

# Terminal Evaluation

## Asia

### 1. Outline of the Project

**Country:**

Vietnam

**Project title:**

Core support for important policies (The Japanese Cooperation to Support the Formulation of Key Government Policies on Legal System (Phase 2))

**Issue/Sector:**

Consolidation of Legal System

**Cooperation scheme:**

Expert Team Dispatch

**Division in charge:**

Indochina Division,  
Regional Department

**Total cost:**

490 million yen

**Period of Cooperation**

1 Dec 1999-  
30 Nov  
2002

**Partner Country's Implementing Organization:**

Ministry of Justice (MOJ), Supreme People's Court (SPC), and Supreme People's Procuracy (SPP)

**Supporting Organization in Japan:**

Justice Ministry (Research and Training Institute of the Ministry of Justice ), Nagoya University, Supreme Court, Japan Federation of Bar Association, Supporting Committee in Japan and Working Group for the Drafting of the Civil Code

**Related Cooperation:**

Expert team dispatch; "core support for important policies (The Japanese Cooperation to Support the Formulation of Key Government Policies on Legal System (Phase 1))"

### 1-1 Background of the Project

The Vietnamese government has promoted market-oriented economy and the policy of opening the country to foreign businesses after the adoption of the Doi Moi policy in 1986 (the policy which was aimed at realizing free economy with socialism maintained). At present, Vietnam's Ministry of Justice is facing an urgent need to review the legal system which was constructed based on the Soviet-style legal system and to build up a new framework of law supporting market economy. Therefore, the government promoted the consolidation of law in cooperation with governments of other countries and international organizations, and established a new Constitution in 1992 and a civil law in 1993. The government still needed to consolidate the legal system including commercial law and code of civil procedure and supplementary laws in the Civil Code.

Under the circumstances, in 1994 the Vietnamese government requested the Japanese government the technical cooperation for the consolidation of various laws and human resources development. In response to the request, expert team dispatch, "The Japanese Cooperation to Support the Formulation of Key Government Policies on Legal System [Phase 1]", was implemented for three years between 1996 and 1999. Prior to the termination of the project, both countries reached an agreement that it was necessary to continue cooperation.

### 1-2 Project Overview

Japan provided assistance for the consolidation of the framework of laws such as civil and commercial law required for promoting market-oriented economy through the expert dispatch, implementation of country-focused training, and the equipment supply in order to contribute to the consolidation of laws appropriate for the promotion of the market-oriented economy of Vietnam. The essential features of cooperation are as follows: (1) Advice on individual legislative activity, (2) advice on consolidation of the law system (drafting a big picture of the current law of Vietnam and collaborative research on the amendment to the Civil Code) and (3) fostering legal personnel (judicial officers, judges and prosecutors).



## (2) Effectiveness

The project was effective for Vietnamese staffs who were the direct beneficiaries of the project since the staff of MOJ, SPC and SPP had acquired the knowledge necessary for legislation and amendment to the law consistent with the conditions of the country.

## (3) Efficiency

With regard to the country-focused training, more efficient implementation of the training could have been realized provided both Japan and Vietnam had elaborated meetings in advance on the contents of the training and the selection of participants and implemented the training by mutual agreement. In addition, though the training achieved some positive results, the relation between the training and the results was not clear due to the ambiguity of its positioning and goal. In this respect, the training was not highly efficient. In addition, as for the preparation for the overall plan, the progress was behind schedule due to the switch of the plan in the beginning of the project. However, the remaining works will be completed by the end of March 2003.

Meanwhile, a smooth impetus such as expert selection and cooperation on their respective departments was made possible owing to the establishment of the cooperative relationship by the three elements of the judicial community of the Japanese side and people from the university. As a result, the efficiency was enhanced.

## (4) Impact

The amendment of Civil Code was scheduled in 2002 in the original plan. However, the decision of overall amendment to the Civil Code was made due to some causes including advice by experts even if the submission of the bill was delayed. Reorganization of the institutions of the human resources development in the judicial sector such as the Foundation of The National Judicial Academy was indirectly promoted. The project has been highly valued among people involved with the support for the field of consolidation of law (including other donors) and became too important to be ignored. The impact therefore was recognized owing to the construction of the cooperation system by the three elements of the judicial community and people involved in law including the people from the university.

