

**UNDP VIE 02/015**

**Evaluation of Assistance to the Implementation of Vietnam's Legal System  
Development Strategy to 2010**

**FINAL REPORT**

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## 1. EXECUTIVE SUMMARY

The present report is an evaluation of the project VIE/02/015 “Support for Implementation of Vietnam's Legal System Development Strategy to 2010”. The project was launched in September 2003 and is scheduled to close by the end of 2008. The Project is implemented by the Ministry of Justice, with UNDP as the lead donor in a basket funding arrangement with Danida, Norad, Sida and Irish Aid. The total project budget is USD 5.263.000 of which the GOV contribution is USD 100.000. As of September 2008 a total of USD 627.000 remain un-programmed and are unlikely to be committed before project end.

The project is based on two documents, the original project document from 2003, and a revised set of outcomes (Results and Resource Framework) and activities agreed to in July of 2007 and covering the remaining 18 months of the project.

The original objectives of the project were:

1. A finalised draft of the LSDS.
2. The establishment of a management mechanism for the LSDS, and
3. Implementation of a number of high priority components under the establishment of a Legal Sector Development Facility (LSDF).

The revised objectives are grouped into three components:

1. Strengthening access to justice by improving the quality, consistency and coherence of formal legal documents;
2. Enhancing the policy framework and capacity for access to justice and protection of rights;
3. Strengthening domestic and international communication and policy dialogue.

The Project supported and funded a total of 21 sub-components with various legal institutions in Vietnam, including CPIAC, MPS, NA, VLA, SPC, SPP and a number of provincial departments of Justice.

### **Main findings:**

The Project is found to have achieved a number of valuable outputs [and contributed to the stated outcomes the most important of which are:

- Technical inputs and financial support to the drafting and successful approval of the *Legal System Development Strategy* (adopted as resolution 48 of the Politburo in May 2005) as set out in the original project document.
- Technical inputs and financial support to the drafting and adoption by the Standing Committee of the National Assembly Directive No. 900 on the *Action Plan* for the Legal Sector Development Strategy in March 2007.
- Setting up and implementing the *Legal Sector Development Facility*, a funding mechanism under the project for “emerging needs” in the field of legal reform.
- Implementation of 21 sub-components, i.e. small-scale projects financed under

the LSDF.

- Engaging with a number of national justice institutions, e.g. CIAC, MPS, VLA, NA and local departments of justice.
- Production of a considerable volume of research, surveys, manuals and training materials and training events covering legal dissemination, legal drafting, administrative violations, training of conciliators in local communities, provision of legal aid, and others.
- Support to the elaboration of a number of legal regulatory documents guiding the implementation of adopted laws.

The project is a positive – and rare - example of coordination and collaboration between donors in an environment, which is squarely characterized by fragmentation of donor efforts. The team finds that the project provides a good foundation for continued partnerships and donor collaboration in the future.

Considerable efforts have been expended both by the PMU and UNDP in sustaining the project in the face of a number of obstacles – more often than not outside the control of the project. These obstacles include unrealistic assumptions on attainable outcomes in the project document, difficulties in cooperation between state institutions for which the project setup had no clear answer, and [uncertainties about delegation of authority between UNDP, basket-funders and the MoJ], which were not satisfactorily settled in the life-cycle of the project. The PMU stated on several occasions that they found unclear lines of authority between the UNDP and PMU in decision-making. While the UNDP denies that there has been any interference with the decisions of the PMU, this does not in itself invalidate the point, rather it emphasizes that not all was clear in the demarcation of responsibilities. This observation should be seen rather as a reminder for future projects to take care in defining authorities and lines of communication. Another implication is that the donor group itself seems not always to have respected the division of labour i.e. that UNDP was appointed as the lead donor, but that other donors wanted to interfere in this arrangements for various reasons.

### **Recommendations:**

The team makes few recommendations given that the Project is nearing its completion.

- It is recommended that the Project is closed and that a final audit be carried out as scheduled.
- It is recommended to maintain the Forum for Partnership Dialogue set up under the project.
- It is recommend to reconsider the usefulness and suitability of the funding Facility in any subsequent project or programme support.

The last two sections of this report are devoted to a description of the legal

development context of the Project and to provide a preliminary discussion of future possibilities for support in the area of legal and judicial reform. The team discusses a number of lessons from existing reform projects and programmes and goes on to suggest three possible scenarios for future support, viz.:

- 1: Renewed legal reform programmes aiming towards sector support;
- 2: Emphasis on policy dialogue with selected support activities;
- 3: Promoting a “marketplace of ideas” through diversity of knowledge.

For each scenario a number of options and possible thematic areas of support are discussed.

## **2. INTRODUCTION**

The project document for Project VIE/02/015 “Support for Implementation of Vietnam's Legal System Development Strategy to 2010” was signed in September, 2003 between the Government of Vietnam and UNDP, Sweden, Denmark, Norway and Ireland. The lead donor is UNDP. A basket fund supports the project with contributions from UNDP, Danida, Norad, SIDA and Irish Aid. The total project budget is USD 5.263.000 of which the GOV contribution is USD 100.000. The project is scheduled to close by the end of 2008.

The project is implemented by the Ministry of Justice, Department of International Co-operation, as a National Execution (NEX) project. The Project Management Unit (PMU) at the MoJ is the central coordinator of activities of a number of Project subcomponents at the central and local levels.

The Implementing Agencies are legal agencies and institutions, also called the project subcomponents, including local departments of justice in several provinces, and other law-related ministries and agencies such as: SPC, SPP, ONA, and the Ministry of Public Security (MPS).

The evaluation team would like to extend its thanks and appreciation to all partners of the project, who have generously shared their knowledge and time with the team, with special thanks to members of the PMU and the UNDP programme officers, who have assisted the team throughout the mission.

The views and assessments presented in this report are those of the team and should not be attributed to any single partner or individual interviewed during the mission.

The team was composed of:

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### **3. METHODOLOGY**

In the course of the fact-finding mission, the team has met with an interviewed a representative number of project partners and implementing agencies, including the PMU, departments in the MoJ, the Judicial Reform Steering Committee, MPS, SPP, SPC, the National Assembly, UNDP and basket-funding partners, and has visited the Department of Justice in Da Nang City. In addition, the team has received further documentation and written outputs from the project.

The Team had two working sessions and extensive discussions with the PMU and presented preliminary findings for discussion and valuable feedback. A debriefing workshop with all project partners provided comments and observations that are reflected in the final report. The team has conferred with project partners on views and proposals for further project work and cooperation in the field of legal and judicial reform.



## 4. ANALYSIS OF THE STATUS OF THE PROJECT

### 4.1 Project documents

The project is described in two main documents sets out objectives and outputs:

- a) The original project document “Implementation of Vietnam’s Legal System Development Strategy (LSDS) to 2010”, project number VIE 02/015, dated September 2003, covering the period from September 2003 to September 2007.
- b) The Results and Resource Framework from July 2007, covering the period from July 2007 to December 2008, when the project will come to an end.

### 4.2 Project Achievements

The major achievements of the project include:

- Support to the drafting and successful approval of the *Legal System Development Strategy* (adopted as resolution 48 of the Politburo in May 2005).
- Support to the drafting and adoption by the Standing Committee of the National Assembly Directive No. 900 on the *Action Plan* for the Legal Sector Development Strategy in March 2007.
- Setting up and implementing the *Legal Sector Development Facility*, a funding mechanism under the project for “emerging needs” in the field of legal reform.
- Implementation of 21 sub-components, i.e. small-scale projects financed under the LSDF.
- Engaging with a number of national justice institutions, e.g CIAC, MPS, VLA, NA and local departments of justice.
- Production of a considerable volume of research, surveys, manuals and training materials and training events covering legal dissemination, legal drafting, administrative violations, training of conciliators in local communities, provision of legal aid, and others.
- Support to the elaboration of a number of legal regulatory documents guiding the implementation of adopted laws.

### 4.3 Programme document 2003-07

The original project document contains the following three main outcomes:

1. An improved and finalised draft Legal System Development Strategy (LSDS) for approval by the competent State authorities and its immediate implementation;
2. The co-coordinated management of the implementation of the LSDS; and

3. A number of high-priority components of the Project and emerging needs implemented through the Legal System Development Facility (LSDF).

The original project document was based on the assumption that the LSDS would quickly be completed and that it would contain a defined implementation structure to which the project could attach itself as a supporting instrument. The ensuing developments turned out differently; the approval of the LSDS by the Politburo did not occur until May 2005, and then was not released until September 2005, and the government steering committee foreseen in the LSDS did not materialize in a form that permitted the project to support it.

The project was instrumental in revising and finalising the draft LSDS, which was subsequently approved by the Politburo, and it is conceivable that the Project provided impetus for the subsequent approval by the NASC of Directive 900 setting out strategic directions for the LSDS. This remains one of the major achievements of the Project.

The Project has not, however, been able to achieve the wider, strategic objective of an immediate implementation and coordinated management of the LSDS. This is due in part to the fact the Steering Committee for the LSDS never materialised, and because a significant part of the law-making programme of the LSDS remains to be done. Nevertheless, this objective was arguably well beyond the capacity and remit of a donor-funded project in the first place.

The establishment of the LSDS Steering Committee and its coordinated management has been a debatable issue throughout the project: Vietnamese authorities insist that the LSDS management is now fully coordinated under the auspices of the National Assembly Standing Committee, while donors are of the opinion that they have lacked an overall plan and agency in charge of and willing to engage in dialogue on the LSDS.

The project has succeeded in establishing the Legal Systems Development Facility (LSDF) and altogether 21 sub-projects (sub-components) have been funded under the Facility. It remains debatable to what extent the activities funded under the LSDF have in fact been “high-priority” and “emerging needs” within the LSDS. This is partly because there is a lack specific guidance on strategic priorities in the LSDS itself, partly because some of these activities, while worthwhile and important in themselves, seem to be more part of the on-going functions of the institutions (e.g. training of staff in implementation of legislation, developing legal normative documents). That is, the LSDF may to some extent have support “current” needs rather than “emerging” needs.

