



Consultation

of the Domestic Business Community
in the Development of
Vietnam's Legal Framework
for Enterprise

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Abbreviations

ASEAN	: Association of South East Asian Nations
CIEM	: Central Institute of Economic Management
GTZ	: German Technical Cooperation
IFC	: International Finance Company
ILO	: International Labor Organization
MOJ	: Ministry of Justice
MPDF	: Mekong Private Sector Development Facility
MPI	: Ministry of Planning and Investment
NGO	: Non-Governmental Organization
EC	: European Commission
EU	: European Union
Eurocham	: European Chamber of Commerce (in Vietnam)
OECD	: Organization for Economic Cooperation and Development
PMRC	: Prime Minister's Research Commission
PPD	: Public Private Dialogue
PPP	: Public Private Partnership
SME	: Small and Medium Enterprise
SOE	: State-owned Enterprise
TAF	: The Asia Foundation
UAIC	: Union of Associations of Industry and Commerce
UNDP	: United Nations Development Program
USAID	: US Agency for International Development
USBTA	: US - Vietnam Bilateral Trade Agreement
VAFI	: Vietnam Association of Financial Investors
VBF	: Vietnam Business Forum
VCCI	: Vietnam Chamber of Commerce and Industry
VNCI	: Vietnam Competitiveness Initiative
YEA	: Young Entrepreneurs Association
WB	: World Bank
WTO	: World Trade Organization

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Preface

In the area of public consultation, Vietnam has made important strides, increasingly recognizing that public consultation gives citizens and businesses the opportunity to provide active input in regulatory decisions and thus contribute to increasing the quality of laws and regulations. Public consultation has been made mandatory by Vietnamese laws and also under the international agreements to which the country is a signing party. It is increasingly recognized by the Government that the laws and regulations will be more welcome by the business community and the public and will be implemented more easily and more effectively if they are consulted with the public before being enacted.

Despite good experience in a few cases, the drafting committees of laws and regulations still ignore and distort the consultation obligation for many laws. In some cases, consultation involves very narrow and unrepresentative interests (in some cases, only public officials, in other cases only corporatist interests). In other cases, consultation is organized too late in the drafting process when structural changes to the draft legal documents become extremely costly and impractical. Often the consultation is organized in an ad hoc manner and therefore is too formalistic and is too brief (two days to assess hundred of pages of text). Most subordinate regulations, in particular important circulars, guidelines and forms, are not consulted before being enacted. Very exceptionally, the drafting committee reports on the results of the consultation process. Except for a few cases, neither the business community nor Government has taken a systematic approach to taking advantage of the consultation. As a result, the quality of the consultation varies enormously in Vietnam, but is generally inadequate to meet international norms of good practice.

However, both the Government and the business community show strong commitment to improving consultation and to strengthening public private dialogue on business issues. The making of the Trade Law, Land Law, Enterprise Law, Investment Law and some others in the last three years has been an excellent example for this strong

commitment. In a context where Vietnam is seriously taking quick actions to improve its legal framework in preparation for its accession to the WTO and for full implementation of international trade agreements to which the country is a party, the improvement of public consultation will obviously help to improve the quality of its legal framework, particularly from the perspective of regulatory performance and of conformity with international commitments.

This paper is part of the overall effort by the German Technical Cooperation (GTZ) to improve the business environment and investment climate in Vietnam. It is prepared by Markus Taussig (Harvard Business School) and Le Duy Binh (GTZ) with advice from Ms. Corinna Kuesel and Mr. Thomas Finkel (GTZ).

The opinions given in this paper are of the authors and do not necessarily reflect the view of GTZ.

Introduction

The objective of this paper is to (i) reflect upon and analyze the typical processes by which the Vietnamese Government consults the country's domestic business community; and (ii) elaborate some suggestions by which to improve the consultation process.

This paper is largely based on the research experience of the research team in recent years, including interviews with private sector entrepreneurs, representatives of business associations and research institutions, and Government officials at national and local levels. In addition to drawing on such past experiences, the research team also reviewed recent literature and consulted with a limited number of Vietnamese and international experts.

The basic position of this paper is that Vietnam is, so far, successfully making its way—slow and steady—through the challenging transition process of building a national legal framework for business, with ever increasing input from private entrepreneurs. The word process is important, as is understanding that Vietnam is still early in this process and the challenges that remain are substantial. Successes so far have often been the result more of impressive individual efforts than an existing, predictable institution-based system. Subjectivity in implementation of laws remains more the rule than the exception and both business and Government remain quite cynical in their approaches to public-private partnership (PPP). Cynicism is most evident in the private sector, which has shown little in terms of initiative with regard to formal PPP. Given the costs and benefits faced by individual entrepreneurs, this inaction is, in fact, understandable.

The donor community is naturally very enthusiastic to support the very important areas of PPP and development of Vietnam's legal framework for business. At the same time, donors know they must take care not to overstep their welcome and the principles of national sovereignty that Vietnam clearly values very highly. In the opinion of the research team, donors, as a result, have been quite tentative in their willingness to directly address sensitive issues, while also being somewhat anxious to declare large

successes and claim credit. While this is, of course, a phenomenon that is easy to understand given the internal incentive systems of donor organizations, it is still worth noting since it can lead to misplaced focus and missed opportunities.

Donors that wish to have a real impact should be sure to define their goals in clear, tangible, and often more limited terms. Large amounts of money are not key, and can even be counterproductive in this field. It should be remembered that institutionalization of core components of transition such as evolution of appropriate institutions and the emergence of new norms of behavior cannot be expected to occur in leaps and bounds, but instead will come about only in increments. The report concludes by suggesting a number of possible areas of focus for donor activity in support of the development and institutionalization of PPP aimed at building up Vietnam's legal infrastructure for business.

The Rationale for Consultation

The basic principle that a stronger dialogue between lawmakers and the segments of society affected by the laws they create appears to be one that is now quite broadly accepted within the Vietnamese Government. Vietnam's Law on Promulgation of Legal Normative Documents (The Law on Law) was amended in 2002 to increase the transparency of the country's lawmaking process and to create conditions for increased input in the process from affected parties. The Law on Law clearly defines the right of the people to comment on legal normative documents and also the obligation of drafting body to have the draft regulations commented by the public. It clearly stipulates that in the making of legal normative documents, depending on the content and the nature of the legal documents being drafted, relevant bodies and drafting committees should create the most favorable conditions for individuals and organizations to comment on draft regulations. Additionally, drafting bodies have the responsibility to solicit comments and opinions from the public, individuals, organizations, particularly from those who are directly affected, on the draft regulation in an appropriate scope and manner¹.

