based enterprises — particularly provisions dealing with transparency and administrative appeals.
Box B.2  Elements of the USVNBTA

**Market access for industrial and agricultural goods**

All Vietnamese firms, and over time US persons and firms, will be allowed to import and export freely products not subject to explicit restrictions. Tariffs on approximately 250 products, most of which are agricultural, will be reduced by between 33 and 50 per cent. Nearly all non-tariff barriers on imports and export restrictions that are inconsistent with the GATT will be phased out. WTO standards will be adhered to with respect to customs, import licensing, state trading, technical standards and sanitary and phytosanitary measures (which effectively means that such measures cannot be used for protection purposes). Vietnam has also agreed to implement the GATT Customs Valuation Code.

**Intellectual property rights**

Vietnam will adopt the provisions of the WTO Trade Related Intellectual Property Rights (TRIPS) agreement, and also extend protection to satellite signals.

**Market access for services**

Vietnam will uphold WTO rules such as MFN, national treatment and disciplines on domestic regulation, and will allow US companies and individuals to enter the domestic market in a wide range of service areas, including financial services (insurance and banking), telecommunications, audio visual, distribution, legal, accounting, engineering, computer and related services, market research, construction, education, health and related services and tourism.

**Investment provisions**

Vietnam guarantees MFN and national treatment, transparency and protection against expropriation, and will phase out the investment licensing regime for many sectors. Foreign investors will be granted the same rights of profit repatriation as Vietnamese enterprises, minimum capital contribution requirements will be phased out, and investment measures that are inconsistent with the WTO agreement on trade-related investment measures (TRIMS), including local content and foreign exchange balancing requirements will be eliminated. In addition Vietnam will phase out the system of dual pricing by eliminating over a 4 year period all discriminatory prices for foreigners.

**Transparency provisions**

Vietnam will adopt a fully transparent regime with respect to the above four areas. This will involve issuing draft laws, regulations and other rules for comment, ensuring advance public notice for all such laws and regulations and that the appropriate documents are published and readily available, and allowing US citizens the right to appeal rulings made with respect to these laws and regulations.
With respect to private sector development, implementation of the Enterprise Law that came into effect in January 2001 has had a significant impact on enterprise creation. Since the Law was implemented, some 33,800 new enterprises have been established. Most recently, a Party plenum held in March 2002 accepted the idea that existing party members could be engaged in private business — an important reversal of past attitudes which will help to recognise the reality of members’ activities and to send clear signals that private business is ideologically acceptable.

Another important feature of the agreement is that a specific timeframe for implementation is built into each chapter. Some actions were required to be complete when the agreement comes into force (in fact this condition was not completely met) and others must be completed within specified periods. While many of the market opening actions are phased in from three to ten years after the agreement kicks in, many institutional, legislative and administrative reforms must occur quite early. Table B.1 provides an indicative timeline for actions. It is clear that a large program of legal and administrative change must be implemented very quickly.

**Donor support**

Integration and private sector development have been areas with considerable donor support — partly because of the way in which these issues interact with much of the governance agenda in Vietnam, and partly because of the priority which donors place on these elements of Vietnam’s development agenda. Under the Comprehensive Development Framework process, partnership groups have been formed for trade and private sector/small and medium enterprise issues. Consistent with this move towards more effective donor cooperation, a number of initiatives have been developed.

Firstly, under the auspices of its Multilateral Trade Policy Assistance Programme (MUTRAP), the EU has taken on the task of improving coordination — among donors as well as within GOV — of activities associated with accession to the WTO. Table B.2 summarises some of the activities in this field identified by MUTRAP.
Table B.1  Timeline of implementation of USVNBTA

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<th>Action</th>
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<td>Control monopoly and exclusive supplier behaviour</td>
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**Table B.1 Timeline of implementation of USVNBTA**

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<td>Initiate dispute settlement procedures</td>
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<td>Implement investment registration procedures</td>
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<td>Provide access to economic data</td>
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<td>Administer laws in uniform and impartial manner</td>
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Table B.2  **Summary of TA programmes: Vietnam’s WTO accession**

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<th>WTO agreements</th>
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<th>Economic policy process underway</th>
<th>Cooperation underway</th>
<th>Cooperation or planned</th>
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<td>▪ Switzerland</td>
<td>▪ France: Appui a l’intégration du Vietnam dans les échanges économiques internationaux</td>
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<td>▪ Australia (AUSAID): ASEAN-Australia development cooperation program</td>
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<td>Support to Vietnam Institute of Trade (VIT)</td>
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<td>▪ Germany (GTZ): integrated expert at VIT</td>
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Table B.2 Summary of TA programmes: Vietnam’s WTO accession (Continued)

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<td>▪ Japan: country-specific training; support for WTO accession</td>
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<td>▪ Japan: modernisation of IPA project</td>
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Acronyms:
- GDC: General Department of Customs
- MARD: Ministry of Agriculture and Rural Development
- MOET: Ministry of Education and Training
- MOF: Ministry of Finance
- MOFA: Ministry of Foreign Affairs
- MOH: Ministry of Health
- MOI: Ministry of Industry
- MOJ: Ministry of Justice
- MOSTE: Ministry of Science, Technology and Environment
- MOT: Ministry of Trade
- MOTR: Ministry of Transport
- MPI: Ministry of Planning and Investment
- NCIEC: National Committee of International Economic Cooperation
- STDB: Singapore Trade Development Board
- VIT: Vietnam Institute of Trade
Second, the UNDP will shortly start a project with the National Committee on International Economic Cooperation designed, inter alia, to identify the institutional and capacity building needs generated by compliance with Vietnam's international integration commitments — current and expected. This project will document the commitments made under Vietnam's membership of APEC, the Asian Free Trade Area and those associated with accession to the WTO.

One additional coordination effort is being implemented through the Implementation Support Group (ISG) at MARD, a jointly funded activity aimed at improving coordination of support for the Ministry. The ISG serves as a secretariat to a number of Thematic Ad Hoc Groups, one of which is concerned with the impact of integration on agriculture and rural development.

In addition to these broader initiatives, USAID has just commenced a project, entitled Support for Trade Acceleration and Restructuring, providing technical assistance to GOV for implementation of the USVNBTA. This project is being implemented by the Office of Government in recognition of the significant coordination effort involved in implementing the agreement.

In the area of private sector development, a number of donors have projects addressing issues in the specific areas of governance, policy and legal advice, business development services, institution building, export promotion and access to capital. However, given the processes of creating an appropriate enabling environment for the private sector, it is clear that a much larger element of donor support in Vietnam is addressing issues that impact on private sector development — especially in areas such as legal and judicial development, state enterprise reform, banking reform, financial sector development, land management and rural development.

