



## **Economic and Social Council**

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### **Committee on Economic, Social and Cultural Rights**

## **Implementation of the International Covenant on Economic, Social and Cultural Rights**

**Consideration of the combined second to fourth periodic  
reports of States parties due in 2005 under articles  
16 and 17 of the Covenant**

**Vietnam\***

[18 July 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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## **I. Introduction**

1. Viet Nam acceded to the International Covenant on Economic, Social and Cultural Rights in 1982. In accordance with articles 16 and 17 of the Covenant on the submission of reports on implementation of the Covenant, Viet Nam presented its first report in 1993.
2. This report covers Viet Nam's implementation of the International Covenant on Economic, Social and Cultural Rights from 1993 to 2008. Some of the indices have been updated to 2010.
3. This report has been prepared in accordance with the new Guidelines issued by the Committee on Economic, Social and Cultural Rights on 13 January 2009. It has three parts: Part I, introduction, part II provides general updated information on Viet Nam; and part III presents information on the implementation of the rights stipulated in the Covenant.
4. The report presents the provisions of the Constitution, legislations, policies, plans, programmes and measures undertaken by the State of Viet Nam to ensure and promote the realization of these rights, as well as achievements recorded, difficulties and challenges faced and proposed solutions.
5. This report has been prepared by an inter-agency drafting committee chaired by the Ministry of Planning and Investment as per decision No. 620/TTg-QHQT on 18 June 2008 of the Prime Minister of the Socialist Republic of Viet Nam.

## **II. General information**

6. Viet Nam is located in the Indochinese peninsula, having a total land area of 331,212km<sup>2</sup> with 54 ethnic groups and a population of 85.79 million (2009 census).
7. The Vietnamese State is a law-governed socialist state by the people and for the people where all state powers belong to the people. This is confirmed in article 2 of the 1992 Constitution.
8. The State system of Viet Nam includes the National Assembly as its legislative branch, the Government as its executive branch and the Supreme People's Procuracy and Supreme People's Court as the judiciary branch.
9. The people exercise their right to mastership by:
  - The representative bodies like the National Assembly, the People's Councils at various levels elected by the people and representing their will and aspiration.
  - Participation in the making of laws and policies by providing inputs and comments on legislations, socio-economic development plans and strategies; community consultations on specific laws and legislations affecting the people's rights and obligations.
  - Participation in oversight of the implementation of the State's laws and policies. The people and communities have a vital role to play in overseeing law implementation by State agencies, combating corruption and wastefulness, particularly in their respective areas of residence.
10. With such State system and the recognition of people's fundamental rights, in over 20 years of doi moi (renovation and reform) since the late 1980s of the last century, the system of laws and regulations covering economic, social and cultural rights has been formulated in a uniformed and comprehensive manner and will be further improved to better enable the people's enjoyment of their rights.

11. In accordance with the Constitution ( of 1992 as amended in 2001), the State has promulgated a series of legal instruments, including important laws on human rights protection such as the Penal Code, Civil Code, Labour Code, Law on Marriage and Family, Law on Gender Equality, Education Law, Criminal Procedures Code, Civil Procedures Code, Law on Administrative Courts, Press Law, Law on Trade Union, Land Law, Investment Law, Enterprise Law, Publication Law, Law on the Protection, Care and Education of Children, Law on the Universalization of Primary Education, Law on People's Health care, Citizenship Law, Law on National Assembly Elections, Law on People's Councils Elections, Law on Legal Aid.

12. The remarkable legislative achievements in Viet Nam over the past two decades of reform are the highest legal guarantee for everyone to have the opportunity and conditions for increasingly equal enjoyment of human rights. They also reflect Viet Nam's efforts to incorporate various human rights provisions under the international treaties to which Viet Nam is a party.

13. Along with the improvement of its legislation, Viet Nam has introduced policies to support small and medium-sized enterprises and households, designed and implemented national target programmes (now 12 in total) focusing on poverty reduction, hunger eradication, health care, education, culture, combating climate change, etc. These are in particular devoted to mountainous, ethnic minority and the most difficult areas. The implementation of the Comprehensive Poverty Reduction and Growth Strategy has provided significant support to the poor to promote production and achieve sustainable poverty reduction.

14. In the early years of reform, the country's annual GDP growth remained low at 2.84 per cent, 3.63 per cent, 6.01 per cent, 4.68 per cent and 5.09 per cent in the years from 1986 to 1990 respectively. Between 1991 and 1995, however, the Vietnamese economy got onto the path of market economy development and achieved an increasingly high growth. Average annual GDP growth during 1991-1995 was 8.18 per cent. In the 1996-2000 period, growth dampened to 6.9 per cent, primarily due to the impacts of the Southeast Asian financial crisis that started in Thailand. In the 2000-2007 period, the economy recovered from the 1999 low growth of 4.77 per cent and kept growing with an average annual rate of 7.63 per cent and the heights of 8.44 per cent, 8.23 per cent and 8.46 per cent in 2005, 2006 and 2007 respectively. In 2008 and 2009, growth slowed under the impacts of the global financial crisis and stood at 6.31 per cent for 2008 and 5.32 per cent for 2009. In face of these difficulties, the Government took various measures to control inflation, prevent economic downturn, stabilise the macro-economy and ensure sustainable growth. Thanks to these active measures, the Government's strong guidance, the excellent coordination and cooperation of the Viet Nam Fatherland Front and the consensus and cooperation of the people, the difficulties and challenges have been gradually overcome, thus stabilizing the economy. In 2010, the economy shows signs of recovery and reaches a growth rate of 6.7 per cent. In average, GDP in the five years of 2006-2010 grew at 7.09 per cent per annum.

15. Together with high GDP growth rates, the country's economic structure has experienced significant changes. The share of agriculture, forestry and fishery in GDP decreased from 38.7 per cent in 1990 to 20.3 per cent in 2009 while that of industry and construction increased from 22.7 per cent to 41.1 per cent and services from 38.6 per cent to 41.3 per cent. Economic restructuring in the recent years to increase the share of industry and services in GDP has accelerated economic growth, thus providing more efficiency and rational utilization of national resources.

16. Viet Nam has been making tremendous efforts to link economic growth with the improvement of the living standards and development of health and education services. Viet Nam's Human Development Index (HDI) has improved from 112/174 in 1994 to 105/177 in 2008. Average life expectancy of Vietnamese has increased from 50 in the

1960s to 72.8 in 2009. Poverty reduction continues to receive proper attention, thus cutting poverty rate from 70 per cent in the 1980s to 58 per cent in 1993 and 14.5 per cent in 2008.

17. The living standards have been significantly improved in all population groups and all regions. In 2006, about 85 per cent of households noted improvement in their daily life as compared to the previous five years (82.2 per cent in the urban areas and 86 per cent in the rural areas). GDP per capita saw a sharp increase to US\$ 1,064 in 2009 from US\$ 402 in 2000. This figure for 2010 is estimated at US\$ 1,162 or three times that of 2000. With this income level, Viet Nam has graduated from the group of poorest countries and entered the middle-income group.

18. Considerable progress has also been made in health care. The effective implementation of community health programmes and primary health care for the poor and insured patients have improved their access to quality basic services. Epidemic prevention has received proper attention and as a result, the number of infectious cases and related death has been reduced considerably. Major epidemic outbreaks have been timely constrained. The number of hospital beds per 10,000 people has increased from 23.9 in 2005 to 25.8 in 2008 while the number of medical doctors per 10,000 people has risen from 6.3 in 2005 to 6.7 in 2008.

19. The protection of, care and education for children have also received greater attention from all government agencies at all levels, especially in regard to the provision of education and health care. Over 93.7 per cent of Vietnamese children have been vaccinated against the key diseases. All forms of child exploitation, abuse, violence and trafficking are staunchly prohibited.

20. Efforts to promote advancement of women have been further strengthened. Information, education and communication activities have been implemented to raise the public awareness in ensuring gender equality, working for the legitimate interests and benefits of women. Male favouritism is gradually being eliminated. Many gender equality targets in regard to employment, education-training and health care have been met. The ratio of female workers and those trained is increasing every year. According to the UNDP's 2009 Human Development Report, Viet Nam ranks 94/155 in Gender-related Development Index (GDI) and 62/109 in Gender Empowerment Measure (GEM). The country's GDI value increased continuously from 0.668 in 1998 to 0.689 in 2004 and 0.723 in 2009.

21. Youth development has made good progresses, thus allowing the youth to play a pioneering role in socio-economic development. Vietnamese youths are taking the lead in important social campaigns like the abolition of rudimentary bridges in the Mekong Delta, the development of youth villages in the most difficult areas or the drive for poverty reduction and the fight against social vices, etc.

22. Religious affairs have seen major changes due to shifts in mind set and perceptions and in the way religious matters are settled in relation to the country's overall reform process which aims to build a strong country with wealthy people, democratic, just and advanced society. Viet Nam places importance on religious freedom and great national unity. Viet Nam has been considering recognition of a number of religions *béides* the six already recognized.

23. With the goal of "developing an advanced culture imbued with rich national identity", the conservation and promotion of national cultural treasures have received special attention. A number of Vietnamese tangible and intangible cultural heritages have been recognised by the UNESCO, thus enriching the level of cultural consumption of the population. A campaign called "United for a grassroots cultural life" has been promoted nationwide. As of 2010, 90 per cent of households in the country have been awarded with the title "Family of culture" and 70 per cent of villages with the title "Village of culture".

To date, 100 per cent of districts have their own Cultural and Sports Centre: 38.6 per cent of communes and 36 per cent of hamlets have their own Cultural House. Cultural activities and traditional cultural festivals have been conducted in many regions and localities, thus strengthening national pride, unity, and the spirit of mutual assistance. Ethnic minority groups and those living in mountainous regions are enjoying much improved cultural life.

## **II. Realization of the rights**

### **Article 1- Right to self-determination**

#### **Results to date**

24. Having undergone years of struggle for their own independence and freedom, the Vietnamese people understand and treasure the sacred values of human rights, first and foremost the right to self-determination and to determination of their own destiny. As such, the right to self-determination, to national mastership and to selection of a political system appropriate to their country has always been upheld by the Vietnamese people and State. This has been clearly stipulated in the Constitutions of 1946, 1959, 1980 and most recently 1992 (amended in 2001). In particular, the 1992 Constitution confirms that the Socialist Republic of Viet Nam is a country with full independence, sovereignty, unity and territorial integrity covering its landmass, islands, waters and airspace (art. 1). It also sets out that S.R of Viet Nam is a rule-governed State of the people, for the people and by the people ( art. 2), taking full responsibility in the protection and maximization of the right to mastership of the people in all aspects (art. 3).

25. To ensure the right to self-determination of all citizens and all ethnic groups in Viet Nam, a rule-of-law State is the key foundation. Article 12 of the 1992 Constitution provides that “The State administers the society by means of the law and continuously strengthens socialist rule-of-law”. This is of particular significance given that the socialist-oriented market economy has been chosen as the development model for the State and people of Viet Nam. Laws and by-laws are promulgated and amended to implement the relevant articles of the Constitution. Comprehensive judicial, legal, and administrative reform strategies and the Regulations on Grass-root Democracy are being implemented. These are all aimed at building a strong rule-of-law State which can ever better ensure the legitimate rights of the people, including the rights to self-determination and mastership of their own destiny.

26. The right to self-determination in Viet Nam is manifested as follows:

(i) The right to mastership of national resources to cater to national development efforts is clearly stated in article 17 of the 1992 Constitution, which reads “The land, forests, rivers and lakes, water sources, underground natural resources, resources in the off-shore waters, on the continental shelf and in the air space, capital funds and properties invested by the State in enterprises and projects in various branches and fields of the economy, culture, social life, science and technology, foreign affairs and national security and defence, and other property defined by law as belonging to the State are all under the ownership of the entire people.”

(a) The land belongs to the entire people and is managed by the State in accordance with development plans and the law to ensure that its use conforms to the set objectives and yields effective results. These principles are clearly stated in the Constitution (arts. 17 and 18) and other related legal documents such as the Land Law. In Viet Nam, there is now private ownership of land. The State represents the people to allocate the land and manages land-use according to the suitable needs of individuals and organizations. The

law protects the rights and interests of long-term residents on their land. The 2003 Land Law stipulates that land users shall have the rights to be issued certificates of land use rights; to enjoy the results of their labour and investment in the land; enjoy benefits arising from State-funds projects for protection and improvement of agricultural land; to receive guidance and assistance from the State in improvement and fortification of agricultural land; to be protected by the State when other persons infringe upon their lawful land-use rights; to lodge complaints and denunciations, and to institute proceedings about conducts in breach of their lawful land-use rights, and other conducts in breach of the laws on land.

(b) The people have the right to exchange, assign, lease, sub-lease, bequeath and donate land-use rights; they have the right to mortgage, guarantee and contribute capital using land-use rights; and they have the right to be paid compensated when the State reclaims the land.

(ii) The right to political participation, which is the most important political right, serves as the foundation for all other rights of mastership – realized by the people through implementation of representative and direct democracy. Article 11 in the 1992 Constitution states that: “The citizen exercises their right of mastership at the grass-roots level by partaking in State and social affairs and is duty bound to help safeguard national security and order, social safety and organize public life”. Besides, the people also exercise their right of mastership through the representative mechanisms like the National Assembly and People’s Councils, which represent the will and aspirations of the people, are elected by the people and accountable to the people (art. 6, Constitution in 1992). All Vietnamese citizens aged 18 and above have the right to election and from the age of 21 have the right to self-nominate for the National Assembly and People’s Councils (art. 2 of the Law on National Assembly Election and article 2 of the Law on Election of People’s Councils). Article 53 of the 1992 Constitution also states that: “The citizen has the right to participate in the administration of the State and management of society, discussion of common issues of the country and localities; send petitions to State agencies and vote in referendum organized by the State”. In reality, the voter turnout at 12th National Assembly election in May 2007 was over 99 per cent, which is a clear indication of the people’s increasing awareness of their rights and the important role of the National Assembly in realizing the right to governance of the State and society by the people.

(iii) People’s right to mastership at all levels and the role of oversight of government policies and activities are fully respected. Such right is reflected in the serious implementation of the Law on the Organization of the National Assembly, the Law on the Organization of People’s Councils and the Law on the Organization of the Government. In these Laws, the people’s role of oversight and participation in State’s governance is fully assured. The Regulations on Grass-roots Democracy issued in 1998 facilitate the people’s active participation in making, planning and supervising the implementation of government policies. The mastership of the labourers at grass-roots level has been improved. People’s Investigation Boards have been established in all communes, districts and towns and 37 out of 63 provinces have established the Board of Supervision on Public Investment.

(iv) The right to complaint and denunciation related to the wrongdoing of State agencies and institutions is also protected by the Constitution ( art. 74) and the Law on Complaints and Denunciations. From 2006 to 2008, the ratio of resolved complaints and denunciations of administrative agencies hit 83.2 per cent; this rate of local civil execution institutions at the local level reached 92.5 per cent. The laws also regulate compensation for material and spiritual losses of the victims of justice. The Law on State Compensation was approved by the National Assembly on 29 June 2009 and took effect on Jan 1, 2010, contributing to assurance of citizen’s right to complaints and denunciations and promoting people’s participation in State’s governance.

**Recognition and protection of indigenous people's right to ownership of land and territory**

27. In Viet Nam, there are no indigenous people. Fifty-four peoples in Viet Nam have long co-existed, and boasted tradition of solidarity for thousands years of history, taken joint efforts to construct and defend the country of Viet Nam. Article 5 of the 1992 Constitution affirms that: "The State of the Socialist Republic of Viet Nam is a united State of peoples living together in the country of Viet Nam. The peoples have the right to using their own language, scripts and preserving their identity, fully displaying their custom, tradition and culture. The State undertakes development policy in all fields, gradually improves the material and spiritual life of ethnic minorities".

28. Being a country of diverse peoples with a tradition of unity and mutual assistance, the policy and goal of the State of Viet Nam are aimed to strengthening the great unity on the basis of equality to build a country of independence, unity, democracy, freedom and wealth. The assurance of right to comprehensive equality in terms of political, economic, cultural and social fields for all peoples is an illustration of realizing the right of self-determination for peoples in the family of Viet Nam.

29. Equality among peoples is a leading fundamental principle in the policy on peoples of Viet Nam. Peoples regardless of majority or minority, high or low level of development are all equal in terms of rights and obligations in all fields of social and economic life. Those rights and obligations are assured by Constitution and laws. Due to low level of development of almost all ethnic minorities, the assurance of comprehensive equality in terms of political, economic, cultural and social rights is aligned with favourable conditions for the ethnic minorities to have equal opportunities. Peoples with a higher level of socio-economic development have the responsibility to help the peoples of difficulties. A series of socio-economic development programmes and projects have been actively implemented in the areas of ethnic minorities, bringing about good results, contributing to poverty reduction and improving peoples' life. Policies on agricultural and rural development for ethnic minorities and peoples in mountainous areas, including transfer of land, forest to the local population to promote cultivation and husbandry industry have produced practical benefits to ethnic minorities, contributed to socio-economic development of mountainous provinces, attracted investment, generated employment and at the same time helps ethnic minorities realize their rights to development.

30. Many ethnic minorities in Viet Nam have the tradition of shifting cultivation, burning forest for cultivation and do not have a permanent residence. This is a backward custom, negatively affecting socio-economic and environmental development. To facilitate ethnic minorities' sedentary cultivation, production and stable life right in their land, the Prime Minister issued Decision 33/2007/QĐ-TTg on Support Policy for Sedentism for ethnic minorities in 2007-2010 with a goal that by 2010 sedentary cultivation and permanent residence would be realized for ethnic minorities across the country and 100 per cent of ethnic minorities would have sedentism as planned and have residence, property, land for production and water.

31. Ethnic minorities have increasingly conducted their right to political participation. Accordingly, representatives of ethnic minorities have actively participated in the political system, socio-economic management of all sectors from central to local levels. Many representatives have held important posts in key institutions of the State, National Assembly, Ministries and Agencies at both central and local levels. The number of deputies from ethnic minorities in the National Assembly- the most powerful State body, has substantially risen (the 9th National Assembly (1991-1995) had 66 in 395 deputies from ethnic minorities, accounting for 16.75 per cent; the 12th National Assembly (2007-2011) had 87 in 493 deputies from ethnic minorities, making up 17.65 per cent; ethnic minorities only account for 14.26 per cent of the country's population). In the tenure of 2004-2009,



members representing ethnic minorities in the People's Council at provincial level accounted for 20.53 per cent, 20.18 per cent and 24.4 per cent for the district and commune levels respectively.

### **Consultations in decision-making process**

32. Consultations with people in decision-making process are crucial to the country's right of self-determination. To achieve this goal, in building process and before approval of Constitution, major acts and documents, drafts of these documents are published to collect public recommendations and are reviewed on the basis of such inputs. Collection of inputs is undertaken through modern means of mass media or the political, social and professional organizations including two important bodies representing the Fatherland Front of Viet Nam and the General Confederation of Labour of Viet Nam. In particular, article 9 of the 1992 Constitution affirmed that the Fatherland Front of Viet Nam is an alliance of peoples, classes of people and plays a key role in oversight of State and people-elected agencies; and also participates in social critics for State's documents and policies before approval.

33. Article 39 of the Law on Organization of the Government also stipulates that "In building the bills, ordinances and drafts of resolutions and degrees, the Government shall send the drafts to the Central Committee of the Fatherland Front, the Executive Board of the General Confederation of Labour and the Central Committee of related mass organizations for recommendations". At the same time, the Government has the responsibility to invite representative of the Fatherland Front, the General Confederation of Labour and mass organizations to attend the discussions of Government on related issues and regularly inform the mass organizations on socio-economic situation, major decisions and works of the Government. In addition, the role and voice of mass organizations like the Red Cross, Women's Union, Youth Union, Senior Citizens' Union, Veteran Union and Farmer Union, etc. in State and social management have been continually respected.

34. People's right to consultations is promoted through the activities of legislative branch and increased oversight of the National Assembly. Members of the National Assembly represent the people and have the responsibility to maintain contacts with their constituents, be under the supervision of constituents and organize regular meetings in the constituency to understand the expectations of constituents and reflect them in the forums of the National Assembly and related State agencies. At least once a year, members of the National Assembly have to report to the constituents on implementation of their duties. The constituents can directly or indirectly through the Fatherland Front to ask the deputies to report on their works and can make assessments on implementation of the National Assembly's deputies (art. 51 of the Law on Organization of the National Assembly).

35. It is noted that in every session of the National Assembly, the hearing of cabinet's members has been frequently conducted and deepened, acting as a forum for the people through their representatives to question the method of Government's governance and ask for solutions to overcome challenges. The live broadcast of the National Assembly's hearings has produced better conditions for the people in realization of their rights to inspection and supervision of Government's activities and is supported by the public.

36. Vietnamese press has become a forum for the people and social organization, and also acted as the most important force in inspection and oversight of implementation of State's policies and laws, strongly contributing to the combat with corruption in Viet Nam. The right of recommendation in building and executing the guidelines, directions, policies and laws, and the rights of criticism, petitions, complaints and denunciations in the press are enshrined in the Press Law in 1999. Through the press and means of mass media, people have the rights to express their desire, views and make recommendations in all aspects of political, economic, cultural and social fields. Currently, around 30 per cent of the country's population have internet access; 80 e-news and thousands of Vietnamese

websites become forums to collect the public opinions on State's policies and laws. Recently, two drafts of amended Land Law and Criminal Proceedings Law have been published to take the public recommendations through the internet.

37. In Viet Nam, people's recommendations constitute the foundations for legislative and policy-planning institutions to adjust guideline, policy and law to make it more appropriate to the life's demand. By participating in the formulation, enforcement of laws and State management, the people continue to realize the rights of freedom and democracy. Indeed, legal documents and important policies also reflect the will, interest, desire as well as the rights of mastership and self-determination.

### **Challenges and orientations**

38. Viet Nam is transforming itself from a low-income developing country to a mid-income status with several MDGs achieved ahead of schedule. However, the socio-economic development is uneven among regions and groups of people. A part of population in remote and mountainous areas has a low level of development compared with that of the whole country. Those people may easily fall back into poverty due to natural disasters and climate change. Slow economic shift, unsteady balance of macro-economy, inflation and trade deficit and limited development sources are emerging. Institutions and policies are inconsistent and awareness of laws in a part of population is inadequate. Viet Nam is also among the top five countries most impacted by climate change and sea level rise.

39. To overcome the above-mentioned challenges, Viet Nam needs to maintain the macro-economic stability, improve institutions and policies, enhance people's perception and awareness of the laws and prepare to respond to impacts of climate change.

## **Article 2- Realization of economic, social and cultural rights**

### **Mobilization of all sources for implementation of economic, social and cultural rights**

40. Article 6 of the 1992 Constitution (amended in 2001) pointed out that the goal of the State's economic policy is to bring prosperity to the people, strength to the country and increasingly meet the material and spiritual demand of the people on the basis of releasing all production capacity, maximizing potentiality of all sectors including the State, collective, individual, capitalist private and State under various forms; develop techniques and infrastructure, expand economic, scientific and technological cooperation and exchange with the global market.

41. To achieve those goals, the State has developed ten-year strategies, five-year and one-year socio-economic development plans. Viet Nam is undertaking the Socio-economic development Strategy for 2001-2010 and the Socio-economic development Plan for 2006-2010. In this course, the country places importance on mobilizing all resources for socio-economic development. GDP increased by 1.4 and 2 times in 2005 and 2010 respectively compared with that in 2000. High and stable GDP in the last 10 years is the foundation for increased investment in socio-economic development goals and realization of economic, social and cultural rights in 2001-2005. The ratio of total social investment to GDP increased from 37.5 per cent to 40 per cent in 2006-2010 in spite of the financial crisis and economic recession. Investment structure has improved, public investment has reduced and investment from other sources has scaled up. In the period of 2006 – 2010, investment from State's budget only accounted for 21.7 per cent; State's credit capital accounted for 6.7 per cent; capital of SOEs made up 9.8 per cent; capital from people was 34.8 per cent; FDI sources was 20.5 per cent and other sources accounted for 6.5 per cent. Besides, the number of new jobs also increased from 7.5 million in 2000-2005 to 8.1 million in 2006-2010 and the unemployment rate in urban areas reduced from 6.42 per cent in 2002 to 4.6 per cent in

2010. The percentage of trained labour in the workforce went up from 25 per cent in 2000 to 40 per cent in 2010. In the coming years, Viet Nam will continue to implement the Socio-economic development Strategy in 2011-2020 and the Socio-economic development Plan in 2011-2015.

### **Development cooperation to promote realization of economic, social and cultural rights**

42. The State of Viet Nam advocates for the foreign policy of independence, autonomy, peace, cooperation and development with the openness, diversification and multilateralization of international relations. Viet Nam takes the lead to actively conduct international economic integration and expand international cooperation in other areas. Viet Nam is a friend and trusted partner of all countries in the international community and actively engages in regional and international collaboration.

43. Development cooperation in various fields has contributed to implementing Viet Nam's socio-economic development goals, United Nations' MDGs and the rights enshrined in the international Covenant on Economic, Social and Cultural Rights.

#### *Official Development Assistance (ODA)*

44. The round table in 1993 in Paris opened up a new chapter in the ODA cooperation for Viet Nam when assistance from the Eastern European countries and the Soviet Union plummeted. The donors' community has continually expanded and currently there are 28 bilateral donors and 23 multilateral donors. Building upon demand for capital demand and development orientations by sector, area and territory outlined in the Socio-economic development Plans and Strategies, and Viet Nam's commitments to international covenants and agreements; the Government sets forth orientations, policies and priorities for the use of ODA in every period. Prioritized areas for ODA use in 2006-2010 include agricultural and rural development, economic and social infrastructure development (health, education and population, etc...); environmental protection; enhanced institutional capacity and human resources development, transfer of technology, improved research and application capability. Legal system on ODA management has been upgraded toward greater aid effectiveness, harmonised procedures, decentralization to identify responsibilities and duties of parties concerned. Since 1993, the Government has released 4 Degrees on Management and Use of ODA (20/ND-CP in 1994, 87/ND-CP in 1997, 17/2001/ND-CP in 2001 and 131/2006/ND-CP in 2006). The Government has also participated in Paris Declaration and Accra Plan of Action on aid effectiveness and coordination with donors to translate that Declaration into Ha Noi commitments.