In fact, this principle had by this time already been introduced with regard to the more specific development of the legal framework for business when the Prime Minister introduced Directive 28 in 2001. This directive officially named the Vietnam Chamber of Commerce and Industry (VCCI) as the official representative of the country's domestic business community and requires that VCCI (in particular, VCCI's Legal Department) be consulted during the drafting of business-related laws.

The U.S.-Vietnam Bilateral Trade Agreement, signed in July 2000, includes a provision that the American Government and American citizens have the right to "comment on the formulation of laws, regulations, and administrative procedures of general application that may affect the conduct of business activities covered by this Agreement"². The rationale behind this provision is that the U.S. Government wishes to establish a

1 Articles 3.2 and 26.4 of the Law on Promulgation of Legal Normative Documents.

2 Article 3, Chapter VI of the BTA, as quoted in: Proposals for Strengthening Transparency: Improvements in the Law on Promulgation of Legal Normative Documents, Administrative Law Sub-Working Group, Vietnam Business Forum, December 2003, p. 1.

minimum level of stability and predictability for American investors interested in doing business in Vietnam. Appropriately, Vietnam's Government has also sought to apply this same sound thinking to its dealings with the country's own domestic business community. In fact, there are numerous significant examples in Vietnam's history where Government has consulted the business community (i.e., the concept is not foreign or entirely new), but these do not together form an institutional, systematic approach.³

The most common justifications given in Vietnam for improving consultation of the business community in the drafting of business laws are⁴:

- Increase in the predictability and transparency of the business environment (i.e. reduction of sudden, unexpected new regulations impacting business);
- Decrease in undesirable errors, inconsistencies, overlap, duplication, and lack of clarity in legal documents;
- More consistency with commitments made under different bilateral and multilateral agreements (e.g. commitments made under the WTO, AFTA ⁵ or the USBTA);
- Higher level of compliance and more effective implementation of the legal documents when they are enacted since the public is already informed and was actually involved in the making of the documents;
- Implementation of the Vietnamese Communist Party's longstanding stated policy that "The people know, the people discuss, and the people review".

³ A particularly well known anecdote is the one about Mr. Nguyen Van Linh communicating directly with entrepreneurs in Ho Chi Minh City in the late 1970s and early 1980s and telling them that the economy needed them to go about their business and that he would personally take responsibility if there were any objections from national leadership. Mr. Linh, who at the time was Party Secretary of the city, later became the General Secretary of the Vietnamese Communist Party who officially launched the "Doi Moi" (Reform).

⁴ Ibid, p. 2.

⁵ The ASEAN Free Trade Area.

Other benefits identified internationally include ⁶ :

- Employing broader and deeper base of expertise on possible legal options;
- Helping to balance narrow interest groups by having all interested parties had the opportunity to present their view;
- Helping to identify unintended effects of laws and practical implementation problems;
- Ensuring that both the benefits and costs of the draft regulation and alternative mechanisms for addressing the problem are fully taken into consideration by all interested parties, hence strengthening the justification for the regulation.

⁶ Recommendations of the OECD Council on Improving the Quality of Government Regulation, OECD, Paris, 1995, p. 18, as cited in Raymond Mallon, Business Regulation Reform: A Toolbox for Vietnamese Policymakers, VNCI and CIEM, October 2004.

The Realities of Consultation in Vietnam Today

There are four main mechanisms by which, in reality, the Government in Vietnam currently consults the business community in development of the legal framework for business. These are:

- Public meetings between specific Government agencies and interested business interests;
- Direct requests for contributions of specific business representatives by Government agencies assigned to draft particular business laws;
- Announcement of draft regulations and laws on the mass media or the internet and requests for comments from the public;
- The bi-annual Vietnam Business Forum.

Public Meetings. Most prominent of these meetings is the meeting between the Prime Minister and entrepreneurs held once a year. It has now become customary that such meetings between the top leader in Government and the business community at the provincial level, too, so most provincial People's Committee Chairpersons (or, at least, their Deputy in charge of economic affairs) now hold annual meetings with local entrepreneurs. Line ministries have also taken to having their leadership hold such open meetings with business. The Ministry of Finance has been particularly aggressive in doing so over the last few years, with meetings focused on both tax and customs issues. In particularly vibrant Ho Chi Minh City, annual meetings between the Chairperson and the head of the Tax Authority are also held at the district level.

Periodic public meetings between Government agencies and the business community are covered quite extensively in the local and, when appropriate, national press. The meetings are often the venue for spirited and serious complaints by individual business owners who are not afraid to name names and point to specific violations by specific Government officials. In some of these cases, the lead Government official may order resolution of the issue on the spot. Very rarely, however, does the business community

come to these meetings with a clear, organized agenda aimed at specific policy issues. When policy issues do emerge, it seems to be more of an accidental dovetailing of uncoordinated complaints. From the Government's perspective, the main purpose of these meetings appears to be to provide an acceptable venue for complaints, like a safety valve to let off steam. The meetings may also have the benefit of allowing more dynamic leaders to show their political skills at dealing directly with people and difficult situations.

The dominant feature of the PPP and the business community is the ad hoc manner in which it is implemented. Except for some limited cases, neither the business community nor Government has taken a systematic approach to taking advantage of the meetings as a tool to monitor and evaluate either particular issues being raised at throughout the country or, more generally, the effectiveness of local governance. In most cases, there appear to be no meaningful keeping of records of these meetings, with the occasional exception of substantial media coverage. Business associations would be the natural manager of such data management activities. There also appears to be little, if any, coordination of meetings across provinces. Furthermore, public meetings at provincial level are often even less effective and in many cases are just formalistic in nature.

Requested Contributions to Specific Laws. As noted above, the Law on Law now requires that drafters of laws affecting business consult the business community via VCCI. It appears, however, that what this actually means in practice is highly inconsistent and unstructured. Instead, the degree to which elements of the business community are consulted seems to very much depend on the proclivity of the individual drafters themselves to solicit outside opinions. Furthermore, there is the question of whom the drafters decide to consult. As in any country, the specific input that lawmakers will get on a specific issue of business law can differ widely depending on which element of the business community they decide to consult. It appears that there have been many cases where politically connected State-owned Enterprises (SOEs) have had significant impact on the drafting of laws with heavy implications on business. While VCCI does have many private sector members, these members tend to be relatively small, while SOEs serve as its biggest and oldest members. The political

influence of SOEs is further strengthened by the greater presence of SOE managers in the National Assembly, in general, and on the Assembly's Economic and Budget Committee, in particular.⁷ SOEs, of course, very much have an interest in limiting the level of competitiveness between firms that is provided for in new legislation. As such, a dominant role for SOEs in the drafting process can have a negative impact on the greater business community.