**Opportunities for Australian assistance**

While there is extensive donor involvement in the areas of integration and private sector development, there are significant opportunities for Australian support. The identification mission suggested that AusAID should concentrate attention on assisting Vietnam to identify and address the domestic implications of integration, and to develop processes for formulating trade and investment policies and for dealing with industry policies and protection issues. This remains an appropriate area to address, and AusAID’s proposed technical assistance facility in MARD is an example of how to respond to this need (although,
given developments since the facility was designed — primarily additional
donor engagement and cooperation) changes in the delivery mechanism may be
desirable.

AusAID could also build on previous support aimed at building analytical
capacity in agencies dealing with integration. This could take the form of
additional support to groups involved in developing and using models and
analytical tools (such as the Financial Research Institute in the Department of
Finance). Another option would be to work with the group formed under the
Institute for Economics in the National Centre for Humanities and Social Sciences
Research. This group comprises researchers and experts from a number of
agencies who are working together on analysis of key integration issues, and
building a strong research discipline, a constructive approach to assembling and
assessing data for analysis, and publishing quality research and policy papers.

While many donors are involved in assisting Vietnam in areas related to
negotiation of, and compliance with, international agreements, there may also be
scope for AusAID support, since the impact of agreements will be so far-
reaching, with implication for sectoral and other forms of regulation, business
law, administrative processes and systems and institutional development.
Interventions in this area would need to take account of the coordination and
cooperation frameworks being developed by donors. It would be sensible to
track progress on the UNDP stock-taking exercise to promote guidance on areas
for support.

Despite progress with the Enterprise Law, there remains a significant set of
impediments to development of the private sector. Many of these impediments
will also — if not addressed — constrain adjustment to the opportunities and
challenges created by integration. Areas where impediments exist include:

- remaining obstacles to enterprise formation, including absence of guidelines,
  continued non-compliance with the latter and spirit of the Enterprise Law by
  local government agencies, limited facilities for registration and protection of
  business names, and continued operation of an intensive system of enterprise
  inspection;

- absence of private capacity to provide advice on production technologies, and
  impediments to technology transfer;

- absence of effective mechanisms for efficient market exit that can free up for
  alternative uses resources held in non-viable enterprises;
an excessively regulatory labour code and ongoing restrictions on long-term relocation by families in search of new job opportunities;

- constraints on access to capital created by obstacles with respect to use of collateral and enforcement of pledges and mortgages, and by the continued extensive role of the state in allocation of credit;

- constraints on access to land and natural resources;

- limited supply of business support services, including consulting, accounting and auditing;

- limits on access to market information due to regulation, high costs of telecommunication and state monopolisation of trade in technical literature;

- inadequate policies and mechanisms for promoting competition, especially with respect to removing legislative and regulatory barriers to competition; and

- continued deficiencies in the legal framework surrounding the making and enforcing of contracts.

While some of these areas are being dealt with by donors — especially under the multi-donor LNA process, there are a number of opportunities for Australian support. These include:

- continued deregulation of market entry and removal of unwarranted regulatory constraints on competition;

- development of private enterprise associations as a vehicle for advocacy and dissemination of information;

- adoption of more appropriate instruments for health, safety and technical regulation, and market-friendly use of standards;

- creation of effective markets for factors of production, especially for real estate, which could help remove constraints on access to capital and facilitate transfer of land to its most productive uses; and

- evaluation of labour market regulation.

In the longer term, AusAID may also be able to help with development of appropriate forms of corporate governance. At the moment, the legislative and institutional basis for more sophisticated forms of governance is lacking, and creating such a basis will involve a complex process of transplanting and adopting international norms and practices. For now, the big corporate governance challenge relates to state enterprises. AusAID may receive requests for support in
B Integration and private sector development

this area, but in the immediate future engagement should probably be limited to support for multilateral inventions.

Because of the complex policy and institutional interrelations between integration and the enabling environment for private sector development, the range of other donor interventions and the emerging approaches to donor coordination, AusAID will need to keep well informed to be able to deliver effective support in this area. Because of the work being carried out in collaboration with other donors (especially the EU, World Bank, USAID and UNDP), a scoping study of the kind envisaged in the identification mission report may not be needed. However, AusAID may need to commission a locally based consultant to provide a status report on ongoing projects and initiatives in key areas relevant to integration and development of the private sector.

CIEM real estate market development

One area where an immediate opportunity exists for AusAID support to private sector development concerns work by the CIEM on development of the real estate market.

The final communiqué of the Ninth Party Congress recommended the establishment of a real estate market. In April 2001, MPI commissioned CIEM to develop a policy document outlining the necessary changes to state land management, urban planning, land law, and real estate market institutions. Their report is currently awaiting approval from the Prime Minister and the Politburo. When this is granted, an inter-ministerial steering committee under the Prime Minister will coordinate reforms among eleven responsible ministries and central agencies.

CIEM officials expect the reforms to take two to three years. They will play a facilitating role, similar to their role in drafting and promoting the EL, however, they are authorized to develop policy, not legislation. This will involve supporting reforms by countering institutional resistance with well-researched and argued discussion papers. CIEM will also organise interagency workshops and host study tours to demonstrate the possibilities of real estate market liberalization. CIEM has formally requested AusAID support for the real estate market project in June 2001 and again in January 2002.

Immediate assistance is recommended for the following reasons.
Numerous studies have concluded that access to land and mortgageable collateral are now the main impediments to private sector development.

Opaque dual land and housing regulation and administrative land pricing increase transaction costs and are the most fertile grounds for official rent seeking.

High urban land prices are partially attributable to cumbersome peri-urban development and allotment processes.

Market land prices will remove the unfair compensation regimes that impeded urban development.

**Proposed AusAID assistance**

- Short term TA assistance is required over the reform period to address issues as they arise. CIEM currently requires TA support for urban land project development (especially project financing) and land planning for real estate markets (especially planning for private sector investment).
- Internships with foreign real estate management institutions (that is titles offices, planning agencies etc).
- Studies tours hosted by CIEM to show state officials the possibilities of real estate markets in neighboring countries and selected Western countries.
- Research materials.
C Legal and judicial development

Legal and judicial development

Mapping legal needs

Economic integration and the Legal Needs Assessment (LNA) have together transformed policy and donor coordination in the Legal and Judicial Sector. Legal reform has been given a clear direction and urgency by economic integration imperatives. The Party and State are now showing a commitment to legislative and institutional reform that has not existed since major legislative and institutional change followed the 1992 Constitution.

Much has altered under the LNA in the GOV’s approach to evaluating and formulating legal and judicial reform. In 2000 there was no comprehensive overview of donor activity in the sector, much less an overview of needs and reform strategies. Research during 2001 comprehensively assessed current conditions and made detailed recommendations for reform in four areas; legislation, legal institutions, legal education and legal dissemination. LNA reports have significantly increased knowledge about legislative, institutional and educational conditions, and made sweeping reform proposals. An Action Plan has also clarified the scope, depth and pace of reforms. In short, the LNA process has made the Legal and Judicial Sector scoping study, proposed in the 2000 Governance Report, redundant.

The multilateral approach to law reform made possible by the LNA is a significant advance over bilateralism for the following reasons.