45. Throughout 17 annual Consultative Groups' Meetings, pledged ODA of donors amounted to above US\$ 56 billion with a year-on-year increase and hit a record level of US\$ 8.063 billion in 2009. Although ODA sources account for just 3-4 per cent of the country's GDP, it is a supplement to infrastructure development with a view to facilitating the economic and social shift and attracting other capital investment sources. ODA sources account for roughly 11 per cent of the total social investment capital and 17 per cent of the State's budget. From 2000 to 2010, pledged ODA hit more than US\$ 49 billion, concluded capital reached US\$ 33.3 billion and disbursed capital amounted to nearly US\$ 23.4 billion, in which concessional loans account for 80 per cent and grants account for 20 per cent. This is an illustration of strong support from the donors' community for the reform of Viet Nam. Viet Nam has given priorities of ODA for the disadvantaged and low-developed areas. ODA per head for people in mountainous and upland areas in the North reached US\$ 34, a double increase against that of the Northern plain areas (US\$ 18). ODA percentage for basic social services including health, education, water supply and drainage increased from 12.7 per cent in 2000 to 15.4 per cent in 2009. Apart from the said accomplishments, management and usage of ODA still have some limitations, for instance the capability of

project managers, monitoring and oversight, which are yet to receive due attention from Ministries and localities. The Government of Viet Nam is working with the donors' community to develop ODA management and priority in 2011-2015 when Viet Nam becomes a mid-income country. Against that backdrop, the percentage of ODA loans with low level of preferential treatment will increase and should focus on major projects at the national level, which bring about profits and ensure repayment of debts, and should also encourage high-tech works with tremendous effects. Beneficiaries of ODA have expanded to include private sector on the basis of public-private partnership for development. Intermediaries in ODA management have been cut down in order to transfer those sources to capital owners with a strict supervision and monitoring by competent authorities.

46. Apart from ODA, there are more than 600 International Non-governmental Organizations (INGOs) operating with the total annual grant of roughly US\$ 200 million. These assistance sources present direct support for life of disadvantaged population in rural, mountainous, remote and ethnic minorities' areas. Legal system for management of INGOs' grants has improved toward greater effectiveness of aids, harmonization of procedures, decentralization and identification of responsibility and duties of parties concerned. The Prime Minister issued Decisions 28/1999/QĐ-TTg in 1999, 64/2001/QĐ-TTg in 2001, and Degree 93/2009/NĐ-CP in 2009 on management and usage of INGOs' grants. Major difficulty in this field is the management capacity off programmes and projects by civil servants at all levels. The Government of Viet Nam has established the plans on training to enhance aids management capacity.

#### *Participation in international organizations and forums*

47. Since 11 January 2007, Viet Nam has become an official member of WTO and increasingly engaged in the international economic integration. Viet Nam has opportunities to access the markets of member countries, expand export, absorb capitals and labour with good quality and high technology from other countries. Legal system of economic affairs has been upgraded in the direction of increased transparency in accordance with international practices. Viet Nam has made positive contributions in the international economic forums like the World Economic Forum (WEF), APEC, etc. At the regional level, Viet Nam has been a member of the Association of Southeast Asian Nations (ASEAN) since 1995 and is working on the building of ASEAN Community. Viet Nam has also promoted participation in sub-Mekong cooperation programmes with major partners of China, Japan, Laos, Cambodia, Myanmar and Thailand. The UN has selected Viet Nam as one of eight countries realizing the initiative of "Delivering as one" since 2006 to enhance effectiveness of cooperation.

#### *Trade*

48. In the years before 1993, Viet Nam's trade relations were just conducted with the Eastern European countries and the Soviet Union. So far, Viet Nam has founded trade relations with more than 220 countries, regions and territories, and signed 90 bilateral economic and trade cooperation agreements. Viet Nam is promoting negotiations and signing of FTAs, particularly with the strategic partners like China, Japan, the US, Russia and the EU. The Vietnamese economy is highly open with the ratio of foreign trade in 2009 equivalent to 137 per cent of GDP. In 2000-2008, export rose by above 18 per cent per year. Export structure has improved with an increase in processed items. Export value in 2005 up by US\$ 32.5 billion; export turnover in 2009 and 2010 amounted to US\$ 57 billion and US\$ 72.2 billion respectively. Major challenge facing Viet Nam in trade integration is low competitiveness. To rise to such challenge, Viet Nam will enhance production capacity and efficiency, and at the same time improve the related legal documents.

*Foreign Direct Investment (FDI)*

49. To date Viet Nam has established investment relations with more than 80 countries, regions and territories. Legal system on FDI management has been upgraded to ensure decentralization, simplification of procedures and facilitation of investors' activities. The promulgation of the Investment Law in 2005 was a new step to unify regulations on foreign and domestic investment across the country as well as the foreign investment of Vietnamese investors. In the first three years of the 2006 – 2010 plan, foreign investment scaled up in terms of paid-in and registered capitals. Registered FDI capital in 2007 increased by 78 per cent against 2006, and up by 236 per cent in 2008 versus 2007. From 2007 to 2009, registered capital hit US\$ 114.5 billion, an increase of 4.5 times against the goals set in 2006 - 2010. Currently, Viet Nam has approximately 12.000 FDI projects in operation with a total registered capital of above US\$ 190 billion. The percentage of FDI in the total social investment rose from 16.2 per cent in 2006 to 25.5 per cent in 2008. Apart from the said achievements, Viet Nam is coped with several difficulties in absorbing and using FDI capitals, for instance limited infrastructure and human resources, and inconsistency of related regulations and laws. Besides, the global financial crisis has negatively affected the commitment of FDI in 2009. However, FDI inflows showed positive signs of recovery in 2010.

50. Viet Nam always places much importance on the South-South cooperation. Viet Nam has mapped out many support and cooperation initiatives for neighbouring countries like Cambodia, Laos, Myanmar and ASEAN countries, including the facilitation of Laos' use of Viet Nam's seaports. Comprehensive cooperation with Africa, Middle East and Latin America is now the priority of Viet Nam. At present, Viet Nam has diplomatic relations with most of African countries and is expanding the multi-sided cooperation. Viet Nam has engaged in the new partnership programme for development of Africa. Under the financial assistance of international organizations like FAO and UNDP, Viet Nam has extended tripartite cooperation to help Africa ensure food security through transfer of technology and experience in advantageous fields such as food production, fishery and aquaculture. Besides, Viet Nam has also fostered tripartite cooperation in health and education. Viet Nam's trade promotion programmes will also generate trade opportunities with Africa.

**Rights to equality and non-discrimination**

51. Article 52 of the 1992 Constitution states that all citizens are equal before the laws regardless of race, religion, sex, political view, social affairs, property and lineage, etc.

52. Regular report on human rights of Viet Nam in 2009 affirmed the rights of equality and non-discrimination in terms of social affairs, religion and political view, etc. In the report on article 3 of the Covenant, the right of gender equality is presented. Therefore, this part of report only focuses on Viet Nam's efforts to assure the equality among peoples, especially in the mountainous and remote areas.

53. Viet Nam is a united country embracing 54 peoples and the Kinh people represent the majority. The remaining 54 peoples account for 14.26 per cent of the population. Ethnic people mainly reside in mountainous, remote and disadvantaged areas. The development of ethnic people is uneven and just a few among them have high level of social and economic development. Yet most of ethnic people live in low development level and low living standards.

54. The Constitution and laws of Viet Nam assures the equality of ethnic people. The 1992 Constitution clearly says that the State of the Socialist Republic of Viet Nam is a united country of peoples living across the country. The State pursues the policy of equality, unity and mutual assistance among people and prohibits any acts of discrimination and splitting up. Ethnic people have the right to using their language, scripts, preserving

national identity, displaying their tradition and custom. The State implements comprehensive development policy to gradually improve the material and spiritual life of ethnic people. The Vietnamese citizens regardless of ethnic groups are all equal before the laws and have both responsibilities and duties. In the structure of State's apparatus, People's Council is elected by the National Assembly with the functions, mandates and power of a body under the National Assembly. The Council has the duty to conduct researches and make recommendations to the National Assembly on ethnic people's affairs, supervise the implementation of policy for ethnic groups, development plans and programmes, socio-economic development plan for areas of ethnic people. The Government has the responsibility to consult with the Ethnic People's Council before releasing policies and decisions on ethnic people's affairs. In the Government, the Committee on Ethnic People's Affairs is responsible for issues related to ethnic people.

55. The State of Viet Nam puts in place a series of policies on priorities for ethnic people in all fields. Infrastructure development policy lays the foundations for development toward industrialization and modernization. Policies on support for production, specifically in terms of land, rice fields, preferential credit and subsidy have accelerated poverty process. In addition, the State develops policies on enhancement of living standards, cultural and social affairs, for instance assistance for the special disadvantaged ethnic people, education, health care; and policies on training, education and use of civil servants from ethnic people, encouraging the staff from mountainous and remote areas.

*Programmes and projects are undertaken to support the ethnic minority*

56. The socio-economic development programmes for people with special difficulties in mountainous and disadvantaged areas were implemented in 1999-2005 and continued to be realized in 2006-2010. Those programmes aim to develop infrastructure for transport, power and water supply, irrigation system, school, development of production, seed, breed, materials and machinery, and apply advanced model for production, transfer of technology, encourage agricultural and forestry extension, boost management training such as the programme of "cementation of schools", replacement of "makeshift schools and classes" and "three-shift classes".

57. Over the past years of reform, economic development in the areas of ethnic people has considerably progressed. Households' economy like farming, garden-pond-barn-forest, and cultivation in upland and hilly areas grows in terms of quality and quantity. In 1990, only 35 per cent of communes has road for cars leading to centre of communes and this rate now is 96 per cent. Currently 84.6 per cent of communes is covered by power grid with more than 96.1 per cent of population access to power, and 100 per cent of communes have radio broadcasting stations, telephone lines, medical stations and primary schools, 85 per cent of communes has lower secondary schools. There is at least one secondary school in every district. There are 294 boarding schools for ethnic people with nearly 100,000 students. 77.46 per cent of ethnic children are at the school age. National programmes have developed more than 36,000 works with 400 centres of communes in 1999-2008. In 2004-2008, 373,400 poor households received support for their houses' renovation. Residence was provided to 71,713 households. Arable land was offered to 83,563 households. 198,700 households have clean water, 4,663 works of water supply were installed. Food per head increased from 250 kg in 2003 to 350 kg in 2007. The percentage of poor households was cut down from 86.4 per cent in 1993 to 50.3 per cent in 2008 and 47 per cent in 2010.

*International cooperation*

58. Many countries, international organizations and NGOs have substantially contributed to the socio-economic development in ethnic people's areas. 30-50 per cent of NGOs' aids are reserved for ethnic minorities in mountainous areas. In 1998-2004, ODA for poverty reduction in mountainous and remote areas hit above US\$ 1.153 billion.

Besides, ODA and NGOs projects also focus on technical assistance and capacity enhancement.

59. In addition to above-mentioned achievements, there remain several limitations and difficulties in socio-economic development in the areas of ethnic people. Production capacity is still limited, weak competition and difficulty in consumption. Agriculture still captures a lion share. Management expertise is limited. Poverty rate in remote and disadvantaged areas is high. Quality and effectiveness of education and training are modest, education and training courses are not suitable to the characteristics of mountainous areas. There is a lack of due attention to vocational training in mountainous areas. Some social and infectious diseases exist. The percentage of malnourished children and birth rate of several ethnic people are still high. Reason of limitations and difficulties is that the ethnic people mostly live in remote and disadvantaged areas, where it is hard to access the social and economic services. The starting point of ethnic people is low compared with that of the country.

#### *Future directions*

60. It is essential to reform communication, education and enhance awareness of policy and laws, encourage patriotism and ethnic minorities to engage in social and economic development. Continue to improve the quality of civil servants at grass roots level and fully display the role of staff in charge of ethnic affairs, the role of village heads and the elders; speed up economic shift toward developing a multi-component market economy; increase the ration of industry and services. Focus on forest protection and development, select the seeds, plants and breeds to make it suitable to the conditions of land and climate in each region and continue to develop infrastructure for education and health.

#### **Economic rights of foreigners**

61. Economic rights of foreigners are guaranteed in Vietnamese laws, including Law on Investment, Enterprises Law, Commercial Law and Securities Law. Upon its entry into the World Trade Organization, Viet Nam reaffirmed its commitment to non-discrimination between Vietnamese nationals and foreigners, and MFN in trade in goods and service. However, there is a roadmap for these commitments and therefore limits to some economic rights of foreigners are still applicable until the date of full delivery.

#### **Rights regarding investment**

62. According to the Law on Investment, foreign investors have the following rights:

- After a foreign investor has discharged its financial obligations to the State of Viet Nam, it shall be permitted to remit abroad: (i) its profits derived from business activities; (ii) Payments received from the provision of technology and services and from intellectual property; (iii) The principal and interest of foreign loans; (iv) Invested capital and proceeds from the liquidation of investments; (v) Other sums of money and assets lawfully owned by the investor.
- Foreign investment is guaranteed in the event of changes in Viet Nam's laws and policies. If the new laws or policies provide higher benefits and incentives, the investor shall be entitled to the benefits and incentives pursuant to the new laws and policies. If the new laws or policies adversely affect the interests of investors, they shall continue to enjoy previous entitlements.
- Dispute (if any) shall be resolved through negotiation, conciliation, arbitration or court.
- An international treaty might be applicable in case of disputes.

- Lawful assets and invested capital of investors shall not be nationalized or confiscated by administrative measures (nationalization and confiscation can only be carried out for public interests and damages shall be compensated fully and fairly according to laws).
- A foreigner working in Viet Nam for an investment project shall be permitted to remit abroad his or her lawful income after having discharged his or her financial obligations to the State of Viet Nam.

63. Conditional investments applied to foreigners are as follows:

- Government's regulations on capital contribution are applicable in some sectors and industries (as stipulated in the first paragraph of article 25 of the Law on Investment). The purchase of shares, stocks and bonds shall follow provisions of the Securities Law.
- According to article 29 of the Investment Law, the areas of conditional investment also include those on a schedule of implementation under international treaties of which Viet Nam is a member. Foreign investors also have to follow the provisions related to investment activities in specific areas, such as Law on Credit Institutions, Insurance Law, Securities Law, and the Law on Lawyers.
- In a joint-venture, foreign investors shall hold no more than 49 per cent of the total shares. According to clause 4 of article 29 of the Investment Law, the same investment conditions, which are applicable to domestic investors, shall be applied to foreign investors where Vietnamese investors hold more than 51 per cent of the charter capital of enterprise.
- Based on the requirements of each socio-economic development period and in accordance with international treaties of which Viet Nam is a member, the Government introduces a list of areas of conditional investment. The conditions related to the establishment of economic organizations, forms of investment and market access for some sectors.

#### **Rights in trade of goods and services**

64. According to article 6 of the 2005 Commercial Law, the Government does not differentiate domestic and foreign traders and they have the same rights and obligations in trade activities. However, clause 4 of article 6 of the Commercial Law states that "the State exercises for a definite time its monopoly over commercial activities in respect to a number of goods and services or in number of geographical areas in order to ensure the national interests. The Government shall specify the lists of goods, services and geographical areas subject to the State monopoly." Therefore, in some areas and within the timeframe of State monopoly, foreign traders are not entitled to carry out related trade activities. Article 10 of the Commercial Law also states that traders of all economic sectors are equal before law in commercial activities.

65. In some areas, currently Viet Nam has not made specific commitments beyond the general commitments, especially those in respect to trade representation, such as: arbitration service, vehicle rental services without operator including aircraft rental, equipment and machine rental service, etc. Therefore, foreign individuals and organizations' trade representation is being limited in areas that Viet Nam has not had specific commitments beyond the general commitments.

#### **Right to establish an enterprise**

66. Clause 1 of article 13 of the 2005 Law on Investment states that "Vietnamese and foreign individuals and organizations have the right to establish and manage an enterprise



in accordance with this Law." Thus, foreign individuals and organizations have the same right to those of Viet Nam in establishing and managing an enterprise. However, according to the Law on Investment and Viet Nam's WTO commitments, the State has controlling shares in some areas, and limits the capital contribution of foreign investors.

### **Article 3- Equal rights of men and women to the enjoyment of economic, social and cultural rights**

#### **The implementation process**

67. Viet Nam has been a member of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) on 29 July 1980 only seven months after it was passed by United Nations General Assembly. The Vietnamese National Assembly ratified this Convention on 17 February, 1982. Viet Nam has had six reports on the implementation of this Convention. The first was for 1981-1984, the second for 1985-1998, the combined third and fourth report was for 1998-2000 and the combined fifth and sixth report was for 2000-2003.

68. In 1993, the Politburo and the Party Central Committee of Viet Nam issued the Resolution 04-NQ/TW on the reforms and intensification of outreach activities towards women. The Resolution identified its goal as to guarantee equality between men and women, stating that "the current feminism is to improve the material and spiritual life of women, lift their social status and ensure gender equality; as well as building well-off, equal, advanced and happy families."

69. The advance of women and gender equality has been a major theme in the Viet Nam's legal system. The 1992 Constitution states that "All citizens are equal before law" (art. 52) and "Male and female citizens have the same political, economic, cultural, social and domestic rights" (art. 63). This is the principle and the basic of all gender-related laws. This principle has been taken very seriously and the details derived from it can be found in important legal documents such as the Law on Gender Equality and Law on the Prevention of Domestic Violence adopted by the National Assembly on 29 November 2006 and 5 December 2007 respectively. The Decree number 70/2008/ND-CP issued by the Government on 4 June 2008 stated the State's responsibilities in ensuring gender equality and the coordination of State's agencies in this effort. The integration of gender equality in law-making process has become obligatory, as clearly required by the Law on the Issuance of Normative and Legal Documents passed by the National Assembly on 3 June 2008. Article 47 of this Law stipulates that the National Assembly's Committee on Social Affairs is responsible for supervising the integration of gender equality in draft laws, decrees and resolutions.

70. Basic civil rights such as property ownership and inheritance mentioned in article 58 of the 1992 Constitution are fully elaborated in the 1995 Civil Code and other implementation-guiding documents. The right to land use is described in details in the 1998 amended Land Law. The right to freedom of business and investment of women is stipulated in the 1997 Commercial Law, the 1994 and 1998 Law on Promotion of Domestic Investment, the 1999 Business Law, the 1996 and 2000 Law on Foreign Investment in Viet Nam, as well as the 2005 Law on Investment.

71. The 1998 Education Law and the 2000 Science and Technology Law guarantee women's right to study, scientific research and academic research activities. The rights of women in marriage and family are provided for in the 1999 Penal Code and the 2000 Law on Marriage and Family.

72. Women's right to work can be found in the Labour Code. Chapter X has 10 articles elaborating the rights of female labour. The Labour Code's provisions aim at ensuring equality between men and women in key processes such as recruitment, labour employment, payment, promotion, safety and social insurance, as well as providing special measures and appropriate preference to protect female labour, mothers and children. The Decree number 23/ND-CP issued by the Government on 6 July 1996 has more details and provides guidelines for the implementation of some provisions of the Labour Code regarding female labour. The MOH-MOLISA Circular 03/TT-LB on 28 January 1994 has guidelines related to harmful working conditions and jobs not allowed to use female labour.

73. To further promote gender equality, the Government issued the Decision 72/QD-TTg on 25 February 1993 to establish the National Committee on the Advancement of Vietnamese Women. This Committee is an inter-disciplinary agency in charge of helping the Prime Minister to study and resolve inter-disciplinary issues related to the advancement of women nation-wide.

74. To ensure the lawful right of women to participate in the making of policies and laws that affect their interests, the Secretary Committee of the Viet Nam's Communist Party issued the Directive number 37-CT/TW in 1994. This Directive states that the increase of female representation in State Management and socio-economic management positions is important to the successful guarantee of gender equality, democracy for women and the employment of women's talent and knowledge, as well as their social status. To facilitate the participation of Women associations in political processes, the Government issued the Decree 29/ND-CP on 11 May 1998 on Democracy at the ward and commune level to realize democratic rights of all people, including women when participating in grass roots governments. Decree 19/2003/ND-CP on 7 March 2003 provides details on the responsibilities of Ministries, Ministerial-level agencies, Government agencies and People's Councils at all levels in the coordination and facilitation for Women Associations of all levels to participate in State management activities related to the rights and interests of women and children in accordance with the law.

75. In 1995, the Government approved the Strategy for the Advancement of Vietnamese Women until 2000, which clearly stated the view of the Vietnamese Government in gender-related issues. The Strategy holds that one of the important goals of Vietnam's reforms is to practical improve the material and non-material life of women, as well as their position in society. Women's advancement is not only critical for themselves and their families, but also the whole society. To implement this Strategy, on 4 October 1997, the Prime Minister approved the National Action Plan for the Advancement of Vietnamese Women until 2000 under the Decision 822/QD-TTg.

76. The Government also approved the National Strategy on the Advancement of Vietnamese Women for 2001-2010 under the Decision 19/2002/QD-TTg on 21 January 2002. This Strategy has five objectives, including the removal of all forms of discrimination against women, the guarantee of equality in the areas of labour-employment, health care and education, the increased and more effective participation of women in political, economic, social-cultural activities and management at all levels, and capacity-building for the activities related to women's advancement. Based on such objectives, the National Committee on the Advancement of Vietnamese Women adopted the Action Plans for Women's Advancement in the period 2001-2005 and 2006-2010.

77. Gender equality and women's advancement have also been mainstreamed in important policies such as the Comprehensive Poverty Reduction and Growth Strategy (CPRGS) which set the target of fast and sustainable economic growth, social equality and advances, higher quality of life for all, human development and gender equality. Women's advancement constitutes one of the goals of the 2006-2010 SEDP and annual national plans.

78. The Government has also adopted many National Target Programmes until 2010 which create equal opportunities for both men and women in socio-economic development and human resource development, including the National Target Programme on prevention and fighting some social diseases, dangerous epidemics and HIV/AIDS for the period 2006-2010 (under the Decision number 108/2007/QĐ-TTg on 17 January 2007), the National Target Programme on Poverty Reduction for the period 2006-2010 (under the Decision 20/2007/QĐ-TTg on 5 February 2007); the National Target Programme on Employment until 2010 (under the Decision 101/2007/QĐ-TTg on 6 July 2007); the National Target Programme on Family Planning for the period 2006-2010 (under the Decision 170/2007/QĐ-TTg on 8 November 2007); the National Target Programme on Education and Training until 2010 (under the Decision number 07/2008/QĐ-TTg on 10 January 2008); and the National Target Programme on Rural Clean Water Supply and Sanitation for the period 2006-2010 (under the Decision number 277/2006/QĐ-TTg on 11 December 2006).

79. The national population was 85.97 million in 2009. Women account for 50.5 per cent of the population and 48 per cent of the labour force. Women play an important role in social life and national development. With the progress in economic development and a higher living standard for all segments of society, Viet Nam continues to score remarkable achievements in gender equality and improvement of women's position, especially in education and training, socio-economic management and in management of different sectors at all levels. According to the 2009 Human Development Report of UNDP, Vietnam's Gender Development Index (GDI) has increased consistently, from 0.688 in 1998, to 0.689 in 2004 and to 0.723 in 2009, ranking 94 out of 155. Viet Nam's Gender Empowerment Index in 2007 was 0.561, ranking 52 out of 93. According to the Viet Nam Gender Assessment Report 2006 by the World Bank, Asia Development Bank, the British Department for International Development and the Canadian International Development Agency: "Viet Nam is one of the countries with the highest rates of economic participation of women; Viet Nam is one of the more advanced countries with respect to gender equality; Viet Nam stands out for its success in closing gender gaps in the last 20 years in the East Asia".

80. Over the past two decades, Viet Nam has made great strides in implementing gender equality rights and successfully become one of the best-recorded countries in Southeast Asia – Pacific in terms of Gender Development Index (GDI), including:

(a) Better guarantee of women's equal rights. Women are entitled to better conditions and opportunities to participate in and make contribution to the political, economic, cultural and social domains of the country. The role and position of women in the family and the community have been enhanced;

(b) Effective measures taken by the State to basically reduce gender inequality in some important areas, particularly with regards to land and social welfare. Women's name is registered together with the husband's name in the land use rights and housing certificates; women enjoy equal social insurance;

(c) Regarding women's political participation, Viet Nam always has a woman Vice President; women's representation in the national assembly for the 2007-2011 term was 25.8 per cent, ranking 28th in the world and 1st among the eight ASEAN countries that have parliaments. Women's representation in the People's Council of all levels for the 2004-2009 term increased to 23.9 per cent in provinces and cities affiliated to the central Government (against 21.1 per cent of the previous term), with 4 woman Presidents and 11 woman Vice Presidents of People's Council; 23.0 per cent at district level (against 21.0 per cent of the previous term); and 19.5 per cent at communal level (against 16.1 per cent);

(d) The percentage of women in managerial positions including CEO and vice CEO in state-owned enterprises amounted to 5 per cent and 9.7 per cent respectively. As for

General Corporation No. 90, women account for 1.7 per cent; 2.9 per cent and 1.4 per cent of the total number of president of the Board of Management, CEO and Vice CEO respectively;

(e) However, in 2008, the percentage of woman leaders in the Government remained modest: 1/25 of ministers were woman, accounting for 4.55 per cent; 5 deputy ministers, accounting for 4.85 per cent; 9.87 per cent of Director Generals and 20.74 per cent of Deputy Director Generals;

(f) In the economic – labour field, Viet Nam was among the countries with a high level of woman participation. In 2008, the employment rates were 92.6 per cent and 88.6 per cent for man and woman of working age respectively. Woman is present in all administrative management and public service agencies and State-owned enterprises, among them 31.1 per cent were cadres and civil servants from district level upward. At the communal level, the percentage of full-time woman cadres was 16.27 per cent. The percentage businesswoman was 32.4 per cent. Woman also participates in other social – political organizations, making up 30 per cent of the executive boards of various levels.

- The results of the 2007 labour survey revealed that there was an increasing number of female labourers participating in the non-agricultural sectors, highly-skilled and high tech areas as well as the services and informal sectors, including 46 per cent in the public sector, 49.4 per cent in household businesses and 34 per cent in the scientific and technological activities.
- The number of woman engaged in civil transactions as a party has also been on the rise. With woman's name registered in the land use rights/housing certificate, women can use their houses and land as collateral and mortgage for guaranteed civil transactions. Women enjoy equal rights in the nationality issue, including their own nationality and that of their children with regards to naturalization, change or maintenance of nationality. It is prescribed in the Vietnamese law that marriage, divorce with a foreign citizens or change of nationality of the husband do not automatically lead to the change in their wife's nationality.

(g) In the cultural-social field, Viet Nam has basically achieved gender equality in primary education and is now moving towards lower secondary and upper secondary education. The literacy rate of the population of 15 years of age and above has increased constantly, reflected in the Population and Housing Census (88 per cent in 1989; 90 per cent in 1999 and 94 per cent in 2009). Between 1999-2009, the literacy rate of woman from 15 years old increased by 3.1 per cent while that of man by 1.5 per cent, thus narrowing down the man-woman literacy gap (in 2009, the rate was 95.8 per cent for man and 91.3 per cent for woman). At present the percentage of people above 4 years old going to school reached 94.9 per cent, including male of 96.5 per cent and female of 93.5 per cent. According to the 2008 report on global gender gap of the World Economic Forum, Viet Nam's gender gap has been narrowed down to 0.894 against the ideal equality level of 1.

- Viet Nam has surpassed the target of having 30 per cent of female postgraduates, contributing to the payment equality in the labour market. Many funds have been established to encourage women to study and develop their capacity, most outstanding of which was the Fund for Vietnamese Women's Awards. Institutions and localities have provided allowances for their female employees to study, which is often 150 per cent higher than for male employees.

