

MONTHLY REPORT FROM THE USAID SUPPORT FOR TRADE ACCELERATION PLUS PROJECT

April 2011

Legislative Function and Processes

- Experts from USAID STAR Plus participated in a workshop on the draft Ordinance on Codification organized by the Office of the Government. The participants, included academics, OOG lawyers and representatives from several other ministries and agencies, including the Ministry of Public Security, the Ministry of Industry and the drafting team from the Ministry of Justice. Most participants stressed that without legal validity for the Code; there was little reason to undertake a codification exercise. The same point had been made to the Ministry of Justice drafting team by USAID STAR Plus on previous occasions. It is unclear whether or not they will accept the advice.
- Preparation of Comments on Codification Ordinance: Following the OOG-sponsored workshop, USAID STAR Plus began developing a new set of comments on the proposed Ordinance on Codification to the OOG and MOJ. The comments detail how codification can be done under the current legal framework with the force of law using the current legal instruments. This addresses a key concern of the MOJ that codification with legal validity will necessitate the amendment of the Constitution and the Law on Laws.
- Public-Private Review of 17 laws (Project 17): USAID/STAR Plus and VNCI discussed the organization of this exercise with the VCCI and the OOG . A final meeting will be organized with VCCI in late April, but the consensus so far is that: (i) this first private review of 17 key laws needs to be of high quality and practical; (ii) USAID STAR Plus will engage Baker & McKenzie and Leadco to undertake the first review which will be posted on the VIBONLINE for public comment; (iii) a series of technical (small group) workshops and field trips will be conducted to verify the findings of the initial reports; (iv) one or two legal professionals will be hired to finalize the report for submission to NA, OOG and Ministries. VCCI will use this report in its policy advocacy effort. The report should highlight, among other things, changes needed to meet WTO/BTA commitments and implement Project 30 recommendations

Trade and Investment Enabling Environment

- USAID STAR Plus met with David Bisbee of USTR and Embassy staff to discuss technical assistance needs related to the TPP negotiations. The following day, Jeffery Jones, Deputy Director of the USDA Regional and Bilateral Negotiations and Agreements Division met with the USAID STAR Plus team. Mr. Jones has been leading the Trans Pacific Partnership (TPP) negotiations on agricultural products. Based on the conversation with Mr. Jones, we will not develop a database on

agricultural products as we had planned, but we will provide UDSA with tariff data they requested. We also agreed to explore the possibility of working with the relevant Vietnamese officials to amend current laws to ensure that SPS related rules are consistently and promptly notified to the WTO.

- VCCI, with the support of USAID STAR Plus and the Food and Agriculture Exporters Alliance, sponsored half-day workshops on the new Decree on Food Safety on April 7 in Hanoi and April 8 in HCMC. Each workshop drew more than 70 participants representing a wide range of stakeholders. The workshops were widely covered in the local press. USAID STAR Plus commented upon the potential for trade restrictions from the proposed system of mandatory conformity regulations, and mandatory labeling of biotech foods. Several Vietnamese businesses expressed concern that the draft decree could result in more than one ministry having inspection oversight over their production facilities.
- Capacity building: USAID STAR Plus provided a training program on intellectual property rights to approximately 40 students from the Diplomatic Academy of Vietnam throughout the month.
- TPP Technical Assistance Programming: USAID STAR Plus met with MOIT on to discuss the need for TA for TPP. MOIT asked for TA in (i) raising awareness of stakeholders; (ii) information about, and understanding of, technical issues; (iii) promoting linkage and understanding between the US and Vietnam. MOIT agreed that the TA has to be very flexible. USAID STAR Plus informed MOIT that we will work closely with USTR and the US Embassy on programming the TA and will avoid any potential conflict of interest or appearance of a conflict of interest.. MOIT agreed to host a trip of Mr. Jay Eisenstat on rules of origin and related issues in May 2011.
- Decree on Telecom issued: Vietnam issued a Decree on Telecommunications. The Decree benefited from USAID STAR Plus assistance. Some of our recommendations have been accepted—e.g., the 30% foreign ownership cap has been removed to enable Vietnam to meet its WTO commitment to liberalize the sector and the licensing conditions no longer include minimum subscription numbers. The cross ownership cap of 20% remains which generated a public debate on whether VNPT will need to divest its investment in one of its mobile networks.
- IPR enforcement for Customs: USAID/STAR Plus discussed with Customs and right holders the training needs for the special task force of Customs charged with IPR enforcement.