Besides, interest groups and enterprises located in major cities often have a better chance of being consulted than their counterparts in rural or remote areas. This does not only have much to do with the limited budget allocated for drafting committees but also with the mindset of the drafters. In many cases, minority interest groups, business associations at provincial level or businesses in rural areas are simply neglected or unintentionally not included by the drafters in the list of invitees to consultation workshops on important business laws and regulations which are in the making.

Announcement of the draft laws on the mass media and internet. This method, which might already be traditional elsewhere, remains new to Vietnam. Nevertheless, it is being increasingly adopted and becoming popular in the country. While the Trade Law, Enterprise Law, Investment Law, Corporate Income Tax Law, the Land Law etc. were being drafted, their drafts could be easily downloaded from the websites or found on the newspapers of the Ministry which is in charge of drafting such laws or from the website of VCCI⁸. Particularly, the whole process of making the Enterprise Law and the Investment Law (which have just been passed in late November 2005) is characterized with a strong use of the mass media and the internet in making the draft versions available to the public and in obtaining the public's comments on the two draft laws.

7 For a listing of the members of the National Assembly's Economics and Budget Committee at the National Assembly's 11th Congress in March 2002, please visit <http://www.na.gov.vn>. The committee includes three managers of General Corporations and only one private company owner. The lone private company owner would appear to have significant connections to the state, as his business has been assisted by the Ministry of Tourism to establish ties and invest into construction in Cuba, in collaboration with the Vietnam Construction General Corporation (VIC) and the State Tourism Corporation of Cuba ("Cuba: Cau Noi Vao Thi Truong My Latin", The Dien Dan Doanh Nghiep, December 6, 2004).

8 The VCCI establishes www.vibonline.com.vn on which latest versions of important draft laws and regulations which are related to business could be downloaded. For some important laws like the Enterprise Law (2005) and Investment Law (2005), a specialized platform was also set up in this website to solicit public opinions and comments. Most of the opinions were documented by VCCI and officially submitted to the drafting committees for their consideration.

Unfortunately, this has not become a standardized practice in the making of business laws and regulations in Vietnam. Drafting committees have the full discretion to decide whether or not to publish a draft law or a draft regulation on the newspaper or on the internet and solicit public opinions on them. And this decision again depends very much on the openness, the proclivity, the accountability, the willingness to accept challenges, and even the courage of the related law drafting committee.

Vietnam Business Forum. The Vietnam Business Forum (VBF) has rapidly grown into a high profile PPP exercise. Given the association between the VBF and the bi-annual Consultative Group meeting, as well as the leading role taken by donors in organizing each meeting, donors deserve a great deal of credit for the Forum's successes. Donors-and particularly the IFC, which has headed the VBF Secretariat-have also made a concerted effort to involve domestic business as much as possible. This has included impressive presentations by representatives of the Young Entrepreneurs Association (YEA), the Vietnam Association of Financial Investors (VAFI), Hanoi Union of Associations of Commerce and Industry (UAIC) which has clearly benefited from the opportunity to make itself better known to the Government. Still, as with the other consultation mechanisms, the domestic business sector's role is not institutionalized, their involvement in between bi-annual meetings is limited, and systems for their further involvement in follow up on issues discussed at the meetings are not well developed. Some Vietnamese experts interviewed for this report somewhat cynically described the main goals of the VBF as more focused on donor's and the Government's public relations goals than on any real dialogue.

In addition to the Government consultation of the business community is the *inter-ministerial consultation* on business laws and regulations. Consultation with ministries and other authorities is crucial to ensure the coherence and coordination of the regulatory intervention and avoid duplication and contradiction in the legal framework. Vietnam carries out ministerial coordination through two main approaches. First, all laws are discussed at Cabinet level and, second, the Government encourages the appointment of other ministries' members to the drafting committees. Even when a ministry is not represented at the drafting committees, senior officials and agency representatives are often invited to ad hoc hearings. At its best, the drafting committee

model is considered as an inter-agency exercise. In practice, the coordination system confronts administrative and cultural difficulties. As in many countries, ministries find it problematic to work collectively. The traditional sense of reservation between officials (sometimes including self-censorship), linked to seniority principles, makes difficult a frank debate of contentious points. More problematic, the lack of clear parameters and mediation mechanisms means that differences are not discussed until too late in the process⁹.

⁹ PMRC, GTZ and UNDP [2005], *Improving the Quality of Business Laws: A Quick Scan of Vietnam's Capacities & Introduction of International Best Practices*.

The Parameters of Consultation

In practice, consultation of the domestic business community on development of new business legislation is still far from stated ambitions. Successes have come about through great individual efforts (largely from within the Government itself, from semi-Government bodies like VCCI, or from emerging business associations like VAFI), rather than through a systematic process or through initiatives from segments within the business community that have been replicated in the creation of other laws. The Enterprise Law is the obvious example here, with the Central Institute for Economic Management (CIEM), the Prime Minister's Research Commission (PMRC) and individual members of the Enterprise Law Task Force indeed deserving enormous credit for the law's relatively successful implementation. It is, however, not clear that it would be realistic to consider their collective initiatives and accomplishments to be a model that can be systematically applied to the drafting and implementation of other laws.

A key issue is the Government's own apparent ambivalence regarding how exactly Public Private Dialogue (PPD) is to be carried out. In many cases, Vietnam's governmental bodies appears committed to maintaining the power to decide which voices should participate in the dialogue and which should not. In fact, leading voices representing the domestic private sector are commonly actually employed in Government, the State sector, the foreign sector, or semi-State or so-called mass organizations (State influence over business associations is discussed in the following section). Even the chairpersons of provincial YEAs-which are generally composed of primarily private companies-are commonly from the State sector. This is representative of a self-reinforcing cynicism in the private sector, wherein private business owners believe they have no power and take on no power. Entrepreneurs generally believe that sticking their own individual necks out to register complaints or more generally advocate for change on behalf of their greater community can come with personal costs-and with little in terms of potential personal gains to balance these costs. Better not to rock the boat¹⁰. SOE managers, in contrast, find leadership positions in associations can help speed along promotions and come with little to no downside.

