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## REGULATORY IMPACT ASSESSMENT

AN EFFECTIVE INSTRUMENT  
TO IMPROVE THE QUALITY OF  
BUSINESS LAWS IN VIETNAM



Published by  
Deutsche Gesellschaft für  
Technische Zusammenarbeit (GTZ) GmbH  
Vietnamese – German SME Development Program

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Designed and printed by Golden Sky Co., Ltd.  
Tel: 04 3 8634030

Publication License No: 28-44/LĐ date 25/3/2009  
293 QĐLK/LĐ date 7/4/2009

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Stock	Ticker	Vol	00s	High	Low	Cts	Net	52W	52W
							chg	high	low
	CD	1790	0.09	0.04	0.06	-0.03			
	FX	5	0.15	0.15	0.15	-0.05			
	EPH	30	0.05	0.05	0.05	-0.01			
	EPK	150	0.25	0.17	0.18	-0.01	n	0.93	0.08
	EOS	899	0.25	0.46	0.52	+0.10	n	0.50	0.10
	CV	230	0.50	0.32	0.37	-0.02		0.55	0.14
	ZS2	50	0.12	0.07	0.08	+0.02		0.74	0.14
	EGX	269	0.03	0.11	1.15	-0.02		1.4	0.14
	ETH	150	0.15	0.17	0.17	0.04		0.14	0.14

Hanoi, April 2009

## ABOUT GTZ

As an international cooperation enterprise for sustainable development with worldwide operations, the federally owned Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH supports the German Government in achieving its development-policy objectives. It provides viable, forward looking solutions for political, economic, ecological and social development in a globalised world. Working under difficult conditions, GTZ promotes complex reforms and change processes. Its corporate objective is to improve people's living conditions on a sustainable basis.

The German Federal Ministry for Economic Cooperation and Development (BMZ) is its major client. The company also operates on behalf of other German ministries, the governments of other countries and international clients, such as the European Commission, the United Nations and the World Bank, as well as on behalf of private enterprises. GTZ works on a public-benefit basis. All surpluses generated are channeled back into its own international cooperation projects for sustainable development.

GTZ has been working with its partners in Viet Nam since 1993 and promotes sustainable development in the three priority areas of Sustainable Economic Development, Management of Natural Resources including Water Supply, Wastewater and Solid Waste Management and Health. Additional projects are situated within the cross-cutting sector Poverty Reduction, implemented on behalf of other German ministries or realised by GTZ International Services. The Centre for International Migration and Development (CIM), a joint operation of GTZ and the International Placement Services (ZAV) of the German Federal Employment Agency (BA) currently has 20 integrated experts working as professionals for partner institutions in Viet Nam.

## ABBREVIATIONS

ADB	Asian Development Bank
ASMED	Agency for Small and Medium Enterprise Development
CIEM	Central Institute of Economic Management
DPI	Department of Planning and Investment (at provincial level)
GTZ	German Technical Cooperation
MoJ	Ministry of Justice
MPI	Ministry of Planning and Investment (national level)
OECD	Organization of Economic Cooperation and Development
PMRC	Prime Minister's Research Commission
RIA	Regulatory Impact Assessment
SDC	Swiss Agency for Development and Cooperation
SME	Small and Medium Enterprises
SMEDP	Small and Medium Enterprise Development Programme
VCCI	Vietnam Chamber of Commerce and Industry
UNDP	United Nations Development Programme

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## FOREWORD

The objective of the Small and Medium Enterprise Development Programme (SMEDP), funded by the German Federal Ministry for Economic Cooperation and Development and implemented by GTZ and the Ministry of Planning and Investment, is to improve the competitiveness of small and medium sized enterprises in Vietnam.

In order to achieve this objective, SMEDP is working with a multi-stakeholder approach including public and private institutions at national level and in four selected provinces: An Giang, Dak Lak, Hung Yen and Quang Nam. The programme consists of four closely interrelated components: 1. SME Policy, 2. Local Economic Development, 3. Competitiveness of Selected Sub-Sectors and Value Chains and 4. Advanced Technical Services/ Material Testing.

