

**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.

## **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.