(h) In health care, the maternal mortality rate dropped constantly from 233/100,000 cases of birth in 1990 to 130/100,000 in 2001, 69/100,000 in 2009 and 68/100,000 in 2010. The percentage of mothers vaccinated against tetanus increased from 71 per cent in 1994 to 92.71 per cent in 2005 and 93.5 per cent in 2008. The 2009

population census showed that the average life span of women reached 75.6 and that of men reached 70.2.

### **Difficulties and challenges**

81. The social awareness on gender equality and the role of woman remains limited. In fact, practices of giving higher respect for men than women, gender bias and discrimination against women still exist in some places. Gender stereotype, backward socio-cultural customs and practices are still hindering the progress in awareness and actions of the people.

82. The mainstreaming of gender equality into the formulation of mechanisms and policies as well as in plans, programmes and projects related to socio-economic development has yet to be implemented due to the lack of knowledge, experience and necessary conditions.

83. The results achieved in women's progress and gender equality still fall short of expectations. Despite progresses, the percentage of female taking over leadership and managerial positions remains low compared to the increase in quantity and quality of woman labour. Gender gaps still exist in employment opportunity, income and employment structure. In terms of education, men outnumber women more vastly at higher education levels. With regards to health care, the maternal mortality rate has yet to fall sharply remaining high in some remote regions. Women and children trafficking has not been resolved; maltreatment against women still exists.

84. Disaggregated data on gender are still lacking. Manpower working on gender equality is inadequate, especially those working at the local level. The knowledge on gender, gender equality and skills for gender mainstreaming are still limited in cadres and those working on gender equality.

### **Orientation**

85. Viet Nam focuses on the following actions:

- Improve social awareness on gender equality by facilitating communication and disseminating laws on gender equality including the Law on Gender Equality and documents guiding the implementation of the Law in the mass media depending on the conditions of each sector, locality and group of people to bring about profound changes in the awareness on gender equality in the society. In the immediate future, focus will be given to the communication and dissemination of information on the laws on gender equality, development of a local-based group of communication officers and rapporteurs, particularly legal support staff.
- Develop, complete and implement laws, mechanisms, policies, programmes and projects on gender equality and solutions related to the gender equality objectives to create favourable conditions for the development of women. In particular, study, develop and issue a National Strategy on Gender Equality for 2011 - 2020 on the basis of the National Strategy for the Advancement of Women in 2010; study the possibility of developing a National Target Programme on Gender Equality for 2011- 2015.
- Complete the system of state management and enhance the capacity for the cadres involved in gender equality from central to grass-roots levels. Provide training for civil servants, particularly women, on gender-related knowledge and gender mainstreaming skills in some key areas of education – training, labour, economics and health care.

- Develop a set of indexes on gender equality in all areas prescribed in the Law on Gender Equality; collect gender-disaggregated data for gender analysis in policy planning and socio-economic policy planning.

## **Articles 4 and 5- Provisions on restrictions to rights**

86. Viet Nam does not have provisions restricting the rights provided in the Covenant on Economic, Social and Cultural rights.

## **Article 6- The right to work**

### **Implementation**

87. Viet Nam has ratified 17/187 Conventions of the International Labour Organization (ILO), including 5/8 core Conventions, including Convention 100 (1951) concerning Equal Remuneration for Man and Woman Workers for Work of Equal Value, Convention 111 (1958) concerning Discrimination in Respect of Employment and Occupation, Convention 138 concerning Minimum Age for Admission to Employment, Convention 182 (1999) on Elimination of the Worst Forms of Child Labour and Convention 29 (1930) on Forced Labour.

88. In 2008, Viet Nam submitted reports to ILO on the implementation of Conventions No. 14 (1921) concerning Weekly Rest (Industry), No. 111 (1958) and No. 100 (1951). In 2009, Viet Nam reported to ILO on the implementation of the seven Conventions that the country has acceded to (Conventions No. 29 (1930); No. 45 (1935) concerning Underground Work (Women), No. 81 (1947) concerning Labour Inspection in Industry and Commerce; No. 120 (1964) concerning Hygiene (Commerce and Offices), No. 138 (1973) concerning Minimum Age for Admission to Employment; No. 155 (1981) concerning Occupational Safety and Health; and No. 182 (1999).

89. The Government always delivers on the commitments to the ILO and has formulated important laws, including the Labour Code and Civil Code to facilitate the protection of workers' rights. The Government has also revised the laws to make them relevant to the new conditions and compatible to the provisions of the ILO Conventions that Viet Nam is a party to.

90. In 2007, Viet Nam signed the Convention on the Rights of Persons with Disabilities, which stipulates the measures that State Parties must undertake to protect the rights of persons with disabilities.

91. The right to work is stipulated in the 1992 Constitution (amended in 2001) as well as in the system of national laws including relevant laws and other legal normative documents.

92. The right to work and remuneration and social benefits are prescribed in the Labour code enacted in 1994 and revised in 2002, 2006 and 2007; the Law on Vietnamese Labourers working abroad under contracts; and the 2006 Law on Social Insurance. In addition, the rights of labourers to education and vocational training are stipulated in the 2006 Law on Vocational training.

93. In enforcement of the Labour Code, the State has been working on the development of mechanisms, policies and relevant legal documents aimed to improve the legal framework on labour, helping to promote the implementation of reforms and transition to market economy of Viet Nam. The Government has also issued a number of policies and by-law documents with a view to ensuring the effective exercise of the right to work.

94. Since 1986, many job-matching centres have been established in cities and localities. The Council of Ministers (now the Government) issued Resolution No. 120/1992/NQ-HĐBT dated 11 April 1992 on the development of a system of job-matching services creating the necessary legal framework for developing job brokerage services in the labour market.

95. With regards to training, the Constitution provides for the rights of citizens to education and the obligation of the State in developing the education system, especially technical and vocational training schools and institutions offering the combination of work and training. This has presented an important condition for labourers to meet the employers' demands for expertise and skills thus ensuring their right to work. A system of universities, postgraduate institutions and vocational training schools has been developed nationwide. All major cities have vocational training centres for labourers, particularly the youths. Fifty six vocational training centres have been established in twenty provinces and cities.

96. Regarding the protection of the right to work and measures to prevent arbitrary dismissal of employees, Viet Nam has put in place policies on termination of jobs or labour contracts. The employers have the right to fire employees or terminate the labour contracts if the employees violate the regulations of the State or the signed contracts. The employers are not allowed to fire employees while they are undergoing treatment or convalescence in the hospital, during their pregnancy or maternal leaves. Dismissal of employees is prohibited with exception to the cases provided for by the law.

#### **On ensuring the right to work**

97. Chapter II of the 2002 Labour Code (amended in 2006 and 2007) is dedicated to employment:

(a) In article 13, the right to work is stipulated: "all income-generating activities which are not prohibited by the law are considered employment. The responsibility to create jobs and equal employment opportunities for all people capable of working is attributed to the State, enterprises and the entire society;"

(b) Article 14 specified relevant responsibilities of the State: "The State shall set new targets for job generation in its five-year and annual plans for socio-economic development, create necessary conditions, provide financial support, grant loans, tax exemption or reduction, and apply other incentive measures to enable employable persons to find jobs for themselves as well as to enable organizations, agencies and individuals in all economic sectors to develop new and diversified occupations with the aim of providing employment for as many individual employees as possible. The State shall enact preferential employment policies to mobilise and employ the ethnic minority labour force. The State shall enforce incentive policies to create favourable conditions for organizations and individuals inside and outside the country, including Vietnamese settled abroad, to invest in production and business expansion in order to increase job availability;"

(c) In article 15, the Government's responsibilities are prescribed: "The Government shall design national employment programmes, projects on investment in socio-economic development and migration schemes aiming to establish new economic zones in association with employment stimulation programmes; establish the national employment fund from the State budget and other sources and expand the job brokerage service system. Annually, the Government shall submit to the National Assembly its proposed national employment programme and fund for approval. The People's Committee in provinces and cities directly under the Central Government shall set up their own employment programmes and funds and submit them to the People's Council of the same level for approval. The State agencies, economic organizations, people's organizations and

social organizations shall, within their responsibility and authority, participate in the implementation of the employment programmes and funds;

(d) According to article 16, "Labourers have the right to work for any employer and at any place not forbidden by the law. The job seeker has the right to contact directly a potential job procurer or register with a job brokerage service centre to find a job suited to their desire, capacity, professional standard and health condition. The employer is entitled to contact directly the job seeker or recruit labour through a job brokerage service centre. They shall have the right to increase or reduce the number of employees in conformity with production and business demand and within the prescriptions of the law;"

(e) In addition, the Labour Code also prescribes specific issues related to the right to work of the people such as provisions on severance allowance, job-lost allowance, policies to support the creation and self-creation of jobs; provisions on the operation of job-matching for specific groups, such as the youths, women and people with disabilities.

98. To enhance the quality of human resources and help labourers find jobs, Viet Nam has issued regulations and policies on vocational training, such as the 2006 Law on Vocational training as well as other laws related to job and employment, such as the Law on Social Insurance, Law on Vietnamese Labourers working abroad under contracts, Investment Law, Enterprise Law, Cooperatives Law, etc. These documents contain provisions on job creation, promotion of job creation in the process of socio-economic development. Efforts have also been made to amend and issue legal documents guiding law implementation towards market economy and in conformity with the context of international integration.

#### **On protection of labourers from unfair dismissal**

99. Chapter IV of the 2002 Labour Code is dedicated to Labour Contracts, stipulating that in termination of the labour contract or dismissal of employees, the employer must provide a reason and adhere to the procedures provided for by the law. The law allows the termination of labour contracts by the employer in case of change of technology structure ( art. 17) or other cases, such as employee's regular failure to fulfil their assigned tasks, taking sick leave and medical treatment of 12 to 36 months or having taken more than 6 consecutive months of sick leave without recovering while under a contract with a definite term of up to 12 months; natural disasters, infernos or any force-majeure causes of which the employer has sought all means to overcome the consequences without success and is accordingly forced to scale down production and reduce the labour force ( art. 38). Dismissal of an employee can only be applied in the following cases: the employee has committed theft, embezzlement or disclosure of trade and technological secrets or other actions causing serious damage to property and interests of the business; the employee, who has been disciplined, commits a new offence while the term of the earlier disciplinary measure is still in effect; the employee is absent from work without authorization and without a plausible reason for five days in a month or 20 days in a year (art. 85).

100. In case the decision of the employer to terminate unilaterally the labour contract contravenes the law, they must re-instate the employee and pay compensation commensurate with the salary of the employee in the period of time during which they have been denied the right to work (art. 41).

101. As for woman employees, the 1994 Labour Code stipulates: The employer may not dismiss or unilaterally terminate a labour contract with a female employee for reasons of marriage, pregnancy, maternity leave or childcare leave when her child is under 12 months of age, unless the business terminates its operation. Unilateral termination of labour contract applied to a woman employee is temporarily postponed during the time of pregnancy, maternal leave or childcare leave when her child is under 12 months of age; the



time for consideration of labour disciplinary measure imposition is also extended in this case (art. 111).

### **Job creation**

102. Employment is defined as an essential issue and creation of jobs is among top priorities in socio-economic policies. This has been reflected in the 2001-2010 Socio-economic Development Strategy entitled: “Job creation is a decisive factor to promote the human factor, sustain economic stability and growth, live up to the legitimate aspiration and pressing demand of the people.”

103. This Strategy has set out the objectives as follows: “carry out labour restructuring in conformity with the economic structure; provide jobs for most of the labour force in need of employment; enhance productivity, raise income and improve people’s living conditions”; between 2001-2010, create 15 million jobs, equivalent to 1.5-1.6 million jobs per year; by the end of 2010, achieve a labour structure with 50 per cent, 23 per cent and 27 per cent of labourers working in agriculture, industry-construction and services respectively; bring down the urban unemployment rate to below 6 per cent by 2005 and below 5 per cent by 2010; raise the time usage rate in rural areas to 80 per cent by 2005 and 85 per cent by 2010; increase the ratio of trained labour to 30 per cent by 2005 (22 per cent with vocational training) and 40 per cent by 2010 (30 per cent with vocational training); achieve a productivity rate of about 4 - 5 per cent per annum.

104. This Strategy and other socio-economic development programmes along with the national employment programme have been implemented with changes in terms of operation methods, participating groups and resource mobilization measures. The Government has adopted a number of policies to support job creation, such as encouragement of economic sectors and enterprises to open vocational training schools; provision of preferential loans for students; strengthening of international cooperation in training, skill enhancement and labour export.

### **On economic development for job creation**

105. Since 1993, Viet Nam has formulated a number of mechanisms to develop economic sectors, reform and raise effectiveness of state-owned enterprises, re-structure the collective sector, encourage the private and household sectors, attract foreign investment, improve the business environment by creating legal framework to ensure a level playing field for all individuals and organizations in accordance with the law. Furthermore, Viet Nam’s active international integration has also opened up a large number of investment opportunities, particularly since the country’s acceding to the WTO.

106. Small and medium enterprises have been growing rapidly with the establishment of 50,000 new enterprises per year. To date, 150 industrial parks have been established in Viet Nam; most of them located in the three key economic zones and 110 have been put into operation. Collective and individual economic units also saw fast development with 3 million household businesses, over 17,500 cooperatives and over 2000 craft villages.

107. Viet Nam has also been implementing a number of key programmes for agricultural and rural development towards expanding and developing craft villages, craft communes and streets; promoting farming economy; afforestation of five million ha; protection of 10 million ha of natural forest; aquatic product farming, exploitation and processing; establishment of specialized agricultural areas and fishing grounds; programme for development of industry and services; programme for building and development of industrial parks and high-tech parks; key socio-economic projects of the State; development of services, particularly tourism, culture and sports, which also generate a large number of jobs.

108. Viet Nam's socio-economic development programmes have helped create new jobs thus reducing the domestic pressure on job creation. The population employed in the economy increased from 37.6 million in 2000 to 47.7 million in 2009 (12.6 million in cities and 35.1 in rural areas). The urban unemployment rate decreased from 6.42 per cent in 2002 to 4.65 per cent in 2008 and 4.6 per cent in 2010.

#### **Concerning the National Target Programme on Employment**

109. Viet Nam has been developing and implementing the National Target Programme on Employment for the 2001-2005 and 2005-2010 period. Under this programme, the job creation project financed by the National Fund has contributed significantly to creation and self-creation of jobs. So far 31 provinces and cities have established their Fund for Job Creation with the total capital of VND 750 billion. Over VND 3,468 from the National Fund for Employment has been allocated to all provinces and cities affiliated to the Central Government and socio-political mass organizations (such as the Confederation of Labour, the Farmers' Association, Veterans' Association and Association of the Visually-impaired), providing significant support for creation and self-creation of jobs. The Fund's operation has become increasingly effective. It helped create 1.67 million jobs in the 2001-2005 period and around 950,000 jobs since 2006 to date. The Fund's operation attracted the participation of many socio-political organizations, helping enhance the attachment among their members, their exchange of production experience and enhance the effectiveness of loans for job creation. The Fund also contributed to the integration of local socio-economic development programmes, creation of a level playing field in all economic sectors, especially job creation for the informal sector, facilitating access to loans for production development for disadvantaged groups, thus creating jobs for themselves and for the community. To help poor labourers have funds for self-creation of job, the Confederation of Labour of Viet Nam has established four Funds to help labourers create jobs for themselves. The loans made have thus far facilitate a number of effective models for job creations such as handicraft production, brocade making, ceramics production and development of farming economy or sea-cage fish farming projects.

#### **For labour export**

110. With a view to promoting economic growth, creating jobs and enhancing cooperation with all countries in the spirit of peace, friendship, cooperation, equality and mutual benefits, Viet Nam has been effectively exporting labour under contracts. This helps create around 70,000 to 80,000 jobs per year, mainly for those working in the rural areas while enhancing the quality of human resources and engaging in the process of international division of labour.

111. With the introduction of the Law on Vietnamese People Working Abroad under Contracts, the labour market has grown from 10,050 people in 15 countries in 1995 to 500,000 people generating an annual income of US\$ 1.6 – 2 billion. Vietnamese workers have been present in 40 countries and territories (mainly in the Republic of Korea, Japan, Taiwan, Malaysia and the Middle East) and working across 30 business lines. The quality of exported labour has been enhanced with over 50 per cent of trained labourers and 90 per cent receiving vocational training.

#### **Development of the system of job brokerage and vocational training centres**

112. To realize the objective of job creation and development of labour market, since the 1980s, a system of job brokerage centres has been established in Viet Nam. The Government issued Decrees No. 19/2005/ND-CP dated 28 May 2005, and No. 71/2008/ND-CP on amendments to some articles of Decree No. 19/2005/ND-Communist Party, which provided the legal framework for the development of the system of job-

matching services. At present, these centres have grown both in quantity and quality (150 centres throughout the country), playing an important role in developing the labour market in Viet Nam, connecting the supply and demand of labour and providing reliable consultancy for the labourers on employment, vocational training, self-employment and labour relations; they also help monitor, collect and provide information about the labour market for all people in need. In addition to state-owned centres, other enterprises, including foreign invested firms, are allowed to operate in the area of job-matching service.

113. In the period of 2001-2007, these centres provided consultancy to over 3 million people, matched and provided job opportunities for 1.6 million people, supplied market information for 0.7 million batches of people, provided short-term training linked to job creation for 1.1 million people. To match the demand with the supply of labour, these centres have organised employment fairs, recruitment festivals and employment festivals in various localities. Since 2007, they have been organizing regular employment transaction floors in replacement of employment fairs in Da Nang city, Ha Noi city, Ho Chi Minh City, Bac Ninh province etc. aiming to raise the effectiveness of employment transaction and responding to the demand of job seekers and employers.

114. Due attention has been given to vocational training to meet the demand of enterprises and create employment opportunities for various groups of vulnerable people. In 1998, the Government re-established the Vocational Training Administration under the Ministry of Labour, War Invalids and Social Affairs to help raise the employment quality of labourers via the enhancement of the quality of the labour force. The Government established the Planning for the vocational training network for 2002- 2010 (Decision No. 48/2002/QĐ-TTg dated 4 January 2002), stipulating that each districts have one short-term vocational training centre. Viet Nam currently has 106 vocational training collage, 265 vocational training high schools and 864 vocational training centres. Also participating in vocational training are over 1,000 enterprises and other production, business and services establishments capable of training 1,538 million people.

115. The Government has adopted a number of policies aimed at strengthening vocational training for rural labourers and agricultural labourers, especially the youths to help labour restructuring and labour export, such as Decision No. 267/2005/QĐ-TTg dated 31 October 2005 on the vocational training policy for ethnic minority boarding students, Decision No. 81/2005/QĐ-TTg dated 18 April 2005 on the policy and mechanism to support short-term vocational training for rural labourers, Decision No. 33/2006/QĐ-TTg dated 7 February 2006 approving the Project on training labourers working abroad until 2015; Decision No. 1956/QĐ-TTg dated 27 November 2009 approving the Project on vocational training for rural labourers until 2020.

#### **On informal and formal employment**

116. At the national level, in 2007, the informal sector employed 39.6 people, accounting for 85.5 per cent of the total jobs. The informal sector includes four components: (1) Agriculture, including the self-employed workers in small-sized farms and agricultural labourers, continues to be the largest component with 22.9 million workers, accounting for nearly 50 per cent of the total jobs; two informal business sector and non-agricultural sector accounting for around 14,3 per cent of the total jobs; three non-permanent jobs (freelance jobs, self-accounting jobs) accounting for 10.8 per cent of the total informal jobs; four informal jobs in formal enterprises accounting for 14.9 per cent of the total informal jobs.

117. The informal sector generated most of the jobs in the agricultural sector (99 per cent). In construction-industry and commerce-services, it accounts for 72.5 per cent and 62.4 per cent respectively in Ha Noi and Ho Chi Minh City. In addition to agriculture, informal jobs were also found in construction, services and commerce where working

conditions are often hard. Informal jobs are characterized by uncertainty, low income and low level of education and absence of social insurance.

### **Job generation for specific labour groups**

118. Viet Nam identifies the creation of jobs for labourers as the responsibility of the State, the people and the entire society. Viet Nam advocates the adoption of job-creation policies applicable to all labourers, taking into account specific groups such as the youths, women, the disabled and ethnic minority people.

119. As for the youths, unemployment and underemployment in Viet Nam remains high with nearly 80 per cent untrained for the labour market. The Government has adopted policies to support vocational training, such as Decision No. 157/2007/QĐ-TTg dated 27 September 2007 of the Prime Minister on credit for needy students; Decision No. 07/2008/QĐ-TTg dated 10 January 2008 of the Prime Minister approving the National Target Programme on education and training until 2010, including the project on enhancing vocational training capacity; Decision 103/2008/QĐ-TTg dated 21 July 2008 on the Project for vocational training and job creation for the youth for 2008- 2015. In the 2006-2008 period, over 300,000 rural labourers received support for primary and short-term vocational training, accounting for 2 per cent of the total rural youths. The Government also adopted various policies and legal documents to promote the pioneering role of the youth in socio-economic development, helping them secure stable jobs, such as their participation in key national projects (Ho Chi Minh Highway, Son La hydropower plant etc.), starting businesses in new economic zones, voluntary resettlement in islands and impoverished areas to establish new life, young intellectuals' taking jobs in remote and isolated regions. These models have proved effective in creating jobs for the youths, particularly those living in impoverished rural areas.

120. As for women, the proportion of women in the total workforce is high, amounting to 48.4 per cent and 49.4 per cent in 1992 and 2010 respectively. Women labourers have always played an important role in the great success of national economic development. Viet Nam always pays attention to creating jobs for women, creating favourable conditions for their vocational training and providing jobs with stable income, which is done by encouraging enterprises to recruit woman labourers and adopting policies to ensure more equality in recruitment and promoting. Women are encouraged to work in all fields and jobs suitable to their health condition. Viet Nam has developed the National Strategy for the Advancement of Women for 2001-2010, facilitating women's participation in the implementation of socio-economic development projects, especially in light industries, garments, footwear and processing; National Target Programme on Employment was also of great help in creation and self-creation of jobs for woman labourers, particularly in rural areas with the active role of Women's Union and Authorities of various levels.

121. As for people with disability, to create favourable conditions for their community, Viet Nam has issued policies to encourage the admission of people with disability to work, provide loans from the National Fund for Employment for them to create jobs for themselves. Enterprises are required to recruit a certain proportion of people with disability; their failure to receive or their inadequate admission of disabled people will lead to an amount of compensation paid to the Fund for Employment. An Employment Fund for People with Disability has been founded (disabled people receive support in terms of initial establishments such as warehouses, schools and equipments; exemption of certain taxes; preferential loans; allocation of land in favourable locations for business and production). This served as a source of inspiration for the people with disability to move forward in their life and make contribution to the national development.

122. As for the ethnic minority people: In all job creation policies of Viet Nam, ethnic minority labourers and those living in remote, isolated and needy areas have always been

given priority. The Government provides vocational training, free consultancy and job matching for the ethnic minorities. Viet Nam has developed and implemented the National Target Programme on Poverty Reduction and the Socio-Economic Development Programme for communes of extreme difficulties, and areas of ethnic minority and mountainous people (Programme 135) providing support to development of production, vocational training, development of essential infrastructure, which create necessary conditions for the poor to improve their economic conditions and have decent jobs as well as reduce poverty. In addition to the preferential policies of the State, needy provinces and those with ethnic minorities annually receive additional financial resources from the National Fund for Employment under the National Target Programme on Employment, which is aimed to promote production and business, restore traditional trades and develop new ones. This has had positive impacts on the process of economic and labour restructuring in rural areas, helping create more jobs. Viet Nam has been working on the adoption of the policy on “development of agriculture, rural areas and farmers” in the process of industrialization and modernization, including the policy on vocational training, job creation and poverty reduction.

### **Groups of measures to support labourers in recreation of jobs**

123. As Viet Nam shifted from the centrally planned economy to socialist oriented market economy, negative market impacts to employment has been prominent, particularly on the vulnerable groups. The Government has adopted policies to support the people losing jobs, those having their land revoked and redundant workers from state-owned enterprises.

124. As for the people having their land revoked, the Government has the policy to support in vocational training and change of jobs. On 24 April 1998, the Government issued Decree No. 22/1998/ND-CP stipulating that people having their land revoked receive direct cash for vocational training to change jobs. The Government also issued Decree No. 197/2004/ND-CP dated 3 December 2004 on compensation, support and resettlement when the State revokes land (to replace Decree No. 22/1998/ND-CP) and Decree No. 17/2006/ND-CP dated 27 January 2006 with new provisions on change of profession and job creation by in direct support (instead of direct support). To provide vocational training for rural labourers in general and those with land revoked, the Government issued Decision No. 81/2005/QĐ-TTg dated 18 April 2005 on the short-term vocational training for rural labourers with priority given to those with agricultural land revoked. Each labourer in need of vocational training will receive an amount not exceeding VND 300,000 per person per month and not exceeding VND 1,500,000 per person per course of training. The Government also issued Directive No. 11/2006/CT-TTg dated 27 March 2006 on solutions to support vocational training and employment for labourers in the areas where agricultural land is converted to other purposes. The Document requested Ministries, Agencies and Localities to develop policies, solutions to support labourers with land revoked on vocational training and employment suitable to the local conditions.

125. As for labourers made redundant by the rearrangement of state-owned enterprises and downsizing of administrative and public service delivery agencies, the Government issued Decrees No. 41/2002/ND-CP dated 11 April 2002; Decree No. 155/2004/ND-CP; Decree No. 110/2007/ND-CP dated 26 June 2007 and Decree No. 132/2007/ND-CP on policies to support redundant labourers due to the rearrangement of state-owned enterprises. These documents facilitates the retraining and paid leave time for labourers during seeking new jobs; if the labourer cannot find a job, he or she is entitled to unemployment benefits and to allowances depending on the time of the labour contract, the time of contribution to the social insurance and age. In addition, the Government also established Funds to support the process of transition and rearrangement of state-owned enterprises, including those aimed to support labourers made redundant by the rearrangement of state-owned

enterprises, such as the Fund for supporting redundant labourers, Fund for supporting the rearrangement and equalization of enterprises, Fund for supporting Centrally Administered enterprises.

126. The Law on Social Insurance adopted by the National Assembly on 29 June 2006 and come into effect on 1 January 2009 stipulates the benefits of unemployment. The Government also issued Decree No. 127/2008/ND-CP dated 10 December 2008 on unemployment insurance. This provided an important solution to minimize the impacts of unemployment on labourers to replace or compensate part of income for unemployed labourers, support vocational training, job seeking and provide health insurance for those participating in unemployment insurance when they lose jobs.