While the programme was originally designed for a total of 12 years, a decision by the German government to concentrate the technical cooperation in a reduced number of areas, resulted in an early phase out of the Programme after only four years, thereby posing a considerable challenge for partners and GTZ alike to assure impacts and sustainability within a limited time frame. In light of this development, SMEDP decided to focus its work in the last year on the most successful products and instruments developed and introduced as far as demand, ownership by partners and potential for sustainability are concerned.

As knowledge management has been an integral part of the programme and was therefore embedded in the programme concept, the idea was

born to "systematise" and document the experiences and lessons learnt during the intervention process for the most successful instruments and products of SMEDP. These product systematizations include the following instruments and approaches: Regulatory Impact Assessment, BusinessPortal, Local Economic Development Process, Local Coordination Board, Public Private Dialogue, the Value Chain approach with a focus on avocado and pangasius and Corporate Social Responsibility as a cross-cutting topic of the programme.

These systematizations were developed by GTZ SMEDP staff and were partially structured by applying the logic of the GTZ management tool Capacity Works, which is based on five success factors, namely strategy, cooperation, steering structure, processes and learning and innovation. The documents also drew on inputs from partners and other stakeholders who were invited to comment before final editing took place.

While these documents might not be perfect, as they can only partially reflect the complex process of interventions within a technical cooperation project and its outcomes, it is our hope that they will be of help to our partners in the future to pursue the further development of the products and can be a guide for other institutions and donors seeking to replicate them wherever they deem them suitable for application.

This paper describes the process in which SMEDP has supported the introduction an institutionalization of RIA in Vietnam. In this process, the Programme has benefited enormously from the support and contribution by Ms. Pham Chi Lan (economist), Mr. Pham Quoc Tuan (economist), Prof. Dr. Duong Dang Hue and Mr. Nguyen Thanh Tinh (Ministry of Justice), Mr. Nguyen Dinh Cung and Mr. Phan Duc Hieu (CIEM), Mr. Tran Huu Huynh and Mr. Dau Anh Tuan (VCCI), Mr. Raymond Mallon (consultant) and from many other experts and institutions. This support and contribution has made the intervention process highly effective and fruitful.



# REGULATORY IMPACT ASSESSMENT

## AN EFFECTIVE INSTRUMENT TO IMPROVE THE QUALITY OF BUSINESS LAWS IN VIETNAM

# I BACKGROUND AND CONTEXT

Since the mid-1980s, Vietnam has consistently pursued the reform of the business environment for private enterprises. One of the most notable successes was the introduction of the Enterprise Law (EL), which has brought increased freedom to conduct business. After the Law came into effect in 2000, the number of private companies increased more than tenfold from 31,000 in 1999 to nearly 400,000 formally registered enterprises by the end 2008.



Nevertheless, significant obstacles to private investment (domestic as well as foreign) persist. Private enterprises, especially small to medium enterprises (SMEs) and foreign companies, operate under more restrictive conditions than state-owned enterprises (SOEs). Administrative regulations - especially at the provincial level - are cumbersome, ineffective and fail to effectively implement reforms. Enforcement of the legislation is still weak and ineffective. The cost of doing business remains high and the competitiveness of local enterprises is low. Further challenges were posed by Vietnam's

accession to the World Trade Organisation (WTO). In recent years, the country has shown strong determination to implement agreements and commitments under WTO and other international trade agreements.

The requirements for further reform of the business investment climate derive from the following issues and concerns: (i) In spite of recent impressive growth of the business sector, the quality of growth is still a matter of concern. (ii) The legal framework for business is inconsistent and fragmented. (iii) The level of competitiveness of the country is low while competition from outside is fierce. (iv) Accession to WTO requires Vietnam to be more competitive to cope with new challenges. (v) The quality of business law remains poor due to a lack of systematic procedures, thus making the implementation of laws ineffective. (vi) Improving the business environment is important in order for Vietnam to achieve its development goals. (vii) The lack of transparency in the process of law making and law enforcement further aggravates the problem of informal charges in the country.