#### 4.4 Results and Resource Framework 2007-08

A revised set of project outcomes and outputs was developed in 2007 based on the mid-term review and persistent concern among the donors that a management structure for LSDS was not in place and that activities of the project lacked strategic direction. The resulting document was consulted and approved among stakeholders in the summer of 2007. The RRF denotes a reorientation of the objectives of the project towards strengthening consistency of legal regulations and a greater focus on access to justice and enforcement of law. This renewed focus brought the Project more into line with the activities that were in fact supported under the LSDF. The RRF also drew in more partners (SPP and SPC as part of making a link to JRS) and sought to strengthen government and donor collaboration and information sharing.

RRF contains the following expected outcomes (components):

1. Strengthening access to justice by improving the quality, consistency and coherence of formal legal documents in the legal system;
2. Enhancing the policy framework and capacity for access to justice and protection of rights through strengthened legal implementation and enforcement;
3. Strengthening domestic and international communication and policy dialogue on legal and judicial reform, access to justice, and protection of rights.

The RRF contains altogether 17 activities divided across the three components. Another 4 activities are dedicated to project management are not included in the RRF and the table. Below is an overview of the activities and their completion status as of 1 September 2008. A total of 4 activities are completed, another 7 activities are nearing completion, 3 activities have not yet been undertaken and the remaining 3 activities are cancelled or are expected to be done only in part.

*Table 1: Status of activities under RRF*

<b>RRF activities 2007-2008</b>	<b>Status - as of 01/09/08</b>
COMPONENT 1:	
1. Handbook on drafting and scrutinizing legal documents, including regulatory impact assessment, and guidelines on supporting documents	In drafting. Expected completion in November 2008.
2. Manual/toolkit on review of LNDs	Completed.
3. Study on strengthening the involvement of professional associations, mass organizations, the general public and others in civil society in the law drafting process	Workshop is conducted. International consultant has submitted first draft report. To be finalised in November 2008
4. Study on the changing role of the National Assembly and its committees in securing the consistency of the legal system.	Workshop is conducted. International has submitted his first draft report.

<b>RRF activities 2007-2008</b>	<b>Status - as of 01/09/08</b>
5. Redraft key laws and legal documents directly related to access to justice and protection of rights: 1. Law on Administrative Offences 2. Law on State Compensation 3. Law on the Organization of People's Courts 4. Law on the Organization of People's Procuracy 5. Law on Promulgation of Legal Documents	1. Workshop organised. Completed. 2. Workshop organised. Completed. 3. Cancelled by request of SPC 4. Workshop organised. Completion in Nov. 5. Workshop organised. Completed.
<b>COMPONENT 2:</b>	
6. Study and survey on current criminal policy and procedures, including 1) Criminal Code and 2) Criminal Procedure.	1. Not finalised. No further action by DCAL 2. Workshop will be organised in November
7. Development of training materials for legal consultants, local justice officials, conciliators, and methodology for monitoring and evaluation.	National and international consultant finalised their reports Expected completion in December 2008.
8. Training of select groups of legal consultants in associations, mass organizations and other groups in substantive law and professional skills	Completed.
9. Training of select groups of local justice officials, conciliators, and police officers.	Completed.
10. Training of legal consultants, local justice officials, conciliators and legal disseminators.	Completed.
11. Baseline survey on existing modalities for legal dissemination and the relationship between tradition and new models of legal dissemination and access to justice;  International comparative study on legal dissemination and information strategies.	International expert submitted her final report. Completed  National sub-contractor submitted their final report. However, UNDP wish to make further review of the survey result.
12. Conduct pilot training for select groups of legal disseminators at the local level particularly among poor and vulnerable.	Cancelled at request of UNDP.
<b>COMPONENT 3:</b>	
13. Translation into English of all strategic documents and implementation document related to LSDS and JRS (Res. 48 and 49) and post on MOJ website.	To be finalised at the end of project
14. Conduct policy research on strategic issues related to key elements of legal and judicial reforms (Res. 48 and 49).	Not finalised yet (one national consultant has not submitted her final paper)
15. Organise biannual government-donor policy dialogues allowing for interactive experience sharing (2008 dialogue).	Will be organised in early October 2008
16. Organize annual coordination meeting including discussions of LSDS project activities and discussion of LSDS and JRS forthcoming activities and issues.	Will be finalised at the end of Project
17. Editing, Printing, distribution of Project's outputs/products.	Will be finalised at the end of Project

The formulation of the RRF appears to have been beneficial to the project both in terms of a better focus of activities and in the management of activities. Thus, the activities under the RRF are thematically more closely related and the outputs appear to result in improved analytical work and dissemination of knowledge through surveys and publications.

The implementation and completion rate of activities is high and the project seems to be conducted according to schedule with only minor delays. This is probably in no small measure due to the fact that the RRF represents a considerable concentration of implementation activities with the MoJ. In the RRF only one activity (No. 4) is organised by an outside institutions (ONA), while MoJ implements all other activities, either alone or in collaboration with others.( e.g. with SPP and SPC as parts of activities No. 5 and 6.)

It should be noted that the RRF did not meet with unqualified endorsement by all sides, and that the MoJ had reservations in particular about the inclusion of a number of institutions in the project and that the objectives were too general or “ambitious” for meaningful implementation. This is apparent in some objectives, for example the drafting of a series of laws, where the Project presumably has had very limited impact. These issues are discussed in greater detail below in chapter 5.

#### **4.5 Subcomponents**

The Project comprises 22 past and current sub-components funded out of the LSDF. A list of the sub-components is given below.

1. Party Central Internal Affairs Committee (Legal Department);
2. Ministry of Public Security (Legal Department);
3. Government Inspectorate;
4. Ministry of Foreign Affairs;
5. Vietnamese Lawyers' Association;
6. Supreme People's Procuracy;
7. Supreme People's Court;
8. Legal Aid Agency - MOJ;
9. Legal Normative Documents post-checking Agency – MOJ;
10. Dep't of Administrative and Criminal Laws – MOJ;
11. Legal Dissemination and Education Dep't – MOJ;
12. Civil and Economic Dep't – MOJ;
13. Personnel Dep't – MOJ;
14. Institute of Law Research – MOJ;
15. Department of Quasi-Judicial Affairs (DQJ) – MOJ: on activity no. 7 of the RRF
16. Department of International Cooperation
17. Department of Justice of Hai Phong City;
18. Department of Justice of Quang Binh Province;
19. Department of Justice of Khanh Hoa Province;
20. Department of Justice of Da Nang City;
21. Department of Justice of Tien Giang Province;
22. Department of Justice of Lam Dong Province;

*Source: PMU*

#### **4.6 Disbursements**

As of September 2008 a total of USD 627.000 remain un-programmed and are

unlikely to be committed before project end. Further un-disbursed funds are likely to result from the annual work plan of 2008, which contains activities that are cancelled, and others that may not be fully completed.

*Table 2: Project costs and main disbursements 2003-2008*

Item	2003	2004	2005	2006	2007	2008	Totals
LSDS activities		383,092	136,583	67,750	47,353		634,778
LSDF grants		46,876	467,172	1,012,026	371,759		1,897,833
Project management		222,252	195,473	172,991	90,901		681,617
Other project costs			- 5,125	3,148	1,098		879
<b>Total estimated expenditure</b>	<b>115,220</b>	<b>652,220</b>	<b>794,103</b>	<b>1,255,915</b>	<b>511,111</b>	<b>1,307,562</b>	<b>4,636,131</b>
<b>Unprogrammed funds</b>							<b>627,072</b>
<b>Total funds</b>							<b>5,263,203</b>

#### Notes

2003: No breakdown available

2008: Estimated expenditures

Source: UNDP

## 4.7 Management issues

Considerable efforts have been expended in sustaining the project in the face of a number of obstacles – more often than not outside the control of the project. These obstacles include unrealistic assumptions on attainable outcomes in the project document, difficulties in cooperation between state institutions for which the project setup had no clear answer, and uncertainties about delegation of authority between UNDP, basket-funders and the MoJ, which were not satisfactorily settled in the life-cycle of the project. These weaknesses of the projects are not the responsibility of any one partner and should be approached as part of an effort to draw appropriate lessons in the area of international cooperation in legal and judicial reforms in Vietnam.

### 4.7.1 Project management

The project steering Committee roughly corresponds to the “Inter Agency Steering Committee” described in the original project document and includes MoJ, MPS, NA, SPC, SPP, OOG and Office of the State President. However, the Steering Committee has reportedly only met on 3 occasions, and it appears difficult to convene the members. The general conclusion is that the Steering Committee has not been effective, and that the PMU with reference to UNDP is in practice managing the project.

The establishment of the Legal Partnership Forum has gone some way to remedy the inter-agency dialogue foreseen to have taken place in the Steering Committee.

### 4.7.2 LSDF

Terms of reference and rules of procedures for the LSDF have been elaborated early in the project. The procedures foresee decision-making by a committee headed by the

Minister, while any sub-contract and procurement equal to or above US 30,000 is to go through a review process setup by UNDP called CAP (Contract, Asset and Procurement Committee for Award of Contract) It appears that decisions on funding have in reality been made in a series of consultations between the PMU and UNDP, apparently due to donor interests in maintaining a stake in the allocation of funds. The result is unclear lines of authority and lack of ownership of the LSDF in the MoJ. The rules of the LSDF reflect project formulation requirements at international expert level. While this may be useful in capacity building for local partners, it also places sometimes exaggerated demands on the sub-components, and results in over-burdening of the PMU in assisting in sub-component formulation.

#### **4.7.3 PMU**

The PMU has achieved considerable project management skills and experience in cooperation with donors. Similarly, considerable experience has been gained in collaboration between the various government institutions represented in the sub-components.

There has been regular and extensive project reporting, from the PMU. This review has not performed an assessment of the financial reporting, nor has it reviewed auditing reports.

#### **4.8 Monitoring and Evaluation**

Monitoring and evaluation have taken place sporadically and systematic follow-up has exceeded the resources of the PMU. While several steps have taken to by the PMU, including training evaluation questionnaires and project reporting, most of the sub-components remain insufficiently assessed in terms of outcome, impact and relevance to the target groups.