127. Overall, employment policies of Viet Nam in the 1993-2008 period were adequate and complete. Over the past years, Viet Nam has been developing and implementing a number of socio-economic development plans and programmes to enable Vietnamese labourers to work for a limited time abroad and National Target Programme on Employment to help create jobs for tens of millions of people; the labour structure was positively shifted with those working in the industry – construction and services increasing and those in the agricultural sector declining. In 2000, the structure of labour in agricultural-forestry-fishery, industry-construction and services is 65.09 per cent, 13.11 per cent, 21.8 per cent respectively while in 2009 it was 51.9 per cent, 21.4 per cent and 26.7 per cent. The urban unemployment rate dropped from 6.42 per cent (2000) to 4.64 per cent (2007), 4.65 per cent in 2008 and 4.60 per cent in 2009. The quality of labour has been enhanced with the rate of trained labourers increased from 22 per cent in 2001 to 35.4 per cent in 2007.

#### **Constraints and difficulties**

128. In the informal sectors, jobs have remained unstable and job creation has witnessed low efficiency; the urban unemployment rate and the rural underemployment rate remain high; labour restructuring is slow; the proportion of labour in agriculture, forestry and fishery remains high with low productivity; there is a lack of strong policies to encourage investment, mobilize all resources and develop markets (especially labour market); salary, remuneration and income fail to correctly reflect the true value of labour.

129. The quality of Vietnamese labourers remains low. A large number employees are untrained labourers or trained labourers working in irrelevant fields thus in need of retraining before actually working in the enterprises. A shortage of skilled labourers and managerial staff still exists; the sense of discipline and industrial working style among labourers fail to meet the requirements. The endurance of the Vietnamese labourers stood only at an average level, making it hard for them to weather the industrial work intensity.

130. The National Target Programme on Employment was poorly implemented in certain localities. The effectiveness of some projects providing loans for job creation was low with small amount of money (for the first six months of 2008 the amount was VND 7.5 million per person while the maximum level is VND 30 million per person), most of which short-term loans; the need for funds outgrew the available sources; only 30-35 per cent of people's demand for loans could be met. Annual supplement of funds only reached over 50 per cent of the plan; the management and utilization of funds was not appropriate, thus affecting the operation of the National Fund for Employment.

131. Labour export is of great political, economic and social importance, but the performance of this undertaking remained limited. The proportion of unskilled labour working abroad remained high; part of labourers failed to meet the requirement in terms of discipline and there was a problem of unlawful quitting of jobs; the work related to management of labour abroad lacked necessary experience.

132. The performance of job-matching centres remains poor. The system of job transaction developed unevenly among regions and localities; activities carried out by the transaction system were still at an initial and spontaneous stage, not yet become an integrated national system. Transactions conducted through the job-matching centres only made up 10 per cent (average level of the world is 35 - 40 per cent). Viet Nam still lacked a system of market information and a unified and full database on labour market.

133. The process of international economic integration has presented many challenges to the Vietnamese economy. Competition has become increasingly toughened, both domestically and internationally; requirements from enterprises and markets in terms of qualifications, skills, working style, discipline and health of labourers became higher; most enterprises still operate in small scale with low competitiveness; individual household businesses are run in an unstable manner, putting tens of thousands of workers at high risk of losing their job. Under-employment in the informal sector remains considerable; uncontrolled movement of labour as well as “brain drain” and poor quality of labourers may pose a significant obstacle to development in the context of international integration.

### **Orientation**

134. On the basis of the current situation and future needs, the Government focuses on implementing five groups of key solutions aimed to promote the right to work, create many decent and high-quality jobs for workers and maximize the role of Viet Nam’s human resources in the cause of industrialization and modernization:

(a) Complete the institutions of the socialist-oriented labour market in order to create a legal corridor to ensure equality, harmony of interests among workers, employers and common interests:

- Complete in a unified and timely manner the legal system for the labour market through the amendment and supplementation of the Labour Code; study on the development of the Law on Employment towards endorsing international concepts and rules; guiding the implementation of the Law on Vocational Training, Law on Social Insurance, Law on Vietnamese Labourers Working Abroad under Contract.
- Ratify ILO Conventions on the labour market such as Conventions No. 122 (1964) concerning Employment Policy, No. C131 (1970) concerning Minimum Salary Fixing, No. 88 concerning Employment Service, No. 142 (1975) concerning Human Resources Development, and No. 159 (1983) concerning Vocational Rehabilitation and Employment (Disabled Persons), etc.
- Accelerate administrative reform through intensified decentralization, raising the accountability of the local government in State management on labour, exercising democracy and transparency in policies and entitlements for workers and employers.
- Develop harmonious and advanced labour relations by promoting social dialogues in the formulation and implementation of labour market policies; build and complete the tripartite mechanism in labour relations, industrial collective labour agreements and harmonious labour relationship in enterprises. Ensure effective implementation of democratic regulations in enterprises.
- Raise the responsibility of trade unions at all levels, organizations representing the employers, central and local governments and competent State agencies in the oversight, inspection and strict handling of the violation of labour and trade union laws and other legal regulations on the rights and benefits of the employees.

(b) Generate employment through the promotion of economic growth, macro-economic stability and positive economic restructuring

- Mobilize all resources for development investment through the amendment, supplementation and completion of the legal framework; address outstanding problems in terms of mechanism and policy; remove obstacles in administrative procedures to maximize resources for the development of employment-generating production and business to ensure that the annual total social investment, which should account for about 40 per cent of GDP, is utilized in targeted and efficient manner with a view to achieving the average annual GDP growth rate of 7-8 per cent or higher in the near future.
- Step up economic restructuring along the line of industrialization and modernization by promoting the development of industries in which Viet Nam has advantages and key industries requiring highly skilled labour (such as electronics, manufacturing, new materials development, etc.) in parallel with labour-intensive industries requiring small amounts of capital and using technologies relevant to the qualifications of Vietnamese workers (such as textile and garment, leather footwear, processing industries, etc.); attach industrial zone planning with labour use planning, especially local labour in areas subject to land-use change; promoting high value-added industries such as telecommunication, finance, insurance, etc. to meet the demand of growth and integration while making full use of the country's tourism potentials to develop employment-generating tourism services.
- Promote the development of small and medium enterprises by actively improving the business environment. The introduction of the Enterprise Law and Investment Law has constituted the driving force for the emergence of enterprises. By the end of 2010, about 500 thousand enterprises had been registered, contributing to the promotion of economic growth and employment generation (it is estimated that on average, each newly-established small and medium enterprise generates employment for 50 people).
- Step up industrialization and modernization of the agricultural and rural sector. Given more than 50 per cent of Viet Nam's work force is working in the agricultural sector, industrialization and modernization of the agricultural and rural sector serve as a critical step in labour restructuring and ensuring sustainable, stable and higher-income employment for workers in this area. Concretely, develop household economy by restructuring plants and animals relevant to the climate, land conditions and potentials of each region; give special incentives to farm development, the restoration and expansion of craft villages, traditional handicraft industries producing consumer goods and handicrafts for domestic consumption and export; establish agriculture-specialized areas to provide raw materials to industries on a large scale, couple agricultural production with processing industry and production services.

(c) Continue to implement effectively the National Target Programme for Employment

- Reform the managing and operating mechanism for the employment generation fund, which serves as one of the major channels for job creation (accounting for approximately 20 per cent of newly-created jobs). The reform of the managing and operating mechanism of this fund will help satisfy workers' increasing demand for job-creating loans, in which priority is given to disadvantaged groups such as disabled people, ethnic workers, female workers as well as soft loans for the unemployed and underemployed, especially unemployed youths.



- Push forward the sending of Vietnamese labourers to work on contract abroad. Stabilize available markets and expand the market for Vietnamese workers in different regions and countries that are suitable to their qualifications and skills. Increase the quantity and quality of workers and experts to better meet the demand of overseas labour markets. Pay attention to vocational training, career-orientation education, raising the sense of discipline and industrial working style of labourers working abroad while preparing the labour resources for high-skilled labour market.
  - Facilitate the development of the labour market by building unified mechanisms, policies and legislation on the labour market, publishing the labour market indicators pack, labour supply-demand forecast model in Viet Nam, eventually developing the labour market database to complete the labour market information system. Raise the efficiency of job trading floor in the market by building the master plan for the system of Job Matching Centres, increasing investment to enhance these centres' capacity in organizing periodical job trading floors; build three regional centres and three key economic zones at regional standards, eventually promote job trading connectivity nationwide.
- (d) Promote human resources development by enhancing labour quality, thereby ensuring workers' access to sustainable employment to meet market's high demands.
- Promote public-private partnership in the area of education and training. Mobilize all resources in the society for education and training development, increase State budget funding for education and training while ensuring its efficient utilization. Encourage and help all people, regardless of age and gender, to have the opportunity to constantly enhance their knowledge.
  - Intensify education and training with the aim of raising the quality of human resources in terms of both education levels and skills at all levels of education and training; attach education and training with employment and market demand. Reform the content and method of training, upgrade curriculum, training institutions and facilities towards approaching regional and global knowledge. Attach importance to training the contingency of highly-qualified entrepreneurs, managers and workers, focus on vocational training for job shifting for labourers in rural areas, especially young people in areas subject to land use change. Foster and enhance workers' knowledge on legislations, sense of discipline and industrial working style.
  - Improve and raise the physical strength and endurance of Vietnamese workers to ensure the provision of physically and intellectually qualified labour, meeting the demand of modern industrial production. Step up the physical training movement in each and every family, school and enterprise; in the immediate, focus on the care, protection and enhancement of children and adolescence's health.
- (e) Complete and develop the social protection system aimed at minimizing the adverse impacts of unemployment and underemployment on workers in the context economic integration.
- Study and formulate policies of prompt and effective assistance for rural labour subject to land reclamation given the process of urbanization and industrialization; assistance policies for unemployed, underemployed workers in enterprises in difficulty, the impacts of economic crises, and redundant labour due to SOE rearrangement.
  - Based on world experience and Viet Nam's reality, promptly study to develop a model for unemployment insurance institutions as well as the Unemployment

Fund relevant to Viet Nam to ensure effective implementation of unemployment insurance policies.

## **Article 7- The right of everyone to the enjoyment of just and favourable conditions of work**

### **Implementation**

135. Since its re-accession to the ILO in 1992, Viet Nam has ratified 17 ILO Conventions (not including, Convention No. 5 (1919) concerning Minimum Age (Industry), denounced in 2003), among these are five core ILO Conventions, i.e. No. 138 (1973) concerning Minimum Age; No. 182 (1999) concerning Worst Form of Child Labour; No.29 (1930) concerning Forced Labour; No. 100 (1951) concerning Equal Remuneration ; and 111 (1958) concerning Discrimination (Employment and Occupation).

136. Viet Nam has submitted to ILO, on a regular basis, reports on the implementation of the Conventions of which the country is a member. In 2008, Viet Nam submitted reports on the implementation of Conventions No. 14 (1921) concerning Weekly Rest (Industry) , No. 100 (1951) concerning Equal Remuneration, and No. 111 (1958). In 2009, Viet Nam submitted reports on the implementation of seven Conventions (including Conventions No. 29 (1930); No. 45 (1935) concerning Underground Work (Women); No. 81 (1947) concerning Labour Inspection; No. 120 (1964) concerning Hygiene (Commerce and Offices); No. 138 (1973); No.155 (1981) concerning Occupational Safety and Health; and No. 182 (1999).

137. In addition, Viet Nam has sent to ILO reports on three core conventions (No.87 (1948) concerning Freedom of Association and Protection of the Right to Organize; No. 98 (1949) concerning Right to Organize and Collective Bargaining; No. 105 (1957) concerning Abolition of Forced Labour) and six ILO employment instruments (Conventions No. 122 (1964) concerning Employment Policy; No. 88 (1948) concerning Employment Service; No. 181(1997) concerning Private Employment Agencies; No. 142 (1975) concerning Human Resources Development; and recommendations No. 189 (1998) on Job Creation in Small and Medium Enterprises; and No. 193 (2002) on Promotion of Cooperatives) to which Viet Nam is not yet a party.

138. Viet Nam has developed the National File on Labour Safety and Hygiene for 2005-2009 period with a view to providing basic information on labour safety and hygiene at national level such as State policy and guideline, policies, standards and norms; communication and reporting system, services, human resources in the field of labour safety and hygiene. The National File also systemizes the advances made by Viet Nam in this field, indicates outstanding problems and what needs to be done to achieve the goals on labour safety and hygiene.

139. The right of everyone to the enjoyment of just and favourable conditions at work prescribed in the 1992 Constitution of Viet Nam. The components of this right are also concretely stipulated in the system of Vietnamese legal documents such as the 1994 Labour Code (revised and supplemented in 2002, 2006 and 2007); 1995 Law on Protection of the People's Health, the 2006 Social Insurance Law, 2005 Law on Environment Protection; 2001 Law on Fire Prevention and Fighting; 2001 Ordinance on Plant Protection and Quarantine; 2006 Law on Standards and Technical Regulations. The Government has promulgated many policies and legal normative documents to ensure the exercise of this right in practice.

140. Vietnamese State-owned enterprises have taken the lead in the implementation of policies and legal regulations on salary, work safety and hygiene, working hours and rest periods, and gender equality at work.

141. The newly-formed, rapidly developing private sector has contributed significantly to employment generation. However, the implementation of legal regulations on labour in private enterprises in general is still facing many challenges, especially in small and medium sized enterprises.

142. On salary: the State sets the minimum salary and applies the principle of equality in remuneration for workers regardless of their sex, age or ethnic origin. Article 63 of the 1992 Constitution stipulates: “Women and men receive equal pay for equal work”. The minimum salary rates differ industry to industry depending on the complexity of the technical profession and the harmfulness and noxiousness of the work. Higher salary rates or extra special allowance is required to harmful work. With regard to the hours of work and rest periods, according to article 58 of the Constitution, everybody has the right to rest, the working time and regimes of rest shall be established by the State.

143. On labour safety and hygiene: Article 56 of the 1992 Constitution provides that The State shall enact policies and entitlements for the protection of labour; article 58 of the Constitution also clearly stipulates the prevention of occupational accidents and diseases. All competent agencies in charge of enterprise management and enterprises must introduce the plan for labour safety when developing production plans. Each enterprise must develop the technical safety procedure for each branch, occupation or machine. State-owned enterprises have taken the lead in the implementation of policies and legal regulations on salary, work safety and hygiene, working hours and rest periods, and gender equality at work.

144. The 1994 Labour Code contains Chapter 6 with 13 articles for specific provisions on salary; Chapter 7 with 14 articles for specific provisions on working hours and rest periods, including working hours and rest periods for persons engaged in special kinds of work (workers employed at sea, in mines or other kinds of work as stipulated by the Government); Chapter 9 with 14 articles for specific provisions on labour safety and hygiene. Stipulations on salary, labour safety and hygiene, working hours and rest periods in the 1994 Labour Code were constantly amended and supplemented in 2002, 2006, 2007.

145. Some components of the Labour Code have been separated to form lex specialist laws such as Social Insurance Law (no 71/2006/QH11) adopted by the 11th National Assembly at its 9th session on 29 June 2006, Law on Vietnamese Workers Working on Contract Abroad (no 72/2006/QH11) and Law on Vocational Training (no 76/2006/QH11) adopted by the 11th National Assembly at its 10th session on 29 November 2006. In addition, regulations on labour safety and hygiene are stipulated in other relevant specialized laws such as: the 1989 Law on Protection of People’s Health, 2001 Law on Fire Prevention and Fighting; 2001 Ordinance on Plant Protection and Quarantine; 2005 Law on Environment Protection.

#### **In the field of salary and remuneration**

146. The 2002 Labour Code stipulates: “The salary of a worker shall be agreed upon between the parties to the employment contract and paid according to the productivity, quality and efficiency of the work performed; the salary of a worker must not be lower than the minimum salary rate provided for by the State” (art. 55). “The minimum salary shall be fixed on the basis of the cost of living to ensure that workers performing the most elementary work in normal working conditions shall recuperate their basic work capacity and partly accumulate reserves for regenerating enhanced labour capacity. The minimum

salary shall serve as a reference for the calculation of salary rates for other categories of work.” (art. 56)

147. There are three minimum salary rates in Viet Nam, i.e. general minimum salary rates, regional minimum salary rates for local enterprises and regional minimum salary rates for the foreign-invested sector. The adjustment of the general minimum salary rates is undertaken according to the roadmap established by the Government and endorsed by the National Assembly. The establishment of the general minimum salary rates and regional minimum salary rates for each period must be relevant to the increase of the cost of living index, the pace of national development and ensure an appropriate balance with the general income growth of the society. The adjustment of pensions has also been put in place to safeguard the living of the retired population.

148. State-owned enterprises must follow the system of salary scales and salary and pay scales established by the State. Enterprises from non-state sectors have their own discretion to develop their own system of salary and pay scales and salary grids on the basis of their actual financial conditions but still have to observe the general principles provided by the Government. Those principles are: the multiple of the salary and pay scales is equal to the coefficient of the highest salary rate for workers performing the highest level of management, technical qualification and professional skill compared to the lowest-qualified workers. The salary rates are established based on the complexity of administration and rank required for the work. The distance between adjacent salary rates must help provide the incentive for enhancing workers’ technical qualification, professional skill and experience accumulation, the minimum gap between two adjacent salary rates must be 5 per cent. The lowest salary rate for skilled workers or an employment requiring vocationally-trained workers must be at least 7 per cent higher than the regional minimum salary rates stipulated by the State.

149. The Vietnamese legislations also stipulate unified extra salary payment for overtime work (without distinction between male and female workers). Extra salaries paid to workers for overtime work must be at least equal to 150 per cent, 200 per cent and 300 per cent of the normal hourly salary on normal work days, week-ends and holidays respectively. Workers are entitled to an annual leave with full pay.

#### **Concerning equal pay for male and female workers in the principle of equal pay for equal work**

150. Article 63 of the Constitution stipulates: “Women and men receive equal pay for equal work”. Article 13 of the Law on Gender Equality also provides: “Men and women are equal in terms of qualifications and age in recruitment, are treated equally in the workplace regarding work, payment and bonus, social insurance, labour conditions and other working conditions”. To concretize this principle, article 18 of Decree 114/2002/ND-CP stipulates: “Female workers receive the same pay as male workers for performing the same work”. Non-discrimination between men and women in terms of remuneration is prescribed in other legal regulations on salary. Even the measures undertaken by the Government to implement salary fixing mechanisms are subject to whether the work is done by men or women.

#### **In the field of labour safety and hygiene and hours of work**

151. The Government has promulgated many by-law documents such as: Decree 06/ND-CP dated 20 January 1996 elaborating some provisions of the Labour Code on labour safety and hygiene; Decree 109/ND-CP dated 27 December 2002 amending and supplementing some provisions of Decree 195/ND-CP dated 31 December 2004 elaborating and guiding the implementation of some articles of the Labour Code on the hours of work and rest periods, Decree 110/2002/ND-CP on the amendment and

supplementation of some articles of the Labour Code on labour safety and hygiene which provides the rights and responsibility of the employers and employees in safeguarding work safety and hygiene; Decree 113/2004/ND-CP dated 16 April 2004 providing the administrative fines to the violation of the labour code and regulations on work safety and hygiene.

152. Government agencies and relevant organizations have promulgated detailed guiding documents for the implementation of labour safety and hygiene such as: Inter-ministerial Circular 14/1998/TTLT-BLDTBXH-BYT-TLDLDVN dated 31 October 1998 by Ministry of Labour, War Invalids and Social Affairs, Ministry of Health and Viet Nam General Confederation of Labour guiding the implementation of labour protection in enterprises, production and business establishments; Circular 10/2003/TT-BLDTBXH dated 8 April 2003 by Ministry of Labour, War Invalids and Social Affairs guiding the implementation of the compensation and allowance regime for workers having labour accidents, occupational diseases; Circular 37/2005/TT-BLDTBXH dated 29 December 2005 by Ministry of Labour, War Invalids and Social Affairs guiding the implementation of labour safety and hygiene training, Inter-ministerial Circular 14/2005/TTLT/BLDTBXH-BYT-TLDLDVN dated 8 March 2005 by Ministry of Labour, War Invalids and Social Affairs, Ministry of Health and Viet Nam General Confederation of Labour guiding the implementation of reporting, investigation, minute making, statistics and periodic reports on labour accidents.

153. Many Directives have been issued to increase labour protection and labour safety in general as well as in accident-prone industries such as: Directive 13/1998/CT-TTg dated 26 March 1998 on intensified guidance and implementation of labour protection in the new situation; Directive 20/2004/CT-TTg dated 8 June 2004 on intensified guidance and implementation of labour safety and hygiene in agricultural production; Directive 10/2008/CT-TTg dated 14 March 2008 on enhancing labour protection and labour safety; Directive 18/2008/CT-TTg dated 6 June 2008 on intensifying the management and rectification of exploitation activities at stone mines to ensure safety in stone exploitation.

154. In parallel to improving of the legal framework, Viet Nam has established the National Committee for Labour Protection (according to Decision 40/2005/QĐ-TTg dated 28 February 2005). The Committee is tasked to advise the Prime Minister in mapping out directions, mechanisms, and policies in the field of labour safety; measures to guide and manage the implementation of policies and the National Programme on labour protection; and to serve as the focal point and coordinating agency in the field of labour protection.

#### **Concerning hours of work and rest periods**

155. This matter is specifically stipulated in the 1994 Labour Code and several implementation-guiding documents such as Government Decree 195/CP dated 31 December 1994 guiding the implementation of a number of articles of the Labour Code on hours of work and rest periods; Government's Decree 109/2002/ND-CP dated 27 December 2002 on the revision of a number of articles of Decree 195/ND-CP; Circular 16/TT-BLDTBXH dated 23 April 1997 of the Ministry of Labour, War Invalids and Social Affairs guiding on shortened daily hours of work for those engaged in especially hard, harmful or dangerous work; Circular 23/1999/TT-BLDTBXH dated 4 October 1999 of the Ministry of Labour, War Invalids and Social Affairs guiding the reduction of weekly work hours for state-owned enterprises.

156. It is stipulated that working hours in normal working conditions and working environment shall not exceed eight hours per day or 48 hours per week. Daily hours of work shall be reduced by one to two hours for workers engaged in especially hard, harmful or dangerous work as indicated on the list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health. Paid hours of work include breaks during a shift,

a short break depending on work characteristics, a break of 60 minutes per day for female workers feeding babies under 12 months old, cessation of work not due to workers' fault.

157. Workers who work eight consecutive hours in normal working conditions shall be entitled to a break of thirty minutes, or workers who work 6-7 consecutive hours in case hours of work are shortened; workers who work consecutively on night shift from 10.00 p.m. to 6.00 a.m. or from 9.00 p.m. to 5.00 a.m. shall be entitled to a break of 45 minutes. Besides, workers are entitled to public holidays, lunar New Year holidays, annual leave.

#### **Concerning acts of sexual harassment at workplaces**

158. Viet Nam has not put complete legal sanctions in place to punish those who conduct sexual harassment at the workplace. Article 116 of the Criminal Code stipulates sanctions against obscene acts towards teenagers but does not thoroughly consider adult victim. At present, statistics on the number of sexual harassment cases at work places is not available.

#### **Positive outcomes: Concerning salary**

159. Since 1 April 1993, policies on salary, social insurance and allowances for people who rendered great services to the country have been implemented in accordance with the Plan for State Salary Policy Reform adopted by the 8th and 9th legislature of the National Assembly. These policies are of special importance in the system of socio-economic policies, as they are directly related to the interests of millions of people, to social and political stability and have impact on the momentum for economic development. The salary policy reform programme serves as an important component of the Public Administration Reform Master Programme for the 2001-2010 period. During this period, the Government has promulgated regulations on self-control and self-responsibility for state administrative bodies and public service delivery agencies, contributing to the reform of the management mechanism and step by step applying the public-private partnership model for public services and public service delivery.

160. The general minimum salary rate has been gradually increased over the years, ensuring the reproduction of labour power and in conformity with the national socio-economic development. From 1993 to 2010, the general minimum salary rates were adjusted in accordance with Government Decrees, reaching 120,000VND in 1993, 144,000 VND in 1997, 180,000 VND in 2000, 210, 000VND in 2001, 290,000VND in 2003, 290,000 VND in 2004, 350,000VND in 2005, 450,000VND in 2006, 540,000VND in 2007, and 730,000 VND in 2010. Currently, most businesses pay minimum salary equal to or higher than the general minimum salary rate.

161. The number of salary scales and tables were trimmed from dozens (in 1993) to eight which are applicable to employees paid from the state budget; two salary scales and six salary grids (including 20 detailed salary grids) which are applied in state-owned enterprises as a basis for salary rates calculation, salary grades raising, social and health insurance payment and calculation of other regimes in accordance with the regulations and as agreed between employers and employees. The principles in developing salary rates and salary scales established by the Government serve as a basis for signing labour contracts, collective labour agreements, registration with competent state bodies for the purpose of inspection and settling labour disputes in enterprises.

#### **Concerning labour safety and hygiene**

162. The Government has promulgated many national labour safety and hygiene programmes and plans such as: the National Target Programme on Labour Protection for 1999-2000 period; National Action Plan on Prevention of Occupational Diseases and Silic Pneumoconiosis for 2000-2005 period; National Policy on Prevention of Accidents and

Injuries for 2002-2010 period (under Prime Minister's Decision 197/2001/QĐ-TTg dated 17 December 2001); National Programme on Labour Protection, Labour Safety and Hygiene until 2010 (under Decision 233/2006/QĐ-TTg dated 18 October 2006). Among these, seven projects are related to the implementation of labour safety and hygiene, improvement of labour conditions to ensure that all employees are entitled to safe and hygiene working conditions have been implemented.

163. Intensive communication campaigns on labour safety and hygiene, prevention of combustion and explosion have been organized throughout the country to impact on all walks of life. National weeks on labour safety and hygiene, prevention of combustion and explosion, emulation campaigns in support of "green, clean, fine and safe workplaces" have been held on annual basis.

164. Due attention has been paid to activities to disseminate information on labour safety and hygiene for the private sector, craft villages and in agricultural production. Many achievements in labour science have been applied.

#### **Difficulties and shortcomings: Concerning salary**

165. The salary policy for workers remains inappropriate and insufficient to ensure above-average living standards for cadres and civil servants, thus creating no incentives for attracting talents.

166. The interrelation of salary within and among different sectors (administrative, public and private sector) remains irrelevant, the average salary rate of civil servants remains low compared to the average salary rate in the society

#### **Concerning labour safety and hygiene**

167. The fact that one million people joining the labour force every year and the increase of small and medium sized enterprises, part of which are still equipped with obsolete technology, below-standard labour hygiene and working conditions, has posed a big challenge for labour safety and hygiene. Meanwhile, the awareness of employers and workers about labour safety and hygiene remains limited.

168. The frequency of fatal labour accidents has decreased but remained unstable. The number of workers who acquire occupational diseases annually remains high, with no explicit sign of decrease. The accumulative number of people who acquired occupational diseases till 2004 was nearly 21,600 people. Due to the lack of medical systems to check up, detect and monitor diseases, the number of people who contract diseases in reality may be higher than the number known by statistics.