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## II

### INITIAL SITUATION

- LAWS ARE IMPROVED BUT IMPLEMENTATION LACKS BEHIND

#### 1. The Quality of Business Law-Making is Still Poor due to a Lack of Systematic Procedures

Vietnam has already made significant efforts to improve the quality of its regulatory environment, introducing a workable legal and regulatory framework, increasingly sophisticated administrative and institutional arrangements and more efficient, transparent and accountable regulatory practices (based on the "Law-Making Law"). Many of its initiatives parallel good international practices. Evidence of the results have been provided by academics, domestic and foreign businesses, and the donor community.



However, implementation of current policy directions has not met the expectations of the enterprise community and the public. Many of the reforms exist only on paper and have not yet led to upgraded skills and cultural change in the way ministries and law drafting committees function<sup>1</sup>. Vietnam's regulatory quality is still below that of competing

<sup>1</sup> In Vietnam, approximately 95 percent of laws are initiated by the Government. The central decision-making for a new law is done by a ministerial Drafting Committee, which takes decisions and presents the draft to the Government. In general, it is chaired by the minister who has been assigned the task to draft the new law by the Prime Minister

countries. The regulatory environment for doing business has not significantly improved and is still a major constraint on growth<sup>2</sup>.

The challenges ahead lie in improving policy coherence, quality and coordination across a multi-layered governance system. In the next few years, new efforts and investments will be required in order to allow the country to continue its outstanding economic success. They could pay off substantially if reform efforts proceed steadily; if more attention is paid to implementation, enforcement and accountability for results; and if politicians are able to sustain support in the face of continued opposition from conservative bureaucracies at all levels.<sup>3</sup>

## 2. The Implementation of Business Laws and Regulations is not Consistent

Against this background, the implementation of laws is an even more problematic issue. In many cases, laws are only loosely stipulated or are written in a generic manner that is open to interpretation. Regulations to instruct the responsible agencies in the implementation of laws are slow to be issued. Inconsistency between laws and regulations is common. As a result, implementing agencies often misinterpret the laws and regulations either unknowingly or purposefully. In addition, many stipulations do not fit with the reality of actual conditions due to a lack of public consultation when they are designed, and are therefore not applicable in some provinces.

<sup>2</sup> According to *Doing Business 2005: Removing Obstacles to Growth* doing business in Vietnam remains a problem for entrepreneurs and investors. Like many poor countries, the report suggested, Vietnam should step up regulatory reform and improve the regulatory environment and this should be seen as one of the most important obstacles to be removed to improve the business environment in the country.

<sup>3</sup> For a more detailed analysis see GTZ/PMRC/UNDP: *Improving the Quality of Business Laws - A Quick Scan of Vietnam's Capacities & Introduction of Best Practices, 2005.*

The fact that different laws govern enterprises of different ownership structures results in inconsistent definitions and concepts for the same term (for example, the board of directors or share capital). Implementation of business-related laws is therefore even more difficult.

Many new laws incorporate a new way of thinking that requires a real shift in the mindset of the people who implement them. Such a shift is the only way to ensure that the intended objectives are achieved. However, many regulatory authorities are often slow and limited in their scope for change.

New business laws and regulations aim to introduce changes to make the business environment more conducive to enterprises and hence try to deprive administrative authorities of their "vested interests". Resistance to change can be seen in the way laws and regulations are implemented, particularly if the law implies that authorities will become less powerful and more responsible towards enterprises. For example, recent efforts to remove business licenses in order to strengthen the freedom to do business have been obstructed or even thwarted by some ministries and local governments.

The resources that are available for law enforcement are also a matter of concern. The Government often lacks the resources (financial and human) to implement, evaluate and monitor the implementation of the promulgated laws and regulations. Often there is no allocated budget for the implementation of the law. Therefore, many laws and regulations are passed but not fully communicated to the appropriate implementing agencies at the provincial and district level.