Two initiatives must be welcomed in this respect. One is a monitoring consultancy carried out by a national consultant for the sub-component in Khanh Hoa, and the second is an international consultancy to assess the quality and methodology of training activities related to legal consultancies under the mass organizations. Both of these reports have given useful insights, and have pointed out a number of weaknesses in materials and training approach, which contain important lessons for future training activities./ Comment: it was not carried out by the ONA but a so-called national consultant/ or external consultant.

#### **4.9 Partnerships**

The project is a positive – and rare - example of coordination and collaboration between donors in an environment, which is squarely characterized by fragmentation of donor efforts. The team finds that the project provides a good foundation for continued partnerships and donor collaboration in the future. However, there are questions concerning the internal “discipline” and division of responsibilities among the basket funders. Basket members have on a number of occasions been involved in

consultations and decision-making regarding the project. This blurs the lines of communication and decision-making in relation between the PMU and the lead agency, UNDP, and appears to have caused frictions in project management and implementation.

#### **4.10 Implementation strategies**

There are several indications that the project activities have been both too ambitious in terms of policy issues, and too burdensome in relation to the coordination across government institutions. The team recognizes the intentions and value of having the project work with a number of government partners, which is precisely what would be called for in working towards a high-level legal reform strategy. However, the MoJ does not have a matching coordinating role and mandate in the overall implementation of the LSDS. Therefore, the Ministry has been saddled with a project that at times extended its capabilities.



## **5. KEY FINDINGS AND LESSONS LEARNED**

### **5.1 Project strategy**

The Project has the laudable ambition of promoting cooperation between justice institutions under the LSDS, and to some extent the JRS. The results are mixed. The sub-components of the project have generally taken up activities commensurate with the objectives of the project, but the activities have been implemented within each separate institution and have not involved any joint or cross-cutting activities. While the project has had some success in sensitising participants to the needs and possibilities for acting across institutional mandates within a single project or programme, it is not clear that the project has found the best way of promoting this cooperation. The MoJ does not have the overall responsibility for implementation and overseeing the LSDS – this being the responsibility of the NA Standing Committee – which has caused further complications in coordination between the various institutions. In particular the judicial institutions, SPP and SPC, have been reluctant to engage in the project mainly because the MoJ was not regarded as an appropriate coordinating agency in the judicial area.

In conclusion, there seems to have been a mismatch between the “sectoral” ambitions of the Project and the mandate and mode of operation of the MoJ (and hence the PMU). There seem to be little appetite in the PMU for continuing to directly manage projects in other institutions within the present project setup. For this to work, it has been suggested that project responsibilities in the future should be delegated to the participating sub-components. While this may be sound from a project management point of view, it has disadvantages from a programme perspective, notably that activities become fragmented and difficult to monitor.

### **5.2 Impact assessment**

Assessment of the project impact remains a matter largely of conjecture. An assessment of the general outcomes of the project is given elsewhere in this report, and indicates that a positive impact has been made in the formulation and approval of overarching policy formulation. However, the impact on coordinated strategy management is seen to be limited.

The legal needs assessment from 2002 brought a new dimension to and understanding of the legal system, which could no longer be regarded simply as a set of laws and regulations, but also includes institutions, policies, resources and implementation. This way of thinking seems to have been supported and broadened by the Project, and it is possible that it has influenced certain policy discussions especially within the Ministry.

The impact of the funding Facility must be assessed based on the individual activities and their perceived impact on the implementation of the overall LSDS. Assessment of some training activities are probably not feasible, such as the training of local

government officials several years ago, while impact of training of conciliators could be undertaken and is likely to yield some useful information including for improving training materials. The surveys produced by the project should be seen as adding to overall knowledge and debate on their respective subjects, and any impact assessment is hardly neither feasible nor meaningful.

A positive impact is also seen in the building up of project management experience and maintaining dialogue with foreign partners.

### **5.3 Sustainability**

#### *Strategies*

The support given to development of the LSDS has produced some remarkable documents, Resolution 48 (and Resolution 49) and the National Action Plan, Directive No. 900, and implementation plans for individual institutions. This is considered to be sustainable as they are policy documents at the highest political level and the product of a national consultation. The extent to which these documents are implementable and suitable vehicles for reform and donor support is another issue, which is discussed further in Chapter 7. At this point, it is reasonable to assume that the generalised nature of the two strategies reflect the attainable area of consensus on reform within Party and state, combined with considerable political uncertainty as to where such reforms, if implemented, might lead.

#### *Training*

The practice of using donor funding to conduct training courses, workshops and seminars at local level to strengthen knowledge capacity and awareness of legal norms is not considered sustainable. Such activities would be more useful as demonstration examples and to gain knowledge of potential benefit, feasibility and methodology, and thereby to arrive at replicable and sustainable training activities for the institution or theme in question. Lack of follow-up or systematic evaluation is a defect, and it would probably have been better to select a few localities and follow-up the work over several years.

#### *Drafting of regulations*

Similarly, the development of implementing legal documents and guidelines is an important task, but again the team does not find it sustainable for the government to rely extensively on donor funding for the purpose of developing legal normative documents. The task is rather to devise cost-effective processes of elaborating, disseminating and supervising the production of laws and legal normative documents.

#### *International Technical Assistance*

It remains difficult to assess the sustainability and value-added on international technical assistance. It is partly dependent on the individual consultant, partly dependent on the relevance of the task itself. Points of view among interviewees differ: Consultants have been able to bring expertise and insights on a number of

specific technical issues, e.g. regulatory impact assessment, training methodology or international comparative experience. However, consultants mostly have little or no value-added with regard to policy advice or as part of internal consultation processes within government agencies. International consultants are therefore most effective on specialised technical issues for which a clear purpose is defined, although follow-up on the substance and use of such knowledge in a Vietnamese context is often limited.

*National technical assistance*

National technical assistance has been utilized quite extensively. The project has made possible the mobilisation of professional national TA for analysis, planning and development of training materials. This TA would probably otherwise not have been available to the project or even to the Ministry. The use of national TA many of which many are government staff or employed by participating institutions was described in the mid-term review and has given rise to concern on the part of donors. The use of national and international TA appears to be done in an open and transparent way. A list of consultants is appended to the annual reports.

## 6. CONCLUSIONS AND RECOMMENDATIONS

### 6.1 Project conclusion

The team notes that the project appears to have run its course, and that none of the main partners in the project appear prepared to see a subsequent phase of the project in its present form and content. The team **recommends** that the project be closed as planned with a possible period of phasing out of on-going sub-components.

### 6.2 Project management

The team does not make specific recommendations on the management and implementation of the project, given that it is due to end in a few months.

### 6.3 Project funding

It is not evident that the LSDF is a suitable option for supporting “emerging needs” within public institutions. This funding mode is a time-honoured approach, especially targeted for civil society, where there is no central authority or suitable institutional framework. However, it is less suited as a funding mechanism placed within in a public institution, which is supposed to be in a position to plan for and implement activities in accordance with public policies and priorities. While recognizing the need for flexibility, the team finds that this can be achieved through existing project/programme modalities, in which annual work plans and regular review of plans will provide adequate margins for adapting to needs. The team also wishes to point out, that complete flexibility in project planning is tantamount to having no planning or priorities worthy of donor support.

It is **recommended** that in future projects with government partners, the use of funding facilities is downplayed or removed, and replaced with rolling annual plans overseen by a governance body composed according to the circumstances of the project.

### 6.4 Project partnerships

It is **recommended** that the Legal Partnership Forum, is continued as a useful and quite indispensable forum for dialogue and exchange on legal and judicial reform. In the same way, it is recommended that the experience of basket funding and collaboration be maintained in future UNDP projects.

The Project has proven to be a useful vehicle for support and has brought several benefits to the participating donors including joint strategising, practical cooperation, exchange of information and pooling of resources. The Project has also provided a lesson on the need to maintain division of labour between the basket funders and to uphold the principle of a lead donor and interlocutor with the recipient government.

It is **recommended** that the UNDP continue to look towards basket-funding arrangements in future projects within the justice field.

### **6.5 Monitoring and evaluation**

The team finds that some work can usefully be done with regards to selected sub-components with regard to the quality, relevance and usefulness of the training materials and activities carried out. The follow-up study may serve to improve training and material and serve the wider interest and application of lessons to other projects.

The team is aware of the assessment of the training of legal consultants carried out by an international consultant and finds this to be a good basis for further developing the training course. The report is due to be completed by December 2008.

Depending on the results of the above survey, **it is suggested** that a technical assessment is done of one or two other training processes completed under the Project. The assessment may chose to follow-up on the training provided by MPS to approximately 3000 police officers on the implementation of the ordinance on administrative violations.

**It is suggested** that an assessment - possibly combined with pilot training - be made of one or more of the handbooks produced under the project, for example the handbook on legal drafting, due to be completed in November 2008, or the manual on review of legal normative documents, completed in June 2007.

### **6.6 Financial reporting and audits**

It has been difficult to obtain financial data from the project, and in spite of several requests, copies of financial reports or financial data for the project from 2007 and first 2 quarters of 2008 have not been provided. The team notes that the Annual Work Plan contain an activity for NEX auditing in 2008 and suggest that the audit of the RRF for 2007-2008 be carried as soon as the accounts for 2008 can be closed

## **7. ASSESSMENT OF THE DEVELOPMENT CONTEXT**

### **7.1 Legal consistency**

There is an increasing recognition at policy level (including LSIDS itself) that the large numbers of formal legal documents and implementing regulations constitute a problem in itself and causes unnecessary complexity and lack of transparency in the legal system. These issues were vividly illustrated at a conference on legal consistency organised by the Project in August 2006.

The main challenge to legal consistency remains the law-making system itself and the foundations of the rule-based state. The laws themselves are weak, and although law drafting has improved, laws are seldomly implementable on their own, and what is more, the laws are not *seen* to be implementable without extensive sub-regulations. At present there is a large number of adopted laws, some figures put it as high as 150, that have been adopted by the National Assembly, but which are not effective due to lack of regulations. This means, in effect, that the ability of the NA, the lawmaker, to direct and determine the course of legal development in the country is quite modest. In effect, legislative power is less with the National Assembly than it is with the ministries and their departments.