169. The control of labour accidents, occupational diseases and working environment pollution in craft villages, private small and medium sized enterprises is still limited. The inspection, control and supervision of labour protection, labour safety and hygiene remained ineffective. In agricultural, forestry and fishery sectors, private enterprises, craft villages, there is limited inspection and supervision of labour safety and hygiene. Violations have not been dealt with strictly and resolutely in some places. The monitoring, supervision, reporting, statistics of the situation of labour accidents and occupational diseases remain weak. Besides, the capability of occupational diseases assessment of medical units remains limited. A number of occupational diseases have not been checked-up and detected adequately.

### **Orientations**

170. Viet Nam focuses on the following actions:

#### **Concerning salary**

- Strictly implement the principle of distribution according to labour and efficiency of production and business activities of each office, unit, enterprise, bring into full play the incentive role of salary in promoting cadres, civil servants, public employees and workers to improve labour productivity and work quality and efficiency.
- Continue the adjustment of general minimum salary rate based on the economic growth rate, consumer price index, labour supply and demand relation in order to step-by-step unify the minimum salary rates among various types of enterprises, concurrently ensure the role of minimum salary rate as the “floor salary rate” to serve as a basis for making agreement and signing labour contracts and collective labour agreements.

#### **Concerning labour safety and hygiene**

- Develop, complete and implement laws, mechanisms, policies, programmes, projects on labour safety and hygiene. Special attention must be paid on developing documents on people engaged in hard, harmful and dangerous work and on occupational diseases. Develop the Law on Labour Safety and Hygiene, separating the component of labour safety and hygiene from the Labour Code with a view to enhancing labour safety and hygiene. Develop the second National Programme on Labour Safety and Hygiene for the period of 2011-2015.
- Promote education and communication to raise the awareness on labour safety and hygiene. Conduct surveys on labour accidents and occupational diseases. Conduct overall surveys on labour accidents in sectors and fields; define the frequency of labour accidents in enterprises engaging in the fields of coal mining, construction, electricity and other sectors. Conduct surveys on factors causing occupational diseases develop a model to prevent common occupational diseases in ministries, sectors and localities.
- Enhance the capacity of cadres working in state administrative bodies and institutions specializing in labour safety and hygiene (the capacity of inspection, control, supervision of the working environments; diagnosis, assessment, treatment and functional rehabilitation for workers committing occupational diseases).
- Study and propose a Compensation Fund for Labour Accidents and Occupational Diseases. Strengthen sanatorium and functional rehabilitation bases for workers, hospitals to take care of workers’ health.

171. In 2006, Viet Nam conducted a feasibility study on the ratification of ILO Convention No. 184 (2001) concerning Safety and Health in Agriculture and was working on the ratification of this Convention in 2010. Viet Nam also plans to conduct a feasibility study on accession to ILO Convention No. 187 (2006) concerning Promotional Framework for Occupational Safety and Health.

## **Article 8- Trade union rights in Viet Nam**

### **Implementation**

172. Viet Nam has not ratified ILO Convention on the Rights to Free Association. In 2008, Viet Nam ratified Convention No. 144 (1976) concerning Tripartite Consultation.



173. Workers' right to trade union was prescribed in the 1992 Constitution, 1990 Trade Union Law, 1994 Labour Code and its revisions in 2002, 2006 and 2007. The Government has promulgated various policies and legal normative documents to ensure that this right is exercised in practice.

174. At present, by taking into consideration of the socio-economic situation of the country in the reform and integration process and the reality of the market economy, the Vietnamese Confederation of Trade Unions is tasked to draft of the revised Law on Trade Union and joining State agencies in drafting the revised Labour Code, two pillars for ensuring employees' rights, to submit to the National Assembly for adoption.

#### **Concerning the right to establish or join trade unions of employees**

175. The right to trade union is recognized in the 1992 Constitution: "Citizens are entitled to freedom of speech and freedom of the press; they have the right to receive information and the right of assembly, association and demonstration in accordance with the law" (art. 69). The Constitution also stipulates "The Viet Nam Confederation of Trade Unions, as the socio-political organization of the working class and working people, together with State bodies, social and economic organizations take care of and protect the interests of cadres, civil servants, public employees, workers and other working people; take part in the state and society management, the inspection and supervision of activities of State bodies and economic organizations; educate cadres, workers, public employees and other working people in the construction and defence of the Fatherland" ( art. 10).

176. Pursuant to the Constitution, the Law on Trade Union which was adopted by the 8th legislature of the National Assembly on 30 June 1990, states that: "Vietnamese workers who work in production and business units of different economic sectors, foreign-invested enterprises, public service delivery agencies, State bodies, social organizations (commonly referred as entities, units, organizations) have the right to establish and join trade unions within the framework of the Trade Unions Statute. Associations of workers established in accordance with the law have the right to join labour unions. Any act of prevention, violation of the principle of voluntary participation in trade unions, discrimination against workers on the ground of joining trade unions is prohibited" (paragraph 2 and 4 of article 1).

177. The revised 2002 and 2006 Labour Code stipulate "Employees have the right to establish, join, participate in trade union activities in accordance with the Law on Trade Union to safeguard their legitimate rights and interests, to be entitled to collective welfare, to participate in business management according to the enterprise's regulations and regulations of the law (art. 7); "Any act of preventing the establishment and operation of trade unions in enterprises is prohibited" (art. 153).

178. The Statute of the Vietnamese Confederation of Trade Unions which was adopted at the 10th Congress of the Vietnamese Confederation of Trade Unions in November 2008 stipulates "Vietnamese workers, civil servants and public employees who are salary earners, free workers, regardless of their occupations, sex, religions, if agree on the Statute of the Confederation of Trade Unions of Viet Nam, are willing to participate in grass-root organizations of the Trade Union, pay the fee as stipulated in the regulations, are entitled to join the Trade Union ( art. 1); "Employees have the right to set up a trade union's grass-root organization provided that there are enough five members and have the right to set up a trade union if there are enough 10 members" (art. 16).

#### **Concerning ensuring the independence, volition and self-control of the trade union**

179. The 1990 Law on Trade Union stipulates "Any act of prevention, violation of the principle of voluntary participation in activities of trade unions, discrimination against

workers on the ground of their participation in trade unions is prohibited; the Confederation of Labour Unions of Viet Nam, Vietnamese sectorial trade unions have the right to join international trade unions that suit their purpose of operations” (art. 1, para. 2,4). “In all activities, trade unions must abide by the Constitution and the law. State offices, heads of units and organizations must respect the right to organizational independence and other rights of trade unions as stipulated in this Law (art. 3).

180. It is stipulated in the revised Labour Code that “Employers shall not discriminate against workers on the ground that they are forming, joining trade unions, or participating in trade union activities, and shall not, by economic measures or other manoeuvres, seek to interfere in the organization and activities of trade unions”.

#### **Concerning collective labour agreements**

181. With regard to regulations, Chapter V of the 1994 Labour Code stipulates on collective labour agreements in Viet Nam. The Government enacted Decree 196/CP dated 31 December 1994, Decree 93/2002/ND-CP dated 11 November 2002 guiding the implementation of several articles of the Labour Code on collective labour agreements and Decree 145/2004/ND-CP dated 14 July 2004 on consultations among three parties concerned on legal policies and matters relating to the working people.

182. With the increasingly complicated developments of labour relations over the past years, on 17 May 2007, the Vietnamese Government established the Committee for Tripartite Labour Relations which is tasked to advise the Government on the mechanism, policies, solutions to develop healthy labour relations, setting up a coordinating mechanism among related offices and organizations in the prevention and settlement of labour disputes and strikes. The Vietnamese Confederation of Trade Unions represents Vietnamese working people in this Committee. Tripartite agencies in labour relations at the national level in Viet Nam are the Government, the Confederation of Labour Unions representing the Vietnamese working people, the Vietnamese Chamber of Commerce and Industry, the Union of Co-operatives representing employers in Viet Nam.

#### **The right to strike**

183. “Workers shall have the right to strike in accordance with the provisions of the law” (art. 7, Labour Code). Chapter 14 with 23 articles of the Labour Code deals with settlement of labour disputes and strikes. Article 12 of the Law on Trade Union: “Matters pertaining to labour disputes shall be dealt with by the law on settlement of labour disputes” indicates that the right to strikes is ensured in accordance with the Law on Trade Union. Provisions of the law do not differentiate the rights to strikes in the public and private sector.

184. To ensure security of the country and safety for the people, the Government enacted Decree 51/ND-CP dated 29 August 1996, Decree 67/2002/ND-CP dated 9 July 2002 (revising Decree 51/CP) and Decree 122/2007/ND-CP dated 27 July 2009 (replacing Decree 51/ND-CP and 67/2002/ND-CP) providing the list of enterprises where strikes are not allowed and measures to address workers’ collective demands in these enterprises. Enterprises where strikes are not allowed are those specializing in production, delivery of public services and public products and enterprises playing essential roles in the national economy (such as companies operating in the fields of hydro power, electricity, public transportation, post and telecommunications, clean water, urban environment and hygiene).

#### **Results attained in different sectors: Establishment of or participation in trade unions by workers:**

185. The right to trade unions have increasingly been respected and protected through the improvement of legal instruments and in practice. The State respects the right to trade

unions, take into account the trade unions' opinions in the development and implementation of workers-related policies and laws. Since 1992, the Confederation of Labour Unions together with the State has developed over 250 legal normative documents of the National Assembly, National Assembly's Standing Committee, hundreds of legal documents at the Government and Ministerial levels.

186. In reality, before and after the introduction of the Law on Trade Union, there have been no complaints or official opinions from workers on the violation of their rights to establish and join trade unions. Workers have the right to refuse to join trade unions whenever they do not want to do so.

187. As of June 2009, there were 670 labour unions at district level, 436 trade unions of local sectors, 99,306 trade unions at grass-roots level with over 6.6 million members. As compared to 1990, the number of members increased by over 3 million. A number of labour unions at provincial and municipal levels have recently increased the number of members, set up grass-roots trade unions rapidly such as the Labour Union of Ho Chi Minh city, Labour Union of Binh Duong province, Dong Nai province, Hanoi city, Hung Yen province, etc. The Vietnamese Confederation of Labour Unions is currently implementing a member development programme, encouraging workers to participate in trade unions, to reach the target of 1.5 million new members for the period of 2008-2013.

188. The right to join, establish and organize activities in trade unions in the state sector has basically been respected and conformed with regulations stipulated in the Law of Trade Union. However, in the context of the current market-oriented economy of Viet Nam, in manufacture sectors, especially foreign-invested enterprises, a number of enterprises sought to avoid or did not create favourable conditions for establishing trade unions. This is the main obstacle to the exercise of the right to trade union. According to statistics of the Vietnamese Confederation of Labour Unions, so far, there have been only 20 per cent of enterprises in the private sector that managed to establish grass-roots trade unions.

### **Ensuring the independence, volition, self-control of trade unions**

189. The Vietnamese Trade Unions are independent in setting targets, mapping out operational directions and plans to be adopted at the National Congresses of Vietnamese Trade Unions organized every five years, and Grass-roots Trade Unions held every two years and a half, without interventions by outside agencies and organizations. In work relations, when there is disagreement on certain matters, trade unions conduct dialogues, negotiations and settlements in accordance with the laws.

190. Trade Unions proactively exercise their rights in accordance with laws, such as the right to represent workers to join the State in developing and implementing socio-economic development programmes, law development, policies on the rights, responsibilities and interests of workers; the right to submit law and ordinance projects to the National Assembly; the right to participate in Government's working sessions that discuss matters relating to workers; the right to inspect and supervise the management and exercise of laws, labour policies, to represent workers in the negotiation and signing of collective labour agreements, settle labour disputes and other rights in accordance with the laws.

191. Concerning international relations of the Vietnamese Trade Union, the Confederation of Labour Unions has the tradition of solidarity and bonds with the world trade union movement since its formulation. So far, the Vietnamese Confederation of Labour Unions has established and developed relations with more than 100 national trade unions of different trends in over 90 countries..

192. Currently, the Viet Nam General Confederation of Labour (GCL) is a member of the World Federation of Trade Unions (WFTU) and enjoying excellent relations with the International Trade Unions Confederation (ITUC) and the Global Union Federations

(GUFs), an affiliate of the ITUC. WFTU and ITUC are the only two existing International Union Centres in the world at the moment. Majority of the national sectoral labour unions under the Viet Nam GCL are members of the same professional trade unions under the WFTU, for instance, the Viet Nam's Construction Trade Union is a member of the Trades Union International of Workers in the Building, Wood, Building Materials and Allied Industries (UITBB), the Transport and the Railway Trade Unions are members of the Trade Union International (TUI) Transport, the Public Service Trade Union is a member of the TUI Public Service, etc.. Nonetheless, the national sectoral trade unions under the Viet Nam GCL are also eligible to join other international trade unions in line with their own charters and objectives. In June 2008, the Viet Nam Post Trade Union joined the International Network of Trade Unions (UNI). In May 2009, the Viet Nam Trade Union of Industry and Commerce became a member of the Internal Metallurgical Federation (IMF).

### **Mechanism of collective negotiation**

193. In 1994, when the Labour Code came into effect, collective negotiation was merely a new "concept" carried out at the enterprise level between the trade union, which represented the employees, and the employers. Thus, this mechanism was not yet effectively utilized to improve the labour relations. Recently, taking a new approach and learning from international experiences and proceeding from the demand of realities, Viet Nam has attached more importance to collective negotiation with an aim to reaching and signing more qualitative collective labour contracts. In addition to collective labour contracts at the enterprise level, the Viet Nam GCL is also trying to work out sectoral labour contract at sectoral level, in the first place, for the textile and garment industry.

194. There has been much headway in providing legal regulations on collective negotiations to support relevant parties in labour relations to be more proactive in deciding matters related to their rights and interests. Viet Nam has been moving away from requesting State's administrative interventions towards using the instrument of labour relations, namely negotiations and social dialogues, to settle labour disputes. Through that process, both the awareness and realization of the labour rights have been promoted. Nevertheless, legal provisions in this regard still require further improvement. The implementation of collective negotiation is yet to meet the needs of parties involved in the labour relations in Viet Nam.

195. According to statistics by the Viet Nam GCL, up to June 2009, among enterprises having grass-roots trade unions set up, the State-owned enterprises with collective labour contracts accounted for 96.33 per cent; foreign-invested enterprises occupied 64.75 per cent; and private enterprises represented 50 per cent. The collective labour contracts constitute a legal basis in which the benefits of employees are agreed by parties concerned to be higher than those mentioned in the legal provisions.

### **Situation of labour strikes**

196. Since 1995, a number of labour strikes and disputes have happened. Almost all the strikes have fallen into the category of labour relations, relating to salaries, bonus, working hours, rest periods, labour contracts, and social insurance. The biggest number of strikes mainly took place in foreign invested enterprises. According to geographical classification, most of the strikes happen in the Southern areas, concentrating in industrial zones such as in Ho Chi Minh City, Binh Duong and Dong Nai provinces. Strikes also take place in many provinces and cities in the North and Central region, such as Ha Noi, Hai Duong and Hung Yen provinces, Hai Phong and Da Nang cities. A number of strikes were spontaneous and did not follow the provisions of labour laws concerning the order and procedures of holding labour strikes.

## Challenges

197. In fact, the implementation of the labour laws by enterprises is not scrupulous and the State's sanctions are not stern enough. The mechanism of dialogue and cooperation at the work place in Viet Nam is also weak. The level of education of the employees is limited. The understanding and monitoring capacity on policies and laws implementation as well as the skills for negotiations, differences settlements, making petitions and prevention of disputes and strikes of the employees and trade unions are also weak. All this represents the causes for labour disputes, which have led to collective stoppage and strikes over the past time.

198. The current Law on Trade Union was promulgated at the early stage when the economy was shifted from the centrally planned and subsidized regime to a multi-sector commodity market economy. It also came into being before the introduction of the Labour Code (1994) and the Law on Enterprises (2000). Therefore the existing Law on Trade Union certainly faces a number of limitations given the changes and revisions in the legal, economic, politic and labour frameworks over the past years. Some provisions of the Law on Trade Union (1990) are inappropriate and inconsistent with the new provisions of other laws such as the Labour Code (1994). Besides, the 1990 Law on Trade Union does not regulate a full-fledged mechanism, especially the detailed penalties for the violations, to ensure the implementation of this Code. Thus, it poses limitation for the actual realization of the 1990 Law on Trade Union.

## Orientation

199. Amend and supplement the Law on Trade Union. This law as amended and supplemented will ensure the right to trade unions, safeguard trade union officials at all levels, provide legal sanctions against violations of this Law and monitor and control the realization of the Law on Trade Union.

200. At present, the Labour Code is also under study and assessment in order to be amended and supplemented. The Labour Code and the Law on Trade Union are two important legal laws for the employees and trade unions (such as salaries, working regimes, negotiations, signing collective labour contracts, settlement to labour disputes, strikes, and right to trade union). Therefore, in the process of studying and amending the Law on Trade Union, the rights and responsibilities of the trade union in both laws will be considered in a synchronized manner.

201. Promote the building of a harmonized and progressive labour relationship: Given the socialist-oriented market economy and globalization trend, the labour relations in Viet Nam have been demanding for harmonized interests on the basis of agreement reached by the two parties: employers and employees. The formulating and signing of good quality collective labour contracts play an increasingly important role in defending legitimate rights and interests of both sides and limiting labour disputes and wildcat strikes. The role of the trade union in negotiating and signing collective labour contracts should be further strengthened.

202. Conduct research and clearly identify the position and role of the trade unions at all levels, especially the grass-root level in representing and defending the legal and legitimate of the employees: The Law on Trade Union will provide provisions for ensuring the implementation of the rights and responsibilities of the grass-root trade union, mechanism to safeguard trade union officials and financial resources for the independent operation of the trade unions in defending the rights and legal interests of the employees.

## **Article 9- Right to social security**

### **Current situation**

203. Viet Nam has acceded to various international commitments concerning social security, such as the Millennium Declaration adopted at the United Nations Summit held in 2000. In 2007, Viet Nam acceded to the Convention on the rights of the Disabled, the Convention No. 100 on Equal Remuneration and the Convention No. 111 (1958) concerning Discrimination (Employment and Occupation).

204. Viet Nam submitted its reports on the implementation of the Millennium Development Goals in 2001, 2002, 2003, 2004, 2005, 2008 and 2010. In 2008, Viet Nam also submitted reports on the implementation of ILO Conventions No. 100 (1951) concerning Equal Remuneration and No. 111 (1958).

205. In order to implement the relevant provisions concerning the right to social welfare regulated in these Conventions, Viet Nam has already promulgated a series of legal documents: the 1992 Constitution (amended in 2002 and supplemented in 2001), the 1994 Labour Code (amended and supplemented in 2006 and 2007), the Law on Social Insurance of 2006, the Law on Child Protection, Care and Education of 2004, the Law on Prevention and Control of HIV/AIDS, the Ordinance on the Senior citizen, the Ordinance on the Disabled Persons of 1998, the Ordinance on Floods and Storms Prevention and Control of 2000, the Law on Prevention and Control of Illicit Drugs of 2000 and the Law Amending and Supplementing a number of provisions of the Law on Prevention and Control of Illicit Drugs of 2008, the Ordinance on Prevention and Control of Prostitution of 2003.

206. The right to social welfare has been guaranteed in the 1992 Constitution, for instance the schemes of social insurance (pension, illness, disability, and pregnancy...) for the employees and civil servants. The Government has issued many legal documents to ensure the realization of this right in the daily life. Additionally, as a country having suffered from the heavy consequences of more than 30 years of war, the Vietnamese Government has also formulated many policies and regimes for the war victims and those who have made contributions to the national revolution.

### **Social insurance**

207. During the reform process, together with the abolishment of the bureaucratic and subsidized mechanism and moving towards a multi-sector market economy, laws on labour in general and that on social insurance in particular have also been renewed to be in line with relevant legal documents.

208. The 1994 Labour Code has a full chapter: Chapter XII on Social Insurance. The Government issued Decree No. 12/1995/ND-CP on 26 January 1995 on the Statutes of Social Insurance for the civil servants and State employees in the form of compulsory social insurance. The Government also had Decree No. 45/CP on 15 July 1995 on the Statutes of social insurance for the armed forces, the people's army and police. These two documents mark a step forward in renovating the social insurance policy, for instance: expanding compulsory participation in social insurance for the non-State sector, reaffirming the participation and contribution of the employers and employees in the Social Insurance Fund, which operates on the basis of commercial-base. Also, on 16 February 1995, the Government issued Decree No. 16/ND-CP on the establishment of the Viet Nam Social Insurance on the basis of merging all social insurance organizations under the service of Labour, War Invalids and Social Affairs and the Viet Nam GCL in order to implement all social insurance policies and manage the Social Insurance Fund.

209. After the amendments of the Labour Code in 2002, the Government promulgated Decree No. 01/2003/ND-CP on 9 January 2003 amending and supplementing a number of

articles in the Statutes of Social Insurance for the Civil Servants and State Employees in the form of Compulsory Social Insurance and Ordinance No. 89/2003/ND-CP on 5 August 2003 amending a number of articles of the Statutes of Social Insurance for the Armed Forces, Army and Police.

210. To reaffirm the State's protection for the legitimate rights and interests of the employees and ensure the enforcement of social insurance policies at the highest level, on 29 June 2006, the Law on Social Insurance was promulgated by the National Assembly, marking a new development in the State management of social insurance. The above-mentioned Law came into force at three different dates: starting from 1 January 2007 for general articles of the Law; starting from 1 January 2008 for the voluntary social insurance regime; and from 12 December 2008 for the unemployment insurance regime.

211. The Government has issued various documents guiding the implementation of the Law on Social Insurance, such as Decree No. 152/ND-CP on 22 December 2006 guiding the implementation of compulsory social insurance under the Law on Social Insurance; Decree No. 190/ND-CP on 28 December 2007 guiding the implementation of voluntary social insurance under the Law on Social Insurance; and Decree No. 127/ND-CP on 12 December 2008 guiding the implementation of unemployment insurance under the Law on Social Insurance.

212. According to the legal provisions contained in the above-said Law on Social Insurance, the social insurance systems are aimed at protecting and stabilizing the life of the employees in case of pregnancy, illness, old age, labour accidents, loss of working capability or death;

(a) Compulsory social insurance covers cases of illness, pregnancy, labour accidents, occupational diseases, and pension or survival benefits. These provisions are applied to people working in the State sector and employees working on the basis of No. time-bound contracts, and at least three-months and longer contracts;

(b) Voluntary social insurance includes pension and survival benefits. These provisions are applied for employees who are Vietnamese citizens within the working age and not covered by the compulsory social insurance;

(c) Unemployment benefits include unemployment, vocational training and job seeking subsidies.

**Levels of enjoying social insurance regimes and the adjustment of the regimes to ensure the employees' interests are stipulated in the articles of the Law on Social Insurance and guiding documents**

213. Since 1995, social insurance policy has been subjected to various major amendments and supplements. The target participants have been expanded to include: officials at communes, wards and towns as mentioned in Decree No. 09/199/ND-CP by the Government; employees working in the socialized organizations in the education, public health, culture, sports and physical training sectors as mentioned in Decree No. 73/ND-CP of the Government. The social insurance policy has also undergone many changes, including level of contributions, percentage of enjoyment and method for pension calculation as mentioned in Decree No. 93/1998/ND-CP and No. 94/1999/ND-CP amending and supplementing a number of articles under the Statutes of Social Insurance; Decree No. 04/2001/ND-CP provides special guidance for the implementation of a number of articles in the 1999 Law on Army Officers; Decree No. 61/2001/ND-CP on the social insurance for employees working in the mining sector; Decision No. 37/2001/QĐ-TTg on Convalescence Leave; Resolution No. 16/2000/NQ-CP on Reduction of Payrolls in Administrative Agencies and Public-Service Units and Decree No. 41/2002/NQ-CP on reform of State-owned Enterprises.

214. Apart from those amendments and supplements to the social insurance policy, since 1995 the Government has also issued many legal documents adjusting the wages and social insurance contribution, for instance: Decree No. 83/2008/ND-CP on 31/7/2008 by the Government on Adjusting the Wages and Remunerations for which social insurance premiums have been paid for labourers subject to the wage scheme decided by employers; Decree No. 122/2008/NQ-CP on 4 December 2008 by the Government on Providing Subsidy on Regional Basis for pensioners on monthly basis subsidy and for those lost working capability, suffered from labour accidents and vocational diseases; Decree No. 134/2008/NQ-CP on 31 December 2008 by the Government on Adjusting the Monthly Income for which social insurance premiums have been paid for employees participated in the voluntary social insurance scheme. Whenever there was a change in the basic salary level, the social insurance premium has also been affected accordingly.

215. Together with the changes in the minimum level of wages to ensure the life of the pensioners and beneficiaries of the social insurance scheme, over the past years, the Government has also introduced various documents concerning the adjustment of pension, social insurance subsidies and monthly subsidies for retired village officials such as Decree No. 03/2003/ND-CP on 15 January 2003, Decree No. 31/2004/ND-CP on 19 January 2004; the Decree No. 208/204/ND-CP on 14 December 2004 and Decree No. 101/2008/ND-CP on 12 September 2008. These adjustments gradually help improve the old-age pension and social insurance subsidies in line with the national socio-economic development, thus ensuring the life of the pensioners and beneficiaries of the monthly social insurance subsidy.

### **Social subsidy**

216. The social subsidy scheme in Viet Nam consists of two components namely emergency subsidy and regular social subsidy policies.

#### *Emergency subsidy*

217. This is a Policy for assisting people who passively encountered unpredictable mishaps, such as hurricanes, floods or droughts: The extraordinary subsidy aimed at assisting those suffered from mishaps mainly caused by the nature is temporary, short-term and paid in a lump-sum. This policy is originated from Decree No. 07/2000/ND-CP on 9 March 2000 by the Government. The target groups for this policy comprise of: (i) families of dead victims; (ii) families of injured people; (iii) families having houses collapsed or destroyed; (iv) families having production means, clothes, house utensils lost. The levels of subsidies are stipulated clearly for each target group. Nonetheless, flexibility is also permitted, allowing the provincial or municipal people's committee to decide the higher level of subsidies according to the degree of damages and economic capability of each city or province.

218. The Government of Viet Nam has added into the reserve budget to overcome consequences caused by natural disasters and to protect the people from shortage of food and disease outbreak, repair damages to communication lines, irrigation projects, schools, hospitals and other public works. Local authorities at all levels have also mobilized their own resources to rapidly get rid of the aftermaths of natural disasters and stabilize the life of the local people. Besides, many social organizations, individuals and local communities, through different ways and means, have raised funds and donations and provided relief to the people in the stricken areas. Regarding the implementation structure, from the central to local level (all provincial, district and commune levels) the Committees on Control and Prevention of Hurricanes and Floods and the Committees on Reception of Relief Assistance will be set up whenever strong hurricanes or major floods happen. Relief assistance process is carried out in a consistent order as regulated in Circular No.



18/2000/LĐTBXH on 28 July 2000 by the Ministry of Labour, War Invalids and Social Affairs (MOLISA).