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## III

### THE INTERVENTION PROCESS

- THE ROCKY ROAD TOWARD IMPROVING THE QUALITY OF LAW-MAKING

#### 1. Successful Adoption of the Regulatory Impact Assessment is one of the Most Important Impact Indicators of GTZ MPI SMEDP

The overall objective of the MPI-GTZ SME Development programme is: **improving the competitiveness of private and small and medium enterprises in Vietnam**. In the field of SME policy it aims at **improving the policies and strategies to contribute to an enabling business environment**.



To measure the impact of the programme in the field of SME policy, an indicator specific to Regulatory Impact Assessment (RIA) was developed and integrated into the monitoring and evaluation system of the programme. The indicator reads: "Regulatory Impact Assessment (RIA) method is used to develop an estimated three SME relevant policy proposals".

## 2. Objective and Major Steps of the Intervention by SMEDP in RIA

Understanding the future impacts of regulatory decisions on the private and social sectors is perhaps the most crucial dimension for creating and sustaining a high-quality regulatory environment.

In most member states of the Organization for Economic Cooperation and Development (OECD), the tool employed to examine the costs and benefits of decisions is RIA. Regulatory Impact Assessment is a method of systematically and consistently examining selected potential impacts arising from government action or non-action, and of communicating the information to decision-makers and the public. In essence, RIA attempts to widen and clarify the relevant factors for decision-making. It implicitly broadens the mission of regulators from highly focused problem-solving to balanced decisions that trade-off problems against wider economic and distributional goals. RIA has several internal and external objectives. They are to:

- improve understanding of the real-world impacts of government action, including both the benefits and costs of action;
- integrate multiple policy objectives;
- improve transparency and consultation; and
- improve government accountability.

Additionally, a *Quick Scan on the Capacities of Vietnam in Improving the Quality of Business Laws* was conducted. In cooperation with the Prime Minister's Research Commission

(PMRC), the Ministry of Justice (MoJ) and CIEM, a plan for the implementation of the first RIA in Vietnam was prepared. Inputs on methodology and techniques, and documents and hints on its implementation were provided to a group of local consultants. This helped to build the national capacity on RIA, even though it is still at a very modest level.

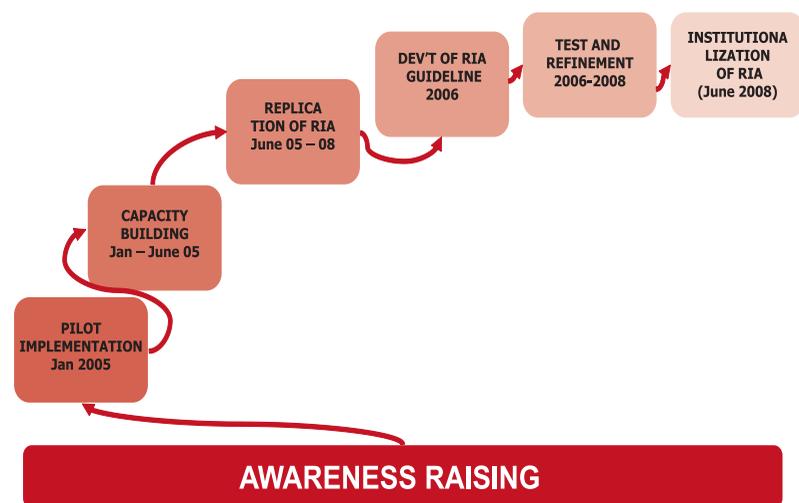
In this context, the GTZ SME Development Programme introduced Regulatory Impact Assessment (RIA). The key national owners of the process were the PMRC and the MOJ<sup>4</sup>. The tool was introduced with the following objectives:

- Improving the quality of the Laws: RIA has helped to strengthen the participation of the general public in making laws, exposing drafting members to international experiences and practices, and providing inputs on specific issues. Consultation with various stakeholders should also contribute to increasing the quality and consistency of the laws.
- Support to Effective Implementation of the Laws: Law enforcement has always been problematic in Vietnam