Legal consistency is reported to be improving, and government initiatives and donor support bear witness to this fact. The Party and government has made efforts to reduce the number of conflicting legal normative documents (itself a hybrid English term of Vietnamese origin) and to increase the authority of higher-level laws. Similar, there are wide-ranging discussion within the Party and state institution on what approach to take to legal interpretation, what roles the courts might be given, and how to determine what are citizen's rights and by what means such rights can be protected.

### **7.2 Challenges to improving legal consistency**

Despite the technical improvements made, there are, nevertheless, a number of systemic obstacles to achieving consistency of the legal system.

The country has chosen to rule itself not by law, but by regulations, decrees and ministerial decisions under the competence of ministries and other public institutions. This has several implications:

- The laws are mostly general in nature, and thus provide inadequate guidance to and restraints on the rule-making at the lower levels of the legal system;
- There are insufficient separation of functions and competencies by the ministries, even while efforts are made to redefine and realign the competencies of ministries;
- There is insufficient delegation of authority to the line-ministries to develop their rule-making;

- Many legislative and reform initiatives are held up due to political control mechanisms, sometimes themselves an expression of indecision as to which direction to take.
- There are insufficient feed-back channels of communication from society and the users of laws back to the state apparatus. Once conflicts become apparent, there are insufficient means of resolving them; firstly, because it is a bureaucratic process involving ministerial departments, peoples councils and peoples committees; secondly, because lower level organs of state power have insufficient authority to resolve conflicts, and thirdly, because the courts do not have authority to solve issues involving conflict of rules, in effect involving an act of legal interpretation.
- There is unclear and insufficient authority to interpret legislation at the point of dispute, i.e. in actual administrative or court cases. Guidelines from the SPC on the application of laws are helpful, albeit insufficient. Nevertheless, these guidelines reinforce the notion, that interpretation and solutions of legal problems must be delegated from a higher authority.

### **7.3 Legislative developments**

Efforts have been made in order to clarify the cumbersome steps in drafting and promulgating laws, involving at least 27 steps, with consensus building across the line-ministries and agencies. The recent revision of the Law on Laws – supported in some measure by the Project – was a step towards improving the legislative process, however, it appears that strong interests in the executive branch prevented any significant shift of legislative power to the National Assembly.

In addition to organizational re-arrangement and adjustment of the political mandates of juridical authorities (the relationships between MOJ, SPP, SPC, NA-Committee for Judicial Affairs, etc), the education and training for judicial personnel is a further focus. The shortage of qualified judicial staff resource appears to be an urgent issue.

Improvements in the legal basis for the business environment in Vietnam has focused on licensing reform, in improving administrative procedures, in enhancing capable dispute settlement channels for business, and supporting contract enforcement. Further legal reform may be expected to support the continued economic growth and to ensure the country's interest in the process of international economic integration.

The law-making process has been intensified, and the participation of broader public in the policy and law making has been improved to some extent. The Judiciary Reform Strategy is an important policy paper, providing direction for more policy debate to reforming key judiciary institutions like the courts, the public prosecutor, and the justice supporting service, like notaries and lawyers.

Transparency of the law has been improved, not only in the regard of publication in

Legal Gazette, but also in publishing certain decisions of the Supreme Peoples Court, in improving administrative procedures and the public participation in supervision of law enforcement to some extent. There are indications that the growing number of practicing lawyers is beginning to have a transformative effect on the conduct of court cases and the use of legal reasoning.

#### **7.4 Legal Sector Development Strategy**

The resolutions 48 and 49 are sweeping statements of intents and vision – and therefore remarkable in their own right. However, it is not clear to what extent the strategy actually denotes a unity of purpose and interest between the participating state institutions and the Party. In places, the resolutions are opaque and generalised, no doubt in some part due to the need to seek compromise on formulation. Many power-interests within the Party and state are working at cross-purposes, including also political disagreements on the scope and direction of legal development, which slow the process or redirects it.

The wide scope of the resolutions is matched by the glacial pace of implementation and transformation. This would seem to reflect the underlying disagreements on the strategy and objectives. The insistence on centralised control and direction of the reforms in Vietnam makes it difficult to resolve such disagreements based on consensus decisions. As a result, important decisions for advancing the reform process are left pending, which often results in uncertainty within the institutions involved, while they await renewed instructions as to what priorities to pursue.

#### **7.5 Relation to the JRS**

The difference in the management of the JRS and the LSDS indicate a difference in the political importance attached to them, and hence the extent of control exercised over them. The JRS encompasses the key institutions in the exercises of (non-military) state power in Vietnam, and as such is under the direct control of the Party and the Judicial Reform Steering Committee. Meanwhile, the LSDS, which is essentially a law-reform programme, did not have a dedicated steering committee for several years, and is now put in the hands of the NA Standing Committee. However, this body has numerous other functions and is therefore not able to provide direction and coordination in the same way as the JRS Steering Committee

The separation of the two strategies is unfortunate all the while that legal and judicial reforms, law-making and institutions, are closely linked. The separation of the two strategies, with separate steering mechanism makes communication and coordination more difficult, and is likely to hamper decision-making and reporting. However, there does not seem to be any inclination within the government and Party to join the management of the two strategies. The prevailing views seems to remain that institutional reform in the JRS are “sensitive” issues of state power requiring tight Party control, while legal reform in the LSDS can be delegated to a wider circle of public stakeholders.



Efforts within the Project to bring together issues affecting both strategies, e.g. the reform of the criminal and civil procedure code with the two concerned institutions, SPC and SPP, have not succeeded. This would indicate that any attempt to join specific elements of the two strategies needs to await a suitable opportunity, where everyone has agreed on the issue at hand and has decided to promote it.

### **7.6 The justice sector**

Notably during the period of implementing the Project, the awareness of importance of the supporting justice institutions has been raised. The Project contributed some parts toward the so-called “socialization” of some justice service sectors, such as notaries. Debate on reform of execution of courts decision, and a tentative movement towards quasi-private enforcement of court decisions is on-going.

The formation of VN Confederation of Lawyers (National Bar Association) promises to be an impetus to the professionalism of practicing lawyers. However, a lot of uncertainty still remains, particularly as regards the political mandate of the Confederation, the relationship between the Confederation and MOJ and between the Confederation and the provincial bar associations, etc.

In the business community the number of in-house lawyers also increasing, particularly in large and medium-sized enterprises. Efforts are made to provide legal framework for legal consultancies and for legal support to business through.

At commune or district level, however, the role of lawyers is extremely limited. Instead of lawyers, people will have recourse to local police, local conciliators, local clerks working in commune or district law department under the People’s Committee. The Project has some targets in training this personnel sector, contributing teaching material and delivering training courses for them.

In regard of law education and training, during the time period implementing the Project, the Judiciary Academy has extended their political mandate to train personnel also for the people Procuray. The number of law schools increase from 03 to nearby 30, the number of law graduated increase to several thousands annually (estimated 14.000 regularly and large number of in-job training law students – evening classes).

### **7.7 Mass organizations**

Mass organizations are encouraged to participate in discussion on draft law, in providing legal aid and consultancies for their members. During the life-span of the project, technical assistance is made to enable policy debates on the role of these existing organizations into the law making process, and in reviewing of public policy. Some research on this topic is contributed by the Institute of Legal Research, MoJ. Vietnam Lawyer’s Association (VLA) participated in a sub-component to support the VLA in drafting the important Law on Referendum, the Law on Association./

### **7.8 Society and civil society**

Despite the policy debate on the Draft Law on Association, and some research is made in regard of so-called “social review” assignments devoted to the Fatherland Fronts and their members (conducted by the Legal Research Institute of the MoJ), little progress has been achieved during the Project period in regard to civil society.

Remarkable is a tendency to convert the existing mass organizations into quasi-“NGOs”, in the sense that they have to be financially independent. State budget allocation to mass organizations is reduced and will possibly end for almost of mass organization by 2010, except the six important member of the Fatherland Front.

### **7.9 Sector policies and approach**

It is problematic to talk of a justice sector and sectoral policies in Vietnam all the time that the party and government do not, at least outwardly, manage and strategise on the concept of a justice sector. Obstacles include:

- The separation (conceptually and institutionally) of the legal development and judicial development strategies;
- The absence of common steering and management body for the sector;
- The absence of detailed budgeting and financial framework for the sector.?’
- The reluctance of the of the JRSC to collaborate directly with the donor community;

The project is to be complemented for trying to introduce a cross-institutional approach, even though this assessment finds, that this has been only moderately successful in practice. While it is believed that the Project has contributed to some degree towards a certain mindset - that legal reform is critically also about institutions, mandates and resources - the project has not succeed in establishing cross-cutting cooperation and coordination on legal development issues.

The project is divided into sub-components embedded into the existing institutions, which still operate under the doctrine of socialist law and legality inherited from Soviet theory. Additionally, where horizontal cooperation among the line-ministries and agencies is difficult under the hierarchical State apparatus, a functional legal sector cannot easily develop.

Considered this way, the Project has created a legal forum and inter-agencies dialog to legal reform. This achievement, however seem not to be sustainable at the current stage of legal development in Vietnam. Examples for contradiction and self-conflicting policies in legal sector can be seen, for example in the following:

- At the Party level, the incorporation of the Internal Affairs Committee into the Office of the Party alerts some change in priorities settings. A strong Party

Committee to direct and coordinate cross-cutting legal policy, including the police, investigators, SPP, courts, etc, is no more in existence. Alternative institution to coordinate legal sector needs to be develop.

- SPP tend to be seek any chance to regain their broader political mandate, not just as the public prosecutor, but also to supervise judicial activities, participate in civil and commercial cases and to oversee the legality of legal documents issued by other branches of government.
- Also in the courts, there are as yet no sign of introducing the new court organization (first instance district court, regional court of appellation, etc.), which has been under debate for several years.
- There are no notable qualitative achievements in training of lawyers, for example to cope with increasing international trade and investment. The number of law education institutions increased to 30, but curricula, teaching service, quality of education need to be improved.

#### **7.10 Funding needs of legal- and judicial reform**

State capacity to fund legal and judicial reform is unknown. Little useful information is publicly available and the state budget. Nevertheless, there is little doubt that the state organs dispose of far greater resources than they did 10 years ago. Any funding “needs” for the justice institutions tend to be based on a set of stated priorities (including those in the two resolutions 48 and 49) and hence are very elastic.