Financial Sector Enabling Environment and Fiscal and Monetary Policy

- USAID STAR Plus met with the Development Strategy Institute (DSI) of the Ministry of Planning and Investment to discuss their requests for assistance in the

coming months. DSI requested support from USAID STAR Plus in the following areas:

1. Capacity building of the staff of the DSI on economic integration, macro economic management policies, strategic economic long-term planning and legal issues of the WTO implementation;
 2. Training in economic research skills, especially economic forecasting techniques;
 3. Conducting joint research in macroeconomic development, investment and planning.
- The Development Strategy Institute of the Ministry of Planning and Investment sponsored a seminar on “In Search of A New Growth Model for Vietnam: Is An Export-Oriented Industrialization Strategy Still Appropriate? Vietnam’s Development Strategy Revisited.” The seminar was designed to collect valuable inputs for formulation of the Government Action Program for the Social-Economic Strategy 2011-2020 (SEDS). Approximately 150 people participated in the event. These included members of the SEDS drafting team, representatives from concerned ministries, research institutes, universities, the World Bank and other selected foreign experts.
 - On April 13, USAID STAR Plus and USAID/Vietnam met with Ministry of Planning and Investment (MPI) officials from the Department of Financial and Monetary Affairs to discuss how STAR Plus could assist the Ministry in the broad areas of fiscal and monetary policy.

Rule of Law

- USAID STAR Plus staff provided a short training program on the proper use of case studies in legal education using the first ever first book of WTO law cases in Vietnamese. 60 law students of Can Tho University attended the lecture and discussed a WTO dispute settlement case study using the Socratic method of questions and answers to learn about the case. After the lecture, USAID STAR Plus staff attended a meeting between the law faculties of Can Tho University, Vietnam National University of HCMC, the VGCL Trade Union University Faculty of Law, and the UNDP to discuss ways to strengthen legal education in Vietnam.
- USAID STAR Plus provided the names of two highly respected international experts to the Supreme People’s Procuracy to prepare a research paper on the U.S. Federal Criminal Procedure Model-- Judge Clifford Wallace and Richard Shine. This exercise will be conducted in cooperation with the EU-funded Justice Partnership Program, who will recruit experts on the Criminal Procedure Models of several other countries.

- Copyright enforcement: USAID STAR Plus held discussions with the Business Software Alliance (BSA) about arranging a series of workshops on copyright issues to support the Ministry of Culture, Sport and Tourism in their review of copyright enforcement activities. The timing for these workshops has not been decided.
- Workshop on Intellectual Property Day Plus (April 21-23): A representative of USAID STAR Plus was invited to speak at a workshop organized by the Ho Chi Minh City Intellectual Property Rights (IPR) Association on the occasion of International Intellectual Property Rights Day (April 21). There were 70 participants at the workshop, including representatives of different IPR enforcement agencies and enterprises in Ho Chi Minh City. Some enterprises sent representatives from other provinces and cities, too. Workshop participants were updated on new developments in IPR enforcement in Vietnam and what Vietnam needs to do to prepare for the new environment in which several international treaties with IPR provisions are to be negotiated. Many questions were raised at the workshop about what Vietnamese enterprises should do to be able to deal with IPR issues at the international level where Vietnamese enterprises can be sued by enterprises from other countries. The role of IPR Association was also mentioned.
- The workshop was followed by a diagnostic study of IPR enforcement. This involved a survey of the enforcement practices at selected IPR enforcement agencies and private enterprises. The IPR report that was prepared by MOST last year was presented and their views on how new IPR policies should be made were solicited. Among the agencies surveyed were : (1) the HCMC IPR Association; (2) VACIP; (3) the Economic Police; (4) the Anti-Counterfeiting Association; (5) Quang Trung Software City; (6) the HCMC Science and Technology Department; (7) the High Technology Park under the HCMC People's Committee; (8) Binh Duong Science and Technology Department; and (9) Judge Nguyen Cong Luc, Binh Duong Court.
- Main findings: In general, people are getting more and more involved in IPR enforcement. Enterprises are paying more attention to their intellectual properties (they register their properties, learn more about IP rights and how to protect them, hire lawyers to work on IPR, etc.). Many private business people realize that they need to take steps to protect themselves rather than waiting for the relevant State agencies to protect them. Government officials expressed concerns about the new IPR provisions. The police, especially, believe that the new provisions on IP crimes in the Criminal Code are not that realistic and will not be used unless new regulations providing guidelines are issued. Coordination among agencies is still a big, unresolved issue.
- LDEA (aka Ministerial Transparency Index) Proposal Approved by the Prime Minister: The Prime Minister's approval will add a lot of credibility to the report and provide important political support for the VCCI to move forward with