10 Markus Taussig and the World Bank's Leila Webster wrote of a "tall poppy syndrome" in 1999, which referred to the tendency of risk averse Vietnamese entrepreneurs to avoid bringing attention to themselves (Webster and Taussig, Vietnam's Undersized Engine: A Survey of 95 Larger Manufacturers, Private Sector Development Discussion Paper #8, 1999). In their report, the authors were referring to entrepreneurs' hesitation to allow their firms to develop to very large sizes that would be more noticeable to State regulators. Leading the charge on complaints against authorities quite naturally can be seen to carry similar dangers.

The Law on Law gives Government agencies at each administrative level full power to decide which organizations and individuals should be consulted for which draft laws. With regard to business and consultation, the selection-at the national level-of VCCI certainly seems very appropriate given that organization's leading role in organizing business meetings, long history of assisting the Government with its understanding of the business community, and its large national network of members. The fact remains, however, that VCCI is itself still a semi- (at least) governmental organization with, traditionally, as much of a top-down function as a bottom-up function. In some other cases, private company owners have complained that industry-specific associations chosen by the Government for consultation are not the most representative.¹¹

At the heart of this issue is the difference between the more Government-centric concept of *consultation* and the more enterprise-centric concepts of *advocacy* or *lobbying*.¹² The present discussion in Vietnam (as well as the scope of this paper) is largely about how to better enable the Government to consult the business community. The implied responsibility lies primarily with the Government, with businesses playing the more passive role of "being consulted". Under such a system, the occasional criticisms from some in the Government of the relatively limited amount of initiative coming from the business community ring somewhat hollow. In contrast, the concept of advocacy, or lobbying places the full emphasis on the business community and its responsibility to express its array of positions on key business issues. Business associations in market economies, for example, frequently write detailed position papers on key legal issues of importance to their membership and send them to appropriate Government authorities without any previous solicitation by authorities.

11 The selection of the Vietnam Software Association (VINASA) for consultation on IT policy, for example, has been criticized by software entrepreneurs in Ho Chi Minh City, who claim the organization is too dominated by the equitized FPT and insufficiently informed by events in the South.

12 The Vietnamese translations for advocacy and lobby do not necessarily communicate the meaning that these words have in English. The dictionary translates advocate as "ung ho", which is also the translation of "to support". This falls short of communicating the proactive-ness and initiative inherent to the word advocacy. Similarly, the dictionary definitions for lobbying of "van dong" or "van dong hanh lang" also do not necessarily fully communicate the English meaning of the word. "Van dong" is most commonly used to mean "to mobilize", as in "to mobilize support for a certain position". The term "van dong hanh lang" is perhaps most appropriate: "hanh lang" is the word for lobby, as in the "lobbies of buildings of power". In Vietnamese, however, whether due to linguistics or due to culture and history, the word "van dong hanh lang" seems to evoke images of corruption for many, if not most. "Influence group" (Nhom anh huong) is another word that has begun to show up in analysis about the National Assembly and its influences.

From the Government side, shortage of resources (human and financial), unavailability of a systematic approach and of official guidelines on specific procedures and steps, lack of techniques and expertise on public consultation and absence of a penalty and incentive mechanism simply make the public consultation by many government bodies formalistic and ineffective. An atmosphere in which the Government and the business community fully trust each other and can discuss thorny policy issues in an open and constructive manner still needs some more time to be developed. Despite improvement in the last few years, skepticism from both sides on public private dialogue remains. In many cases, it is unfortunate that both the Government bodies, the business community and the interested parties do not see the benefits of consultation and policy dialogue and simply regard it as a waste of time. Obviously, it is not easy for this prejudice to be removed overnight. Some business associations met by the research team revealed that when they were asked to be involved in consultation workshops on the Enterprise Law and the Investment Law 2005, they were skeptical at the first place that their comments would not really get through to the drafting committees, and that even if they get through, there is a little chance that their comments and opinions are seriously dealt with ¹³.

¹³ However, these business associations were later on convinced to join and they even decided to co-host some consultation workshops on the drafts of the Enterprise Law and the Investment Law. The seriousness and improved working mechanism of the drafting committees of the two laws did change the attitude of these business associations. Within three months before the two laws were passed, they even became the most vociferous on some proposed stipulations of the draft Investment Law, labeling them "steps backward" of the investment climate in Vietnam. They proactively took many actions, including letters to the Government and the National Assembly and a press campaign, to express their concerns and petitions. Under this pressure, the final draft of the Investment Law was then further revised to reflect these concerns shortly before it was adopted by the National Assembly in November 2005.

Business Associations: The Private Sector Side of PPP?

The most common vehicle for PPP between Government and the business community in a market economy is business associations. Business associations ordinarily collect dues from their members with the expressed central purpose of providing a common service to all of its members: lobbying the Government to regulate business in a manner more advantageous to the association's members. The level of companies' interests in such a service and the level of the price they are willing to pay for it depend, naturally, on each particular industry and the importance of Government policy to that industry. The paying of dues is also assumed to give members a sense of ownership over the business associations to which they belong. In other words, the associations exist as a result of members' contributions and for the purpose of satisfying member needs. A crucial corollary is that if the services the association provides are not worth the membership fees, the association will not survive.

Implicit to the arrangement wherein companies that, on a day-to-day basis, are directly competing with one another band together to form associations is a sense of shared interests vis a vis Government. Fundamental to this belief in shared interests with competitors, in turn, is a belief in consistent and objective administration by Government of a system of business laws, i.e. a level playing field ruled by institutions more than by individuals. Most would agree that these basic conditions are not yet fully in place in Vietnam. Ironically, of course, lobbying for an improvement of these same conditions is also exactly what business associations are needed for.

Given this lack of an ideal environment for business associations, it is perhaps not surprising that the advocacy activities of business associations in Vietnam are quite limited. With the possible exception of VCCI, in fact, it does not appear that advocacy is the chief function of any business association in Vietnam. Even VCCI's functions are so many that it would probably be accurate to say that it too is primarily engaged in other, non-advocacy activities. Furthermore, VCCI's broad membership is fraught with

conflicting interests-most importantly, between State and private members. As a result of the limited advocacy role played by associations, it is also understandable that associations are not able to finance their own existence through membership fees. After all, they have not yet proven their ability to provide the service of an aggregated voice for the business community that would merit payment of membership fees.

