

**MONTHLY REPORT FROM THE USAID SUPPORT FOR TRADE
ACCELERATION PLUS PROJECT**

MARCH 2012

Legislative Function and Processes

Budget Process Workshops: Former Congressional Budget Office economist and STAR I Chief of Party, Steve Parker, gave a presentation on the role of the Congressional Budget Office in the United States at a UNDP-sponsored workshop for the Finance and Budget Committee of the National Assembly on March 19. Other speakers discussed how the budget process is conducted in South Korea, China, Japan and Singapore. On March 23, USAID STAR Plus presented the US experience on budget hearings at a second workshop in Hanoi with the National Assembly Committee on Financial and Budgetary Affairs. The Chairman of the Committee, Dr. Phuong Quoc Hien, expressed his deep gratitude for the assistance and said he would like to do more work in this area with USAID STAR Plus in the near future. The National Assembly is very interested in how they can use their control over the State budget to manage the Government and SOEs more effectively.

OOG Workshops On Improved Civil Service: Dr. Randall Lutter, a former senior official in the Office of Management and Budget (OMB) and the Food and Drug Administration (FDA), spent four days working with a small, high level group from the Office of the Government's Government Organization and Public Service Department, led by its Director, on best practices to improve interagency coordination, ethical standards and administrative discipline for civil servants. This is the first mission to assist the OOG team to develop a new project to reform government institutions and civil services in order to improve the implementation of laws and international trade commitments and anticipated requirements for regulatory coherence under the Trans Pacific Partnership Free Trade Agreement. On March 2, Dr. Lutter met with a delegation from the Legal Affairs Department of the OOG to discuss how the U.S. Government puts together and makes public its semi-annual plan for issuing regulations under the direction of OMB and its Office of Information and Regulatory Affairs. The delegation was led and chaired by two Deputy Director Generals of the Department. At the conclusion of the meeting, Dr. Lutter was thanked and praised by the Chair for the extremely valuable information which he had provided. In closing the meeting on Friday, Director of the Public Service Department expressed the strong hope that Dr. Lutter return soon to Vietnam.

Trade and Investment Enabling Environment

Customs Training For IPR: On March 20, USAID STAR Plus launched a 4-day training program on IPR enforcement at the border for Vietnam Custom officials at a Customs Department facility in Hanoi. The 24 participants were members of "Unit 4," a newly formed, specialized group focused on IPR enforcement. During the training, the participants were provided with information on IPR concepts and database development. They also had an opportunity to strengthen their relationships with the Vietnam Anti-Counterfeiting and Intellectual Property Rights Protection for

Foreign Invested Enterprises (VACIP) members, who represent a wide range of international corporations. Highlights of the training included presentations on international experience in the development of a comprehensive, computerized database of information that Customs officers need to enforce IPR measures by a Chinese expert. Hewlett-Packard sent their Director of Security for Asia, the Pacific and the Japan Global Security Group to the training. They provided useful observations regarding his experience with IPR protection and Customs. Lawyers and other experts representing famous brands, such as Nivea, Diego, L'Oreal, and Honda also participated. In addition to classroom discussions, the participants visited Hai Phong port, the biggest port in Vietnam. At the port, right holders and customs officials reviewed current procedures for enforcing IPR and discussed new approaches that could increase the effectiveness of enforcement measures.

Improved Cooperation with International Firms: In January 2012, Vietnam and VACIP signed a memorandum of understanding in which both parties pledged to work together closely to combat intellectual property rights violations. This was a major milestone in a multi-year effort by USAID, through the STAR projects, to foster closer cooperation between rights holders and enforcement agencies. In February 2012, as a direct result of this new partnership, according to Vietnam Customs, the new Customs unit seized three containers of counterfeit luxury goods from China and arrested the importers. This one action, alone, was equal to 50% of the total value of counterfeit goods seized by the Market Management Authorities in all of 2011. The active cooperation of rights holders will greatly facilitate IPR enforcement at the borders, but the level of cooperation still needs to be improved. In a separate action, Customs seized a large shipment of counterfeit Rolex watches and counterfeit locks made by an American company. Neither Rolex nor the American company has responded to messages from Vietnam Customs. Without a complaint from the rights holder, it is impossible to take further action against the parties violating their intellectual property rights.