In addition to the basis of the demand by partner agencies, the decision by GTZ to introduce RIA was also based on the expertise and technical capacity GTZ has acquired in the field, the short- and long-term objectives of GTZ's interventions (the desired impacts to be generated), the requests of national

<sup>4</sup> In late 2006, PMRC ceased its operation. MOJ then emerged as the most important owner of RIA process. Since then, they have been the leading agency in promoting RIA, making it more aware of and then accepted by other national stakeholders and in making it part of the formal law making process.

stakeholders, and analysis of other donor support and interventions in the same field. The major steps taken by GTZ to introduce RIA in Vietnam are illustrated in the diagram below:



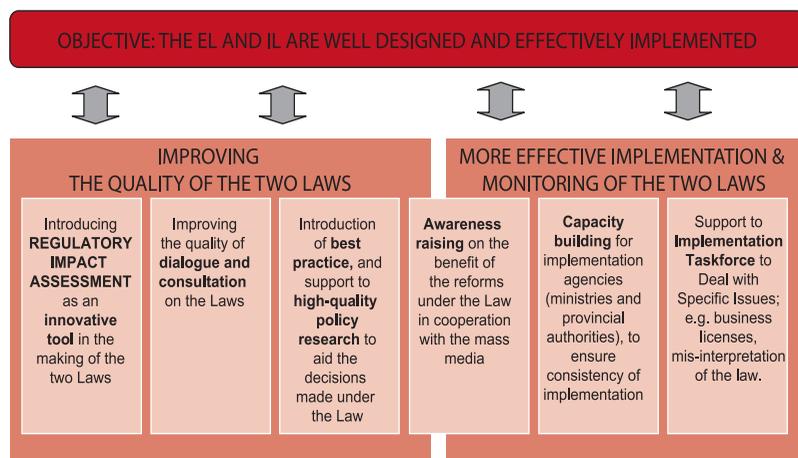
The process was accompanied by the development of tools and guidelines on RIA. Cooperation is not limited to providing direct inputs and improving the quality of laws. A major objective is to further develop, test, customize and document these tools in order for them to be replicated and eventually institutionalized in Vietnam. This will enhance the quality of law-making and implementation in a sustainable manner.

## 2.1. To pilot the tool in the Vietnamese context, RIA was Introduced as an Innovative Tool in the Making of the Enterprise Law and Investment Law

RIA was introduced particularly to support the making of the Enterprise Law and the Investment Law - the two important business laws in Vietnam which were drafted in 2004 and 2005, right at the onset of the programme. In this context, GTZ and the Drafting Committee of the Enterprise Law strongly cooperated in remaking the Enterprise Law and Investment Law in 2005 and in supporting the effective implementation of the two laws once they were passed. Regulatory Impact Assessment was used for the first time in Vietnam in the context of drafting the two laws. Once the laws were passed, the emphasis was placed on monitoring and supporting implementation of the law at provincial levels.

At the beginning of 2004, under the context of tripartite cooperation between the PMRC, United Nations Development Programme (UNDP) and GTZ and later in the cooperation between PMRC, ADB and GTZ, GTZ provided an input on the nature and the importance of regulatory reform and RIA to key national stakeholders through a series of workshop to national stakeholders. This multi-lateral cooperation is based on a common desire to improve the quality and performance of the Enterprise Law and the common belief in RIA as a good tool to improve the quality of laws.

The diagram below describes how RIA was introduced and how it was integrated in support of the drafting of the Enterprise Law (EL) and Investment Law (IL) in 2004 and early 2005.



**a. An Assessment on Regulatory Impacts of the two laws was Conducted and Used**

The PMRC<sup>5</sup> was the key initiator and has requested support from GTZ and the UNDP to assess the likely benefits of the reforms under the new laws. Research has focused on: (i) attitudes and expected impacts of the proposed reforms under the Enterprise Law and Investment Law; (ii) assessing the impact of the proposed shift from a system of licensing foreign investment to registering foreign investments that comply with national

<sup>5</sup>. PMRC was one of the official implementation partners of SMEDP when the programme started.

regulations; and (iii) suggested guidelines for assessing regulatory impacts. The PMRC played an important role in raising awareness of the potential benefits of undertaking RIA.