The problem, therefore, is one of the chicken or the egg. Without a clearer ability to lobby on behalf of members, the business association struggles to attract members. But efforts to maintain itself through revenues from other activities such as service provision also distract the association from the difficult task of upgrading its ability to advocate.

Despite the limited activity of business associations in lobbying, MPDF and The Asia Foundation estimated in 2001 that there were about 200 business associations in Vietnam. This number is sure to have grown in the meantime. Business associations can be grouped into the following main categories: i.) national business associations; ii.) local (provincial or even district-level) associations; and iii.) industry-specific associations. These categories are not exclusive, with many being specific to both particular localities and particular industries. All associations are connected, in some way to a Government agency. In some cases, associations are under the stewardship of a State-owned Enterprise-most commonly, an industry-specific General Corporation.

A significant amount of academic literature has emerged in recent years on the process by which Vietnam's Government and Vietnamese society communicate with each other.¹⁴ A major focus within this academic work has been whether Vietnam is indeed home to any organizations at all that qualify for the popular term of "Non-Government Organization", or NGO. NGOs did not exist under the central planning system, which instead looked to so-called mass organizations to co-opt interest groups and bring them under the control of the State. Naturally, truly independent business associations would fall under the general NGO heading.

¹⁴ The most comprehensive coverage of the issue can be found in Ben J. Tria Kerkvliet, Russell H.K. Heng, and David W.H. Koh, *Getting Organized in Vietnam: Moving In and Around the Socialist State*, Institute of Southeast Asian Studies, Singapore, 2003.

As is the case with most officially registered interest representation organizations in Vietnam, all of the major business associations come under the responsibility of some Government agency. This is not simply the result of organizations registering under a single registration agency, but instead represents a complex system wherein particular Government offices take responsibility for managing the activities of these associations. In most cases-including VCCI, established by official decree in 1960¹⁵ -the initiative for forming the organization appears to have come largely from Government, based on a desire to establish a vehicle through which to both gauge opinions in the business community and to communicate back to the same businesses what the Government expects of them. It should also be noted that the national umbrella and network of provincial-level YEAs had the beginnings of starting from within the Communist Party's Youth Union.

¹⁵ VCCI's official statutes state that the organization's mandate includes carrying out "activities which are assigned by the Vietnamese State..." (Jonathan Stromseth, "Business Associations and Policy-Making", in Kerkvliet et al, p. 65).

The Role of Donors

Donors play a substantial role in the current viability of Vietnamese business associations. VCCI, in particular, has been one of the most popular institutional partners for development projects in Vietnam. The YEAs (especially in Hanoi and Ho Chi Minh City) have received support from DANIDA (Danish International Development Agency), MPDF, and the USAID funded Vietnam Competitiveness Initiative (VNCI). MPDF and VNCI also have substantial plans to support industry specific associations in the future and have held numerous workshops already to begin this effort.¹⁶ DANIDA, GTZ, ILO, SNV (Netherlands Development Organization) and the EU also included significant funds in their private sector or SME development programs for promoting business associations. As in other areas, donors have struggled to coordinate their activities promoting business associations and any progress in doing so would be worthwhile.

An interesting issue to evaluate would be the share of donor support for business associations to date that has gone towards support of business associations' central advocacy function, relative to the share of support that has gone for supporting other areas of activity (The research team did not choose to take on this lengthy exercise). Donors have been particularly enthusiastic about supporting business associations in their provision of training and other so-called business development services (BDS). It is important to distinguish between these activities, as it is misleading to imply that supporting the provision of business support services by business associations is an indirect means of supporting their lobbying activities. While such services may contribute to the survival of associations unable to raise sufficient funds based solely on their lobbying function, they also clearly divert attention from the core lobbying function. In fact, it is easy to imagine conflicts of interests between associations that have successfully begun to collect revenues from service activities and members or potential

16 For more on MPDF's Business Associations Support Initiatives, see <http://www.mpdf.org>. For information on VNCI's work with "clusters" and associated associations, see <http://www.vnci.org>. For more on GTZ's work on promotion of policy advocacy and public consultation through supports to business associations and government bodies, see <http://www.sme-gtz.org.vn> and www.sme.com.vn

members in related service industries. Furthermore, provision of services to individual consumers of those services also undermines the point of members paying a fee to be a member of an association that provides an aggregated service to the entire community.

Emblematic of donor enthusiasm for service provision by associations (and lack of corresponding cynicism with regard to the appropriateness of their organizational structure for doing so at a reasonable level of quality) is the following sentence from the main recommendations section of a development report on business associations in Vietnam:

"Business associations are different from private service providers in that they are not in the business of making money - they only need to recover their operating costs and, *as a result, their service fee can be lower and more affordable for members* [italics added for this paper]."¹⁷

The same report further recommended lower entrance requirements for the setting up of new business associations and tax exemptions for revenues earned from the provision of business services by these same associations. As such, the report appears to: i.) discount the importance of profit motive with regard to the *quality* of service provision; and ii.) advocate creation of a new legal enterprise form with the advantage of lower (or no) taxes. Given the creativity of Vietnam's entrepreneurial class, it seems likely that, under such conditions, many entrepreneurs would see no reason not to register their service providing enterprises as business associations rather than as companies. It must, of course, be emphasized that this non-market thinking is common in the development industry throughout the world.

Donors in Vietnam are certainly not alone in their enthusiasm for service provision by business associations. This approach is quite common among donors in other developing countries-a fact, however, that should not be taken as sufficient explanation of the approach's rationale. A good number of business associations in Vietnam themselves also share donors' enthusiasm for provision of business development

¹⁷ Nguyen Phuong Quynh-Trang and Dr. Jonathan Stromseth, *Business Associations in Vietnam: Status, Roles, and Performance*, MPDF Private Sector Discussions #13, Hanoi, Vietnam, August 2002, p. xi.

services. In addition to direct service provision by associations, for example, a number of the provincial-level YEAs have set up and registered sister service companies, with the expressed concern of funding association activities with their profits. VCCI, with significant donor support, is now also a major seller of services.

This represents a very indirect approach to financing advocacy efforts, which is rife with possibilities for abuse and for the types of conflicts of interest noted earlier in this section. No such second-best approach can match the optimal approach of raising funds through collection of membership dues for the expressed purpose of representing private sector interests to the Government.