- The GoV for the first time recognized that law reform require simultaneous changes to legislation and legal institutions. Previous bilateral reforms targeted specific areas like the legislative framework, without treating law as an interconnected system.

- In over four hundred pages of written reports and supplementary material the LNA comprehensively chronicled legal and judicial sector strengths and weakness. By drawing on the expertise of bilateral and multilateral donors,
the LNA process brings together an array of foreign expertise beyond the resources and capacity of individual donors.

- Responding to broadly based donor criticism that the methodology used in the LNA reports was sub-optimal, the GOV recognises that, since the conditions shaping legal reform are constantly changing, legal analysis must improve to more accurately forecast future needs.

- By encouraging a multilateral approach to legal reform, the LNA process encourages collaboration between Vietnamese institutions and information sharing among donors.

**Donor coordination**

In addition to mapping legal needs, the LNA also aims to coordinate donor interventions in this sector. Both the MPI and MOJ advised the Mission they are anxious to avoid donor congestion from constraining the capacity of the Ministry to administer and coordinate legal and judicial reforms. The Ministry currently coordinates over fifteen separate donors providing almost one hundred separate legal projects. Under existing arrangements there is a tendency for bi-lateral donors to 'stake out' different departments within the same organization, an approach that exacerbates organizational fragmentation and generates incongruous legal and procedural techniques.

In order to avoid unhelpful donor duplication and competition and increase institutional collaboration, the CPV Central Committee (Resolution No 8 2002) established an interagency steering committee to coordinate judicial reform among the SPC, SPP, MOJ and the Ministry for Public Security. This agency will assume responsibility for coordinating LNA reforms between the NA, GOV, SPC and SPP.

The Action Plan sequences legal reforms until 2010. Donor interventions are unlikely to attract GOV approval unless they comply with the Action Plan framework and timetable.

**Trust fund**

The second element of LNA coordination involves establishing a Trust Fund to implement the Action Plan. This involves a change in structure and purpose for the existing trust fund, which was established to support LNA research and report writing. At the time of writing the Trust Fund structure had not been
finalized (see Vietnam Legal Sector Reform Trust Fund position paper, January 2002 UNDP). According to current proposals, the UNDP (subject to some form of donor supervision/oversight) will administer the Trust Fund to support further LNA research and analysis and the staged implementation of the Action Plan. Existing bilateral interventions will continue, but under the LNA framework. There is strong commitment by the CPV, GOV and most donors to channel legal and judicial sector assistance through the Trust Fund (see discussion below under ‘Donor involvement in governance’). In deference to large donors, such as JICA and USAID, the GOV has not completely ruled out bi-lateral assistance, but has clearly expressed a preference for multilateral assistance through the Trust Fund. It is quite likely that the MPI will discourage bi-lateral legal and judicial sector proposals.

Despite its current uncertainty, there are compelling reasons for AusAID to support multilateralism as a principle in its own right.

- AusAID has little experience of delivering legal and judicial sector interventions in Vietnam (with the limited exception of training) and could learn by participating in the LNA process. For example, DANIDA gained sufficient experience from observing UNDP management of the first, three-year stage of a legal and judicial project, to take over the second stage itself. The question here is not one of Australian capacity to provide legal technical assistance, but finding opportunities to gain experience in dealing with Vietnamese legal institutions in sensitive legal policy areas.

- The Trust Fund will maintain donor discipline, reduce damaging donor competition and promote a cooperative multilateral approach to law reform.

- It will reduce costly administrative duplication.

- As the LNA process has already demonstrated, the donors’ collective voice carries more authority than individual initiatives. Influence depends, however, on the effectiveness of the formal structures controlling Trust Fund disbursements (see below).

The main disadvantages with funding legal and judicial interventions through the Trust Fund include:

- Losing direct control over project design and contracting.

- Reduced AusAID identification/badging.

- National execution of project disbursements
A balance is required between light coordination, leaving donors with little effective input over the reform agenda and disbursements, and heavy coordination that diminishes Vietnamese ‘national’ ownership and incentives to cooperate. Various coordination models are under consideration. A donor advisory committee attached to the LNA Steering Committee secretariat could evaluate programs and ‘fine-tune’ program delivery. Non-compliance with advice might result in funds being reduced or withdrawn. Contributions could be more accurately targeted by segmenting the Trust Fund into legal and judicial areas that donors want (or do not want) to support.

**Implementing legal and judicial reforms**

The issue facing AusAID (and other donors) is whether to direct all funds through the Trust Fund or maintain a balance between bilateral and multilateral initiatives. For reasons previously outlined, there are convincing reasons why AusAID should direct legal and judicial development through the Trust Fund. During the next two years (the minimum period required to finalize the Action Plan and assess the capacity of LNA program to implement legal reforms), AusAID should direct legal and judicial assistance primarily (if not entirely) through the Trust Fund. Bilateral interventions outside the Trust Fund should be ruled out during the two-year review period, as they carry the risk of undermining multilateral cooperation.

It is further suggested that the LNA program and the Trust Fund should be comprehensively reviewed biannually to assess whether coordination is effective and Vietnam’s legal needs are being addressed. These reviews should also aim to identify possible areas of bilateral assistance that are complementary to AusAID’s governance program. More generally, the assessment should monitor Vietnamese thinking regarding law reform. Incorrect assessments may be too pessimistic or too optimistic—either there is no fundamental change, or Vietnam is becoming ‘like us’. Misreading reforms could result in missed opportunities to support initiatives that improve the legal and judicial system, or worse, time and resources could be wasted on projects that are not consistent with the form of legal rule likely to emerge in Vietnam.

For AusAID to adequately scrutinize and learn from Trust Fund initiatives, the post needs to attend monthly Trust Fund meetings, and where necessary converse with the TAG to analyze information and commission in-country specialists to conduct further investigations. Thought should be given to increas-
ing direct contact between the post and Australian-based TAG members to assist AusAID to analyze and learn from information gleaned from Trust Fund meetings and other exchanges.

Notwithstanding the imperative to work through the LNA mechanism, immediate action on two legal and judicial sector interventions is recommended. A proposal to fund a judicial bench book (discussed in more detail below) is supported, as it complies with the LNA framework and has already been investigated and discussed with the SPP. Capacity building for the ONA Center for Information, Library, and Research is also recommended, because it lies outside the LNA framework and complements existing donor programs.

**Donor involvement**

There have been two major changes in donor involvement in the Legal and Judicial Sector. The previously discussed LNA multilateral approach to donor coordination and funding is undoubtedly the most significant change. But in addition, the entry of USAID into the legal and judicial sector, coupled with large increases in JICA assistance, have altered the size and configuration of legal interventions.

**LNA multilateralism**

Following the success of the LNA, the GOV and UNDP propose establishing a Vietnam Legal Sector Reform Trust Fund to coordinate and support interventions under the LNA Action Plan. Some of the proposed Trust Fund initiatives include legal drafting, institutional capacity building, training (especially in the SPC and SPP), advocacy of rights and duties and law enforcement initiatives.