The centerpiece of the process has been the study on attitudes and expected impacts of the proposed reforms under the Enterprise Law and Investment Law. The move from a licensing to a registration system for Foreign Direct Investment (FDI), which has been analyzed under RIA, is one of the major crosscutting reforms of both the Enterprise Law and Investment Law. Specifically, the study tried to answer some of the following questions:

- What are the potential impacts (positive and negative, direct and indirect) of the proposed reform on different groups? For example, foreign investors, local investors, state-owned enterprises, consumers, regulators and governments.
- Is the reform in the national interest? Are there real benefits of



the reforms for the national economy (for example, an increase in investment inflow, enhanced competitiveness and more compliance with WTO requirements)?

- How sizeable are the impacts (quantify the impacts to the extent possible)?
- What are the options for decision-makers in relation to the proposed reform<sup>6</sup>?

The study and the whole RIA process was discussed and shared with key stakeholders, including members of the National Assembly. In cooperation with other donors, RIA was also promoted and used. The focus of the method has been on local capacity building and on introducing RIA to different national bodies with a view to facilitating its use in future policy-making.

On the basis of the report, the PRMC prepared a Regulatory Impact Statement (RIS) on the proposed key reforms for submission to the Prime Minister. In a standardised format, and a more succinct and focused manner, the statement aimed to provide answers and arguments to the questions raised above. One aim of the RIS was to present the major costs and benefits in an easily understandable form so that estimates can be subject to public scrutiny and adjusted as necessary. The estimates of costs and benefits in the RIS could certainly benefit from additional scrutiny by key stakeholders, including the National Assembly when it was debating the law in November 2004. The Taskforce for the Implementation of the Enterprise Law, PMRC, VCCI, the

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<sup>6</sup> For the results of the study, please visit [www.sme-gtz.org.vn](http://www.sme-gtz.org.vn) or [www.sme.com.vn](http://www.sme.com.vn).

domestic business community, foreign business chambers (EuroCham, Amcham and Auscham) also used the results from the RIA process to advocate for key reforms introduced under the two laws.

### **b. Consultations Were Used Widely in the Implementation of the RIA**

The major benefits of RIA derive from the systematic processes of stakeholder consultations and analysis of all regulatory impacts. Therefore, RIA helps increase the transparency of policy-making processes.

For this reason, the major reforms of the Enterprise Law and Investment Law, which are also the main subject of the first RIA, were widely discussed through different consultation workshops using a technique called business impact test panels (BITs). The BITs were conducted in all major cities in Vietnam, involving nearly two hundred participants and the press. Results of the consultation workshops were not only used for the purpose of the RIA report but also for the making of laws by members of the drafting committee.

The significant use of the consultation workshops by key stakeholders made the RIA process much more meaningful. The whole RIA process became an output, not just simply end deliverables (the RIA Process Implementation Guideline and the RIA report). In reality, the whole process, particularly the use of the consultation technique, helped to increase transparency when making the two laws.

### c. Ministry of Justice emerges as the champion in the overall efforts of institutionalizing RIA

The Ministry of Justice was very keen to acquire knowledge about the Regulatory Impact Assessment and promptly sent staff to RIA workshops and training courses. They proactively participated in the RIA on the Enterprise Law and Investment Law and started with their own pilot RIA exercises.

The Ministry decided to give RIA a high priority in its work agenda. It also aimed at making RIA part of the law making process in the Law on Law making which was revised in 2006, 2007 and early 2008. The Ministry truly believes that RIA is an effective tool to improve the quality of laws in Vietnam and that RIA will help it to achieve its mission as the quality controller of laws in Vietnam.

