



German Technical Cooperation



Improving the Legal Environment for BDS Market Development

From Research Recommendations to Policy Reform

Nguyen Dinh Cung

Central Institute of Economic Management (CIEM)
Ministry of Planning and Investment (Vietnam)

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What were we aiming at?

- Identify legal and policy issues affecting BDS market development – and **raise awareness** on them
- Address **concrete legal constraints** hindering the development of specific services markets
- Point out inconsistencies in the implementation of the **Law on Enterprise** (LOE) (liberalizing the setting up of private companies) since 2000

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[Some Key Legal Constraints for BDS Market Development]

- Regulations on specific BDS **contradict the Law on Enterprises (LOE)**
 - E.g. Decree on Consulting Services does not recognize individual and freelance consultants
- Criteria for **market entry** complicated or unclear
 - E.g. IP service providers must have min. 2 members with IP agent certificates (very difficult to obtain)
- Restrictions on the **transactions** of BDS remain
 - E.g. 7% cap on spending on advertisement services
- **Attitude** of business registration officers
 - Entrepreneurs may not be able to register a service, when the officer has never heard about it before ³

[A Study on the Legal Environment for BDS was only a Start...]

- Initiated by GTZ and implemented by a consortium of local institutions
 - CIEM (policy think tank), Vision (consultancy company) and VCCI (Chamber of Commerce)
- Covering 7 services in the first phase and 3 services in the second. Selection criteria:
 - High relevance of services for SME
 - Interest of the general public in the development of the service market
 - High potential benefit of reform for the functioning of the BDS market
 - Feasibility to reach an effective policy reform ⁴

But How to Move from Research Recommendations to Policy Reform?

Recommendations must find their way through a non-transparent policy making process to be included in regulations, policies and be converted into actions.

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The right partners with high local ownership are key to make this happen..

- Research conducted by institution directly involved in policy reform
- Inputs to LOE task force of PM, which directly makes proposals for policy changes
- Government is often more responsive to call for reforms from inside (public think tank) – not from outside (donors)

Study on Legal Constraints to BDS Markets

(CIEM as researcher)

CIEM, VIA **LOE TASKFORCE**, TO BRIDGE THE GAPS

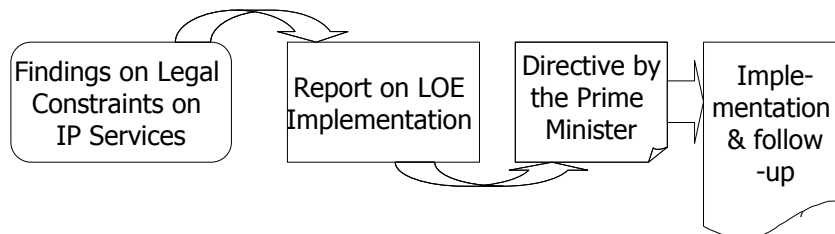
Regulations and Actions by Gov't

(CIEM as drafter)

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[Don't wait for the final report to come out...]

- Research results been fed constantly into ongoing reform discussions
- Findings integrated in reports by Government think-tank, and then transferred to regulations and policies



[Select the right topics and support the process by raising awareness ...]

- Focus on services of high relevance
 - E.g. intellectual property services
- Link it with issues of overarching interest (violations of Law on Enterprise)
 - E.g. regulations for legal services and consulting services directly contradict LOE
- High ownership and persistence from the key stakeholders and advocators for change
- Media campaign to provide information and create awareness of the general public

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[What have we achieved so far?]

- Specific reform proposals integrated into policy documents of VN Government
- Directive of the Prime Minister ***on strengthening the Implementation of LOE*** pinpoints concrete reform demands for
 - Legal consultancy services
 - Intellectual property services
 - Vocational training services
 - Accounting and auditing services
 - General contradictions with international regulations

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[Example of Reform: Intellectual Property Services]

BDS Research Report:
"...IP service providers must have min. 2 members with IP agent certificates (very difficult to obtain)..."

LOE Implementation Report recommends:
"...Number of IP Representative Certificates required should be reduced or replaced with business conditions..."

Directive by PM:
"...Ministry of Science & Env't shall replace IP representative certificate requirement with business conditions..."

Action by Ministry of Science:
A Decree is being drafted to reduce the # of required certificates to one and ease entry conditions (deadline: Dec. 2004)

**[Thank you very much for
your attention!]**