The Trust Fund will be managed according to UNDP standard rules and regulations, including international competitive contract tendering. At the time of writing the donor commitment to the Trust Fund had not crystallized. However, based on statements made at a LNA Workshop convened by the MOJ in Hanoi on 30-31 January 2002, multilateralism enjoys broad donor support. Donor attitudes to the LNA Trust Fund divide into three groups:

- Donors intending to enter the Legal and Judicial Sector on a larger scale, such as Italy, CIDA and Switzerland expressed support of the Trust Fund. The depth and scope of reforms and commitment to multilateralism by the GOV impressed them. They were also aware of the long lead-times required to
establish effective bi-lateral initiatives and were willing to support multi-lateralism for a trial period of two-three years.

- More established donors such as DANIDA, SIDA and the French wanted to continue existing initiatives, but also expressed support the LNA Trust Fund and the principle of multilateralism. Their main concerns revolved around donor control over Trust Fund disbursements, rather than interventions losing national identity.

- Both JICA and USAID have indicated that is was not their governments’ policy to commit bi-lateral funds to multilateral initiatives. Even so, the USAID representative acknowledged the benefits of multilateralism and expressed a wait and see approach.

**Large bilateral assistance: JICA and USAID**

Both JICA and USAID are changing the face of bi-lateral interventions by channeling TA through long term advisors (JICA has three, expanding to five and USAID has one expanding to two advisors). These donors argue that the success of UNDP projects under John Bentley (a long-term advisor) demonstrates the need for strong personal relationships with Vietnamese counterparts. Both donors will only use short-term TA, where advisors have, over a period of time, developed in-country connections. Otherwise, Vietnamese will be sent to Japan and the US respectively for 1-3 month training. They recognise that in-country training is the only financially viable means of meeting large-scale needs, such as training judges and procurators.

**Immediate opportunities for Australian assistance**

**ONA assistance**

Constitutional amendment in 2001 further concentrated power in the hands of NA delegates. All delegates now require access to financial and economic information to effectively scrutinize the GOV budget. And following the appointment of one hundred and twenty five full-time delegates, demands on the ONA Center for Information, Library, and Research are expected to substantially increase. Services provided by the Centre’s Legislative Research Division (LRD) to NA delegates roughly correspond to those supplied by the Australian parliamentary library and parliamentary research staff. In addition to providing information through a consultation service and on-line database, LRD staff research and write explanatory memoranda explaining the sociopolitical context of important legis-
lation. This latter function is assuming increased importance with the ambitious economic integration program approved under the LNA.

**Proposed AusAID assistance**

LRD has requested training and TA to improve the research and analytical skills of its staff and TA and material assistance to upgrade the ONA database with legal material (English and Vietnamese). There is a need for greater capacity in data/information collection, critical analysis, and strategic planning among LRD’s six staff (soon increasing to ten persons). Since DANIDA is already actively supporting the Center for Information, Library, and Research, a co-funding arrangement may be more effective than standalone bilateral assistance.

**Other donor assistance**

- Close coordination with existing SIDA and DANIDA, ONA projects is necessary to ensure compatibility and avoid promoting LRD agendas that may conflict with broader ONA and LNA objectives. It is noted that a proposal exists for LRD to separate from the Center for Information, Library, and Research.
- DANIDA and SIDA do not currently intend to support LRD in the areas outlined in this proposal, however, both donors are assisting database hardware/software development and provide training to the Center for Information, Library, and Research.

**Synergies with activities in other sectors under the bilateral program**

- ONA capacity building will increase awareness among NA delegates (the majority of whom represent provinces) about legislation designed to further economic integration and institutional changes supporting this process.

**Gender equity**

- The gender impact of assisting governance projects is addressed in body of the Governance Report.

**Capacity-building at national, provincial, and district levels**

- The LRD database will increase knowledge at a provincial level about the legislative component of economic integration.
**Judicial Bench Books: SPC**

A proposal to assist the SPC to develop practical judicial bench books has been discussed and approved in principle by Dang Quang Phuong, Vice Chief Justice of the SPC. Based on projects conducted by the International Development Law Institute in the Lao P.D.R., Mongolia and the Philippines, the project aims to produce simple, ethical and procedural manuals for inferior court judges. Since negotiations commenced before the LNA was completed, the project will not compromise AusAID’s commitment to multilateralism and the Trust Fund.

This proposal will further the LNA objective of using non-legislative sources to guide the implementation of written rules. By synthesising unwritten judicial experiences and ethical opinions, the judicial bench books set the groundwork for the eventual emergence of jurisprudential principles. Provided this project complements the judicial training manuals prepared by the MoJ Judicial Training School, it is highly recommended.

**Other donor assistance:**

- JICA has prepared a judicial training manual with the MoJ Judicial Training School and it is important to ensure that the two initiatives complement each other. Although the SPC initiative is intended to retrain experienced judges, while the MoJ bench book is designed to train young judges, both provide ethical and procedural guidance.

**Judicial training**

Both the SPC and Hanoi Provincial Court requested judicial training. Given Australian expertise in delivering successful training courses, this initiative deserves closer consideration. However, in order to support AusAID’s commitment to multilateralism in the Legal and Judicial Sector, assistance should be directly through the Trust Fund until it is determined that the multilateral approach to legal reform has failed or a bilateral intervention would be more efficacious. As previously noted, it will take approximately two years to assess whether multilateral funding is effective. It is further suggested that any assistance in this area should be on a scale large enough to generate sustainable outcomes. Other donors indicate that in-country occasional-seminars produce few tangible results, unless they are supported by longer term learning programs.
Proposed AusAID assistance

Training is requested to support the implementation of the US-Vietnam BTA in:
- banking law
- environmental law
- laws governing international commercial transactions
- IP law.

Other donor assistance

DANIDA supports a large training program with the SPC and provincial courts, JICA trains judges through the SPC training school and MoJ Judicial Training school, and USAID are contemplating large-scale, but so far unspecified judicial training to support BTA implementation.

The need for training is so great that donor duplication is a low risk.
D Public administration and public expenditure management reform

Assessment of changes since 2000

Progress in mapping needed developments (strategy and policy)

The Government of Vietnam recognised over a decade ago that one of the implications of doi moi was the need to rethink and restructure the roles and functions of the state. Until recently, this recognition was not reflected either in coordinated reform strategies or in fundamental administrative changes in particular agencies. Some reforms occurred in the management of SOEs, the structure and organisation of the machinery of government and in financial management, but for the most part these changes were piecemeal and halting. Deep-seated beliefs, customary patterns of administrative and political behaviour and entrenched interests proved to be obstacles to change in all areas.

But significant progress has been made in the past three years through the development of PAR and PEM reform strategies and policies. The Review of PAR, commenced in 1999 under the guidance of a PAR Steering Committee chaired by the Prime Minister, was completed on schedule in June 2000. Five working groups, drawn from the Party and central agencies – GCOP, MOJ, OOG and MOF – produced an overall report and five detailed reports on specific areas — relations between Party and State; institutional reform; organisational structures; human resource management; and financial management. Consultation was widespread among government and party officials at national and provincial levels. UNDP coordinated a program of technical assistance.