It is doubtful if it is advisable for international donors to do a budgeting exercise of the two strategies: 1) they are general strategies and as the analysis of this paper suggests, face great difficulties in achieving coherence and ownership at the lower level. Budgeting might come up with distorted or inflated figures. However, this should not detract from efforts to achieve greater transparency and publicly available figures for the justice budgets, which would permit sectoral analysis and targeting of assistance at a quite different level of certainty.

## **8. POSSIBLE AREAS OF FUTURE INTERVENTION**

### **8.1 Retrospect**

After 20 years of legal and judicial reform in Vietnam, very significant achievements have been attained in a great many areas. A wide array of reforms of legislation and institutional mandates have been undertaken supported by a growth of international exchange, legal experience and literature. The direction and outcomes of legal and judicial reform in Vietnam continue to be formulated at a high policy level, and institutions are under obligations to develop action plans for continued reforms.

Nevertheless, the legal and judicial reform process can hardly be seen as a process based on detailed agreement and unity of purpose among the participating government institutions. Moreover, centralized political control of the process is seen to produce intermittent changes of policies, priorities and to cause delays and hesitation in the activities of the justice institutions.

In retrospect, the beginning of the UNDP project marked a high point of enthusiasm for legal reform with the successful conclusion of the Legal Needs Assessment and the widely held belief that quick and decisive reform was imminent. The close of the UNDP project marks, if not the end of a period, then the approaching of a time for reconsidering donor support to legal and judicial reform and self-interrogation as to their objectives and means of supporting continued reform.

A number of large projects / programmes on legal and judicial reform are coming to an end in 2008/09 (UNDP, Danida, EU) and several reports <sup>1</sup> on assessment of current and future assistance will become available by the end of the year which could provide the basis for some stock-taking on the direction and strategic underpinnings of future donor support. The existence of the Legal Partnership Forum supported by the UNDP and the donor coordination group provide good fora for this debate.

The team has considered possible areas of future support to legal and judicial reforms in Vietnam and has received a number of proposals in this regard from the Vietnamese partners. The team has chosen to present these proposals and its own contributions in two ways; First, as a set of scenarios, and second, as a number of thematic areas for

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<sup>1</sup> These reports include:

- 1) Report by Mark Sidel – “Mapping of International Aid to the Legal/Judicial Area, draft of this report was circulated on 25 August 2008.
- 2) Report by Fabienne Runyo under preparation for the EU on options for support to governance including legal and judicial reform, the first draft is expected to be circulated end of September 2008.
- 3) Danida will shortly begin to identify and formulate areas of support in the field of legal and judicial reform. This process is expected to begin in October and last for 4-6 months.
- 4) The present report may also contribute to the discussions between donors and Vietnamese government partners

possible support. It is hoped that this form of presentation can go some way in addressing the perceived need, at least among donors, to reflect on past experience, and to consider this experience in the context of national legal development

It should be noted that the proposals below need to be analysed and placed into the relevant legal development context in order to assess their relevance, feasibility and suitability as objective of support. Such an analysis lies outside the scope of this report and should be performed as part of detailed identification and formulation.

## **8.2 Scenarios for future support to legal and judicial reform**

The scenarios present a number of general options for support each with different sets of possible activities. The choice of scenario roughly corresponds to which view one chooses to take of the legal development process, fully acknowledging that this picture is complex and that no single point of view adequately describes the situation.

*Scenario 1: Renewed legal reform programmes aiming towards sector support;*

*Scenario 2: Emphasis on policy dialogue with selected support activities;*

*Scenario 3: Promoting a “marketplace of ideas” through diversity of knowledge.*

### **8.2.1 Scenario 1: Renewed legal reform programmes aiming towards sector support**

This scenario involves the continued reliance upon government strategies, notably the LSDS and JRS, to guide the composition of programmes and choice of interventions. As such, it assumes that there is a cohesive strategy and doable plans of implementation that will ensure the stated objectives.

In this scenario, donors are expected to attempt to align their support to the strategy documents in existence. However, the continued general nature of the strategies, the apparent lack of interest of the Vietnamese government to engage in substantive discussions, the persistent lack of information (partly a language barrier, partly reflexive distrust of foreigners, partly asking the wrong questions) and the Byzantine and opaque ways of decision-making within the Government and Party bureaucracy, has led man donors to a sense of futility, even in the face of visible changes over time.

In a similar vein, several programmes have faced significant shortages in implementation capacity among the participating institutions – the reasons remaining elusive and difficult to grasp. Several programmes/projects have consistently faced a situation with too much funding with too little results, and resulting rush to use funding for whatever activity is at hand with scant regard to sustainability and relation to the needs and priorities of the institutions, leaving many with a sense that programme activities are disconnected from the main reform process.

Sector support, while a mainstay of most donor policies – has so far proven elusive in Vietnam, given government reluctance and difficulties in horizontal cooperation between justice institutions, arising from the existing structure relations between state institutions with dual or triple supervisory functions, serving the purpose of political control rather than the promotion of effective service delivery.

Working with the Party remains an option in the eyes of some donors, based loosely on the premise that the state apparatus and large parts of the local government remains under Party control, and hence the Party would also be the logical institutions with which to collaborate on further reforms. The experience of Sweden in engaging in dialogue with the CIAC on the JRS and the attempt to formulate a project of support, which was later abandoned, may be instructive in this regard.

#### **Options for support – scenario 1:**

- Continue to promote transparency and public access to state budgets and financing of the justice institutions, possibly as a prerequisite for basket funding arrangement and continued support to LSDS / JRS;
- Continue to work in an effort to promote horizontal collaboration on issues, which clearly require that form of cooperation – e.g. legal codification and consistency, criminal and civil procedure;
- Continue promoting sector thinking and planning – focus on select areas of cooperation contained within the Directive 900;
- Continue dialogue on judicial reform and sharing action plans in coordination fora;
- Continue to seek dialogue with JRSC;
- Support revision of LSDS due in 2009/10.

#### **8.2.2 Scenario 2: Emphasis on policy dialogue with selected support activities**

This scenario assumes that the principal aim of donor assistance is to maintain dialogue and exchange of opinion and information with the Vietnamese government and Party counterparts. In order to sustain this dialogue, donors will be required to support selected, “strategic” activities on which this dialogue can build. Dialogue, in this context, is seen as one of the main underpinnings of state-to-state relations and for maintaining the political and international dimension of cooperation. Dialogue on legal and judicial reform is based precisely on the leverage in addressing international integration as the primary objective and necessity of the Vietnamese government policy.

Policy dialogue has so far met with a less than enthusiastic response by Vietnamese counterparts. There may be many reasons, none of which have been looked into closely. One reason may be that these forums have been formal and “diplomatic” in their set-up and choice of the themes, and hence have generally not fostered

substantive debate and work.

International donors have sought to engage the government and Party in dialogue through the establishment of forums, strategic discussion and analysis (notably the UNDP legal partnership forum and a host of seminars on topics within the legal and judicial field). Dialogue has tended to focus on aspects of legal development rather than on judicial reform and policy. An attempt to establish a dialogue with the JRSC earlier this year met with limited success, and donors were referred to discussion with MoJ. The EU-sponsored Human Rights dialogue continues on a bi-annual basis.

One problem in engaging in and maintaining dialogues has been, and continues to be, having detailed knowledge of and understanding of the issues that are topical to and of interest to the Vietnamese Government side, and secondly, to have sufficient information in order to sustain this dialogue. Another problem has been to find an adequate format for the dialogue, not least a style of interaction that is conducive to a substantive and professional debate.

This problem is compounded by the lack of in-house capacity among donors on legal and judicial reform (including human rights), on knowledge of Vietnamese debates and issues, on knowledge of the Vietnamese legal and judicial systems and generally meagre networks within the juridical field. A result is that dialogue often run parallel course along pre-defined conceptual lines – a “Western” point of view that has difficulties in relating to a Vietnamese and largely (post-) Soviet legal mindset and institutional structure.

### **Options for support – scenario 2**

Support to reforms under this scenario could be included in programmatic support, but might also be combined with or consist of more project-mode related support, in which interventions are selectively supported for their strategic, practical value or otherwise to support themes of on-going dialogue.

It is to be noted that the feeling among international legal practitioners generally favours limited and often discrete areas of support, in which work is carried in depth (with a high degree of specialisation) in order to achieve measurable results, sometimes as a demonstration of how things might be improved or reformed. This approach is relatively heavy in technical assistance; it is project oriented and therefore tends to involve greater administration and transaction costs.

It will remain a task for donors and partners to find common areas for dialogue and continue to promote agendas on both specific discussion at a professional and technical level, as well to find a better mix of technical assistance and political debate. For donors it remains a challenge to increase their technical capacity and policy knowledge.

Examples of intervention areas linked to policy dialogues are:

*Legal consistency*

Continue efforts to promote consistency of legal framework, including the technical means for collecting the laws, analysis and promotion of institutional changes that enables further consistency of legal normative documents. This effort risks being undermined by the reluctance or outright resistance at local government level to observe and enforce legislation and regulations that run counter to their interests or diminish their discretionary powers.

*New MoJ mandate*

Support to the new mandate of the MoJ in Decree No. 93 of 22 August 2008 on supervision of the implementation of laws (arising out of the LSDS). The MoJ has yet to develop its own ideas and approach on how to undertake this mandate, but welcomes it as an opportunity to build the influence of the Ministry. Donor support in this area would further strengthen the relative influence of the MoJ in this area vis-à-vis other institutions, e.g. the National Assembly.

*Drafting of laws and regulations*

Support to formulation of laws and so-called legal normative documents: experience in this field is varied and generally has not lead to any discernible impact on the conceptual and regulatory content, except possibly for JICA support to formulation of procedural codes. It is proposed that support in this area is focused more on developing general methodology and cost-effective, sustainable ways of supporting drafting work. There are proposals to continue work on revising the Law on Laws, which continue to leave unaddressed many issues, e.g. on the relation between general and sectoral laws and in general there are calls for continued improvement of the quality of law drafting

*Regulatory impact assessments*

Another area of possible technical support is regulatory impact assessments (RIA), work on which has begun under the present UNDP project. Technical assistance to further develop concepts and methodology and also to conduct specific RIAs could be undertaken. However, some caution may be in order, since RIAs and the techniques for doing them assume the presence of a legal environment and institutions for enforcement, which does not exist in Vietnam. Hence, extensive adaptations of methodology and techniques are likely to be required.