## (5) Sustainability

The Vietnamese government recognized the importance of the reorganization of institutions involved in the legal system and human resources development. Therefore, the sustainability of institutional aspect was highly evaluated. In financial aspect, although MOJ, SPC and SPP do not have enough funds to implement special projects, it is not an obstacle to staff labor. The financial sustainability is not necessarily high, but not low either. In technical facet, there is a need of Vietnamese people to obtain more knowledge and experiences from foreign countries including Japan in order to meet more of the needs of consolidation of law.

### **3-2 Factors that promoted realization of effects**

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#### (1) Factors Concerning the Planning

N/A

#### (2) Factors concerning the Implementation Process

1) The Project was smoothly implemented through a good relation between the long-term experts and Vietnamese institutions involved, and Vietnamese reliance on Japanese projects was strengthened. In addition, although the collaboration and coordination was not implemented as expected at the time of planning, no major problems occurred through the implementation of the project. This was due to the long-term experts playing the role of coordinating three institutions. Above all, in the latter half of the project, the activities of the long-term experts contributed much to the achievement of the goal of the project.

2) With regard to the amendment of the Civil Code, intellectual input was successively introduced through the training and the workshop on site for professional human resources. As a result, the draft to which Japan's advice was mostly reflected was being prepared and consequences such as policy shift to overall amendment of the Civil Code was brought about.

3) The project is the first support for consolidation of law by Japan and it was implemented through a trial-and-error process. The program was effectively generated due to such flexible responses to desires and problems as the response of the long-term experts and the project review in annual consultation research.

### **3-3 Factors that impeded realization of effects**

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#### (1) Factors Concerning the Planning

1) In order to maintain continuity of the project, three studies were conducted in parallel with the annual consultation research of Phase 1 and Terminal Evaluation, and formulated a project. For that reason, detailed activity plans on respective outputs could

not be formulated, and the project was launched with the detail of respective experts' TOR undecided. In addition, as for the creation of legal database, the contents of cooperation were forced to be changed because of the revelation of other donors' supports.

2) At the time of planning, the program was not thoroughly formulated since the detail of the support program in Japan's assistance to Vietnam had not been decided, and the Vietnamese side had focused on the distribution of institution-by-institution input. Moreover, it was pointed out that the support involved in this field became close to the vision to aim at (which is referred to as super goal in PDM), and the relation was not established that the realization of output was equal to the achievement of goal, because the goal comprehending all issues was set up. However, both the Japanese and Vietnamese side did not share enough recognition about the goal with respect to the problem to be resolved in the field involved and the details of the design of the project.

## (2) Factors concerning the Implementation Process

1) The follow-up was not carried out based on the PDM made in the planning phase. In addition, late response or direct request for study to the supporting committee about local inquiries and the request for examination were found, and JICA did not play a leading role of management implementation of the project.

2) MOJ, which was planning to play a coordinating role on the Vietnamese side, was an organizationally subordinate institution of SPC and SPP, and therefore the coordination was difficult. As a result, a multiplier effect resulting from the increase of counterpart institutions was not demonstrated. In addition, inter-department activities such as the actual condition survey on the amendment of the Civil Code were not effectively implemented owing to the top-down organization of the Vietnamese side.

3) The examination activity was not completed on schedule since the workload was too much for the research institute, which was in charge of the creation of the overall plan and actual condition survey on the amendment of the Civil Code. For that reason, the draft of the amendment of the Civil Code in which all of the examination outputs were reflected was not realized in the end of the project.

4) The positioning of the country-specific special training was not clear-cut due to the ambiguity of the goal of the project. As a result, the preparation of the training was not easy, and an effective achievement by the training was not recognized.

## 3-4 Conclusion

In the project, programs were built up under various restrictions and faced some problems which had not been expected at the beginning. However, the problem was resolved case-by-case through the trial-and-error process in the project implementation. Through the activity of the project, the achievement of plentiful positive outputs in realizing the goal of the project was confirmed such as the contribution to the consolidation of various laws promoting market-oriented economy focusing on human resources development in law and the amendment of the Civil Code. Therefore, the project was successfully implemented in general.