The Review produced a frank and detailed assessment of key weaknesses in Vietnam’s system of public administration. As a diagnostic exercise, the Review was a very important first step. It identified a number of key areas for major reform and showed a strong appreciation of the scope and direction of the changes that were required. It signalled a realisation also of the need for strong central direction and coordination of PAR, and for a key leadership role by the Party. In sum, there is no shortage of understanding among key figures within
the Party, the Government and officials in the central agencies, of the nature of the problems to be addressed in administrative reform.

The 9th Party Congress in April 2001 gave high priority to public administration reform in the Five Year and the Ten Year Strategies. A strong indication of political commitment to the agenda of reform set out in the Review came in September 2001, with the publication of a Master Program on PAR for the Period 2001-2010, under the name of the Prime Minister. The Master Program identified seven areas of reform, each with its own Action Plan. Specific lead agencies were identified for each area.

- Program to renovate the development, issuance and quality improvement of legal normative documents (MOJ and OOG). This program area overlaps with a wider agenda of legal reform, which covers the judiciary and which, in turn, overlaps with on-going reforms to the National Assembly and with democratic reforms more broadly (the ‘grass roots democracy’ decree).

- Program on roles, functions, organisational structures of the agencies in the administrative system (GCOP and OOG). The agenda includes decentralisation, local government reform, and restructuring of ministries through clarification of the functions and responsibilities of agencies, with a view to minimisation of overlap and reduction in number.

- Staff downsizing program (GCOP). This is based on a decree of 18 October 2000, which called for a staff reduction of 15% in every administrative management and service delivery agency in 2001-2002.

- Program on quality improvement of the contingent of cadres and civil servants (GCOP and NAPA). The agenda concerns not only improvements in the quality of training, but also personnel management reforms.

- Program on salary reform (GCOP). The Program includes a commitment to increase minimum salaries, reform the salary scales, rationalise the system of job classification and introduce incentives for good performance.

- Program on renovation of financial management mechanisms for administrative and public service delivery agencies (MOF). The objectives are to implement ‘output budgeting’, lump sum allocations to agencies, and agency autonomy through schemes of ‘self-financing’. These and other aspects of financial management reform had been proceeding outside the context of PAR until the Review brought the area under the PAR umbrella, and reform in this area has developed a separate trajectory and momentum.

- Program on modernisation of the administrative system (OOG). This program area is in large measure concerned with IT.
Restructuring and regulation of financial institutions, SOEs, taxation, fiscal relations between levels of government and many other areas of public sector reform are not directly encompassed under the PAR Master Program. However, Program area (2) makes reference to relations between government departments and SOEs with a view to separating out the overall ‘macro management’ functions of the state and the commercial operations of SOEs, while Program area (6) overlaps with tax and intergovernmental fiscal relations issues.

A gap in the Master Program is a separate, concerted anti-corruption program. The Review highlighted the severity and extent of the corruption problem and saw that it cut across most of the areas. It appears in the Master Program as an aspect of Program area 4 (improving the quality of cadres and civil servants), and it is also seen as part of the reason for pursuing salary reform. However, much remains to be done to appreciate the extent of the anti-corruption challenge.

**Implementation issues**

PAR has been on the agenda for a decade or more. Some notable developments have occurred in particular areas, including restructuring of some central government agencies. With the assistance of donors, important steps have been taken in the area of budgeting and public expenditure management. In this field, the point has been reached where a coherent and logical strategy for the implementation of a series of reforms has been agreed with donors (see below). A new Budget Law will result in major changes to the budget process, and in opportunities to implement further reforms.

In other areas, a number of important experiments and pilots were undertaken in particular ministries and provinces under the PAR banner, in a process that relied to a large extent on local initiative (for example, budget reforms and the ‘one stop shop’ initiative in Ho Chi Minh City). Provinces and ministries each had their own PAR Steering Committee. This approach was characteristic of policy-making and administration in Vietnam, but did not result in substantial, system wide change. The recognition of the limited scope of the achievements, the lack of communication and coordination of successful initiatives and the slow pace of overall change were stimuli for recent national initiatives: the establishment of the National PAR Steering Commitment, the production of the Review and the announcement of the Master Program.

The Master Program included Action Plans and the identification of lead agencies, as described above. As well, ministries and provinces were asked to
produce their own master programs in line with the seven program areas by the end of 2001. This strategy seemed to be a repeat of earlier mistakes, although it was in line with customary patterns of policy formulation: the centre issues its decrees and instructions and the line agencies and provinces respond as they see appropriate.

It is fortunate that the current Prime Minister has been something of a champion of PAR, and has provided some leadership and direction. A heavy burden has been borne by the Prime Minister in personally approving and monitoring local PAR pilot projects. Such oversight and personal direction, however, is a poor substitute for a system of institutionalised coordination and monitoring that carries the Prime Minister’s authority but does not require his personal intervention. Such a level of institutionalisation of central policy management does not currently exist, in part because of the diffuse nature of power sharing and collective decision-making at the centre of government. Above all, the dual systems of overlapping party and bureaucratic control have militated against such a formalisation of chains of command and modes of communication.

In general, the Master Program does not address in detail questions of sequencing, resource requirements and other implementation matters. Considerable analytical work will need to be done if programs such as salary reform are to achieve their desired ends, and large capacity-building needs exist in many areas identified by the reform agenda (such as personnel management) before realistic, detailed plans of action can be expected to emerge to which key actors are committed.

However, recent initiatives suggest a more coordinated and coherent implementation strategy. After the release of the Master Program the Government undertook a program of information dissemination across ministries and in the provinces. As well it engaged in a day long ‘retreat’ with the donor community in September 2001. Subsequently (in January 2002), it took up an offer of technical assistance to the Secretariat of the Steering Committee (located in GCOP) for the purpose of articulating a clearer set of implementation strategies (see below). At the same time, the Secretariat was given a lead role in overseeing and coordinating the dissemination of experience from and replication of successful pilot projects. The PAR Steering Committee is a high level body representative of the lead central agencies, plus the Party. Its Secretariat to this point has been composed of officials who gave the role part-time attention. GCOP does not rank as the most powerful of agencies among those involved in the process.
Not surprisingly, the program areas where the greatest urgency is evident — salary reform and restructuring — are high on the political agenda. Salary reform is a political and social issue that will not go away due to the low levels of many salaries, not to mention the perception that this situation contributes to corruption. The issue is being addressed at the highest levels, and has been identified as one of the issues for action in 2002, although little indication has been given of how or in what manner it will be implemented.