*International treaties and agreements*

Another area is the on-going review of Vietnamese legislation and legal obligations in light of international treaties and legally binding agreements, a task that is growing with the continued integration of Vietnam into international organisations and cooperation. These obligations encompass a wide range of issues ranging from trade, law, environment, labour, human rights, etc. The initial review remains the



responsibility of the MoFA with supervisory functions assigned to the MoJ and the NA.

#### *Training methodology*

Continued donor financing of training of officials at national and local level is costly, unsustainable and sometimes of dubious value. A task would be to develop training methodologies and to work with institutions to devise cost-effective and sustainable way of delivering training and legal dissemination, which can be contained within institutional budgets and resources.

#### *Information and data*

Technical assistance in specialised areas, e.g. in registries and databases, data-gathering, criminal statistics, judicial publications, publication of judgements and regulations, and legal dissemination.

#### *“Access to justice”*

Other areas focus on legal aid, legal consultancies by mass organizations, promoting knowledge of and upholding of citizens rights and to promote their ability to use the law proactively in defence of their particular interests as economic and social agents.

An area of support, to which the Project has already made a small contribution is assistance to legal consultancies under the mass organisations in the Fatherland Front. Currently governed by Decree no. 77, the establishment of legal consultancies is voluntary and intended to take place with the resources available within the organisations. Conditions in the mass organisations differ, with VLA and Women’s Unions being among the better resourced, while others, e.g. the farmers and youth union are in a more difficult position. The number of legal consultancies is not quite clear, but according to sources in the MoJ they number around 14-15 at present, which must be seen as a very moderate, not least in relation to the assumed demand for such services, and might also indicate a lack of popular demand, in which case donor support in this area runs the risk of being misdirected.

### **8.2.3 Scenario 3: Promoting a “marketplace of ideas” through diversity of knowledge.**

This scenario is based on the assumption that support to legal and judicial reforms from a donor perspective has brought limited success and that the political and institutional environment in Vietnam is largely unresponsive to the efforts of international donors to promote what in its broadest sense are elements of a social-liberal system of governance (based on notions of democratic accountability, rule-of-law and judicial independence, to name a few). A range of the reforms supported by donors are based on objectives and stated outcomes that belong to legal and political traditions that are very different from the “post-communist” or authoritarian one-party rule existing in Vietnam today. In the encounter between these two philosophies (which are in fact a bewildering multitude of outlooks and institutional politics) the

concepts and outcomes promoted by donors gets filtered into a “separate” reality of Vietnamese politics and power politics. The result is most often a distinct sense by donors that their projects / programmes have limited success and are not attaining their objectives, most often expressed in protracted disagreements on processes, shifts in policy and delays in “agreed” activities. Another way of viewing this phenomenon is that there is a perceived mismatch between the programme contents and the results, which appear unpredictable and not what was hoped for.

In the face of the many perceived difficulties in promoting the ideas and values to which the international community are committed, the question needs to be posed what are other possible ways of promoting intellectual interaction and generating social capital within the limits and accepted conduits of development assistance.

Under this scenario donors (or a group of donors) choose to reduce or step down from direct assistance to government counterparts and instead emphasise support to develop the capacity and facilities for high-level analysis, education and discourse.

Increased attention will be placed on establishing cooperation between institutions that are not directly political or linked to implementation of government policy, especially within higher education, research, independent social and policy-analysis, exchange student programmes, and thematic studies. As regards specific thematic areas in the legal field, there is ample scope for supporting the development of law commentary, commentaries on judgements, teaching and discussion of legal theory and doctrine, international research exchange programmes, scholarships, etc.

*The “marketplace for ideas” and international integration through knowledge*

The present proposal, although only the briefest of outlines, calls for collaboration with existing educational and research establishments, but notably not for any programme to be hosted by any of these institutions. Rather, to achieve high professional and academic standards with the requisite prestige to attract foreign and Vietnamese students and researchers, the institution should be international in management and programming.

One might conceive of the institution as “UN Faculty”<sup>2</sup>. International donors and multilateral agencies have significant intellectual and knowledge resources, e.g. UN “native” resources on international law, treaty law, human rights, intellectual property rights, development studies and a host of other specialities, which could be tapped supposedly with greater facility under the One-UN paradigm. The EU likewise has established student- and educational programmes with links to a large number of European higher education institutions and research facilities. In this way, the “Faculty” might provide degrees from foreign universities, supported by the very high valuation accorded to foreign education in Vietnam. The WB Institute is a leading

<sup>2</sup> While this report directed primarily at options that can be promoted within the UN-system, it should be borne in mind that such a faculty is conceivable also as a wider cooperation with other multi-lateral donors, notably the EU, and with support from bi-lateral agencies.

agency for dissemination of development studies and development economics and could conceivably be called upon to arrange learning and study events. The sorry state of access to diverse sources of quality scientific literature in Vietnam is well known to anyone who has entered a university in the country. A “UN/EU Faculty” could provide a hugely valuable service by having library facilities, reading rooms, access to databases and on-line research facilities. US educational resources are world-class, of course, and visiting scholars, professors and academics from the US legal communities could add significantly to the attraction and quality of the “Faculty”. The “Faculty” could serve as a clearing house for ideas and studies, building both national and international capacity and networks, and act as a forum for exchange of ideas, analysis, data and research and publications.

To be sure, efforts within legal training are not new and there are several long-established activities of this kind, notably the *Maison du Droit* at the Law University in Hanoi and Swedish has for a decade supported short-term exchange visits, symposia and debates at the universities including twinning arrangement between Vietnamese and Swedish law faculties. Other international partners are collaborating with the Judicial Academy under the MoJ. Reviews of these projects will show mixed results and inconclusive lessons as to what has been most productive in terms of modernising and diversifying teaching of law.

The present report acknowledges that a “UN-faculty” as sketched above does not conform to established guidelines and modalities for aid delivery, most notably criteria of alignment to national strategies and government implementation of programmes, or for moving towards various forms of budget support. Neither are there any certainties that this faculty, if put into practice, would be an acceptable project in the view of the Vietnamese Government.

#### *Civil Society support*

The international community will wish to continue to explore possibilities of promoting civil society organisations and various forms of community-based activities. It is hardly merits repetition here that donors are ill-placed to support informal or nascent civil society organisations, in part due to their lack on any real knowledge and access to such organisations, in part because of the restrictive environment existing in Vietnam, which precludes almost all collaboration outside sanctioned government channels. There are other difficulties too: Outside money continuously risks perverting and distorting fragile organisations if trustees in the society do not carefully and judiciously administer such funds. Conditions at present are hardly allow such support. Such organisations as there are may be supported, but this will require small, fairly decentralised project units with considerable human resources to facilitate contact and to keep a close watch on developments.

As a minimum, donors can continue to pressure for specific improvements to e.g. the law on Associations and accompanying regulations, and to look for more innovative

way of supporting community-based activities, e.g. within environmental protection, gender equality, gender budgeting and similar civic issues. Other laws of relevance are Law on Access to Information, and activities to increase government transparency.

### *Citizens' Rights*

At present there is a wider discourse within Vietnamese official circles on ways to codify the rights of the citizens – the extent of this discussion would seem to include a number of key laws, and also includes either a revision of the Constitution or as a minimum ways of protecting those rights that are already included in the existing constitution. There does not yet appear to be any consensus within the Party and the NA on how such “constitutional protection” is to be handled. There is certainly scope for further analysis and putting protection of citizens’ rights into context in terms of legal basis, institutions, objectives, etc.

## **8.3 Other issues in relation to future support**

### **Geographic locations**

On a general note, the donors may wish to reconsider the geographic focus and distribution of their assistance. In general, there is too great focus on activities centered in the North and the political environment generated in the capital but with too little knowledge of and cooperation with legal and judicial partners in the Central and Southern part of the country. It is true that several programmes including such activities as local government, agriculture, health and others operate throughout the country, however, within legal and judicial reform nearly all offices and activities are placed in the capital. What decentralised activities there are, often take place through the Hanoi-based government institutions. There are good reasons for this, of course. Nevertheless, programmes and projects may usefully think consistently in terms of partnering with institutions on a nation-wide basis and setting up corresponding satellite offices in other locations.



## (ANNEX 1)

### TERMS OF REFERENCE FOR EVALUATION

## 1. Background

This evaluation is considered as a part of a formulation process towards a support programme on the implementation of the Legal System Development Strategy (LSDS) and Judicial Reform Strategy (JRS) in Vietnam. Follow-ups of this review will be:

1. Discussion between the Government and donors on the direction of future assistance; and
2. Formulation of the new project/programme on assistance to Vietnam legal and judicial reform.

### A. Development context

From 1992 to date, most legal/judicial sector projects assisted by the international community have focused on assisting the law-oriented state agencies to increase the quality of the "supply" of law. That is, improvements were desired in the quality of legal normative documents ("LNDs"), the capacity of legal institutions, and the availability of LNDs. Another major focus was to encourage wider recognition of the importance of law by the highest authorities. This focus, closely connected to the Public Administrative Reform (PAR) initiatives, has produced significant gains, and projects that continue to assist the state agencies, such as capacity building in the various law-related agencies, continue to be necessary and desirable. However, there now may be a greater need to focus more on the "demand" for law, including access to justice issues and encouraging broader use of the law by citizens, as well as more active participation by civil society and other stakeholders in lawmaking processes, facilitated by greater transparency and accountability of state agencies.

The recent adoption of a Country Programme Action Plan in Viet Nam by the Government and 14 United Nations agencies, known as "One Plan" continues to emphasize the importance of achieving the Rule of Law. Outcome 4 of One Plan is "the principle of accountability, transparency, participation and rule of law integrated into Viet Nam's representative, administrative, judicial and legal systems." The Outputs and Expected Results expressly provided for under Outcome 4 make it clear that the partnership between the Government and the UN agencies is intended to build upon the network of interconnected initiatives in PAR, Anti-Corruption efforts, legal/judicial development and Governance generally.