Suggestions for Improvement of Donor Support for Consultation of Businesses

This paper has not painted a particularly positive picture of the current state of consultation in Vietnam and of relevant institutions such as business associations. This is not intended to be cynical for the sake of cynicism, but instead is intended to provide a realistic framework for further decision-making by GTZ as it launches its new SME development program and enters into new projects to support private sector growth and development of important market institutions. This last section puts forth some suggestions for possible new programming initiatives, particularly in the field of improving the quality and performance of business laws and of private public dialogue.

The starting point for these suggestions is the need for a vision of how institutions should ideally be functioning. Realistic programming must, of course, cope with the fact that Vietnam is still early in the development of its market institutions and consultative processes, but development projects aimed at accelerating/supporting this development should nevertheless always occur within such a greater vision. It would probably also be quite useful if donors could discuss this vision in depth with one another so as to, to whatever extent possible, negotiate a reasonably unified donor approach. At very least, it should be possible to identify points of overlap and points of difference; so as to coordinate programming in areas of shared interest and avoid redundancy.

The research team is particular enthusiastic about the general approach to the consultation process that has been taken by The Asia Foundation. The Asia Foundation has emphasized the importance of thinking clearly about the individual function of different players in the consultation process. Simplified, this process involves: i.) business associations identifying issues of importance to the business community through consultations of their own memberships; ii.) business associations outsourcing more in-depth analysis of these issues to specialized research institutes and/or research consulting firms (or consultants); and iii.) business associations using the findings of this research to bolster their advocacy initiatives vis a vis Government (including both

implementing agencies and the National Assembly). Establishment of such a guiding vision can help to ensure that specific programming activities are part of a greater whole and remain focused on the core goals of the greater development agenda.

This is the type of vision that guides the thinking of the research team in this project. More specific programming suggestions follow:

- ***Training of business association staff in advocacy techniques.*** Development programs in other countries, including the transition economies of Eastern Europe and former Soviet Union, have held courses on best practices for advocacy by NGOs. Any such initiative in Vietnam would, of course, have to be very careful to realistically take into account the unique characteristics of Vietnam's socio-political system and the current norms of advocacy. As such, this type of training would ideally be highly interactive, involving discussion of what would work and what would not. Training would ideally also include discussion of ideal organizational structures for effectively performing advocacy functions. Such training might work best as follow up to travel by a delegation of business association representatives to another country. The VNCI project has plans to conduct such trips, so training projects could potentially be coordinated with them.
- ***Technical support to the implementation of consultation with the business are critically important.*** As it is mentioned earlier, the Law on Law does stipulate that the people and the business do have a say in the making of legal documents and that drafting bodies have the obligation to solicit comments from the public on draft laws or regulations. However, the law and its subordinate regulations are unfortunately silent about the concrete responsibilities of drafting committees, about the principles, minimum standards, procedures and the techniques for a public consultation to be organized and implemented properly in practice. Therefore, there is an obvious need that the process of public consultation be clarified, developed and regulated into systematic, standardized and *easy-to-be-implemented* procedures. Current efforts to introduce innovative and advanced techniques

in public consultation and in law making like *regulatory impact assessment (RIA)*, *Business Impact Test Panel (BIT)* etc. should be intensified in order for them to be adopted officially in Vietnam.

It is important that the Government be supported to provide the means and objective criteria for drafters and reviewers to assess the quality and transparency of the process. An effective mechanism to improve transparency and accountability would be to adopt an across-the-board 'notice and comment'¹⁸ process for all laws and regulations, to complement other consultation mechanisms and work as a safeguard against capture by special interests. Notice and comment processes are based on clear rights to access and response, are systematic and non-discretionary and are open to the general public as well as organized interests.

Even a small technical support to make sure that business associations coming to a policy dialogue with a clear, organized agenda aimed at a specific policy area or that the minutes of the dialogue is properly taken and sent to appropriate authorities could already improve significantly the quality of the dialogue.

- ***Encouraging partnerships and alliance between domestic and foreign business associations and between domestic business associations themselves to ensure a collective voice in policy advocacy.*** This is, of course, something that should happen on its own, but may not, due to poor information or lack of capacity on the part of Vietnamese business associations. There does appear to be some limited exchange already between some associations. A first step towards promoting such commercially oriented interactions would be a quick study of what the current obstacles are. A second step would be to have domestic and foreign associations work together to identify: i.) common areas of interest in change with regard to economic policy or policy implementation; and ii.) effective cooperative means for lobbying the Government. Besides VCCI and some local business association, Eurocham or

18 Notice to the public that a new legal normative document is proposed and give a period during which the public has the opportunity to comment on the draft.

German Business Association have been very proactive in cooperating with GTZ in the field of policy advocacy and public consultation, particularly in the making of the Enterprise Law and Investment Law in 2005. Similar is the cooperation between Amcham (American Chamber of Commerce) and the USAID-funded STAR Project¹⁹. These are the typical examples of cases in which donors' projects can walk extra miles to set up an effective partnership or alliance between domestic and foreign business associations in policy advocacy.

- ***Encouraging and promoting the enterprise-centric concept of advocacy or lobbying.*** Business associations should be encouraged to proactively write detailed position papers on key legal issues of importance to their members and send them to appropriate Government authorities without any solicitation by authorities. This could be implemented in parallel with the support to internal research and analysis capacity of business association as suggested below.
- ***Supporting the internal research and analysis capacity of larger business associations.*** This could include providing small, targeted support for specific research projects, much like has been done in recent years by VNCI and TAF. Financial support, in fact, could be made significantly smaller than those provided by these organizations. An ideal approach would be a system that made such small financial supports (perhaps around USD 5,000 or even less) available on a competitive basis to associations that provided the best proposals on current issues of concern to their members. For this to work effectively and fairly, it is critically important that donors' projects proactively disseminate information about the availability of cooperation opportunities widely throughout the whole country to ensure a reasonable number of applicants and a fair and equal opportunity for all business associations to access.
- ***Strengthening the role of the mass media in consultation of the business community on business laws.*** The participation of the mass media in the

¹⁹ Support for Trade Acceleration (STAR) - a project funded by USAID to support implementation of the US - Vietnam Bilateral Trade Agreement in cooperation with the Office of the Government of Vietnam.

making of the Enterprise Law and the Investment Law 2005 is a good example to prove the importance and effectiveness of the mass media in keeping the whole public informed of important contents of the laws and in making the whole law making process transparent and highly participatory. The mass media should have full access to the draft laws and regulations and be encouraged to participate in any public discussions, consultation workshops or policy dialogues on issues related to business and investment climate. Often, the mass media is in the best position to keep the drafters and all related stakeholders informed about different viewpoints, including those of minority interest groups or those of entrepreneurs in rural and remote areas.