Restructuring of the machinery of government is being pursued in anticipation of the May 2001 National Assembly elections and the installation of a new Prime Minister and Government. A new Law on the Organisation of Government has been presented to the National Assembly to facilitate the reorganisation process, which in the past has been inhibited by the need for detailed legislation. Reorganisation and restructuring of ministries is being undertaken under the lead of OOG and GCOP. It is likely that the Government will create additional multi-sectoral ministries along the lines of MARD. GCOP is convening a process of consultation among ministries, which includes an attempt to draw on the experience of MARD.

However, there are few signs that a coherent plan of action exists to guide this process. One clear principle that has been enunciated is the need to reduce the burden of management currently placed on the Prime Minister by reducing the number of Prime Minister level departments (special bodies which have been created over the years for immediate tasks, partly because the coordination and control instruments operating within and across ministries are very weak). However, the area is highly political and one can expect a series of compromises to shape the application of broader principles.

**Basis for cooperation with donors**

Donor activity in the PAR field has been widespread and disparate, including activities in separate provinces. Government agencies and Party officials at all levels are generally eager to cooperate on PAR related donor projects, in particular because most of the funding is earmarked directly for bureaucratic capacity building, providing ample opportunity for mutual organisational and personal interests to be accommodated. The central agencies themselves, whose lead roles in the area of PAR have been delineated, have their separate relationships with particular donors (for example, OOG with ADB, MOF with WB and GCOP with UNDP). Just as with coordination across the government machinery generally,
there are well-understood limits to central coordination of donor activity in the PAR field, allowing for bilateral PAR related projects to be undertaken in a variety of contexts and at all levels of government.

Recently the Government has sought to increase the level of coordination of donor activities. In part, this reflects the close involvement of the Prime Minister in the implementation to date of major PAR initiatives. But on the Government side, the coordinating arrangements are not clear or unambiguous. GCOP has laid claim to be the Government coordinating body for PAR aid projects, providing an ‘effective resource coordination mechanism’, although this role is to be performed ‘in coordination with the Office of Government’ (presentation by Mr. Thang Van Phuc, Vice-Chairman of GCOP to CG Meeting, Hanoi, 7-8 December). An additional question mark is the role of the PAR Steering Committee. MOJ and MOF continue with their own coordinating relationships with respect to legal and financial reforms. Meanwhile, the role of MPI in this context is also unclear.

**Donor involvement in governance: lessons learnt**

The Government in assessing PAR support to date has identified ‘twelve technical assistance projects, seven projects with PAR as a component and a number of specific activities as training courses, seminars and workshops...’ (Thang Van Phuc, CG Meeting, December 2001). However, this count reflects only those programs with an explicit connection to the GCOP coordinated PAR activities, and the range of donor activities across all areas of the PAR agenda, including legal reform and PEM, is more extensive. UNDP has charted the ongoing involvement of donors in the seven PAR program areas, but this account is also incomplete.  

The achievements of previous assistance projects in the PAR field have been mixed. Several donors have reported high levels of frustration in dealing with both provincial and national agencies. Achieving the levels of trust and cooperation needed to make progress in what are often highly sensitive areas is one obstacle. Another, particularly in the provinces, is the lack of technical capacity to make effective use of assistance. But several donors have overcome these problems. The most successful projects at provincial level have been those that have identified a local ‘champion’ in a position of political power, formed close per-

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1 UNDP, *Modernizing Governance in Vietnam*, Hanoi, December 2001, p.17. This chart fails, however, to acknowledge the role of the World Bank, in particular its leading role in the area of Public Expenditure Management.
sonal relationships within key local institutions and provided practical assistance of the kind that not only improves service delivery capacities but also enhances personal reputations, both within the community and with the central government and Party.

A number of these provincial projects have piloted ‘experiments’ in particular spheres, such as one-stop shops and streamlined processes for resolving land registration issues. These often require provincial leaders to seek permissions and new decrees from Hanoi, in this way providing a source of stimulus for more widely applicable, national reform. SIDA’s experience in Quang Tri Province is an example; another is a recently concluded Netherlands funded, UNDP-managed project in Haiphong. The set-up costs were high and concrete, short-term results were hard to demonstrate, but persistence produced longer-term successful outcomes that were claimed by local officials as proud achievements.

Projects associated with PAR at the national level have had few unambiguous successes. UNDP and GTZ projects in GCOP have demonstrated the distance that must be travelled to produce noticeable improvements in high-level policy and management capacities and to restructure central government organisations. Project management has proven to be one difficulty at this level. A UNDP project in MARD to assist with restructuring has demonstrated that accurate diagnosis of the problems is only a small step. In MARD, the diffusion of power and authority across a very flat organisational structure contributes to a lack of reform capacity. In such an institutional environment, donors have difficulty in identifying the appropriate change agent with whom to work. The diffuse, consensus-building style of decision making is not receptive to reform interventions that presume a top-down approach. Writ large, this is a risk associated with any effort to assist with a coordinated PAR reform strategy within the national government.

Parallel with the PAR related projects have been ongoing efforts by a number of donors to engage with Government leaders and senior officials in order to raise levels of understanding through dialogue. High-level seminars, tailored overseas training courses, study tours and consultations have been a feature of activities by donors such ADB, AusAID, UNDP and CIDA. Another strategy has been direct technical assistance to central agencies to assist with decision-making and coordination processes by Government – for example, a DANIDA project to provide ongoing technical advice to OOG on ‘cabinet’ processes. These projects focus on a critical area, as weaknesses in central policy capacities must be overcome if effective guidance to comprehensive reform is to be provided in the
future. Although it is intrinsically difficult to measure any concrete outcomes of these activities, they should not be ignored for that reason alone. ADB is proposing to launch a new initiative in this area to provide technical assistance for building capacity for policy coordination in the central agencies, and is seeking partners. ADB is proposing to appoint a Governance adviser in its Hanoi office.

More direct capacity-building assistance has been directed at training agencies. In the PAR program, NAPA has been identified as a lead agency. Several donors – GTZ, DANIDA and SDC – are involved in projects with NAPA, while AusAID has provided scholarships. Much of this support is at an early stage. DANIDA is proposing a training needs study. NAPA has a long way to go in developing its effectiveness in curriculum development and training delivery in the new environment. Appreciation of the problems by top management is not the issue. Senior faculty members provide few champions for such changes.

A further difficulty has been the lack of coordination of training activities generally, with overlapping roles for NAPA and the Ho Chi Minh National Political Academy and overlaps in policy roles between GCOP and NAPA. Provincial training institutes are under the control of the Academy, and deliver NAPA curricula for certain purposes (mainly to enable provincial administrators and experts to cross promotion barriers). Government agencies use their own training institutes to provide most of the training that they actually value for their own purposes. Project managers associated with various technical assistance projects have reported favourably on the outcomes of specific capacity building activities with staff of provincial and departmental training institutes.