*Regular social subsidy policy for various target groups such as the elderly and disabled persons*

219. Senior citizens (from 60 years old and above): At present, there are more than 2 million senior citizens benefiting from at least one subsidy scheme (retirement, loss of working capability, labour accident, occupational diseases, preferential regime for senior revolutionaries, Vietnamese hero mothers, cadres who went through enemies' jails, those who have made contributions to the revolutions, war veterans, former youth volunteers). The life of the senior citizen benefiting from the social insurance or special subsidy schemes is relatively stable. However, there is still a significant number of senior citizens having neither income nor working capabilities living dependently on their children or relatives (there are about 130,000 lonely and homeless senior citizen without incomes or other social subsidies).

220. Disabled persons: according to MOLISA's statistics: In 2006 Viet Nam had some 5.3 million such people, occupying 6.63 per cent of the total population. There percentage of disabled persons in the rural areas accounts for 87.2 per cent meanwhile that in the urban areas makes up for 12.8 per cent. The causes for disability in Viet Nam are congenital, diseases and war consequences. The life of disabled persons in general is still very hard. Nearly 60 per cent of households of disabled people have average income and the remaining one third are poor households.

221. On 13 April 2007, the Government issued Decree No. 67/2007/ND-CP on social subsidy for the beneficiary groups, replacing all the Decrees and Decisions issued previously in order to materially and spiritually support them. These groups include: the disabled, the senior citizen, the specially disadvantaged people, families or people adopting orphan, abandoned or disabled children, families having at least two seriously disabled people without self-serving capacity, people living with HIV/AIDS, secondary education univerzalization support for poor, disadvantaged and ethnic minority children.

**The right to retirement between men and women**

222. The rights of female employees are respected, particularly the rights to maternity, pension ratio and one-time subsidy to female employees. The beneficiary schemes for female employees have been extended, thus providing more favourable conditions for their progress. Specifically:

(a) According to the Law on Social Insurance, female employees have better pensions as compared with the previously fixed pensions. Employees (both male and female) have paid premiums for 15 years will enjoy the social insurance equals to 45 per cent of their declared average annual wages when they paid the social insurance premiums. Since the 16th year, every additional year paying social insurance premium will bring about 3 per cent to female and 2 per cent for male. This regulation ensures both the preferentiality and just in the pension ratio for female employees;

(b) Extending the conditions for one-time subsidy for women upon retirement: in addition to the monthly pension, female employees joined the social insurance scheme for more than 25 years, in the case of men is over 30 years, upon their retirement will receive a lump-sum subsidy. For women, from the 26th year and for men from the 31st year, upon retirement, for every additional annual contribution to the social insurance scheme, they will receive half of their monthly salary. However, the maximum amount only equals to five months. According to the Law on Social Insurance with effect from 1 January 2007, the lump-sum subsidy is not limited to five months of wages. Hence, the employees in general and female employees in particular will gain more benefits;

(c) Regarding the age of retirement for female labourers: according to the Law on Social Insurance, the retirement age of the female employees is five years less than that of male employees (60 years old for men and 55 years old for women). This has been widely accepted by the employees and in line with the socio-economic conditions of the country as well as the health conditions of the female employees.

#### **Results achieved for social insurance**

223. Firstly, the scope and target groups participating in the social insurance scheme have been expanded. At the beginning, the scope and target groups of the compulsory social insurance scheme only consisted of employees in the State sector. Then the scope and the target groups have been gradually broadened to cover enterprises of various economic sectors having at least 10 labourers. Since January 2003, the target groups have been enlarged to also include employees working on contracts from 3 months and longer and timeless-bound contracts in enterprises, organs, organizations regardless of their size and economic sector, thus creating equality among the employees. Every year, the number of people joining the social insurance schemes has been considerably increased: from 3.2 million in 1996 to 5.8 million in 2004, 6.746 million in 2006, 8.173 million in 2007, and reached 8.9 million in 2008. That figure accounts for some 70 per cent of the labourers who are subjected to the compulsory social insurance as stipulated by the Law on Social Insurance.

224. Secondly, the forms of social insurance have been broadened to include two new forms namely unemployment insurance (including subsidies for unemployment, vocational training and job seeking) and voluntary social insurance (including pension and death subsidy). These schemes are applied to the Vietnamese citizens within the working age in all economic sectors. This constitutes an important renovation in the social insurance policy of the Vietnamese State to cover all the people. The number of people joining the voluntary social insurance now only stands at 65,000, far below the desired level.

225. Thirdly, the State management function and the social insurance management function have been clearly defined. All the social insurance schemes in line with the Law on Social Insurance are managed under a single system by the Viet Nam Social Insurance, from the central to grass-roots level. This agency has the function of carrying out relevant social insurance policies, managing and utilizing all funds under the social insurance schemes as stipulated in the Law on Social Insurance. The Ministry of Labour, War Invalids and Social Affairs is the agency responsible before the Government in carrying out State management for social insurance activities.

226. The Social Insurance Fund has been separated from the State budget and it works on the principles of revenue-expenditure balancing, preservation and growth. The Social Insurance Fund is mainly contributed by the employers and employees. Based on the principle of getting benefits upon contributions, both the employers and employees share the responsibility to contribute to the social insurance fund. The State is responsible for paying pensions and social insurance subsidies for those retired before October 1995. The Social Insurance Fund is responsible for paying pensions and social insurance benefits for those entitled to such benefits from October 1995 afterwards.

#### **Social subsidy**

227. Firstly, the target groups for such benefit have been expanded. Prior to 2000, there were only three target groups, namely (i) lonely senior citizens; (ii) seriously disabled persons; (iii) orphan, abandoned children. Since 2000, a number of new target groups have been included, such as (iv) elderly persons from 90 years old and above and since 2008 it has been expanded to those 80 years old and above; (v) people living with HIV/AIDS; (vi) families having at least two seriously disabled persons without self-serving capability, (vii)

families or people adopting orphan or abandoned children. The number of people subjected to social subsidies has tremendously increased, from 175,355 in the year 2000 to 416,000 in 2005. In implementing Decree No. 67/2007/ND-CP of 13 April 2007, by 2008, more than 1.25 million people enjoyed social subsidies in Viet Nam.

228. Secondly, in parallel with the regular social subsidy, various policies on providing practical and effective assistance to the target groups of social subsidy have been put into practice. For instance, disabled, orphan children brought up in boarding facilities are exempted from school tuitions during their study period and provided with books, notebooks and learning kits suitable to their school levels as regulated by the Ministry of Education and Training. Apart from that, two new models have been set up namely special education and rehabilitation education. Disabled children are educated in all three areas namely functional restoration, academic education and vocational training. Every year, reduction of school fees have reached almost VND 120 billion and some VND 100 billion has been used for books, notebooks and 3.5 million school children have benefited from such policy. The State also has the policy on free medical check-up and distribution of social insurance cards to cover the costs of medical treatment, orthopaedics and functional restoration.

229. Thirdly, the levels of subsidies have always been increased to keep up with the socio-economic development of the country. Given the flexible regulations, in reality the amount of social subsidies applied in provinces is usually higher than the minimum level regulated by the Government and appropriate with the actual conditions.

230. Fourthly, the institutional system for social protection has been rapidly developed. The Government issued Decree No. 25/2001/ND-CP on 31 May 2001 concerning the establishment and operation of institutions involved in providing social protection. It was then replaced by Decree No. 68/2008/ND-CP concerning the conditions and procedures for the establishment, organization, operation and dissolution of such institutions. Apart from the State institutions providing care to beneficiaries of social support, the State also allows and encourages organizations and individuals to set up institutions to care for lonely senior citizens, orphan children and disabled persons. Up to September 2008, throughout the country, there were more than 570 institutions providing care for nearly 15,000 people. 1/3 of these institutions are non-State.

## Challenges

### *Social insurance: Participants in the social insurance schemes*

231. The percentage of people participating in the social insurance schemes in general is still low. The expansion of the target groups for the compulsory social insurance scheme is slow, especially for the group working in the non-State sector, thus affecting the revenues of the scheme.

- Revenue – expenditure balance for the Social Insurance Fund and the financial institutions: At present, the idle capital of the Fund is borrowed by the State. The growth rate of the Fund through investments is low. The profit-making investment by the Fund is still limited and therefore to some extent, it could affect the sustainability of the Fund in long-term prospect.
- The guiding documents for implementing the Law on Social Insurance are not sufficient and synchronized, particularly concerning new forms of social insurance, such as voluntary social insurance and unemployment insurance. In the process of practicing such schemes, many weaknesses have been exposed. The sense of respecting the Law on Social Insurance is weak; the legal regulations are not strong enough to force enterprises to observe the Law.

- The organizational structure to implement the social insurance policy: the social insurance organizations have No. proactive solutions to increase the revenues and settle prolonged debts. The procedures for payment, here and there are still burdensome to the participants and beneficiaries of the social insurance.

#### *Social subsidy*

232. Viet Nam is situated in the region prone with floods, droughts. The effects of climate change and natural disasters to Viet Nam in the future will be No. small challenge to the country's social support activities. The percentage of beneficiaries from the regular social support is always low, accounting for more than 1 per cent of the total population only.

233. The levels of social support have always been increased to be in par with the national socio-economic development. Yet, the readjustment is only enough to cover the loss caused by inflation rate of the national currency, not sufficient to improve the living conditions.

234. Policies and programmes over the past years have only partially responded to the needs of the social target groups. Nonetheless, they have contributed to lessening the immediate difficulties and maintaining the daily life of those people. Most of other social supporting forms are still limited.

235. The funds for social protection are also derived from the local budgets. In areas where the local budgets are not sufficient and reliant on the Central Budget, the social support activities will be difficult.

#### **Orientation**

236. Viet Nam focuses on the following actions:

##### **Social insurance:**

- Continue to supplement and amend the existing mechanisms and policies; step by step improve the guiding documents for the implementation of the Law on Social Insurance in order to timely meet the interests of the labourers.
- Protect information dissemination and communication, including improving both forms and substance, to enhance the awareness of the employers and employees on their rights and obligations while carrying out the concerned policy. This can be done through diversifying forms and substance of information dissemination and communication, using multi-directional information channels, preparing coordination plans for relevant State agencies and organizations in this regard, with emphasis on the voluntary social insurance. The awareness of people should be raised so that they can actively participate in such a social insurance scheme.
- Revenue collection for the social insurance should be stepped up; the target groups for social insurance should be broadened, particularly those in the non-State sector; measures should be taken to solve the problems of evading contributing to social insurance funds and outstanding debts to social insurance funds. The contingents of social insurance inspectors from central to local levels should be improved; documents concerning the coordination among the relevant agencies should be issued in order to discover and punish violations concerning the participation in and contribution to social insurance funds. Renovate and improve the operational modalities of the system to provide social insurance services towards raising the service quality so that it can be developed in a sustainable manner throughout the country. The social insurance funds should be increased and appropriately and effectively utilized.

**Social support:**

- Step by step broaden the target groups who are subjected to regular social support; gradually raise the level of social support to these target groups in line with the conditions of the country in each stage of development.
- Encourage and create favourable conditions for organizations and individuals in and outside the country to participate in the voluntary social insurance scheme with a view to providing care and supporting the target group people.
- Enhance the capacity of the relevant organs, organizations and people in forecasting, preventing and coping with unexpected risks.

**Article 10- Right to marriage, protection and assistance to families, mothers, juveniles and children****A. Right to marriage and family****Current Situation**

237. Viet Nam has not signed or ratified any International Convention related to the right to marriage and family.

238. Fundamental laws related to the right to marriage and family in Viet Nam include:

- 1992 Constitution (articles 40, 64, 65, and 66);
- Civil Code (in 1996 and 2005);
- Marriage and Family Law (in 2000);
- Ordinance on Marriage and Family Relationship Between Vietnamese citizens and foreigners (in 1993, expired on 1 January 2001);
- Ordinance on Population (in 2003, revised in 2008);
- Law on Child Protection, Care and Education (in 1991 and 2004);
- Law on Domestic Violence Prevention and Control (in 2007);
- Law on Protection of People's Health (in 1989);

239. The Marriage and Family Law was ratified and issued by the National Assembly on 9 June 2000 to respond to the rapid socio-economic developments and more profound international integration of the country. The scope, target groups and contents related to marriage and family have been expanded to ensure all the rights of the citizens in the marriage relationship, particularly the equal right on properties, and to protect the vulnerable people namely women and children against acts of forced marriage, domestic violence and leaving the children unattended.

240. In order to ensure the self-determination, voluntary agreement and equity of individuals and families in executing the right to reproduction, the protection and support of the State for families and individuals in reproductive health care and maternal and child health care, the Vietnamese State have promulgated regulations on family planning in various legal documents namely the 1992 Constitution ( art. 40), Law on Protection of People's Health in 1989 (Clause 1, art. 43), Marriage and Family Law in 2000 (Clause 3 art. 2), Ordinance on Population in 2003.

241. The law strictly prohibits all acts obstructing, forcing the execution of family planning, such as threatening, insulting the honour and dignity, physically abusing those

using contraceptive methods, those delivered all boys or all girls; forcing to use contraceptive methods or bear children; early delivery, intense delivery, delivery boy or girl, or causing obstacles to those voluntarily use contraceptive methods.

242. To realize the Marriage and Family Law, the Government has issued many legal documents, such as:

- Decree 70/2001/ND-CP on 3/10/2001 by the Government on detailing the regulations for the implementation of the Marriage and Family Law.
- Inter-circular No. 01/2001/TTLT-TANDTC-VKSNDTC-BTP of the People's Supreme Court and Ministry of Justice on 3/1/2001 on the instructions to implement the Decree No. 35/2000/QH10 on 9/6/2000 of the National Assembly on the implementation of the Marriage and Family Law;
- Decree No. 32/2002/ND-CP on 27/3/2002 of the Government on the application of the Marriage and Family Law on ethnic minority groups.
- Decree No. 77/2001/ND-CP on 22/10/2001 of the Government on marriage registration in accordance with Decree No. 35/2000/QH10 of the National Assembly on the implementation of the Marriage and Family Law.
- Decree No. 68/2002/ND-CP on 10/07/2002 of the Government on the instruction on the Marriage and Family Law regarding the marriage and family relations with foreign elements. [it was amended and supplemented at Decree No. 69/2006/ND-CP on 21/07/2006].
- Decree No. 87/2001/ND-CP on 21/11/2001 of the Government on administrative sanctions in the marriage and family areas.
- Decision No. 106/2005/QĐ-TTg on 16/5/2005 of the Prime Minister approving the Strategy on Vietnamese Family Building in the 2005-2010 period with the overall goal of gradually stabilizing, consolidating and building families of few children (each couple has only one or two children), well-off, progress, equity and happiness.
- Decree No. 104/2003/ND-CP on 16/9/2003 of the Government providing the details and guidance on the implementation of some articles under the Ordinance on Population.
- Decree No. 114/2006/ND-CP on 3/10/2006 of the Government on the sanctions against administrative violations in the population and family areas.
- Directive No. 23/2008/CT-TTg on 4/8/2008 of the Prime Minister on the promotion of the population and family planning work.
- Decision No. 170/2007/QĐ-TTg on 8/11/2007 of the Prime Minister approving the National Target Programme on Population and Family Planning in the 2006-2010 period.

243. All Vietnamese citizens eligible for marriage registration (20 years old for male and 18 years old for female) enjoy the free and equal rights to determining their own marriage. Neither of the partners is allowed to force the other and No. one is allowed to force or obstruct this process. Backward customs (such as forcing, male chauvinism, polygamy, not respecting the rights of the children, etc.) are all abolished. Also, women in marriage relationship are protected by the laws from child marriage, forced marriage and domestic violence.

244. The ratio of under-one mortality rate decreases rather rapidly, from 44.4 per cent from 1990 to 15 per cent in 2009, only 0.2 per cent higher than the MDG in 2015. The ratio

of under-five mortality rate reduced from 58 per cent in 1990 to 24.4 per cent in 2009. The malnutrition rate among under-five lightweight children went down from 33.8 per cent in 2000 to 25.5 per cent in 2005, and 18 per cent in 2010. The target was achieved 2 years earlier than the set target.

245. Antenatal and postnatal maternal health care has been considerably improved. Many indicators for the progress of this work are very optimistic, such as the rate of expecting mothers having health check-up for least three times has gradually increased, reaching 86.4 per cent in 2008. The rate of due mothers having both 2 tetanus injection shots in recent years is very high, ranging from 91 per cent and reached 94.5 per cent in 2008. The rate of postnatal maternal care was almost 87 per cent in 2008.

### **Challenges**

246. Unregistered marriage still prevails, especially in the rural areas. The percentage of unregistered marriages among married couples since 2001 tends to increase. After the Marriage and Family Law came into effect in 2000, the State regulated that since 2001, male and female living together without registration are not recognized as husband and wife by law.

247. The percentage of unregistered couples reached 28 per cent. Among those having marriage registration, 14 per cent only registered after their marriage. It shows that for many people, being recognized as husband and wife by the law is not as important as the recognition rendered by society. (According to the first ever large-scale surveys on Vietnamese families in 64 provinces and cities, published on 26 June 2008). In fact, many people really regret not having registered their marriage. For unregistered marriage, if there is No. happy ending, most of the time the women are the ones suffering from both material and spiritual disadvantages.

248. Besides, the legal awareness of the people is not high. The rate of marriage earlier than the age permitted by law remains high, particularly in the disadvantaged, poor and underdeveloped areas (the rate is higher in the rural areas for both male and female compared to the urban areas. The rate of early marriage among women in the rural areas is as high as 6.8 per cent; Northern mountainous areas, Central Highland and the Mekong delta have very high percentage of such cases).

### **Orientation**

249. Viet Nam focuses on the following actions:

- Continue to implement all programmes and projects on family planning, reproductive health care, among which the enhancement of leadership, organization, supervision, monitoring and oversight are the prerequisite solutions; information – education – communication and services for family planning and policies – schemes are the fundamental solutions; finance- logistics, training – research and management are conditional solutions. Target programme-based management methods and implementation of activities through liability contracts help ensure the synchronous coordination and participation of the whole society and the effective utilization of the resources invested in these programmes.

- Enhance the communication responsibility of the agencies operating in the health, culture, education and mass information areas as well as of social organizations working in the field of population and family planning; consult, assist and make sure that every individual, couple can voluntarily execute family planning; provide good, convenient and safe family planning services to the people. State, private and collective obstetrics and gynaecology facilities must respond to all the requirements of the people in choosing the most appropriate family planning methods and in line with their aspiration.

- Make sure that women can enjoy gynaecological examination and treatment and being checked during their pregnancy, provided with health services upon delivery. Women also have the right to abortion according to their own will at the health facilities licensed by the competent state management agencies. Foremost, women are encouraged and given favourable conditions to effectively use contraceptive methods to reduce abortion. In case of abortion, it should be carried out safely and in any circumstance, women must be able to access to good quality services to control the side-effects of abortion.

## **B. Right to protection and assistance for families, women, juveniles and children**

### **Current situation**

250. Viet Nam has ratified the following International Conventions and Protocols:

- Convention on the Rights of the Child (Viet Nam ratified on 23 February 1990). Viet Nam was the first country in Asia and the second in the world ratified the Convention on the Rights of the Child.
- Convention 182 (1999) of the International Labour Organization (ILO) on “Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour” (Viet Nam ratified on 1 July 2000).
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, supplemented to the Convention on the Rights of the Child (approved at the General Assembly of the United Nations on 25 May 2000)
- Optional Protocol on the Involvement of Children in Armed Conflicts, supplemented to the Convention on the Rights of Child (approved at the General Assembly of the United Nations on 25 May 2000).
- Viet Nam became the signatory to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) on 17 February 1982.

251. Reports on related Conventions: Up to date, based on the instruction of the United Nations’ Committee on the Rights of the Child, Viet Nam has prepared four reports explaining about the implementation of this Convention: The first report for the 1993 – 1998 period; the second report for the 1998 – 2002 period; and the combined third and fourth report for the 2002 – 2007 period. Basically, all the reports provide the updated situation on the implementation of the Convention of the Rights of the Child and the implementation of the two Optional Protocols namely on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, including achievements, challenges and orientations to overcome the difficulties for the better implementation of the Convention in the future.

252. Viet Nam has prepared the national report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women as mentioned at article 3 of this report.

253. The fundamental laws in the national legal system related to the protection and support for mothers and children are as follows:

- 1992 Constitution (articles 65 and 66);
- Civil Code (in 1996 and 2005);
- Criminal Code (in 1999);



- Labour Code (in 1994);
- Ordinance on Marriage and Family Relationship between Vietnamese Citizens and Foreigners (in 1993, expired on 1 January 2001);
- Marriage and Family Law (in 2000);
- Law on Domestic Violence Prevention and Control (in 2007);
- Law on Gender Equality (2006);
- Law on Youth (2005);
- Law on Education (1998 and 2005);
- Law on Protection, Care and Raising Children (1991 and 2004);
- Law on Protection of People's Health (1989).
- Population Ordinance (2003, amended in 2008).
- Ordinance on Handling Administrative Violations (2002, amended and printed 2007 and 2008);

**Support for families, particularly poor, ethnic minority families:**

254. Concerning education, the Law on Education No. 38/2005/QH11 released on 14 June 2005 regulates State assistance policies for students. The law provides for assistance and exemption of tuition for students whom are beneficiaries of social policies, ethnic minorities living in areas with particularly difficult socio-economic situations, orphans and homeless children, handicapped and disabled people with economic difficulties, people in particularly difficult economic situations who have risen above circumstances in learning.

255. Also, based on current regulations concerning education for children and national programmes, policies for poverty reduction and hunger eradication, provinces, cities have enacted education assistance programmes within their jurisdiction for households, individuals eligible for poverty support that are met with many difficulties to create conditions conducive for children to go to school.

256. Concerning health care, the Law on Protection and Care of Children No. 25/2004/QH11 promulgated on 15 June 2004 regulates: the State has policies to assist children in special circumstances to enjoy children's rights, to assist individuals, households to care for and raise children, encourage organizations, individuals to support and establish children support centres to ensure that all abandoned children with special circumstances may be cared for and raised. The law stipulates that children under 6 may receive free-of-charge medical treatment at public health care facilities and their health care insurance will be paid for by the State in accordance with the Social Insurance Law. The Government reserves a specific sum from the State budget annually to ensure free medical check-up and treatment for children under 6 at public health care facilities at both the central and local levels.

257. Concerning housing, in order to provide support to poor households to implement the National Target Programme on Poverty Reduction for the period 2006 – 2010, the Prime Minister passed Decision No. 167/2008/QĐ-TTg on 12 December 2008. The Decision regulates assistance to poor households in housing, provides direct support to poor households to own stable, safe homes to gradually improve living standards and contribute to sustainable poverty reduction and hunger eradication efforts. Ethnic minority households in poverty or with difficulties are given homes pursuant to Decision No. 134/2004/QĐ-TTg on 20 July 2004 of the Prime Minister. Decision 134 regulates that annually, the State budget will reserve a separate sum to provide assistance for production

land, housing land, accommodations, and water for ethnic minority households in poverty or with difficulties. Assistance policy is to provide direct assistance to the household to construct homes for eligible individuals. The assistance will be conducted publicly based on the principle of equality, transparency, in accordance with State regulations and policies as well as the customs of each ethnicity, region to ensure preservation of ethnic cultural identity; and suitable to the realities of the locality, linked to the localities' socio-economic development planning and schemes. For ethnic minority households in poverty at the locality which are currently homeless or living in temporary, heavily damaged homes, the State takes a different approach: Physical labour will be provided by the people, the State will provide assistance and the community will provide support. The State budget will provide assistance of 5 million VND/ household for home construction. Depending on the situation and availability of funds, localities have the responsibility to provide additional assistance and mobilize the community to assist households in home construction. Besides direct assistance, poor households are also eligible for preferential credit schemes.

### **Protection and support for mothers**

258. Protection and support for pregnant and post-delivery mothers: According to the Labour Code, female workers are protected and granted preferential treatment to maximize their working potentials, pursue self-development, higher study, health care, to achieve balance between work and family life. The Labour Code (Chapter X) has special clauses for female workers. State agencies have the responsibility to expand training opportunities for female workers to acquire an additional vocation and to assign tasks suitable to the physical, physiological and maternal characteristics of female workers. The State also has in place tax exemption or reduction policies for enterprises which predominantly employ female workers.

259. The Labour Code stipulates: Employers may not dismiss or unilaterally terminate labour contracts of female workers for reasons related to marriage, pregnancy, pregnancy leave, under 12-months-old child rearing except in the event of the enterprise's termination of operation. Employers may not use female workers in heavy duty, dangerous works or which requires contact with toxic substances that have adverse impacts on child bearing and rearing, or which is listed in the inventory published by the Ministry of Labour Invalids and Social Affairs and the Ministry of Health.

260. Compensation policies and working, rest hours for pregnant and post-delivery mothers: The Social Insurance Law passed in 2006 regulates maternity benefits at Section 2 Chapter III. Female employees are entitled to social insurance benefits or will be paid by their employer a sum equivalent to the social insurance assistance sum they will collect during leave period. Leave period include time spent to receive prenatal check-ups, to undergo family planning operations or rest required due to miscarriage, to care for sick offspring under 7 years of age, or to adopt infants. Duration of leave period and benefits are regulated by the Government. At the end of the maternity leave, and even in cases of extended unpaid leave, upon return to work, female employees position at work are still ensured. In the event both parents are covered by social insurance and one of the two has exhausted their sick-child-care benefit duration, the remaining parent may still take leave according to regulations. Sick-child-care benefit is equivalent to 75 per cent of the insurance premium paid from the salary, compensation sum of the immediate month prior to leave.

261. Female employees may take leave before and after giving birth, total duration may vary from four to six months depending on working conditions, heavy duty, toxic characteristic of a job, and remoteness of location. If the delivery is a twin or over, starting from the second child, for every child, the mother may take an additional 30 day leave. (arts. 141 and 144 of the Labour Code).

262. At the end of the allowed paid-leave period, if necessary, female employees may take unpaid-leave upon agreement with the employer. Female employees may cut short the paid leave period, provided at least two months had passed since delivery, a doctor's note that early resumption of work will not affect mother's health is presented and the employer is notified in advance. In these cases, female employees are still entitled to maternity leave benefits, in addition to the salary for working days.

263. Employers must not require female employees that are over seven months pregnant, raising children less than 12 months of age to work overtime, work nights, or to go on field trips. Female employees in heavy duty line of work, upon the 7th pregnant month, may be transferred to lighter duties or take off one hour a day and still receive full salary. Female employees may take leave from work for 30 minutes everyday during menstruation, and 60 minutes everyday when raising children under 12 months and still receive full salary.

264. However, the coverage scope of the Labour Code and the Social Insurance Law only extend to workers in the official labour market, where employees pay and are covered by social insurance. The application of these regulations for female employees in the informal sector and for those not covered by insurance is still limited.