- **Supporting development of a strategy for keeping track of subjects covered at PPP meetings.** The key idea here would be creation of a comprehensive strategy that allowed business associations, Government, and economic analysts to compare information from these meetings across provinces. An ideal approach might involve a Call for Proposals that would allow any interested divisions within VCCI to compete against the YEA umbrella to suggest strategies for collecting this information for meetings and storing it in a way that could then be analyzed for trends and differences across provinces and across time. This would also have the potential to serve as a means for monitoring and evaluating both local associations roles in these organizations and the responses of local provincial governments.
- **Supporting VCCI's annual enterprise survey.** There are probably too many enterprise surveys being done these days in Vietnam and rarely, if ever, are any of these surveys comparable. The rare exception, and a golden opportunity, is VCCI's annual survey of its members. Donors could help to improve the methodology and design of this survey, thereby helping to create a source of comparable annual data that would serve as an invaluable source of information for VCCI in its role as the main representative in the consultation

20 A great example of such a program is the highly respected Summer Institute for Survey Research Methodology at Michigan University. Given that Michigan is also home to the William Davidson Institute, a research institute focused on transition economies which held its annual conference in Hanoi in May 2004, there is a high likelihood that the university or the institute would be prepared to cover some or all of tuition and room and board costs. Surely there are also comparable German programs that could also provide such training.

process with Government. Instead of being done through the one-time hiring of an international advisor, this would ideally be done by supporting one or more VCCI employees to undergo intensive survey training through a prestigious institution.²⁰ This would surely be more effective and likely have much longer-term impact than an one-time expert could have. At least, this would provide the international expert with allies within the organization in introducing improved techniques.

- ***Supporting creation of a central website listing all of the country's business associations.*** This would work well as part of a donor coordination initiative.

The suggestions laid out above are modest and likely do not easily add up to a very substantial amount of funding. This may be inconvenient considering the quite substantial amount of money donors have made available for supporting the consultation process. The fact is, however, that the consultation process is not a highly complicated process. Nor is it a process that requires expensive inputs. It is, nevertheless, a process that is difficult to move forward, because it is one that depends most heavily on political will within the Government and on risk taking and a feeling of a shared community and shared future among entrepreneurs. Development of business associations is very representative: their role is fairly simple and straightforward, with limited need for capital and technology, and yet is nonetheless very, very important.

Annex 1 - EC's Principles and Minimum Standards in Public Consultation

The European Commission (EC) adopted, on 11 December 2002, a communication entitled 'General principles and minimum standards for consultation of interested parties by the Commission' COM(2002)704. General principles and minimum standards apply from 1 January 2003²¹. According to this communication, 'consultations' means those processes through which the Commission wishes to trigger input from outside interested parties for the shaping of policy prior to a decision by the Commission.

A. GENERAL PRINCIPLES

Participation: The Commission is committed to an inclusive approach when developing and implementing EU policies, which means consulting as widely as possible on major policy initiatives. This applies, in particular, in the context of legislative proposals.

Openness and accountability: The Commission believes that the processes of administration and policy-making must be visible to the outside world if they are to be understood and have credibility. This is particularly true of the consultation process, which acts as the primary interface with interests in society. Thus consultation processes run by the Commission must also be transparent, both to those who are directly involved and to the general public. It must be clear: (i) what issues are being developed; (ii) what mechanisms are being used to consult; (iii) who is being consulted and why; and (iv) what has influenced decisions in the formulation of policy. It follows that interested parties must themselves operate in an environment that is transparent, so that the public is aware of the parties involved in the consultation processes and how they conduct themselves. Openness and accountability are thus important principles for the conduct of organizations when they are seeking to contribute to EU policy development. It

²¹ See more on [www. http://europa.eu.int](http://europa.eu.int)

must be apparent: (i) which interests they represent; and (ii) how inclusive that representation is.

Interested parties that wish to submit comments on a policy proposal by the Commission must therefore be ready to provide the Commission and the public at large with the information described above. This information should be made available either through the CONECCS ²² database (where organizations are eligible for this database and wish to be included on a voluntary basis) or through other measures, e.g. special information sheets. If this information is not provided, submissions will be considered as individual contributions.

Effectiveness: Policies must be effective and timely, delivering what is needed. To be effective, consultation must start as early as possible. Interested parties should therefore be involved in the development of a policy at a stage where they can still have an impact on the formulation of the main aims, methods of delivery, performance indicators and, where appropriate, the initial outlines of that policy. Consultation at more than one stage may be required.

In addition, both the Commission and outside interested parties will benefit from understanding the perspective of the other. The Commission operates within a policy and political framework that is influenced by many factors. For example, it must take account of its obligations to the other European institutions under the Treaties, and of its international obligations to third countries and international organizations. A prerequisite for effectiveness is respect of the principle of proportionality. The method and extent of the consultation performed must therefore always be proportionate to the impact of the proposal subject to consultation and must take into account the specific constraints linked to the proposal. A better understanding of such factors and of how the Commission works will help outside interested parties to have realistic expectations about what can be achieved.

²² Abbreviation of "Consultation, the European Commission and Civil Society"

Coherence: The Commission will ensure that there is consistency and transparency in the way its departments operate their consultation processes. The Commission will include in its consultation processes mechanisms for feedback, evaluation and review. This will be ensured through appropriate co-ordination and reporting in the context of the Commission's "better law-making" activities. The Commission encourages interest groups to establish their own mechanisms for monitoring the process, so that they can see what they can learn from it and check that they are making an effective contribution to a transparent, open and accountable system.

B. MINIMUM STANDARDS

Clear content of the consultation process - *All communications relating to consultation should be clear and concise, and should include all necessary information to facilitate responses.* The information in publicity and consultation documents should include:

- A summary of the context, scope and objectives of consultation, including a description of the specific issues open for discussion or questions with particular importance for the Commission
- Details of any hearings, meetings or conferences, where relevant
- Contact details and deadlines
- Explanation of the Commission's processes for dealing with contributions, what feed-back to expect, and details of the next stages involved in the development of the policy
- If not enclosed, reference to related documentation (including, where applicable, Commission supporting documents).