Diary Risk Assessment: On Sunday, March 25, USAID STAR Plus dairy experts, Dr. Cathy Carnevale and Captain Robert Childers, formerly of the US Food and Drug Administration met with Jeanne Baily of the USDA to learn about issues related to exports of US dairy products to Vietnam. Vietnam is the 7th largest market for US dairy products in the world. From March 26 to March 30, USAID STAR Plus and the Ministry of Industry and Trade conducted dairy risk assessment training in Ba Vi for 40 participants from various ministries and private companies involved in the production, importation, distribution and sale of dairy products in Vietnam. The classroom portion of the training will cover such topics as the Codex Alimentarius, risk management during production, storage and transport, risk management for infant formula, how the US and New Zealand manage risk through their regulatory systems and traceability requirements. The program also included visits to a dairy research center and a field trip to an international milk company.

Assessment of TPP Benefits: Dr. Petri of Brandeis University, coauthor of a recent paper titled, "The Trans-Pacific Partnership and Asia-Pacific Integration will travel to Vietnam from April 9 to April 13. His paper, which was co-authored with Michael Plummer of Johns Hopkins University and Faz Zhai of the China Investment Corporation, concluded that by 2025 the welfare gains from the Trans Pacific Partnership Free Trade Agreement would rise to \$104 billion per year. Of the nine

countries in the TPP, Vietnam would gain the most. USAID STAR Plus is arranging for Dr. Petri to speak at the Ho Chi Minh Academy (with Communist Party leaders), the Central Institute for Economic Management, the National Assembly, the Foreign Trade University and public events organized by MOIT in Hanoi and HCMC.

TPP Gap Analysis: USAID STAR Plus met with Ministry of Justice (MOJ) to discuss the initial set of 21 gap analyses (current commitments versus anticipated TPP requirements). The MOJ expressed appreciation for the analyses completed to date and said they want to work with USAID STAR Plus to have more gap analyses. They identified four issues of high priority: (i) legal services, (ii) transparency, (iii) dispute resolution, and (iv) administrative appeals. The gap analyses help MOJ clarify the expected impact of the TPP on the legal system. It also facilitated the pace of negotiations by identifying commitments already made under other treaties that are similar or identical to the TPP requirements. The MOJ will use the USAID STAR Plus materials for its report to the Prime Minister on the impact of the TPP and share the papers with other departments and ministries. • **TPP Gap Analysis:** The International Law Department of the Ministry of Justice requested that USAID STAR Plus provide more gap analyses.

Investor-State Dispute Resolution: The Ministry of Justice requested that USAID STAR Plus engage Professor David Gantz of the University of Arizona to provide a research paper on resolving investor-state disputes. The paper will be used in formulating a Prime Ministerial decision resolving investor-state disputes. They would also like him to return to Vietnam in the summer of 2012 to discuss this topic with members of the MOJ and other ministries. Investor-state dispute resolution is an important topic under the BTA, WTO and FTAs.

Hague Conference: USAID STAR Plus met with the Ministry of Justice on March 28 to discuss their request for assistance in researching the Hague Conventions on judicial assistance, the convention on mutual legal assistance and a comparative study of Vietnam's current laws and the requirements of the Hague Conference. They are also seeking support for a workshop on the topic with the Ministry of Foreign Affairs, the courts and the Ministry of Justice. They are particularly interested in obtaining advice from a representative of the Department of State's Office of Private International Conventions. Vietnam already, with assistance from USAID STAR, joined the Hague Convention on Adoption, but they are now interested in joining the larger body, which is the legal equivalent of the WTO. This would be a major step forward.

IPR Program With U.S. Judges: USAID STAR Plus is working with the US Patent and Trademark Office (USPTO) to organize a program on intellectual property rights with three US Federal judges in May. The tentative plan calls for a one-day workshop on May 29 in Hanoi with judges (organized by the SPC), a forum with a Ho Chi Minh City law school on May 29 and a roundtable discussion with Vietnamese judges, scholars, Government officials from various agencies on establishment of an IPR court for Vietnam on May 31.

Financial Sector Enabling Environment and Fiscal and Monetary Policy

High Level Economic Roundtable Discussion: On Sunday, March 25, USAID STAR Plus economist, Dr. Pham Do Chi was asked to attend a seminar with a group of 25 Vietnamese economists, the Prime Minister, the Governor of the State Bank of Vietnam and the Ministers of Finance, Planning and Investment and the OOG. The principal concern discussed was the recent slowdown of economic activity. Dr. Chi was invited to give a presentation on the current situation, stabilization measures, structural reform proposals, a medium-term policy framework and the need for greater transparency to help rebuild investors' confidence. He also spoke of the "struggle" between the two sectors in the Vietnamese economy: the profit-making (or market-oriented) one and the rent-seeking one. He observed that colossal financial losses by public conglomerates like Vinashin and EVN are the result of the Government's policy of favoring the state sector and SOEs at the expense of the private sector. Dr. Chi had a brief chat with the PM, the Minister of Finance, the SBV Governor and the Minister of the OOG, Vu D. Dam. Minister Dam expressed appreciation for the USAID STAR Plus early warning reports that had been provided to MPI and expressed an interest in more direct contact with him in the future on policy issues. The Minister of Finance expressed interest in last year's proposal by USAID STAR Plus to revise the current budget process in order to avoid the "index problem. That arises from the current practice of inflating both revenue and expenditure projections.