However, it will take a few more months to make an overall plan and reflect the actual condition survey in the draft of the amendment of the Civil Code, and therefore it is required to extend the cooperation period of the project to March 31, 2003. Meanwhile, in view of the technical sustainability, supports from foreign countries are continuously needed in order to fortify institutions in the field of law and evaluate the promotion of the market-oriented economy. It is appropriate to continue the support from Japan such as the implementation of Phase 3.

## 3-5 Recommendations

(1) It is necessary to take enough period of time to conduct an elaborate preparatory study such as the dispatch of experts to the site for collecting information and conducting PCM workshops in order to share the both sides' recognition on issues and the project. It is also essential to carry out examination of the capacity of beneficiary institutions and to collaborate with other supporting institutions and formulate the program of detailed activity.

(2) Follow-up should be conducted through program formulation based on PCM. More specifically, there should be an effective preparation process in the implementation of the project. The process should include such activities as setting goals and achievements which are possible to be measured in the end, formulating the program of detailed activity and placing an appropriate evaluation indicator. Furthermore, in the case of setting plural goals of the project as a result of basic survey, it should be reviewed if the whole support to the consolidation of law should be regarded as one program, and loose collaboration should be aimed at. In addition, in the follow-up period, PDM should be utilized and reviewed accordingly as needed.

(3) There is the need to build up a coordinating institution on the Vietnamese side in accordance with the activity of project. However, in Vietnam where the top-down system is emphasized, it is difficult to leave everything up to the Vietnamese side. Therefore, it is necessary for the long-term experts to provide a certain level of support for the moment.

## 3-6 Lessons Learned

(1) The formulation of JICA's strategy in the field of the consolidation of legal system as a problem should be practiced. In this strategy, the approach to be taken to cooperate and the deadline set for overcoming the problem for each of the targeted country should be made clear.

(2) Human resources development in the governance field including the consolidation of the law system and the establishment of departments under jurisdiction should be reviewed. It should also be considered at the same time that the Vietnamese side secure personnel who are specialized in the field of international cooperation and invite external legal personnel as consultants.

(3) In the case of cooperation that supports the establishment of institution of a target country, it depends on the counterparts to what extent the knowledge and experience of Japanese side should be adopted. In addition to the evaluation focusing on ordinary outputs, the evaluation focusing on more impact should be implemented. Therefore, strengthening the monitoring system is desirable. It is also necessary to collaborate with other academic institutions. The research program in the related field conducted by the University of Nagoya is a very good example?it is necessary to provide the Vietnamese side with the feedback of practical work and research such as through mutual information exchanges because the development introduction of academic evaluation methods is desired.

(4) In the support of the field concerned, it is often the case that other supporting institutions have already provided assistance. Therefore, active collaboration beginning from the planning phase with other institutions is vital, and an effective program implementation to avoid duplicate supports is needed. Furthermore, it is appropriate to adopt the coordination among donors and construct such structure as disposition of on-site experts as part of the project activity.

(5) In the case of support in the field of legislation (including the support of the amendment the Civil Code), it is necessary to clarify the purpose and provide input along with the purpose. More specifically, it is differentiated into the following two cases.

1) Support for draft preparation (e.g. the amendment of the Civil Code): To select the Vietnamese people targeted at support, to give successive assistance such as on-site workshops and the training conducted in Japan and to provide support for nurturing long-term officers in the related departments in addition to individual teaching on drafts.

2) Support introducing law systems in other countries such as Japan and other foreign countries: The long-term experts are to manage the support implementation mainly because the activities are focused on the provision of knowledge. Seminars are also held by inviting Japanese lecturers if necessary (No seminars in Japan are given).

(6) The project should be put into operation mainly by the implementing organization of the beneficiary country. The JICA overseas office and the long-term experts should take the initiative in establishing the necessary structure system which allows those who are in the beneficiary country to make decisions. In addition, the long-term experts should voluntarily carry out technical transfer on site.

### **3-7 Follow-up Situation**

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Based on the above mentioned Evaluation Result, Phase 3 is to be implemented between 1 July, 2003 and 30 June, 2006.