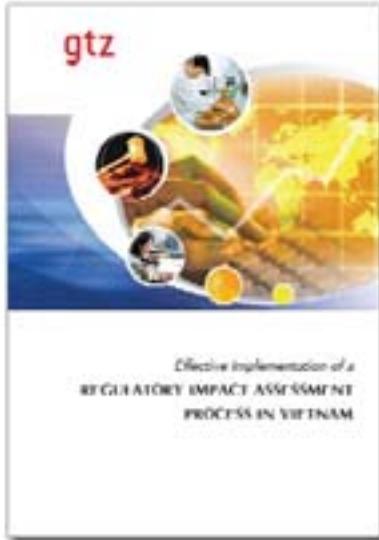
The Ministry was successful in implementing RIA for the Law on State Compensation, Bankruptcy Law and other decrees in 2007 and 2008. It also supported the Vietnam's Women Union to carry out a RIA exercise in the context of the Gender Equality Law in 2007. At the time of writing the Ministry of Justice is conducting RIA in the context of the draft Law on Secured Transactions and the proposed Law on Real Estate Transactions. Many of these RIA exercises were implemented with their own resources or with support from other donors.

### d. Capacity building on RIA was one of the top priorities

At the beginning of the process, implementation of RIA, introduction of the concepts and skills heavily relied on international experts, mostly coming from OECD countries. However, while international experts are indispensable, it proves to be a costly option to guarantee the sustainable application of RIA in the long-run. The development of local capacity on RIA was therefore made a priority. In this process, the MOJ has been one of the key partners of GTZ.

The MOJ quickly strengthened its own capacity on RIA thanks to its existing knowledge on laws and legal reform instruments. GTZ strongly supported this process through organizing training courses, workshops on RIA for key staff at the MOJ with presentations delivered by national and international staff, sending MOJ staffs for in-depth overseas training courses and providing technical support to the implementation of RIA by the MOJ.

The MOJ, with its important role in law making in Vietnam, began to pique an interest in RIA in other agencies and ministries, for example, the Government Office, the Ministry of Home Affairs, the Ministry of Planning and Investment, business associations and law associations. It also proactively transferred its knowledge of RIA and skills to other agencies by organizing workshops and training courses.



Other donor projects were also involved in strengthening the capacity on RIA among different stakeholders in Vietnam. Most notable of all has been the support of another GTZ initiative to the Government Office (now being handled by InWent), VNCI support to the Government Office and JICA and UNDP support to the MOJ.

**e. RIA was gradually made more relevant to the Vietnamese context and developed into a guideline**

As a basis for stronger use of RIA, guidelines that include instructions and hints for implementation were required. The development of such a guideline was thus an objective right from the onset of the process.

Implementation of the RIA exercises under the context of the Enterprise Law and Investment Law provided many inputs in the development of this guideline. Replication of RIA exercises in the context of other laws and regulations in different contexts and by different ministries provided many insights and useful practices for the formulation of the guidelines.

The first version of the Guideline was used as reference for many RIA exercises, training and workshop on RIAs and was updated with comments of other practitioners, users and readers. The final version was then published and distributed to many ministries, government agencies, and research institutes. The Ministry of Justice distributed it to more than 500 members of the National Assembly while the Law on Law Making was being discussed.

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## IV

## INSTITUTIONALIZATION OF RIA IN THE LAW MAKING PROCESS

### 1. Advanced and Innovative Tools Introduced and Accepted by Key Change Agents

In close cooperation with key change agents in the country - notably the MOJ, CIEM, PMRC and the Ministry of Planning and Investment (MPI) and with the help of the local press, RIA has been widely discussed among Government agencies and regulatory bodies.

The first RIA report was conducted on one of the most important proposed changes under the Enterprise Law and Investment Law - the proposal to shift from an investment licensing system to investment registration mechanism which is applicable to foreign investors. The results and the process were shared with government bodies and with the National Assembly.



## 2. Stronger Use of RIA in the Designing of its Laws and Reform Initiatives

The RIA process, in which a great deal of consultation effort was imbedded, has helped to improve transparency and the participation of the public in the making of the Enterprise Law and Investment Law.

RIA was used by the MOJ for assessment of the Law on State Compensation, Bankruptcy Law and other decrees. It also supported the Vietnam's Women Union to carry out a RIA exercise in the context of the drafting of the Gender Equality Law.