### B. Donor support to the legal and judicial sector

Several donors have been active in the legal and judicial sector, and any donor-assisted Project should not be looked at in isolation from the activities of other donors. One of the key requirements of any future assistance is to assure coordination and integration of the assistance into the priorities established by Politburo Resolution No. 48 (Legal System Development Strategy), Politburo Resolution No. 49 (Judicial Reform Strategy), and Directive 900, and the individual plans of the law-related agencies that are being made to implement

these high-level strategies and directives.

A non exclusive summary of donor assistance is as follows:

- The EC supports the Office of the National Assembly (ONA), the Supreme People's Court (SPC), the Supreme Peoples Procuracy (SPC) and the Ministry of Justice (MOJ).
- Through the JUDGE project (2007-2012) CIDA supports SPC, MOJ and civil society organisations working in the field of access to justice. CIDA furthermore supports a Legal Reform Assistance Project (2000-2008) and is presently in the process of formulating a new project to support the law-making legislative process.
- JICA activities have included support to preparation of laws, training of judges, and support to the MOJ, SPC and SPP.
- The American-funded STAR project supports a number of lawmaking initiatives undertaken by MOJ and other agencies as well as the publication of cassation decisions the Justice Council of the SPC.
- Sweden and Denmark have been active in the support to legal/judicial reform. The Danish and Swedish funded programme in phase III is divided into 4 components, which are managed as separate "projects". JOPSO the office of the programme has been established for providing advice and technical support to the components.

### **C. General introduction of the present Project**

The Project Document for Project VIE/02/015 "Support for Implementation of Vietnam's Legal System Development Strategy to 2010" between the Government of Vietnam and UNDP - Sweden - Denmark - Norway - Ireland, was signed in September, 2003. The Project has followed on the successful Legal Needs Assessment (LNA) conducted by the Vietnamese government with the support of the international community during 1999-2001. The three major outcome targets of the Project were:

- i. A finalized draft of a Legal System Development Strategy (LSDS) for approval by the competent State authorities;
- ii. Coordinated management of the implementation of the LSDS; and
- iii. Implementation of a number of high priority components through a "Legal System Development Facility" (the Facility) that would offer a coordinated means of continued support to the LSDS.

The project is being implemented with the Ministry of Justice as the Executing Agency in line with the National Execution (NEX) modality. The Project Management Unit ("PMU") at the MOJ has been the central coordinator of activities of a number of Project subcomponents at the central and local levels. The "multi-agency" nature of the Project was considered appropriate in order to retain the broad-based nature of the former LNA.

The Implementing Agencies are Vietnam's relevant legal agencies also called the project subcomponents including local departments of justice in several provinces, and other law-related ministries and agencies such as: SPC, SPP, ONA, and the Ministry of Public Security (MPS).

UNDP and all cost sharing donors contribute \$4,900,000 to the LSDS project; the Government provides a contribution of \$500,000 (of which \$400,000 is in-kind).

#### ***State of implementation***

While the issuance of the LSDS was delayed until 2005, the Project assisted the development

of that strategy, which emerged in the form of three major documents: (1) Resolution No. 48; (2) Resolution No. 49; and (3) Directive 900 issued as a general action plan in 2006 by the Standing Committee of the National Assembly. These three documents contain much of the substance of the ideas and activities suggested in the original LNA report, and are evidence of the direction of key legal/judicial reforms now being taken by Vietnam's highest authorities.

An independent mid term review of the Project was conducted in June 2006, and recommended extension and the establishing of a general work plan for the remainder of the Project.

In mid- 2007, an independent consultant was engaged to identify strategic priorities and outputs for the Project's implementation. A Results and Resources Framework for the duration of July 2007 to December 2008 was established and endorsed by all relevant parties following the narrative report of the international consultant. All the parties have agreed to extend the project operation to 31 December 2008 (one year later than the initial schedule

### ***Challenges to the Project***

- i. The success in achieving the first target outcome has had the effect of putting interest in law reform activities at a very high policy level. This has increased the visibility, number and intensity of law activities of the overall Strategies, but also created challenges to the project management on selecting key priorities out of the comprehensive Strategies to be supported within the LSDF;
- ii. There has been an increased need to communicate and coordinate activities between donors and the MOJ, chiefly arising from the difficulty of having one Ministry (the MOJ) deal with a number of other law-related agencies without the establishment of regular meeting of a high level Inter Agency Board, and the lack of coordination and potential overlap amongst donor supported projects on the field, while judicial reform activities are directed and coordinated by the Judicial Reform Steering Committee within the Communist Party of Viet Nam;
- iii. The issues of national project execution (NEX) through a single ministry, which has dealt with a number of other ministries and agencies has created managerial difficulties for the Project Management Unit (PMU), including developing a smooth process for other agencies to make use of the LSDF;
- iv. Changes in personnel at Government, Project and UNDP levels, including the departure of the former Project Advisor in April, 2006, with more than a year's lapse until the arrival of the second Project Advisor.

## **2. Objectives of the evaluation**

### **A. Overall Objective**

As the current Project draws to an end, the Evaluation seeks to provide both (i) post assessment of project accomplishments, strategic lessons learned; and (ii) forward-looking recommendations to the Government, UNDP and related donors on key areas of intervention and support modality that may be considered in follow-up activities.

### **B. Specific Objectives**

- To assess the relevance of the Project against legal and judicial reform priorities of Vietnam;
- To assess achievements, impacts and sustainability of the Project in the period 2003-2008 against the key target outcomes;

- To assess the relevance of project implementation arrangements and constrains;
- To draw general lessons learned for donor assistance to the legal and judicial sector reform (that have a bearing beyond the Project), and provide recommendations for greater aid effectiveness in future interventions through enhanced donor co-ordination and harmonization;
- Based on the above analysis the evaluation will draw specific conclusions and make recommendations and proposals for (i) any necessary further action by Government and/or UNDP and other donors to ensure sustainable development, and (ii) strategic approach and areas for future assistance on legal/judicial reform.

### 3. Expected products

The two-step product expected from this Evaluation Mission is:

- A. Step 1: A draft analytical report** presenting the findings, conclusions, and recommendations of the evaluation.

The draft report should be circulated to all stakeholders and include the following sections: n

The draft report shall be submitted by the evaluation team at least five days in advance of a stakeholder workshop for advance review by project parties.

**B. Step 2: A final report:**

The mission is expected to incorporate the comments and suggestions provided at the stakeholder workshop into the final version of the report, to be submitted within two weeks of the workshop.

All drafts and final reports with applicable annexes and attachments shall be submitted to UNDP and the MOJ in both hard copies as well as in electronic Microsoft Word format and shall be in both English and Vietnamese.

### 4. Proposed methodology

It is proposed that the Evaluation will be a participatory exercise considering the views and suggestions of a wide range of law related agencies and stakeholders within and outside the context of the Project. Stakeholders' ownership of the findings, recommendations, and follow up actions is seen as one of the key factors for ensuring commitment to act on the same.

The assessment of Project implementation for the period 2003-2008 will be based on the study of Project documents and other reports, such as work plans, assessments, correspondence, minutes of meetings, and data from other organizations. A list of suggested agencies and/or individuals to be interviewed would be developed by UNDP and the MOJ for the consideration of the mission.

It is proposed that the evaluation exercise will be carried out in six steps as follows:

- i. Documentation review (desk study) and preliminary consultations with UNDP and the MOJ;
- ii. Preparation of a detailed working programme for the mission;
- iii. Meetings/interviews and/or workshop with project stakeholders and concerned parties to the necessary extend;
- iv. Analysis of the information collected and preparation of first draft of the report;
- v. Debriefing, information validation, presenting the draft report at stakeholder meeting(s); and
- vi. Preparation of the final version of the evaluation report (before departure from



Vietnam).

## 5. **Composition and qualification of the evaluation team**

The evaluation team will be composed of one international consultant, one national specialist, and one national consultant cum interpreter:

- i. International Specialist - Team Leader - The international specialist shall have the overall responsibility for the completion and delivery of outputs under this TOR. S/he will supervise and lead the mission in all aspects of the work, and ensure that the final products take into account the suggestions and agreements of all team members.

The international specialist will work for a total of 22 working days including 12 days in Hanoi (with possible visit to provinces in Vietnam) and 10 days home-base.

The successful specialist must satisfy the following qualifications:

- Advanced university degree in law, public administration, political science, or related field;
  - A minimum of 10 years of relevant professional experience in governance reform, experience in the area of legal and judicial reform is highly desirable;
  - In-depth understanding of democratic governance issues in Asia and/or countries in transition. Previous work experience in Viet Nam is a distinct asset;
  - Knowledge of donor support work in developing countries is essential. Familiarity with UNDP policies and programming practices is desirable;
  - Having extensive experience of strategic programming of development assistance within the broad area of democratic governance;
  - In-depth knowledge of legal reform and legal development at national or sub-national levels, particularly in Vietnam;
  - Strong analytical, conceptual and facilitation skills;
  - Excellent team leadership and proven ability to work with diverse stakeholders in politically sensitive areas.
- ii. National Specialist on legal and judicial development and reform: S/he will ensure that country-specific conditions, institutions, processes, and decision-making and learning approaches are well understood and considered in the work conducted by the mission. S/he will review the mission's proposals and suggestions from the point of view of their feasibility and effectiveness. S/he will be guided by the team leader and work closely with the national consultant. The national specialist should also provide inputs to the mission members on the development and implementation of laws, legal/judicial institutions, and non-State actors in the legal and judicial system in Vietnam.

The international specialist will work for a total of 22 working days in Hanoi (with possible visit to provinces in Vietnam).

The successful national specialist must satisfy the following qualifications:

- Advanced university degree in law, public administration, political science, or related field;
  - A minimum of 5 years of relevant professional experience in governance reform, experience in the area of legal and judicial reform is highly desirable;
  - Extensive experience in institutional capacity building, and training and learning for legal and judicial officials;
  - In-depth knowledge of the legal and judicial system of Vietnam and donor assistance in the sector;
  - English proficiency is a must.
- iii. National consultant cum interpreter: S/he will ensure that country-specific conditions, institutions, processes, and decision-making and learning approaches are well understood and considered in the work conducted by the mission. S/he will review the mission's proposals and suggestions from the point of view of their feasibility and

effectiveness. S/he will be guided by the team leader and work closely with the national specialist. The national consultant cum interpreter should also provide substantive inputs to the mission members and responsible for interpretation during the mission as well as translation of the evaluation report into Vietnamese.