USAID/STAR Plus support. The first release of the index generated a lot of debate. Businesses were happy to have an opportunity to evaluate the performance of ministries. As expected, some ministries were not very happy with their ranking.

- USAID and USAID STAR Plus met with senior officials of the Ho Chi Minh Academy on April 1. The Academy officials briefed USAID on the Academy’s future needs and past cooperation with USAID STAR II project. The HCMA was subsequently informed that USAID will not support a series of workshops to evaluate the effectiveness and content of the training that has been conducted over the past two years, as they had proposed.
- Bob Strahota worked with the SSC on various draft securities regulations for three weeks starting April 18. His initial work indicates that there are many problems in the current drafts and different departments at SSC have very different views on what the regulations should look like. Many important issues have been left to the MOF to provide guidelines. Mr. Strahota will comment on approximately 10 regulations. The SSC will hold a retreat for 70 officials from the SSC, the Ministry of Finance, the Ministry of Justice and others to discuss his findings and recommendations.

Other Issues

Project approval completed: The MOJ received an official letter from the Prime Minister approving the (USAID STAR Plus) Project Document. No date has been set for the Steering Committee to review the proposed Year 1 workplan for USAID STAR Plus.

VISITING INTERNATIONAL EXPERTS

Who	When	To Do What
Dejan Momirvoic, IT Office, DAI Bethesda	March/April 2011	Install and configure new server. Update Lotus Notes, install soft PBX, advise on other IT issues
Robert Strahota	April 18, 2011 to May 7, 2011	Provide inputs and advice for USAID STAR Plus workplan. Special emphasis will be placed on the technical assistance needs related to

		the implementing regulations for the new Securities Law.
Richard Shine	TBC	Provide the Supreme People's Procuracy with a research paper on the United States criminal procedure process that can guide judicial reform in Vietnam, with special emphasis on prosecution of intellectual property rights violations.
Judge Clifford Wallace	TBC	Advise the GOVN on judicial reform issues. Note: This would be in conjunction with other activities Judge Wallace is engaged with in China.
Jay Eisenstat	May 10-19, 2011	Advise GVN and private sector organizations on likely TPP requirements related to rules of origin and anti-dumping.

UPCOMING EVENTS

Activities/Events	Date	Place	Objective
Awaiting project approval from the GVN before undertaking any new activities or events.	TBD		Implement USAID STAR Plus contract.
Vietnam Customs plans to hold a national conference in Da Nang in early April which will, among other things, include a presentation on the USAID-supported software.	May 2011	Da Nang	National conference of Customs Officials, including a presentation on the USAID-supported software that provides web access to detailed tariff data.
Launch of USAID STAR Plus	TBD	Hanoi	Increase public awareness of USAID efforts to help Vietnam deal with global economic

			integration.
Workshop at Ho Chi Minh Academy	May 12-13, 2011	Hanoi	One and a half-day workshop on transparency and use innovative approaches to legal education for 130 members of the HCMA faculty of law.