#### **Protection and support for youth and children:**

265. Capacity support for family, parents in child care and development: Viet Nam is paying more and more attention to capacity building for families through financial support for families in particularly difficult situations, providing preferential credit schemes for low-income families to invest in development and production, discount or free of charge health care services for mother, children and family planning activities, tuition exemption for elementary school students, free health check-ups and treatment for children under 6 and children in poor, ethnic minority areas and children at public health care facilities.

266. Viet Nam also mobilizes the participation and support of civil society organizations, the community and parents in family capacity building. The development of parenting consultation and skill development have been touched upon in a number of national programmes. Many family-life education, parenting toolkits have been developed to provide knowledge and life skills for family members.

267. Viet Nam has developed many forms of family services, including consultation services for child protection, care and education, mother's health, population and family planning. Viet Nam attaches importance to cooperation with countries in the region and other countries over the world to share experience in developing family-oriented policies.

268. Viet Nam has also strengthened communication and education activities to educate parents about their responsibilities and family life through different campaigns.

#### **Regulations on age limit for paid labour and prevention and control of forced child labour**

269. Article 6 of the 1994 Labour Code regulates: "An employee is a person of at least 15 years of age, has the ability to work and enter into labour contracts. An employer is an enterprise, agency, organization or individual at least 18 years of age, which hires, uses, and provides compensations to employees.

270. Besides the above requirements, the minimum working age of 15 is also based on a number of other factors such as the specific characteristics of the labour force, the structure and working preference of young workers, the regulation of countries in the region and over the world as well as international convention No. 5 and 138 of the International Labour Organization on minimum age for admission to employment.

271. The Labour Code; the Law on Protection, Care and Raising Children all prohibits the forcing of young workers to engage in heavy duty, dangerous works, or jobs that requires contact with toxic substances. The People's Committee at various levels has the responsibility to timely detect and address these situations.

**Adult employees and addressing violations in using minor workers:**

272. According to the 1994 Labour Code ( art. 119): "A minor labourer is one under 18 years of age. Where the employment of minors occurs, there must be a separate record of each minor's full name, date of birth, current jobs, the result of each periodical health check, which must be produced to the labour inspector on request. It is strictly forbidden to misuse the labour of minors. The work hours of a minor employee may not exceed seven hours per day or 42 hours per week". The Government has passed many guidance decrees related to minor workers such as Decree 195/CP in 1994, Decree 06/CP in 1995, Decree 39 and 44/2003/NĐ-CP, Decree 109/NĐ-CP.

273. Current legal documents regulate occupations which are prohibited from accepting underage workers. Specifically, article 120 of the Labour Code regulates it is forbidden to employ children below 15 years of age, except for those professions and jobs defined at Circular No. 21/1999/TT-BLĐTBXH on September 11 1999 which defines the professions, jobs and requirements to allow children under 15 to work in; Inter-Circular No. 21/2004/TTLT-BLĐTBXH-BYT on 9 December 2004 providing a list of establishments, professions which are prohibited from using labour under 18 years of age.

274. In the event of violation of use of minor workers by the employer, the penalties are as follows: Penalty of 1 million VND if "minor workers are found to be engaged in heavy duty, dangerous works or which requires contact with toxic substances found in the inventory promulgated by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health, regulated at article 121 of the Labour Code" and pursuant to Clause 6, article 9 Decree 38/CP. Aggravating circumstances will be considered in the event "there are violations of the rights and benefits of the minor worker – rousing, inciting minors to violate the law" (Clause 4, 5, article 4 Decree 38/CP). For every aggravating circumstance, the penalty is increased three folds.

275. In 2004, the Government approved a programme to prevent and address the situation of homeless children, children who are victims of sex abuse, and children who are engaging in heavy duty works, in toxic and dangerous conditions for the period of 2004-2010 (Decision 19/2004/QĐ-TTg). On the whole, the situation where children are forced to work heavy loads in dangerous and toxic conditions have been managed, monitored and addressed by local authorities. They have been able to appropriately provide assistance and address the issues, helping victims to live in a safe environment, and able to exercise their rights.

**Prevention and measures to address domestic violence, particularly violence against women and children:**

276. Viet Nam currently has an extensive legal system regulating prevention of domestic violence, including penalty measures for violators. The 2007 Law on Domestic Violence clearly states "This Law regulates the prevention and control of domestic violence, protecting and assisting the victims of domestic violence; the responsibilities of individuals, families, organizations, institutions in domestic violence prevention and control and dealing with the breach of the Law on Domestic Violence Prevention and Control".

277. To prevent domestic violence in order to avoid possible consequences and damages, the Law has specific articles regulating domestic violence prevention such as information

and communication on domestic violence prevention and control to change perceptions and attitudes related to domestic violence; reconciliation of conflicts and disputes among family members; counselling, comments and criticisms of communities on domestic violence prevention; protection and assistance of victims.

278. In general, the Law has specifically regulated assistance measures for victims of domestic violence. Organizations, institutions with assistance responsibilities include: help centres for victims of domestic violence; treatment and check-up facilities; social protection facilities; victims of domestic violence support centres; counselling centres for prevention and control of domestic violence and trusted addresses at the community.

(a) Penalties for violation of domestic violence regulations, depending on the nature and severity of the breach, may be administrative fines, disciplinary action, or criminal prosecution. Losses caused are required to be compensated according to legal regulations;

(b) Staff, officers, civil servants and employees in the people's armed forces committing domestic violence charged for administrative fines shall be reported to the Heads of their institutions for education;

(c) Frequent perpetrators of domestic violence that is not serious enough for criminal liability shall be re-educated in communes, wards and townships, repeated offence that is not serious enough for criminal liability shall be sent to compulsory re-education schools. Persons under 18 years of age shall be sent to rehabilitation facilities.

279. The Government has passed legal documents on domestic violence prevention such as: Decree No. 08/2009/ND-CP providing detailed regulations and guidance for implementation of a number of articles of the Law on Prevention and Control of Domestic Violence; Directive No. 16/2008/CT-TTg on 30 May 2008 of the Prime Minister on implementing the Law on Prevention and Control of Domestic Violence to raise the awareness of civil servants, officers, the people and prepare for synchronized and highly effective implementation of the Law on Prevention and Control of Domestic Violence.

280. The National Action Programme for Prevention and Control of Domestic Violence the period 2011 – 2020 is quickly being drafted. The aim of the Programme is to increase the effectiveness of domestic violence prevention activities; to protect and assist victims of domestic violence; to intervene and provide advocacy, support to prosecute perpetrators of domestic violence to step by step reduce nationwide domestic violence.

281. Aware of the importance of communications and raising public awareness about domestic violence, Directive No. 16/CT-TTg on 30 May 2008 of the Prime Minister clearly pointed out: "The Ministry of Public Security, within its jurisdiction, coordinates cooperation with the People's Supreme Court, the Supreme People's Procuracy and related Ministries, agencies to promulgate legal documents directing the implementation of measures to detect, prevent, investigate, address violations of the law on prevention and control of domestic violence; strengthen and provide capacity building for public security forces at various levels, particularly the grass roots level in preventing, addressing violations, protecting the legitimate rights and interests of the victims of domestic violence".

#### **Anti-human trafficking, anti-trafficking in women and children**

282. A relatively complete legal system - from how to address violations to increasing the effectiveness of these activities - has been put into place in Viet Nam to prevent, control and seriously address human trafficking violations.

**Penalties for trafficking in women and children**

283. Vietnamese legal documents currently do not apply the concept of “human trafficking”. The 1999 Criminal Code only regulates “trafficking in women” and “trafficking, fraudulently exchanging, appropriation of children”.

284. In the Criminal Code, trafficking in women, children is considered a particularly serious offence endangering human life, health, honour, and dignity, manifested through very severe penalties for these offences, up to 20 years imprisonment for trafficking in women, life imprisonment for trafficking in children. Aside from being imprisoned, convicts may also be additionally fined from VND 5,000,000 to VND 50,000,000. The Criminal Code regulates criminal liability for a number of actions that typically accompany human trafficking such as for the purpose of prostitution, obtain body organs, forgery of personal identification papers, residential permit and immigration papers.

285. Besides criminal prosecution for trafficking in women and children and related actions, Vietnamese law also regulates the application of other penalties such as administrative, civil fines for violations not sufficiently serious for criminal prosecution, such as administrative fine for violations of issuance, management, and usage of identification papers, and other travel papers or for violations of regulations concerning exit, entry, transit, residential permit, and travels stipulated in Decree No. 150/2005/ND-CP on 12 December 2005 of the Government regulating administrative fines in security and social order and safety.

286. Due to the trans-national nature of violations, criminal prosecution for criminals can not only be conducted on a national basis but also require bilateral and multilateral cooperation. International cooperation during investigation, prosecution, trial of traffickers of women and children follows the general principles of international cooperation during investigation, prosecution, trial. The 2007 Mutual Legal Assistance Law and the 2003 Criminal Procedure Code regulated the general basic international cooperation principles, procedures in investigation, prosecution, trial including crime related to trafficking in women and children. Moreover, Viet Nam has signed bilateral and multilateral agreements with a number of countries. These are important instruments for international cooperation in investigation, prosecution, trial of trafficking in women and children crimes.

**Legal support for trafficked victims**

287. During criminal proceedings of a case, the safety, health, dignity of the trafficked victim is always protected by the law and facilitated access to information, counselling and assistance. Article 7 of the Criminal Procedure Code regulates that trafficked victims and their relatives take part in the prosecution as victims, witnesses. If their life, health, honour, dignity and properties are threatened, the competent authority has the responsibility to apply necessary protection measures according to legal regulations. Clause 1, article 59 of the Criminal Procedure Code regulates trafficked victims, as the plaintiff, has the right ask lawyers, people’s advocates, or other persons, who are accepted by investigating bodies, Procuracies or courts, to protect their interests. The State also has a free-of-charge legal assistance scheme for poor people and beneficiaries of State policies. If the trafficked victims do not fall into the above categories, then in reality, trafficked women and children also receive free assistance from these legal assistance centres.

288. The law also regulates the application of measures to assist victims to exercise their rights to receive compensation. Article 604 of the Civil Code stipulates that those who intentionally or unintentionally infringe upon the life, health, honour, dignity, prestige, property, rights, or other legitimate interests of individuals or infringe upon the honour, prestige, property of legal persons or other subjects and thereby cause damage shall have to compensate. Therefore, traffickers who infringe upon the life, health, honour and dignity of

victims of trafficking will have to provide compensation for the damages they caused, including physical, mental and property damages.

289. Vietnamese law also contains articles regulating the reception and assistance in reintegration into the community for victims of trafficking. On 29 January 2007 the Prime Minister passed Decision No. 17/2007/QĐ-TTg regulating the reception and assistance in reintegration into the community for returning trafficked women, children. The regulation specifies the order of action, procedures, policies, responsibilities of agencies and organizations in receiving and assisting trafficked women and children reintegrate into the community (including initial assistance, health care support, temporary accommodation, travelling money for victims to return to their localities).

290. Viet Nam has signed anti-human trafficking bilateral agreements with neighbouring countries such as Laos, Cambodia, Thailand and soon China to increase the effectiveness of anti-human trafficking efforts and assisting trafficked victims to reintegrate into the community.

291. The Anti-human Trafficking Draft Law has been integrated in to the law and ordinance drafting scheme of the 12th National Assembly. The Prime Minister passed Decision No. 25/QĐ-TTg on 7 January 2008 assigning the Ministry of Justice as the lead agency. This draft law has been presented to the National Assembly of Viet Nam in 2010.

292. Viet Nam's current legal regulations consider the trafficked as victims, not criminals. For those who have violated the law as a direct result of being trafficked – for example prostitution, illegal labour, illegal immigration – prosecution handling for these instances will be mainly aimed at helping them to reintegrate into the community, rather than be punitive in nature.

293. All women and children victims of trafficking, upon return to the locality, are beneficiaries of assistance and education policies to stabilize their lives and reintegrate into the community. The assistance includes re-issuance of identification papers, residential permit, eradicating illiteracy, and issuance of birth certificate for children to go to school. Depending on the locality, suitable vocational training courses are organized for returning women and children. Monetary assistance is also provided to the victims to reintegrate into the community, to seek legal counsel, health care, education and social services.

294. According to legal regulations, assistance policy for victims reintegrating in to the community include psychological assistance, legal procedure support, schooling and vocational training assistance, initial start-up capital and loan support.

#### **Anti-trafficking in women and children national programmes and projects**

295. Anti-human trafficking is among the National programmes that have received special attention from the Government of Viet Nam. The Government green lighted the Anti-trafficking in Women and Children National Action Programme for the period of 2004 to 2010 with Decision No. 130/2004/QĐ-TTg on 14 July 2004 of the Prime Minister. The programme was designed to facilitate a strong transformation in the perception and action of agencies, sectors, organizations and society about anti-trafficking in women and children, to fundamentally prevent and reduce by 2010 the trafficking in women and children activities.

296. A National Steering Committee has been established to direct, guide, encourage and supervise efforts by Ministries, agencies, organizations and to coordinate international cooperation activities in areas related to prevention of criminals engaged in trafficking in women and children.

297. On 30 November 2005, the Prime Minister passed Decision No. 312/2005/QĐ-TTg approving 4 proposals under the Anti-trafficking in Women and Children National Action

Programme for the period of 2005 to 2010 National 4 (Proposal 1: Communication and education efforts in the community about prevention of trafficking in women and children; Proposal 2: efforts against criminals engaged in trafficking in women and children; Proposal 3: Reception and assistance for returning trafficked women and children; Proposal 4: Drafting and improving the legal system related to prevention of criminals engaged in women and children trafficking).

**Results of anti-trafficking in women and children, returning victim community reintegration assistance efforts:**

298. Efforts to communicate, raise awareness about protection of children, prevent trafficking in children, child prostitution and child pornography have increased at all levels, through all sectors and in the community. Mass media instruments have reserved much air time for issues such as child protection, and brought to light cases of children trafficking. Children are becoming more active in communicating, encouraging, and raising awareness about self-protection through children forums on anti-trafficking in children, and through communication activities of teams of young communicators.

299. Vietnamese competent authorities have been active in detecting, investigating crimes related to trafficking in women and children, and have strictly dealt with violations. Many organized women and children trafficking rings have been discovered and taken down. Information about children abuse, trafficking in women and children in Viet Nam has been diligently gathered by Vietnamese competent authorities.

300. Returning trafficked children are considered victims, are received, treated, rehabilitated, and provided employment depending on their age group, through temporary reception points at border gates, at reception centres or advocacy offices. Also, victims of children trafficking are also protected during the prosecution and have the right to demand compensation for damages suffered during their ordeal according to articles of the Criminal Procedures Code.

301. Compilation of reports from localities suggests that the number of women, children missing for extended period, suspected of being trafficked is 19,828. The number of returning trafficked women and children as of January 2009 is 2,679 victims, of which 60 per cent returned on their own, 25 per cent were rescued, 15 per cent through official help.

302. Assistance statistics is as follows:

- Victim assistance in combination with official reception: 80 per cent of returning cases - official, or self-returned or rescue - receive appropriate assistance. Assistance provided mainly involves provision of temporary accommodation, mental health counselling. For sick or poor health cases, initial treatment is paid for, together with money for accommodation and meals.
- Assistance at the community: include package assistance such as mental health counselling, legal support (issuance of residential permit, identification papers and birth certificate), health care, vocational training, employment assistance, schooling and protection for victims that cooperates in identifying criminals. 60 per cent of victims receive access to these services.
- For returning victims in particularly difficult situations: the locality cooperates with a number of international organizations to deliver support packages of US\$ 300 to US\$ 500. This package is dependent upon the needs of the victim, to be used for health care treatment, schooling, vocational training, or to generate employment. This type of assistance has generated very practical results for victims.



- Assistance through centres, shelters for victims: This type of assistance is implemented through a number of projects in Ha Noi, Quang Ninh, Ho Chi Minh City, and Can Tho. Like the above assistance model, returning victims in particularly difficult situations are provided accommodation and meals, mental health counselling and access to other appropriate services at Centres to pursue vocational training, schooling, or to receive health care treatment at their request.
- Assistance through mainstreaming, prevention, and reintegration into the community efforts at the commune, ward level: vocational training courses have been organized for women, children eligible for poor household, households in difficult situation assistance. They receive support to gain employment with stable income, support for credit loans, support in terms of tuition, scholarships, while communication activities to raise awareness about anti-human trafficking are also organized.

### **Prevention of sexual abuse and exploitation of women and children**

303. The 2003 Ordinance on Prostitution and Decree 178/2004/ND-CP in 2004 of the Prime Minister guiding the implementation of this Ordinance regulates mental recovery, check-up, treatment, and reintegration into society for children who are victims of sexual abuse and exploitation.

304. Decision No. 25/2006/QĐ-TTg of the Prime Minister approved the Inter-sectoral Cooperation Anti-Prostitution Action Programme for the period 2006- 2010, with the specific goal of wiping out child-prostitution, and preventing prostitution in students.

305. The proposal to prevent and address child sexual abuse is manifested through increased provision of health care services, legal, social and economic services for children victim of sexual abuse, support for children victims, and their families. Children at high-risk of being sexually abused are allowed to take part in poverty reduction and hunger eradication, job creation programmes.

306. Sexually abused children, upon discovery, are provided financial support, counselling, check-up, treatment, education, vocational training services to help them overcome the difficulties of life to reintegrate into the community. Many localities also have prevention activities such as: support for children in difficult situations, children at high-risk of sexual abuse. Child sexual abuse prevention pilot programmes were conducted at 129 communes, wards of 22 provinces, cities with many direct assistance activities such as counselling, free textbooks, health check-up and treatment, vocational training, job creation.

307. Communications, awareness raising activities about prevention of child abuse have been implemented under different forms such as training course, communication, counselling for Government employees and the people, developing, printing professional material, leaflets, and through the mass media.

308. In 2004, the Government approved the Action Programme to prevent and address the situation of homeless children, sexually abused children, children engaged in heavy-duty work in toxic, dangerous environment for the period of 2004 – 2010.

### **Support to ethnic minority and handicapped children**

309. The State has passed many policies to promote socioeconomic development in communes with particular difficulties, in poor districts, in ethnic minority and mountainous regions, focusing on construction electricity network, schools, health clinics, roads and

markets. At the same time, support is given through specific policies such as social protection measures, health care, education, vocational training and children protection.

310. In health care, Viet Nam has made many efforts in realizing the policy of free-of-charge check-up and treatment, expanded vaccination, malnutrition prevention, injuries and accidents prevention for ethnic minority children. The Government is also paying more and more attention to vocational training for ethnic minority children.

311. Viet Nam currently has 1.2 million handicapped children with 6 main disabilities, concentrated mainly in provinces in the Central region. Handicapped children are cared for under different family-based, community-based and State-owned social protection facility-based models. Viet Nam puts forth many policies to encourage care and support of handicapped children. Regulations concerning compulsory designs for handicapped-friendly construction projects are being observed step by step, helping to eliminate obstacles and creating a facilitating environment for handicapped children.

### **Protection and support for other targets**

#### **Protection of the elderly**

312. The Ordinance on the Elderly is a legal document promulgated by the National Assembly Standing Committee which regulates the care and encourages the promotion of the role of the elderly.

313. Pursuant to the articles of the Labour Code, an elderly employee is one over 60 years of age for men and over 55 years of age for women. In the last year before retirement, the elderly employee is entitled to a reduction of one hour from his/her daily work time or to the system of non-full workday or non-full workweek, according to regulations by the Government. If the need arises, the employer may negotiate with the elderly employee to extend the labour contract or to sign a new labour contract, as provided for in Chapter IV of the Labour Code. If, after retirement, the elderly employee works under a new labour contract, apart from the benefits he/she enjoys from the pension system, the elderly employee shall enjoy the benefits stipulated in the labour contract. The employer has the responsibility to care for the health of the elderly employee and may not employ the elderly employee in heavy or dangerous jobs or jobs necessitating regular exposure to noxious substances which negatively impact the health of the elderly employee.

314. The National Elderly Action Programme for the 2005-2010 period has the overall aim of promoting the role of the elderly and improving quality of care of the elderly consistent with the potentials and socioeconomic development levels of the country and strengthen socialization of elderly assistance activities.

#### **Protecting handicapped employees**

315. The Ordinance on People with disabilities has contributed to changing the perception, mentality of not only leaders, agencies, social organizations but also of society in care and support for handicapped people. Communications activities about policies for the handicapped have helped raise people's awareness, created a shift to care more for the handicapped, helping to gradually reduce discrimination and psychological complexes against the handicapped. Agencies, organizations, and individuals operating in this field have the legal foundations to implement activities to support, care for, and encourage the participation of the State, international organizations, and the community for the elderly.

316. The following rights and obligations are ensured for the handicapped:

- Livelihood assistance for the handicapped: The Vietnamese economy has achieved average growth of over 7 per cent annually during the past decade. The life of the majority of the people has been improved. Thereby, monthly social benefit for handicapped people (those without ability to work, to help themselves, or lives in poor households) have been improved.
- Health-care assistance for the handicapped: Over the past 10 years, over 200 thousand turns of people have received orthopaedic rehabilitation surgeries, and given free orthoses; over 10 thousand handicapped have been given support devices such as wheelchairs, prosthetics; tens of thousands of children have received orthopaedic surgeries, rehabilitation support. The community-based rehabilitation network has developed in 46/63 cities and province, reaching 215 districts and 2,420 communes. The result is that training has been provided for 74.1 per cent of families living with handicapped people, and 44.2 per cent of the handicapped has reintegrated into the community. The majority of Central, and provincial level hospitals have rehabilitation departments. About 63 per cent of handicapped people have access to health-care services.
- Education assistance for the handicapped: During the 1996 -1997 school year, the country had 6,000 handicapped children learning in 72 special education facilities, 36,000 learning in 900 secondary and high schools. In the 2005-2006 school year, there were 260,000 handicapped children learning in 9,000 secondary and high schools (25 per cent). Handicapped students mainly pursue not only kindergarten and elementary education but also higher levels of education and many have achieved high results.
- Employment and vocational training assistance for the handicapped: Vocational training facilities for handicapped people are given priority in selection of location, given capital support, provided training costs, tax reduction, and preferential loan interests. Other vocational training facilities that provide training for handicapped people can receive investment and training cost priority, etc. Roughly 10 thousand handicapped people are provided vocational training annually, with over 60 per cent being provided employment.
- Construction of handicapped-friendly public facilities: a standardized handicapped-friendly toolkit for public facilities construction has been developed. A large number of projects have been constructed consistent with the toolkit and this model can be expanded to the whole country. Many handicapped people have enjoyed the social benefits brought about by these projects.
- Facilitation of access to cultural and sporting events: Sporting events for handicapped people are receiving more attention, many handicapped sport matches are organized to improve the spiritual life of handicapped people, erase psychological complexes, allowing them to take part in sporting events, to recover their health, and has become a socio-economic activity that helps handicapped people to reintegrate into the community.

### **Difficulties and limitations**

#### **Supporting children living in the family through parental guidance and responsibility**

317. In general, there is a lack of detailed regulations and application guidance despite the many current basic regulations stipulating the role of the family and parents. On the other hand, parental, guardian, and other family members' awareness, responsibilities and

skills in exercising parental responsibility to their children are still limited. There need to be constructive measures so that the family can have the capacity to fulfil its functions. Communications and public mobilization activities have not reached every family.

#### **Prevention of child labour**

318. There is a lack of complete statistics and control over the situation where children are engaged in heavy-duty labour, working in toxic and dangerous environment. The information, data processing system, and reporting mechanism still suffer from limitations while there has not been a truly detailed list of occupations deemed to be heavy duty. A small number of children and families have not fully recognized the dangers and risks of early child labour, heavy child labour in dangerous and toxic environments.

#### **The fight against child sexual abuse**

319. The rights of the child, as victim of crime in general, and as victim of sexual abuse and exploitation in particular require clearer and more detailed regulations to ensure adequate protection for children during prosecution. There has been No. clear regulation concerning the principal agency responsible for information reception, implementation of assessment, cooperation policies to intervene, monitor cases of abuse. The number and quality of collaborators working in the care and protection of children at the community is still limited. Therefore, communications and education prevention activities have been met with difficulties. The discovery and timely handling of cases of child abuse is still limited.

#### **Prevention of trafficking in women and children**

320. Trafficking in women and children has not been handled completely. There still exist underground gangs, groups, and networks. The construction of legal documents is still slow and lacks uniformity. There is a lack of anti-human trafficking mutual legal assistance agreements, extradition agreements, and transnational plans and regulations. Coordination mechanisms between internal and border localities, as well as between agencies, ministries and localities have not been consistent. Communications activities have not truly been integrated into socio-economic programmes at the locality.

#### **Assistance for ethnic minority and handicapped children**

321. Ethnic minority children's accessibility to social services is still limited. The rate of malnutrition in children have not seen strong reduction, the graduation rate at various levels and the rate of ethnic minority children pursuing higher education is still low. Accessibility to health care, education services of handicapped children is still limited. Social awareness about education for handicapped children is not high, infrastructures are still lacking and the number of social actors involved in this field is few in number.

#### **Orientations**

##### **Supporting children living in the family through parental guidance and responsibility**

322. Viet Nam will strive to strengthen the family by building on and promoting the traditional values of the Vietnamese family. We will improve awareness about the role, responsibility of the family and the community in application of policies and laws related to marriage and family. To raise family living standards, family economic models will be promoted, the government will strengthen job creation and income generation and welfare. The formation, development, and quality of family services will be managed. Education and communications activities as well as capacity building for families (economic capacity and awareness of responsibility) will be strengthened. Further research about balance

between family and work will be conducted to assist parents fulfil responsibilities to their children.

### **Prevention of child labour**

323. Viet Nam will continue to increase communication, mobilization activities in order to bring about behavioural change and skill training to prevent and address heavy child labour in toxic environment which is dangerous to the family, the child and the employer. Besides continued investigations and assessment of on-site locations, a treatment and rehabilitation protocol for children will also be developed. In addition, an education model for children falling out of school due to early labour to reintegrate into the system will be developed as well as vocational and career orientation courses.

### **The fight against child sexual abuse**

324. The legal system regulating penalties for child sexual abuse, exploitation for commercial purposes will continue to be improved. At the same time, investments will be made to construct effective prevention models for sexually abused and exploited children at the community.

### **Prevention of trafficking in women and children**

325. Communication activities about all forms of child trafficking will be increased in addition to improved investigation, crack-down and prosecution against child traffickers. Related mechanisms, policies will be amended, supplemented and improved, effectiveness of reception and reintegration activities as well as the quality of international cooperation will be improved, ensuring the necessary funds for implementation.

### **Assistance for ethnic minority and handicapped children**

326. Investment in social infrastructures will continue to be made while being integrated into socio-economic development programmes. Training, vocational training activities will be improved to strive for the goal of higher income, hunger eradication poverty reduction for ethnic minorities. The construction speed for the programme to concretize schools will be increased, while policies aimed at raising the quality of teachers and managers in mountainous regions will be put in place.