Many donors and the Government have come to the view that this wide-ranging activity under the PAR banner, including governance-related assistance provided in conjunction with or as an offshoot of other projects, has suffered from lack of coordination and coherence. The UNDP, in a recent assessment, concludes:

- ‘project implementation has been ad hoc, with projects scattered between sectors, administrative levels and geographical areas. Short-term project horizons and lack of consistent strategic approaches often hampered effective implementation...;’
- unclear definition of the PAR concept and lack of transparency in the reform process resulted in disconnected projects;
in the absence of an appropriate policy support environment and effective mechanisms for the dissemination and sharing of policy experiences, efforts have been duplicated and model reform solutions have not been replicated;

- project design often did not recognise the long-term and incremental process nature of PAR, resulting in unrealistic project objectives and timeframes; and

- inadequate donor coordination resulted in duplication and dispersal of efforts.  

The Government in its presentation to the December 2001 CG Meeting identified UNDP in a lead role coordinating PAR donor activity at the national level. However, the World Bank continues to take a prominent role coordination of donor activities in relation to PEM. In both areas, the coordination of aid is being facilitated through Trust Fund arrangements, through which bilateral donors pool funds to provide a support facility, and a lead donor agency acts as the point of contact with the National Executing Agency. UNDP Project VIE/01/024, commencing in January 2002 to support PAR implementation, is structured in this manner, with a contribution in the first year of US$1m and US$1.5m from UNDP and participating donors respectively. A consultative arrangement is put in place (the PAR Program Consultation Committee) to coordinate Government agency and co-financing donors’ inputs and involvement. This Project directs assistance to two main ends: first, the provision of technical assistance to the PAR Steering Committee Secretariat in GCOP to help it draw up PAR implementation programs and second, targeted support to assist in disseminating and replicating successful PAR pilot projects.

There is widespread support among the bilateral donors for the Trust Fund approach as one element of donor partnerships in the governance area. There is agreement that the approach addresses a number of past problems:

- Competition and rivalry between donors;
- lack of coordination and overlap in some programs;
- lack of clear articulation of separate bilateral initiatives with Government strategies; and
- excessive transaction costs for ministries and departments.

But some donors express reservations and qualifications.

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2 UNDP Project Document, VIE/01/024
The capacity of the multilaterals to perform the leadership / coordination role and to avoid overlap and competition, in particular when they have differing perspectives and previously established coordinating relationships with different government agencies.

Coordination costs for donors.

The difficulty of demonstrating clear program results from pooled resources.

Greater appropriateness for high level work (policy planning and strategy development) than implementation / project work.

Some bilateral agencies see a need for greater coordination through project partnerships and regular consultation, outside the arrangements coordinated by the multilaterals.

In sum, PAR aid is at an important crossroads. Many have drawn the lesson that greater coordination both between and among donors and the Government is required for the next stage. UNDP has invested much in a top down, coordinated strategy for the broader PAR Program, in particular through the Trust Fund and associated cooperation. However, the broader partnership framework already in place accommodates many more forms of cooperation and coordination than co-financing and joint decision-making in this form. In that broader framework, many opportunities remain for individual bilateral projects that fall within the PAR Program framework, and for looser forms of cooperation between donors on linked or parallel projects.

A choice that continues to confront donors concerns the level of intervention, whether it should be at the centre of government, within a national ministry, or at provincial or lower levels of government. On the one hand, there is no doubt that in the longer term the kind of reforms required must receive national coverage and coordinated planning, driven by political commitment. On the other hand, there is a strong case to be made that the main advances for service delivery improvement are achieved at local levels. Moreover, many changes in national policy (including elements of doi moi itself) have their origins in local initiatives. The CPV has a grassroots, ‘experimental’ tradition of looking inward and downward. One of the routes to national reform in a slow-moving and highly political area such as PAR is from the bottom up. The national leadership has a tradition of being responsive to local pressures.

For a donor with limited resources, working with confident and capable provinces and districts to achieve local reforms is one route to breaking reform
bottlenecks of the kind so often experienced at the national level. There are high implementation risks with all top-down national programs in Vietnam. It may be that as much impact can be achieved by piloting local initiatives and at the same time developing capacities for inter-provincial learning and emulation. Networking with donors in other provinces would facilitate learning from local successes and exchanges between districts and provinces. Several donors see benefits (as yet largely unrealised) to be achieved from such cooperation. In that decentralisation and local government reform are listed as priorities in the PAR Master Program, such an approach could not be said to be inconsistent with the national effort.

The confidence of the donor community will be severely shaken if the top-down PAR process stalls and if concrete implementation strategies following on from the Master Program are not forthcoming. This uncertainty applies less to the two program areas – namely legal reform and PEM – that have already been subject to more intensive planning and coordination between central agencies and donors. It is probable, given the magnitude of the task and the political sensitivities, that there will be continuing difficulties and delays, and that frustrations at the national level will mount. The overall contribution of donors to governance reforms could suffer if too much faith were placed in a nationally coordinated, top-down approach.

**Immediate opportunities for Australian assistance**

In this section, immediate opportunities for activity by the CEG facility, including an agenda of further search and investigation, are discussed. The discussion in (2) above has already identified a number of opportunities and some of the risks. In providing guidance for immediate actions in the area of PAR, including PEM, the focus is more on strategies than on specific projects.

First, it is clear that the UNDP Trust Fund for PAR and the World Bank framework for coordination in the area of PEM will be significant areas of donor activity in 2002 and beyond. The compelling advantage of being involved in the immediate term in project activity in the area of PEM is that a clear strategic framework has been worked out and agreed with the Ministry of Finance. AusAID is already involved in the debt management project, and Australia has a strong international reputation for its expertise in the area of budget reform. There is a relatively high chance of successful project outcomes and significant impact in a relatively short timeframe in these circumstances.
Recommendation 1: the CEG AMC should as a high priority explore avenues for project assistance in the PEM area, building on previous project involvement and following consultation with other donors under the coordination of the World Bank.

With respect to the rest of the nationally coordinated PAR Program, a strong case can be made for having some kind of involvement in the Trust Fund / Support Facility arrangements, if only for the sake of being ‘in the loop’ at this important juncture. This in itself is probably the most important consideration. If access to the information and the maintenance and development of cooperative relationships with donors and key Government partners in the PAR field can be achieved without a co-financing commitment, other forms of expenditure (for example at provincial level) would be of higher priority.

Recommendation 2: AusAID should explore means by which close and detailed tracking can be maintained of developments in the implementation of PAR by the national government, and with it coordination of donor assistance, including the option of contributing to the UNDP Support Facility Trust Fund.

Recommendation 3: In the search for strategic areas for flexible and relatively small scale funding by the CEG facility in the PAR area, priority should be given to working at the provincial level, perhaps with a view to operating directly in districts and communes. Those provinces where Australia already has a strong presence and good working relationships with local authorities should receive priority. The service delivery fields of particular sectoral projects (water resources, rural development, health and so on) provide an entry point for developing specific governance related assistance. Contacts should also be made with other bilateral donors (in particular, SDC, SIDA, DANIDA, DFID, the Netherlands and NORAD) which are working in other provinces on governance related matters, to seek out the potential for supporting inter-provincial cooperation, both at the donor level and between Peoples Committees and other local agencies of government.