Economic Research: Mr. Bui Hung of the OOG informed USAID STAR Plus that the leadership of the OOG/Government appreciated the recent paper on restructuring and the middle income trap written by Professor James Riedel and Dr. Pham Tra.

Economic Performance Report: USAID STAR Plus provided detailed comments on the Economic Performance Report (monthly) of the Ministry of Planning and Investment. MPI distributes the report widely within the Government and to key policy makers.

Training on Public Debt Management and Macroeconomic Policy Management: From Tuesday through Thursday this week, we trained a core group of staff of the Ministry of Planning and Investment on public debt management and how to integrate public debt variable into macroeconomic forecasting. Included in the training program are public debt vulnerability and sustainability.

Coordinated Macro Economic Policy: The State Bank and the Ministry of Finance signed an agreement to work together to strengthen macroeconomic performance. This move will strengthen the coordination of monetary and fiscal policies, as recommended by USAID STAR and others in various papers and workshops. USAID has provided the Ministry of Planning and Investment (MPI) and the National Financial Supervision Commission (NFSC) with regular comments on their reports on macroeconomic performance and policy/institutional coordination, which are shared among policy makers.

Rule of Law

Improved Rule of Law Through Systemization: On March 15, USAID STAR Plus met with the State Bank of Vietnam's Legal Department to finalize the work on systemization that USAID STAR Plus and the SBV have been doing for several

months (as approved by the Steering Committee). The SBV plans to reduce the number of legal normative documents (LNDs) that need to be codified from 1,800 to 500. By eliminating 1,300 LNDs, the SBV has already dramatically increased transparency. In the next several months new software will be developed to expedite systemization of LNDs in the SBV and other Government entities. This will fundamentally change the legal system in Vietnam, as it did in the United States in the 1930s, but to an even greater extent because Vietnam uses a system of civil law rather than common law.

IPR Roundtable for Judges: USAID STAR is working with the US Patent and Trademark Office (USPTO) to set up roundtable discussions with the Supreme People's Court from May 26 to June 1, 2012. The program would involve 25 to 30 Vietnamese judges and faculty from several law universities. In addition to Hanoi, there may be programs in HCMC. Three US judges have confirmed their interest in participating (Judge Edward Damich, Judge Bernice Donald, and Judge Jacquelyn Nguyen). Judge Donald and Judge Damich have worked with USAID STAR before. A significant part of the program is likely to be devoted to the role of specialized Intellectual Property Rights courts. The USPTO and the Supreme People's Court will cover most of the costs, so this program should be feasible even if there are deep budget cuts.

Motion Picture Association: On March 8, USAID STAR PLUS met with the Vice President of Motion Picture Association--Asia Pacific, Frank Rittman, to discuss possible future cooperation. Mr. Rittman said the MPA is very interested in working with USAID STAR PLUS and its counterparts, especially the Ministry of Culture, Sport and Tourism, on issues of common interest, such as the Government's policies for the movie industry. They are willing to provide experts at their expense for any upcoming programs that USAID STAR PLUS may organize. They will also consider other means of support.

Supreme People's Court: USAID STAR has completed the translation of materials obtained from the National Judicial Training Center in Washington, D.C. on case management and judicial writing. These materials will be posted on the USAID-funded SPC portal so they will be available to all judges in Vietnam.

Legal Clinical Education: James P. Taylor, Director of the Mansfield Legal Reform Initiative at the University of Montana, conducted an all-day training program on the use of legal clinical education at the Judicial Academy on March 13. Afterwards, he spoke to a full house of representatives of US corporations at the American Chamber of Commerce luncheon. The topic was the Foreign Corrupt Practices Act. Professor Taylor also met with international and Vietnamese academics from the Hanoi Law University.

Law on Laws: USAID STAR Plus representatives met with the Ministry of Justice to discuss their request for assistance in combining the (national) Law on Laws with the Law on Local Laws. This was a major focus of USAID STAR II. Subject to the availability of funding, USAID STAR Plus will provide speakers at training programs and provide expert commentary on drafts of the new law.