The international specialist will work for a total of 22 working days in Hanoi (with possible visit to provinces in Vietnam).

The successful national consultant must satisfy the following qualifications:

- Advanced university degree in law, public administration, political science, or related field;
- A minimum of 3 years of relevant professional experience in governance reform, experience in the area of legal and judicial reform is highly desirable;
- Good knowledge of the legal and judicial system of Vietnam and donor assistance in the sector;
- English proficiency is a must.

## **6. Timing**

The Mission is expected to take place from in the last week August 2008, and finish within September 2008. The tentative timeframe of the mission is followed:

- During the week of 25 August: Desk review before the mission in Vietnam;
- From 1-12 September: Fact finding mission in Vietnam;
- During the week of 22 September: Finalize the evaluation report and submit to UNDP.

## **7. Reporting**

The Evaluation Mission is fully responsible for its independent report which may not necessarily reflect the views of the Government, the UNDP or donors.

The report will be completed, to the extent possible, in the country and the findings and recommendations fully discussed with all concerned parties.

The team leader bears responsibility for finalization of the report, which will be submitted to UNDP within two weeks of mission completion. UNDP will submit the report to Government and the donors together with its comments.

## **8. Annexes**

ANNEX 1 – List of document to be reviewed by the Mission, including but not limited to

- Project Document
- Work plans for all relevant years
- Budgets for all relevant years
- All periodic progress reports
- Annual progress reports
- Financial reports
- Mid term review
- Consultants' reports
- Project printed-products
- Judicial Reform Strategy
- Legal Sector Development Strategy

- Directive 900 of the Standing Committee
- Relevant documents on other donors' programmes

ANNEX 2 – List of proposed agencies/individuals to meet/interview.

## **ANNEX II**

### **Working Schedule of Evaluation Mission**

Date	Activity	Time & Venue	Actors + participants
25-29 Aug	Preparation and Desk review	Home-base	The team with support from UNDP and the project
1 Sep	Initial team meeting 17:00-18:30	Hanoi	The team
3 Sep	Briefing with UNDP, donors and Executing Agency - MOJ	25 August – 26 September 2008	The team + Ms. Le Nam Huong
	MOJ- Meeting with Project Manager	09.00-11.30 MOJ office	Dr Nguyen Thanh Long, Deputy Director of Director of Int. Coop. Department, Ms. Do Hoang Oanh, Legal Specialist Ms. Nguyen Minh Phuong, Communications Specialist
	Briefing with UNDP	13.00-14.00 UNDP office Conference Room B	UNDP team: Mr Christophe Bahuat, Deputy Country Director, Mr Trinh Tien Dung, Head of Governance Cluster, Ms. Le Nam Huong, PO, Mr Nicholas Booth, Access to Justice Policy Advisor
	Donor briefing	14.00-16.00 UNDP office Conference Room B	Ms. Else Hustad, SIDA, Emterud Snofried, Embassy of Norway, IrishAid, representative Ms. Tove Degnbol, Danida UNDP team (Mr Christophe Bahuat, Deputy Country Director, Mr Trinh Tien Dung, Head of Governance Cluster, Ms. Le Nam Huong, PO, Mr Nicholas Booth, AtJ Advisor)
4 Sep	MOJ - PMU	Hanoi MOJ office	Project director Mr. Le Thanh Long and PMU members
	MOJ – Meeting with the Department for Criminal and Administrative Law	8:30– 10:30	Mrs. Nguyen Kim Thoa, Vice Director
	MOJ – Meeting with the Institute on Legal Research	10:30-11:30	Dr. Duong Thanh Mai, Director
	MOJ – Meeting with the Department for Judiciary support activities	14:00- 15:00	Ms. Nguyen Thi Mai,
5 Sep	SCJR/ former CIPAC members	10:00– 12:00 76 Phan Dinh Phung	Mr. Nguyen Dinh Dang Luc, Director of Dept for Judicial and Legal Reform, Central Party Office
	MPS: Meeting with the Legal Department, Ministry of Public Security	14:00-16:00 MOJ	Mr. Vu Huy Khanh, Legal Officer
	SPC: Meeting with Standing Deputy Chief Justice + Institute for Judicial Science + Int. Cooperation Department	14:00- 15:15 SPC office	Mr. Thu, Mr. Thanh Representative of the Institute –
	SPP – Meeting with Director of Institute for Prosecutoriol Science + Director of Int. Cooperation	15:30-16:30 SPP office	Mr. Nguyen Van The Mr. Nguyen Van Moc, Mr Le Tien
6+7 Sept	Weekend		
8 Sep	Meeting with IPs at province On conciliation support	Da Nang city	Nam Huong UNDP, Ms. Yen of MOJ, and Management Units at province incl. Ms Nguyet Thu, Director of DOJ, Ms Hong Deputy Director of Division of Justice at Thanh Khe Dist., Mr Vinh Legal Aid staff, Mr Vinh of An Hai Tay commune of Son Tra Dist., Mr Son, Deputy Director, Mr Long staff,
9 Sept	Preparation of report		
10 Sep	Preparation of report		
	PMU	10:00 – 11:30	Debriefing with PMU
11 Sep	Mid-way briefing with UNDP and preparation of draft report	9:00-11:00 UNDP office	The team, Christophe Bahuat, Nam Huong, Trinh Tien Dung, Nick Booth
	NA- Meeting with External Relations Committee	14:00-15:00 ONA office, 37 Hung Vuong	The team, Mr. Ngo Duc Manh, Vice Chairman
12 Sep	Stakeholder workshop on the mission findings and recommendations	8:30-11:00 MOJ office	The team, Project team (chaired by Mr Nguyen Thanh Long) UNDP team (Crishrophe Bahuat, Nicholas Booth, Trinh Tien Dung, Nguyen Nam Huong, Tran Thu Huong) Project stakeholders (Mr Tien SPP, Mr Thu SPC, Ms Thoa MOJ, Mr Ninh CIAC, Ms X of VLA, Mr Hieu of NA, Mr Khanh of MPS Donors (Norway, Sida, IrishAid, Danida)
22-26 Sep	Finalization of the draft report and submission to UNDP	Home-base	The team

**Note:**

The evaluation team:

- Jacob Gammelgaard, Team leader
- Pham Duy Nghia, National specialist
- Nguyen Van Duyen, National consultant cum interpreter

Project team:

- NPD: Hoang The Lien, Vice Minister, National Project Director
- DNPD: Nguyen Huy Ngat, Director of International Cooperation Department, Deputy NPD
- NPM: Le Thanh Long, Deputy Director of International Cooperation Department, National Project Manager
- Legal specialist: Dang Hoang Oanh
- Communication specialist: Nguyen Minh Phuong
- STA: Theodore Parnall, Senior Technical Advisor

UNDP team:

- DCD: Christophe Bahuet, Deputy Country Director (Programme)
- GPA: Nicholas Booth, Policy Advisor on Rule of Law and Access to Justice
- HG: Trinh Tien Dung, Head of Governance Cluster
- PO: Le Nam Huong, Programme Officer
- PA: Phan Thu Huong, Programme Assistant

Cost-sharing donor representatives:

- Sweden: Elsa Hastad, First Secretary
- Denmark: Tove Degnbol, First Secretary
- Norway: Emterud Snøfrid Byrløkken, First Secretary
- Ireland: Sean Hoy, Head of Development (Vietnam, Lao PDR, Cambodia)

## **Annex III**

### **List of references**

1. UNDP Project of the Government of Viet Nam. Project Document VIE/02/015.
2. Assistance for the Implementation of Viet Nam's Legal Systems Development Strategy to 2010 – VIE/02/015 - Project Results and Resources Framework - 1 July 2007 – 31 December 2008
3. Annual Project Report – cum Quarterly Report, 2003.
4. Annual Project Report, December 2004.
5. Annual Project Report, December 2005.
6. Annual Project Report, December 2006.
7. Annual Project Report, December 2007.
8. Resolution No. 48-NQ/TW dated May 24, 2005 of the Politburo of the Communist Party of Vietnam on the Strategy for the Development and Improvement of Vietnam's Legal System to the Year 2010 and Direction for the Period up to 2020.
9. Resolution No. 49-NQ/TW dated June 6, 2005 of the Politburo of the Communist Party of Vietnam on Judicial Reform Strategy to 2020.
10. Plan for Implementing Resolution No.49-NQ/TW of the Politburo on the Judicial reform Strategy towards 2020.
11. Plan for the implementation of resolution 48-nq/tw, dated 24 may 2005, of the politburo on the “strategy for the development and improvement of vietnam’s legal system to the year 2010 and direction for the period up to 2020” - (2007 – 2012) - PHASE), STNA No. 900/UBTVQH11, dated 21 March 2007.
12. Decision No. 153/2005/QD-TTg dated June 21, 2005 of the Prime Minister on Issuance of the Rules on the Legal System Development Facility.
13. The political report of the 7<sup>th</sup> Party Central Committee at the 8<sup>th</sup> National Congress of the Communist Party of Vietnam (1996).
14. Mid-Term Review – VIE/02/015, October 2006
15. Mapping of International Aid to the Legal/Judicial Area - Ministry of Justice/United Nations Development Programme (UNDP) - VIE/02/015, Draft report, August 2008, Mark Sidel
16. Narrative Report to the United Nations Development Programme and the Ministry of Justice (Vietnam) - Short-Term Consultancy on Identifying Strategic Priorities and Outputs for Donor Support to Legal Reform in Vietnam, June 2007, Mark Sidel
17. Mission Report, Feb 23 – March 20, 2008 – Ted Parnall
18. Mission Report, June 15 – July 4, 2008, Ted Parnall
19. Agreed Minutes of Annual Project review Meeting, January 2006.
20. Project documents for sub-components.
21. Reports and manuals produced by the sub-components.