Consultation target groups - *When defining the target group(s) in a consultation process, the Commission should ensure that relevant parties have an opportunity to express their opinions.* For consultation to be equitable, the Commission should ensure adequate coverage of the following parties in a consultation process: (i) those affected by the policy; (ii) those who will be involved in implementation of the policy, or (iii) bodies that have stated objectives giving them

a direct interest in the policy.

In determining the relevant parties for consultation, the Commission should take into account the following elements as well:

- The wider impact of the policy on other policy areas, e.g. environmental interests or consumer policy
- The need for specific experience, expertise or technical knowledge, where applicable
- The need to involve non-organized interests, where appropriate
- The track record of participants in previous consultations
- The need for a proper balance, where relevant, between the representatives of: (i) social and economic bodies; (ii) large and small organizations or companies; (iii) wider constituencies (e.g. churches and religious communities) and specific target groups (e.g. women, the elderly, the unemployed, or ethnic minorities); (iv) organizations in the European Union and those in non-member countries (e.g. in the candidate or developing countries or in countries that are major trading partners of the European Union).

Where appropriate, the Commission encourages contributions from interested parties organized at European level.

Where a formal or structured consultation body exists, the Commission should take steps to ensure that its composition properly reflects the sector it represents. If this is not the case, the Commission should consider how to ensure that all interests are being taken into account (e.g. through other forms of consultation).

Publication - *The Commission should ensure adequate awareness-raising publicity and adapt its communication channels to meet the needs of all target audiences. Without excluding other communication tools, open public consultations should be published on the Internet and announced at the "single access point".* For addressing the broader public, a single access point for

consultation will be established where interested parties should find information and relevant documentation. For this purpose, the Commission will use the 'Your-Voice-in-Europe' web portal.

However, at the same time it might be useful to maintain more traditional alternatives to the Internet (e.g. press releases, mailings). Where appropriate and feasible, the Commission should provide consultation documents in alternative formats so as to make them more accessible to the disabled.

Time limits for participation - *The Commission should provide sufficient time for planning and responses to invitations and written contributions. The Commission should strive to allow at least 8 weeks for reception of responses to written public consultations and 20 working days notice for meetings.* The main rule is to give those participating in Commission consultations sufficient time for preparation and planning. Consultation periods should strike a reasonable balance between the need for adequate input and the need for swift decision-making. In urgent cases, or where interested parties have already had sufficient opportunities to express themselves, the period may be shortened.

On the other hand, a consultation period longer than eight weeks might be required in order to take account of:

- The need for European or national organizations to consult their members in order to produce a consolidated viewpoint
- Certain existing binding instruments (this applies, in particular, to notification requirements under the WTO agreement)
- The specificity of a given proposal (e.g. because of the diversity of the interested parties or the complexity of the issue at stake)
- Main holiday periods.

When the deadline for transmission of comments has expired, the Commission will close the consultation and take the next steps in the administrative process (e.g. prepare for the decision by the Commission).

Acknowledgement and feedback - *Receipt of contributions should be acknowledged. Results of open public consultation should be displayed on websites linked to the single access point on the Internet.* Depending on the number of comments received and the resources available, acknowledgement can take the form of: (i) an individual response (by e-mail or acknowledgement slip), or (ii) a collective response (by e-mail or on the Commission's single access point for consultation on the Internet; if comments are posted on the single access point within 15 working days, this will be considered as acknowledgement of receipt).

Contributions will be analyzed carefully to see whether, and to what extent, the views expressed can be accommodated in the policy proposals. Contributions to open public consultations will be made public on the single access point. Results of other forms of consultation should, as far as possible, also be subject to public scrutiny on the single access point on the Internet.

The Commission will provide adequate feedback to responding parties and to the public at large. To this end, explanatory memoranda accompanying legislative proposals by the Commission or Commission communications following a consultation process will include the results of these consultations and an explanation as to how these were conducted and how the results were taken into account in the proposal. In addition, the results of consultations carried out in the Impact Assessment process will be summarized in the related reports.

Annex 2 - Canadian Guiding Principles for Public Participation

The Policy Statement and Guidelines for Public Participation issued by the Canadian Department of Justice states that "The Government of Canada has recognized that the legitimacy of public institutions, the quality of public policy, and the responsiveness of public services will require new and better mechanisms for engaging citizens and civil society in governance." It also defines that **public participation** has several facets and dimensions ranging from public information and education through to partnerships. In terms of the departmental commitment, public participation primarily refers to processes of public consultation and citizen engagement.

Meanwhile the Statement describes that **consultation** refers to processes through which governments seek the views of individuals or groups on policies, programs or services that affect them directly or in which they have a significant interest. Consultation can occur at various points in the policy development process and can be used to help frame an issue, identify or assess options and evaluate existing policies. Consultation includes processes such as public meetings, advisory committees, polling and focus groups.

The Policy Statement and Guidelines emphasizes that public participation processes undertaken by the Department of Justice should respect the following guiding principles ²³:

- **Commitment:** all Sectors, Branches and Divisions share in Justice Canada's commitment to the process of public participation and its integration into the policy-making process;
- **Clarity:** Justice Canada shall ensure that a clear mutual understanding

²³ Cited from "Policy Statement and Guidelines for Public Participation" of the Canadian Department of Justice. See more on www.justice.gc.ca

of the objectives, purpose and process of participation and feedback exists and that the parameters of the public participation activity are established in advance and communicated to participants;

- **Trust:** Justice Canada shall ensure that open lines of communication and working relationships are established and respected; Inclusiveness: Justice Canada shall ensure that the participation of the broadest possible range of groups or individuals who have an interest in or who may be affected by a government decision is encouraged;
- **Accessibility:** Justice Canada shall ensure that appropriate measures to ensure that all Canadians, regardless of their linguistic, regional, ethno-cultural or socio-economic background or physical capabilities, are able to participate;
- **Mutual respect:** Justice Canada shall ensure that departmental officials and stakeholders share joint responsibility and commitment to ensuring respect for the legitimacy and views of all participants;
- **Responsibility:** Justice Canada shall ensure that the Department and participants share in the responsibility for ensuring that public participation processes are held in good faith and that adequate resources and time are allocated to the process;
- **Accountability:** Justice Canada shall ensure that feedback on the outcomes of public participation processes is provided to participants and demonstrate how these outcomes have been considered in the policy-making process;
- **Co-operation:** Justice Canada shall ensure that provincial and territorial governments, as well as other federal departments and agencies, are involved where relevant and practicable, consistent with the principles set out in the Social Union Framework Agreement.

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