To support this level of activity for the longer term, a suggestion is made in annex E for a scoping study in the area of central-local relations and local service delivery by central ministries.

Assistance with training needs, including provision of scholarships, is an area in which Australia has experience and a strong reputation. If this activity is to be pursued in the case of NAPA, for example, close cooperation with other donors
working in the Academy – DANIDA, NORAD, SDC and GTZ – should be pursued. Building intellectual capital through supporting research training and collaboration, developing institutional linkages, and assisting with publication and dissemination of scholarship in both research and teaching is another potential area of assistance for NAPA. NAPA’s future role as the lead agency in re-skilling the public service will emerge over time. It is currently poorly equipped for the task, and in those circumstances alternative avenues may be favoured by government agencies.

Recommendation 4: in exploring the opportunities for future training assistance, priority should be given to coordinated support for capacity building in cooperation with other donors working with NAPA, with a targeted focus on building intellectual capital. A strategy of progressive engagement would be advisable, given the size and scope of the task confronting the Academy.

Outside the scope of the PAR program specifically, but closely related, is the ongoing area of central policy coordination. Experience with the PAR program to date has illustrated the problems that arise for lack of effective policy management and coordination capacities within the collective political leadership, and in the central agencies.

Recommendation 5: Further exploration should be made of the ADB proposal for a partnership with AusAID and other bilaterals, to provide high-level assistance through OOG and other central agencies on policy capacities and coordination mechanisms. This proposal is in its early stages, but focuses on a key area of need.
E  Scoping study on public administration reform

Introduction

Annex D proposes a focus on PAR issues at the provincial level as one element of a governance assistance program. The provision of such assistance can build on other provincial projects in rural development, water resources and health. In order to target this assistance effectively, a clearer understanding is needed of the nature of relations between central and local units of government and the barriers to effective local service delivery that arise from these relations.

Background

The PAR Program is focusing most attention in the governance field on basic structural or institutional reform, such as the development of a civil service and an effective, streamlined machinery of government. These are long-term programs and strategies. In the meantime, pressing problems in service delivery have to be confronted. Within the PAR framework, many successful pilot projects have produced service delivery improvements at district and provincial levels. So far, these have not been articulated across the system more widely. Part of the next stage of PAR is to pick up these initiatives and seek to emulate and replicate them more systematically. GCOP is seeking to manage and coordinate this process.

The lack of learning from local service delivery initiatives is symptomatic of dysfunctional elements in local-central relations. Preliminary observation suggests at least two problems: first, over-centralisation in formal or legal authority, which creates obstacles to local changes except by special central fiat or legislative change; and second, the fractured condition of vertical communication and command mechanisms within specific sectors such as land administration and rural development, which places obstacles in the way of both learning at the centre and dissemination to the localities. Provincial levels are highly autonomous in certain respects, but helpless in others without the grant of central permissions. Central ministries are all-powerful in some regards, but impotent when administrative compliance and local cooperation are required.
An indication of the nature of the problems can be seen from the problems of ‘vertical’ administration in one Ministry, such as MARD. The 61 provincial offices (DARDs) are highly self-contained and resistant to initiatives that do not suit their interests, needs or capacities. MARD has no way of overcoming this resistance without specific, high level intervention. Conversely, the provinces have few incentives to share their concerns and interests with MARD, other than to exert political pressure over budgets and so on. Provincial Party chiefs and Peoples Committees are the dominant force. For example, DARD directors in each province are recruited and appointed at the Provincial level (there is no nation-wide MARD career structure). National coverage of a basic service, such as collection and dissemination of accurate, timely information on rural prices and production for farmers and co-ops, cannot in these circumstances be achieved. In the case of a national database on animal health, for example, half the provinces simply don’t send in the returns.

The system of ‘dual control’ – that is parallel, formal jurisdiction by both central and local units over the system of administration – is one dimension of the issue, while a crosscutting factor is the status and role of the Party in these relationships (effectively, an overlapping system of ‘dual control’ of another kind). Under decentralisation plans, more financial and management autonomy may be given to provincial and / or district levels of government, but the allocation of powers, functions and authority within particular sectors of policy and administration (such as rural development) needs also to be addressed.

In essence, the current allocation of powers, authority and administrative capacities do not support achievement of substantive program or service outcomes. However, the precise nature of this problem needs closer investigation. The central-local dimension is included in the PAR Program, with a commitment to decentralisation and local government reform. Much more analysis and detailed diagnostic work is needed before a firm grip can be taken of these issues.

In order to explore these issues, a scoping study is proposed. The study will address general issues of relations between central and local units of government. The method of approach will be through a focus on a specific service delivery area in two provinces.
Objectives

- Provide a diagnostic analysis of the obstacles to effective service delivery arising from the current distribution of powers, functions and resources between central and local units of the Government of Vietnam.

- Recommend forms of assistance from the Australian Government that would most appropriately contribute to the achievement of desired improvements and reforms.

Approach

1. An overview of the current distribution of powers, functions and resources between GOV central and local units, including current and proposed reforms to sub-national governments and to inter-governmental financial relations.

2. A survey of officials in OOG, GCOP, MARD and People’s Committee of a selected Province, and selected District level officials, of perceptions of needs and priorities in relation to:
   - the distribution of powers, functions and resources between central and local units, and
   - ways to improve local service delivery.

3. A case study in at least two provinces of relations between central and local units of administration in one Ministry (provisionally identified as the Ministry of Agricultural and Rural Development (MARD)), including channels of communication and control between local and central administrators and systems of local participation and representation. The case study will proceed through a focus on one or two specific service areas to analyze the effectiveness of service delivery.

Counterparts

OOG / GCOP; MARD; Provincial Peoples Council and Peoples Committee

Resources and skills

An understanding of administrative and financial dimensions of central-local relations in Vietnam and an appreciation of generic service delivery issues in rural development administration would be required to undertake the scoping
study. The nature of the scoping study strongly suggests a need for involvement by locally based experts.

Part (1) above requires a survey and analysis of previous research (for example, World Bank research on fiscal decentralisation and donor project evaluation studies, such as the UNCDF Rural Development Infrastructure Fund and UNDP/UNCDF/CIDA Institutionalization of Participatory Planning Study); survey of documents on PAR reform relating to local government; analysis of official statistics and public finances; and interviews with key informants in the counterpart organisations.

Part (2) requires the administration of an appropriate instrument (for example, a pre-designed face-to-face interview schedule and/or focus group exercise) to groups of officials in central and local government.

Part (3) requires working in close partnership with cooperating department(s) in MARD and in the selected Province to enable access to administrative records and personnel, plus tracking of service delivery mechanisms and impacts via discussions with local officials and groups of clients.

Parts (1), (2) and (3) are inter-related, in that each would contribute to the overall objectives, while they are also separable. A scoping study limited only to one or two of the three parts would be valuable, and in such a case an expanded specification could be developed.
References