In 2007, the Government included RIA in a Decree on Business Licensing, requiring that a RIA must be conducted before any agency can work out a requirement for a business license.

## 3. Awareness of RIA and the importance of improving the quality of business laws have increased

The mass media have been proactive in equipping themselves with knowledge on RIA. They are also actively involved in promoting



RIA. Thanks to the strong contribution of the press, RIA was discussed by major newspapers in Vietnam and used as a reference in many public debates on legal reform in Vietnam. The institutionalization of RIA in the Law on Law Making owes much to the contribution of the press.

## 4. Most encouraging of all, RIA was officially institutionalized

In 2007 and 2008, the Law on the Making of Legal Normative Documents (Law on Law-Making) was redrafted. With strong advocacy from the Ministry of Justice and other agencies such as CIEM and VCCI, RIA was included in the final draft of this important law.

The MOJ was proactively lobbied for the adoption of this proposed inclusion of RIA into the Law. The Ministry conducted an information campaign on RIA, targeting many agencies including the delegates of the National Assembly. At the most critical stage when the RIA was debated by National Assembly delegates, the MOJ delivered more than 500 copies of the GTZ - implemented Guideline on "How to Implement a RIA Process Effectively in Vietnam" to all members of the National Assembly at the debate sessions on the Law. The MOJ also carried out a series of workshops and discussions on RIA.

These efforts paid off. The Law on the Making of Legal Normative Documents was approved on June 2008 and RIA was institutionalized in Article No.33. According to the article, RIA must be implemented in the drafting process of any law and regulation and the draft law must be accompanied with a RIA report in order for it to be eligible for consideration by the National Assembly.

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## CHALLENGES

1. Implementation of the institutionalized requirement for RIA is a challenge

RIA has been officially included in the Law on Law Making. This is good news, showing the commitment to good practices to improve the quality of laws. However, it is also a challenge for implementation bodies.

A workable approach is critically important in maintaining the interest of national stakeholders in using RIA, and in avoiding the risk that RIA is just a new burden for them which has little



impact on the regulations and decisions being made. To date, such a workable approach is still in the formulation process.

## 2. Limited Local Capacity on Regulatory Impact Assessment

Regulatory impact assessment, advanced consultation techniques, reduction of compliance costs, etc., are all new to many policy makers and regulators in Vietnam, particularly at the provincial level. There is limited capacity among government agencies, consultants, business associations and even donors in some cases. This is one of the major hurdles in expanding the use of these advanced methods.

The prolonged implementation of the first RIA exercise in Vietnam was largely due to this problem.

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## VI

## LESSONS LEARNT

It is important to identify a real champion for the RIA process. Once the champion is identified, intensive efforts should be made to strengthen their capacity, their interests and their ownership. In this regard, the MOJ proved that they owned the topic and the process.

It is important to carry out an awareness program which aims at promoting an understanding and overall acceptance of RIA. The general acknowledgement of the benefits of RIA and better understanding of the tool are the foundation for its effective implementation, eventual institutionalization of RIA and the actual contribution of RIA to improving the quality of laws in general and of business laws in particular.



Building national capacity is critically important. International knowledge can be brought in only at the initial stage. Local knowledge should be gradually developed to absorb international knowledge, expertise and skills. In reality, RIA cannot

be accepted or cannot bring about real benefits to the quality of laws if they are not customized or revised to fit the country-specific context. Building national capacity on RIA is key to the sustainability of RIA.

Institutionalization of RIA should be an aim but should not be the end of the whole process. Institutionalization of RIA is a good starting point. However, there is a risk that it becomes an additional burden for law makers and regulatory bodies. Much needs to be done after RIA is made mandatory in order for it to be sustained and well implemented. The goal of the whole process should not be the institutionalization of RIA. Rather, the goal should be RIA being adopted and implemented in a sustainable manner to improve the quality of laws in a country.

Not focusing only on the champion agency. Cooperation with other key national agencies, donor projects, the mass media and the business community is very important.