

AID-FOR-TRADE CASE STORY

UNITED STATES

Supporting Vietnam's Legal and Governance Transformation

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EXECUTIVE SUMMARY

The United States Agency for International Development's (USAID's) Support for Trade Acceleration or "STAR" Project was designed to assist the Government of Vietnam with the implementation of a US-Vietnam bilateral trade agreement (BTA) signed in July 2000 and entered into force in December 2001. This, in turn, would pave the way for Vietnam's accession to the WTO in 2007. The project undertook a complete overhaul of Vietnam's centrally-controlled legal, administrative and governance systems to achieve modern systems consistent with international best practices. As with most successful donor programs, host-government (Cabinet/Council of Ministers) commitment, demonstrated in this instance through the designation of a high-level Steering Committee to oversee and guide project implementation, proved the linchpin to the project's indisputable success in transforming the economy from one that was government controlled into one that is market-driven and rules-based. Moreover, the GOV astutely empowered line ministries and other state agencies to lead the reform effort, thereby further demonstrating its buy-in and ownership of the project. Additionally, the project enjoyed the full support of Vietnam's National Assembly, which approved the BTA and subsequently ordered relevant state agencies to adopt the legal and regulatory reforms required for its full implementation. The BTA itself played an important catalytic role and, together with Vietnam's desire to accede to the WTO within a 6-7 year timeframe, provided the impetus for this highly successful effort. Trade capacity building-related technical assistance and training provided by USAID through the STAR project was demand-driven and flexibly responded to a multitude of requests from some 52 state agencies. This approach allowed the project to operate in "real time" as it responded to policy makers. Noteworthy is the underlying force for change driven by the devastating Asian financial crisis, which had slowed export and foreign investment growth, as well as Vietnam's struggle to create more than 1.5 million jobs for young people entering the labor force annually.

ISSUES ADDRESSED

USAID's STAR project addressed a wide range of issues involving a multiplicity of state agencies responsible for BTA implementation. Fundamentally, issues addressed by the project helped modernize the country's legal and regulatory framework by adopting internationally accepted standards governed by the rule of law. While this case story highlights the critical role of donor-led trade capacity building programs in accelerating agreement implementation and better ensuring legislative/regulatory consistency with international best practices, it also underscores the importance of trade agreements themselves as efficacious instruments for transforming a country's legal and governance system. It also underscores the importance of government buy-in and commitment in achieving shared goal and objectives and maximizing overall project impact.

OBJECTIVES PURSUED

The purpose of this collaborative effort was to provide targeted technical assistance and training to the GOV in the drafting of legal and regulatory reforms required by the US-Vietnam BTA/conducive to increased trade and investment. Concurrently, the project would help to modernize and strengthen government institutional and human capacities and streamline administrative procedures. Reforms promoted were designed to improve policy making and implementation; increase the capacity and credibility of the government, judiciary and national assembly; and foster continued government commitment to the rule of law and governance based on key principles of a modern, rules-based system.

PROBLEMS ENCOUNTERED

The paper from which the information provided herein was derived (see reference below) notes no particular problems encountered in the implementation of USAID's STAR Project, other than the need to prioritize demands in view of the project's limited resources. Although not a project issue per se, the paper also mentions significant problems related to the subsequent implementation and enforcement of legal and regulatory reforms adopted, and thus the need for continued external assistance to strengthen institutional and human capacities across key GOV entities.

FACTORS FOR SUCCESS/FAILURE

As illuminated above, there were several factors contributing to the enormous success of the STAR Project. First was the urgent need to modernize Vietnam's legal and regulatory framework by assisting with the implementation of/compliance with the US-Vietnam BTA. A second, catalytic factor for success was the prospect of WTO accession within a 6-7 year timeframe. A third essential factor for success was the agreement of both governments to establish a high-level GOV Steering Committee to supervise all STAR activities. Beyond establishing a capable, high-level body to oversee, guide and prioritize project interventions, this key decision effectively transferred project ownership to the GOV. As noted above, no factors for failure were identified, other than the project's limited resources, which restricted its ability to expand the project to the NGO sector and/or support to new areas, such as labor standards and environmental protection, as proposed by the GOV as part of a follow-on activity.

RESULTS ACHIEVED

Among the project's most significant accomplishments noted in the referenced paper are the following:

- The revision or new development of nearly 100 laws and major implementing regulations¹, contributing to the transformation of Vietnam's economy from one based on central planning into one founded on market principles, and the accompanying major changes in attitudes and practices regarding the function of law and the law-making process.
- An increase in Vietnam exports to the US from \$1.1 billion in 2001 to \$8.6 billion in 2006, and in US exports to Vietnam from \$460 million to \$1.1 billion over this same period.
- Increased judiciary independence resulting from BTA/WTO requirements mandating access to courts to solve disputes; and the implicit requirement that Vietnam's courts become more independent in accordance with the BTA's inclusion of the right to an "objective and impartial

¹ See Annexes A and B of below referenced paper for list of key legislative and regulatory changes of laws and legal reforms completed and analysis of these, respectively.

review” of administrative decisions.

- A strengthened National Assembly with significantly increased capacity to fulfill its responsibilities, including reviewing, approving, and monitoring legal reforms.
- Strengthened institutional capacity of 52 state agencies, including almost every key national state agency and 10 provincial governments.
- Thousands of host government officials and business leaders trained on BTA and WTO requirements.

CONCLUSION (applicability to other programmes)

As the below referenced paper concludes, trade capacity building in the form of USAID’s STAR Project proved a resounding success in reforming Vietnam’s legal, administrative and governance systems over the five year period from 2001

REFERENCES

Supporting Vietnam’s Legal and Governance Transformation, dated February 2008.

education rate for the countries B, C, D and E.