327. Communication and vocational counselling for children: Children of ethnic minority parents will be strengthened, to allow for vocational training, employment and income in adulthood. Viet Nam will strengthen communication, raise awareness about handicapped children, and intensify early intervention and prevention activities. Encouragement policies will be developed together with rehabilitation mechanisms in community-based rehabilitation centres. Monitoring of observance of the law and policies related to handicapped children will also be strengthened.

### **Protection of handicapped employees**

328. Measures targeting protection of handicapped employees focus on the following:

- Raising social awareness and responsibility about handicapped people: Popular communications through mass media, particularly at the commune, ward level to highlight the necessity of sharing the work of care for the handicapped will be conducted. State policies for the handicapped and injury prevention measures will also be communicated.

- Improving the legal system related to handicapped people: Based on the assessment of 10-year implementation of the Ordinance on Handicapped people, the Ordinance should be considered being turned into law.
- Encouraging and creating favourable conditions for social organizations and individuals to participate in supporting people with disabilities: Facilitating the activities of the associations and businesses of the disabled; Continuing to promote academic education, vocational training, job creation and poverty reduction: promoting the integrated education model, combining academic with reintegrated education and vocational training. Strengthening health care, orthopaedics and rehabilitation for the disabled: Implementing community-based rehabilitation programmes, particularly in the rural and remote areas; and consolidating and upgrading the rehabilitation centres for disabled people.
- Improving the availability of public facilities, promoting art performances, physical education and sports for the disabled; Strengthening research activities, surveys and statistics on the disabled and fostering social workers; Promoting international cooperation: maintaining and expanding international cooperation with regional and international organizations to support disabled people, actively implementing the seven priority areas to help the disabled in accordance with the Biwako Framework and the International Convention on the Rights of Persons with Disabilities, promoting information exchange, experience sharing, technical assistance, and training of staff working with the disabled.

## **Article 11- Right to suitable living standards, particularly in terms of food, clothing and housing**

### **A. Right to continuously improving conditions**

#### **Current situation**

329. Article 15 of the 1992 Constitution of the Socialist Republic of Viet Nam clearly states that: "The main purpose of the State's economic policy is to bring about prosperity for the people and power for the country to better meet their material and spiritual needs on the basis of unleashing all the production capacity and bringing into full play the potentials of all economic sectors."

330. The policies aimed at improving the life of the people are mainstreamed in the current legal system of the State of Viet Nam, namely the laws on investment, land, tax, credit and specialized legal documents.

331. To achieve the above objectives, the Government of Viet Nam has launched various strategies and action plans to reduce poverty, continuously improve the living conditions for Vietnamese citizens throughout the years. Viet Nam's viewpoints and objectives are that economic development should be in par with the continuous development and protection of culture, the gradual improvement of the people's material and spiritual life, social progress and justice, and together with the protection and improvement of the environment. Therefore, the right to suitable living standards, particularly food, clothing and housing - the minimum rights that people are entitled to - is always given the highest priority by the Vietnamese State. In recent years, Viet Nam has put forward many measures, successfully implemented many socio-economic development programmes, and enhanced human rights in terms of economic, cultural and social rights.

332. Decision No. 135/1998/QĐ-TTg on 31 July 1998 approved by the Prime Minister stipulates socio-economic development programmes for communes with special difficulties, ethnic minority and mountainous areas (also known as Programme 135).

333. The socio-economic development strategy for 2001-2010 reaffirmed the overall goal to "bring Viet Nam out of underdevelopment, significantly improve the material, cultural, and spiritual life of the people; Laying the foundation for Viet Nam to become a modern industrialized country by 2020. Enhance the human resources, science and technology capacity, infrastructure, economic, defence and security strength. Basically form a socialist-oriented market economy; improve the position of Viet Nam in the international markets. Double the GDP compared to that of 2000. Significantly increase the Human Development Index (HDI). Considerably reduce poverty and the rate of poor households. Increase life expectancy and complete the universalization of secondary education, reduce the rate of malnourished under-five children to around 20 per cent and increase life expectancy to 71 years old. Significantly improve the quality of the material, cultural and spiritual life in a safe and healthy environment. Protect and improve the natural environment."

334. Decision 71/2001/QĐ-TTg by the Prime Minister on the National Target Programmes for 2001-2005, including poverty reduction programmes, was promulgated on 4 May 2001. Decision 20/2007/QĐ-TTg of the Prime Minister approving the National Target Programme on poverty reduction for 2006-2010 was issued on 5 February 2007. The overall objectives of the above-mentioned programmes are to accelerate the poverty reduction rate, limit poverty recurrence; consolidate poverty reduction results, create opportunities for the households which have escaped poverty to become better-off; improve the living and production conditions in the poor and disadvantaged communes; enhance the quality of life for the poor household group, limit the income and living standard gaps between urban and rural areas, delta and mountainous areas, and rich and poor households.

335. The Comprehensive Poverty Reduction and Growth Strategy (CPRGS) set the aim of promoting rapid and sustainable economic growth together with ensuring social progress and justice to improve the conditions and quality of life for all walks of life.

336. The Government's Resolution 30a/2008/NQ-CP on 27 December 2008 on the rapid and sustainable poverty reduction programme for 63 poor districts clearly specifies that the target of this Resolution is to improve the material and spiritual life of the poor and ethnic minorities in disadvantaged districts to bring them equal to that of other regional districts by 2020.

337. Measures targeting poverty reduction are relatively comprehensive, focusing on every particular, remote, ethnic minority and mountainous areas. The poverty reduction approach is implemented in three aspects:

- Increasing access to health, education and vocational training services, legal assistance, housing and clean water;
- Supporting production development through preferential credit policies, ensuring production land for the poor ethnic minority households, having measures to promote agricultural, forestry, fisheries extension, career development and labour export;
- Developing the essential infrastructure for communes with special difficulties.

338. Resources mobilized for poverty alleviation are increasing. The legal environment to mobilize the participation of the community, society and enterprises in supporting the poor has been improved. The above policies demonstrate Viet Nam's consistent attention to the continuous improvement of the living conditions for the people and the formulation of specific measures for each certain period.

**Defining poverty line in Viet Nam**

339. Poverty line is a criterion defined over time and depends on the socio-economic development level of each region. In the past, the poverty line was defined based on three regions namely urban, delta rural and mountainous rural areas. Today, the poverty line is defined based on two regions of urban and rural areas. The poverty line has also been adjusted throughout the time, depending on the country's economic capability to respond to the needs of the poor. Based on the actual living standards in each period, since 1993, Viet Nam has adjusted the poverty line many times.

340. The 1997 poverty line applied for the 1996-2000 period for different regions was regulated as follows: mountainous rural areas and islands with income less than VND 55,000/person/month (equivalent to 15 kg of rice/person/month); delta rural areas and midlands with less than VND 70,000/person/month (equivalent to 20 kg of rice/person/month); and urban areas with less than VND 90,000/person/month (equivalent to 25 kg of rice/person/month).

341. The 2001 poverty line applied for the 2001-2005 period for different regions was regulated as follows: mountainous rural areas and islands would be supported if income was with less than VND 80,000/person/month; delta rural areas less than VND 100,000/person/month; and urban areas less than VND 150,000/person/month.

342. The current poverty line, in accordance with Decision No. 170/2005/QĐ-TTg on 8 July 2005 by the Prime Minister, is applied for the 2006-2010 period. The poverty line is specifically defined for rural areas to be less than VND 200,000/person/month; in urban areas is less than VND 260,000/person/month. The poverty line is calculated based on the minimum needs of people for food, clothing, health, education, culture, travelling and socializing.

**Monitoring the implementation of the strategies, programmes and plans:**

343. To assess the progress made in poverty reduction, the Government of Viet Nam has launched a system of monitoring and evaluation indicators. The monitoring and assessment of the implementation of the objectives on growth and poverty reduction are carried out in all national, ministerial and local levels, rural and urban areas, gender and social groups. The system of indicators to monitor and evaluate the implementation of the Comprehensive Growth and Poverty Reduction Strategy includes:

- Indicators to assess the results of economic development and poverty reduction;
- Indicators to monitor and evaluate the inputs of the Strategy;
- Indicators to monitor and evaluate the results of the objectives of the Strategy;
- Indicators to assess the impacts of each programme, strategy towards the poor and society as a whole. This system is specifically developed for each region, province, urban, rural areas, and gender. Some indicators will be specified by ethnic and social groups and economic areas.

344. The system of indicators used for tracking, monitoring and evaluating the Comprehensive Growth and Poverty Reduction Strategy includes:

- The development objectives (including the targets in the socio-economic strategy related to the poor);
- The targets to be achieved in the given time frame, particularly in 2005 and 2010;



- The intermediate targets (often called the monitoring indicators) reflect the statistics used to implement the development goals. Each target provides a statistical frequency and agencies responsible for the implementation.

## Results

345. Through the Vietnamese Government's policies, measures and efforts to reduce poverty, the poverty rate in Viet Nam has declined rapidly, from 58.1 per cent in 1993 down to 28.9 per cent in 2002, 16 per cent in 2006 and 14.5 per cent in 2008. The number of poor people dropped by 1.8 million annually, from more than 40 million in 1993 to 12.5 million in 2008. The rate of people living with hunger, measured by the food poverty line, declined from 24.9 per cent in 1993 to 10.9 per cent in 2002 and 6.9 per cent in 2008. Viet Nam has surpassed the Millennium Development Goal aimed at reducing 50 per cent of the people earning less than US\$1/person/day in the 1990-2015 period. In Viet Nam, this rate decreased from 39.9 per cent in 1993 down to 4.1 per cent in 2008.

346. Not only the number of poor people but also the poverty gap has also declined significantly for all groups and regions. The poverty gap index dropped from 18.4 per cent in 1993 to 9.5 per cent in 1998, 3.8 per cent in 2006 and 3.5 per cent in 2008. The nominal income and real income of the people have increase continuously. The income indicators of Viet Nam are listed in appendix 2.

## Challenges

347. The design of poverty reduction programmes and projects still experiences overlaps in terms of beneficiaries, policies and mechanisms in using the resources; some programmes and projects are invested in the same area, investment resources are not mustered adequately.

348. The rate of the poor households not using clean water, school drop-outs and malnourished children in poor households and poor areas remain high.

349. Some poverty reduction measures and policies still favour direct cash or in-kind transfer rather than creating opportunities and conditions for the poor to enhance their capacity to sustainably escape from poverty. Education support is not sufficient for children to go to school. Medical support leaves much to be desired..

## Orientation

350. Vietnam focuses on the following actions:

- Poverty reduction programmes which focus on improving the institutional environment and capacity building for the poor and poor households. Creating conditions for poor households to enhance production capacity and boost income through the application of preferential credit programmes, agricultural and industrial extension, market information provision, and tax reduction.
- Strengthening the monitoring, supervision and evaluation of poverty reduction programmes; ensuring the full participation of the people in the implementation of poverty reduction programmes, enhancing the people's monitoring on the process of identifying the poor, implementing poverty reduction policies.
- Socialization of poverty reduction resources; continuing to implement the model of enterprises supporting poor provinces; expanding the participation of the social partners in the provision of basic social services for poor

households and poor areas; enhancing capacity building and working conditions for local staff to meet the work requirements.

## **B. Right to adequate food**

### **Current situation**

351. The right to adequate food (National food security) does not only refer to the satisfaction on the people's minimum level of food but also ensure food safety and hygiene with adequate nutrition. The National food security comprises of three pillars:

- Always having safe and nutritious food.
- Ability to timely and reliably provide food at all times and locations..
- Everyone in society can access to adequate food.

352. Over the years, the State of Viet Nam has always paid attention to this issue. Many policies, programmes and measures have been proposed to meet the people's minimum demand of food, provide nutrition for the people to maintain, develop their physical and mental strength, and ensure food safety and hygiene for the people with particular focus on poverty reduction and income improvement for the people.

353. Article 3 of the 1992 Constitution of Viet Nam stipulates that the State ensures and constantly promotes the people's mastership in all aspects, builds a strong and prosperous country, implements social justice to ensure the people's prosperity, freedom, happiness and comprehensive conditions to develop.

354. Article 20 of the 1993 Land Law (No. 24-L/CTN on 14 July 1993) stipulates that the State allocates land for organizations, households and individuals for a long term use, creates favourable conditions for the people to develop production, create jobs and increase income.

355. The 1996 Law on Cooperatives (No. 47-L/CTN on 20 March 1996) stipulates that Cooperatives is an autonomous economic organization set up by the voluntary labour and financial contribution from workers who have common needs and interests in accordance with the law. It is aimed at promoting the collective and individual strength in production and business activities.

356. The 1998 Law on Domestic Investment Promotion (No. 03/1998/QH 10 on 25 May 1998) and the 2005 Investment Law (No. 59/2005 /QH11 on 29 November 2005) provide specific incentive policies for industries and areas of priorities for investment promotion.

357. The 1997 Trade Law (No. 58-L/CTN on 10 May 1997) is a legal basis for the development of the multi-sector commodity economy under the socialist-oriented market mechanism with the State's management, development of the commodity, trade and service markets across the country, expansion of trade activities with foreign countries to protect the legitimate interests of the producers, consumers and traders.

358. The 2007 Law on the Quality of Goods (No. 05/2007/QH 12 on 21 November 2007) stipulates the rights and obligations of organizations, individuals producing and trading products, goods and organizations and individuals engaged in activities related to quality of products and goods; quality control of products and goods.

359. The 2006 Law on Standards and Technical Standard (No. 68/2006/QH 11 on 29 June 2006) stipulates activities related to the development, publication and application of standards; development, adoption and application of the technical standards; compliance assessment for standards and technical standards.

360. There are also other legal documents on food safety and hygiene, varieties, science and technology development, vocational training, animal and plant quarantine, fertilizers, agricultural materials, agricultural expansion, national reserves, farming, agricultural and forestry reform, state owned enterprises, irrigation, livestock feed, fisheries, etc.

361. Viet Nam is an agricultural country. However, there were long periods of time that Viet Nam experienced food shortage and had to import foodstuff to meet the domestic demand. Thus, the development of food production is vital. Viet Nam has consistently invested in developing the irrigation system to provide water for the fields. As a result, many unused lands have been utilized; the number of crops has been increased, thus significantly raising the food output. The State has also applied various assistance policies such as forming an agricultural extension system from the central to local levels. Investment in the agricultural extension has increased steadily over the years in order to transfer new technology, new varieties to the farmers, restructure crops, avoid natural disasters, exempt land-use tax, allocate the lands for people to use in a twenty-year duration (from 1993), exempt irrigation fee, develop varieties to improve productivity, quality, increase the domestic fertilizer production to ensure production inputs.

362. The State has strengthened the national reserve to stabilize production in case of natural disasters, droughts, epidemics and price fluctuations, purchased the rice to stabilize the food prices, assisted farmers in post-harvest storage to reduce losses, increased the products' quality, and attracted investment to develop food supply and distribution services.

363. Viet Nam also issued the National Strategy on Nutrition for the 2001 - 2010 period (Decision No. 21/2001/QĐ-TTg on 22 February 2001). With the support of the international organizations, the Ministry of Health has cooperated with relevant authorities to map out measures to disseminate knowledge on the nutrition principles to the people:

- Incorporating the nutrition contents at various conferences, seminars and training courses to raise the awareness, advocacy and mobilization skills, and responsibility of the officials at all levels on the nutrition work;
- Training and improving the knowledge and skills of communication, advocacy, counselling for officers of agencies, sectors at all levels on the issues of food security, nutrition and food safety; developing, assessing the effectiveness and expanding the inter-sectoral model of "Improving food security and nutrition, reducing malnutrition";
- Ensuring the close coordination among agriculture, market, trade and health sectors; monitoring the changes in food balance, based on the nutritional requirements making recommendations to the Vietnamese people on how to ensure sustainable food security of the households in term of both quantity and quality of food;
- Promoting information, education and communication activities to improve the knowledge and practice of nutrition and health care so that all the people will follow the "Ten tips for healthy eating" (Decision No. 05/2007/QĐ- BYT on 17 January 2007).

364. Poverty reduction programmes have been directed to assist the vulnerable groups to access to the land, credit, natural resources and technology for food production. Various legal documents have been issued to manage the standards and technical standards, control food safety and hygiene, and implement the national target programme on food safety (Decision No. 149 / 2007/QĐ-TTg on 10 September 2007).

**Results**

365. Food per capita in 1993 reached 341 kg/person/year. Within five years from 1996 to 2000, the production of grain (rice, maize) increased from 27.93 million tons to 34.5 million tons, an average increase of 1.32 million tons/year. The average growth rate was 5, 5 per cent while the average population growth rate was 1.5 per cent / year. From 2000 to 2008, the grain production increased more slowly compared to the previous 5 years: from 34.5 million tons in 2000 to 42.9 million tons in 2008, a 8.4 million ton increase, the average increase was 1.05 million tons, the average growth rate was 2.75 per cent/year, 2.2 times greater than the population growth rate. The production of vegetables, fruits, livestock and aquatic products also increased significantly.

366. 3Regarding nutrition: In 2000, the average calories consumption reached 1931 kcal/person/day. As a result, the rate of anaemia among pregnant women declined from 52 per cent in 1995 to 32 per cent in 2000. The rate of malnourished among under-five children fell from 38.7 per cent in 1999 to 25.2 per cent in 2005 and 18.9 per cent in 2009, an annual decrease of 2.08 per cent.

**Challenges**

367. Food production remains sustainable and prone to risks from natural disasters, epidemics and price fluctuations. Agricultural production is not renovated, the land is fragmented. Production infrastructure and services remain weak. Production, trading, import and export also encounter weaknesses. Producers' incomes, especially rice growers remain low.

368. Climate change and sea level rise are becoming increasingly prominent; Viet Nam is one of the countries most vulnerable to the impacts of climate change. The area of paddy lands in the Mekong Delta will be affected by saline water intrusion, reducing the rice planting areas and rice production. The land areas for agricultural production, including rice land are shrinking sharply due to the process of industrialization, infrastructure and urban development.

**Orientation**

369. Vietnam focuses on the following actions:

- Effectively implementing the Government's Resolution on Ensuring the National Food Security (Resolution No. 63/NQ-CP on 23 December 2009) under the motto: Ensuring the continuous and regular availability of food anywhere and under any condition; ensuring the stability and sustainability of food supply for households and households' sustainable access to good-quality and safe food.
- Continuing to effectively implement effectively the 2001-2010 National Strategy on Nutrition approved by the Prime Minister on 22 February 2001, the National Programme for the Prevention of Child Malnutrition and the National Action Plan to Ensure Food safety and hygiene to 2010 (Decision No. 43/2006/QĐ-TTg on 20 March 2006).

**C. Right to water****Current situation**

370. Article 29 of the 1992 Constitution of Viet Nam stipulates that: the State agencies, economic organizations, social organizations and all individuals must comply with the State's provisions on the rational use of natural resources and environmental protection.

Articles 15 and 16 of the 1992 Constitution stipulate that the State develops a multi-sector economy under the market mechanism. The main objective of the State's economic policies is to create a powerful country with prosperous people, to better meet the material and spiritual needs of the people on the basis of unleashing all production capacity, making full use of the potentials of all economic components. In the spirit of the 1992 Constitution, water supply has been shifted from being developed and subsidized (with limited resources) by the State to being an area of production and businesses carried out by organizations and individuals in order to bring into full play the potential of all economic sectors and promote socialization while still ensuring the leading role of the State. Clean water is accurately and fully calculated into the production costs to ensure the effective and sustainable production and business operation.

371. The Law on Water Resources enacted in 1998 (No. 08/1998/QH10 on 20 May 1998) creates a legal environment for the production and trading of water resources and stipulates the State's assistance policy for some beneficiary groups. Article 1 stipulates that individuals and organizations have the rights to exploit and use water resources for livelihood and production, the State protects the legitimate interests of organizations and individuals in all water resources exploitation and usage activities. Article 6 stipulates that the State has to prioritize investment to resolve the water problems for the population living in the areas suffering from particular water scarcity, invest in infrastructure development for water resources. Article 7 stipulates that the State implements the policy on water resources tax exemption and reduction and fee reduction for areas with difficult socio-economic conditions and areas with extremely difficult socio-economic conditions.

372. The urban water supply orientation to 2020 (Decision No. 63/1998/QD-TTg on 18 March 1998 by the Prime Minister) aims at improving the quality and quantity of water for production and livelihood in urban areas. The strategy for Water Supply and Sanitation in rural areas to 2020 (Decision No. 104/2000/QD-TTg on 25 August 2000 of the Prime Minister) has the goal to ensure that by 2020, all rural residents have access to clean water of national standards with the minimum volume of 60 litres/person/day.

373. The National Target Programme on Rural Water and Sanitation is enacted to implement the rural water supply and sanitation strategy by 2020. This programme has been implemented since 1998 (Decision No.237/1998/QD-TTg on 3 December 1998 and Decision No. 277/2006/QD-TTg on 11 December 2006 of the Prime Minister). The State's budget, prioritizes on investment in the poor areas and areas with difficulties, relating to clean water, health stations, and in residential groups along the borders, elementary schools, and border stations.

374. The assistance policy for production lands, residential lands, housing and water for the households of ethnic minorities is stipulated at Decision No. 134/2004/QD-TTg on 20 July 2004 of the Prime Minister.

375. Water Quality: The standards for potable water in Viet Nam are stipulated with 112 indicators, with the inspection frequency once every month; the clean water standards are prescribed with 22 indicators, with the inspection frequency of once in 6 months. In 2009, Viet Nam promulgated the National Technical requirements on Clean Water Quality (QCVN 02: 2009/BYT). The management of price and water quality, resource exploitation, production, supply and consumption of clean water is in accordance with the regulations for urban water supply.

#### **Supporting mechanisms for clean water**

376. For ethnic minority households scattered in high and rocky mountainous areas, the central budget supports 0.5 tons of cement/household or VND 400,000 to build water tanks or wells, and for centralized water supply projects, the central budget supports 100 per cent

for the villages and hamlets whose population of ethnic minorities is higher than 50 per cent (Decision No. 134/2004/QĐ-TTg on 20 July 2004 of the Prime Minister).

377. For dispersed water supply (cisterns, wells), the State's budget does not support more than 45 per cent for the delta, 60 per cent for the midlands and not more than 75 per cent for mountainous areas; The State's budget does not support more than 45 per cent for centralized water supply projects, 60 per cent for towns, 75 per cent for delta and other rural areas, 90 per cent for communes with special difficulties (Decision No. 277/2006/QĐ-TTg on 11 December 2006 of the Prime Minister). The preferential credit loan reaches VND 4 million/household, enabling the people to actively solve the problems of household clean water and sanitation.

#### **Solutions to resolve clean water issues for the people**

378. The following measures have been taken to resolve clean water issues: (a) Promoting the socialization of water supply and rural sanitation, creating more capital; (b) establishing a credit system and subsidy system for the development of water supply and rural environment sanitation; (c) training human resources, bringing science and technology to water supply and sanitation work; and (d) boosting international cooperation and strengthening the effectiveness of the State's management.

#### **Measures to ensure affordable water supply service**

379. The Vietnamese Government ensures that the price for water supply services provided by either the private sector or the State matches with the people's incomes. The clean water rates in rural areas are decided by the Provincial People's Committee, ranging from VND 1,800 to 4,500/m<sup>3</sup>. Article 51 of Decree No. 117/2007/ND-CP on 11 July 2007 of the Government stipulates that: In case the clean water price is determined lower than the proposed price, which is accurately and fully calculated in accordance with the regulations, the Provincial People's Committee must consider covering that difference amount using the local budget to ensure the legitimate rights and interests of water supply agencies.

#### **Water quality monitoring system**

380. To monitor the water quality, on 14 April 2008, the Ministry of Agriculture and Rural Development issued Decision No. 51/2008/QĐ-BNN on the promulgation of indicators to monitor and assess the clean water and rural environment sanitation: the index includes 14 indicators (8 indicators at the sector level and 6 indicators at the programme level). The index is implemented consistently from the central to local levels. The People's Committees at all levels shall be responsible for directing, monitoring and inspecting the implementation process. The annual implementation of water quality monitoring helps the State management agencies and units providing clean water manage the quality of clean water supplied to the people.

#### **Educating people to use sanitary water, protect water resources**

381. In recent years, the Government of Viet Nam has paid particular attention to disseminating information and educating people to use sanitary water and protect water resources.

382. Every year, strategic communication campaigns are held across the country to promote "the National Week of Clean Water and Environmental Sanitation" (from 29 April to 5 May, the World Environment Day on 5 June annually). Besides, the mass media (newspapers, radio, television, etc.) also focus on bringing necessary information and knowledge on water supply and rural environmental sanitation to the communities. Various

national conferences have been held to introduce the Programmes and Strategies for the management staff of agencies, departments, provinces and international organizations with the aim to bringing the Strategies' contents into the practical implementation of Programmes.

383. Agencies and departments from the central to local level have implemented various movements with diverse communication forms and mobilized the community's participation in accordance with their role and advantages such as: The Vietnamese Fatherland Front had a movement called "All people unite to develop a good cultural life" movement; developed "Good Cultural Village-Healthy Village"; Viet Nam Farmers' association launched a movement enabling farmers to join hands in developing a new rural areas and a good lifestyle; Viet Nam Youth Union had a movement called "Voluntary Youth for Green - Clean - Beautiful environment; The Viet Nam Women's Association mobilized women to participate in developing, managing and effectively using water supply projects and rural environmental sanitation; developed models of revolving loans for the development of small and scattered toilets, water supply, etc.

384. In addition, several documents on IEC with detailed contents were edited, introduced and disseminated to the provinces with the aim of raising the awareness, changing the behaviours, providing information on various types of water supply and sanitation; the quarterly "Bulletin of clean water and environmental sanitation" was published; and the Website on water supply and rural environmental sanitation was launched.

## **Results**

385. The proportion of rural households using and having access to clean water increased from 30 per cent in 2000 to 62 per cent in 2005 and 83 per cent in 2010. The proportion of urban households having access to clean water increased from 30 per cent in 1998 to 84 per cent in 2010. Thus, the right to clean water increased both in quantity and quality, creating more conditions for people.

## **Challenges**

### **For rural water supply**

386. Water quality and water supply works quality have not met the full requirements. Up to now, a population of the rural population still lacks access to hygienic water. Among the rural population having access to clean water, only 45 per cent has access to water which meets the Ministry of Health's standards. Funding for the maintenance of rural water supply projects is still limited, the exploiting and operating process in some areas are not consistent with the dispersed living conditions of the rural population. Some projects quickly degrade, thus the capacity to provide services also reduces. At present, the quantity and quality of water supply in some areas are declining; the monitoring and testing of water quality in some areas fail to comply with regulations, particularly for small water supply projects.

### **For urban water supply**

387. The proportion of urban population having access to clean water is not high, some still use water from self-drilling wells which is untreated and disinfected. The water pipeline system is still in shortage and has been used for many years, and not upgraded and synchronized. Therefore, water wastage in urban areas is relatively high at an average of 32 per cent.

**Orientation****Information - Education - Communication and community participation**

388. This is achieved by changing the communication method following the "bottom up" strategy, based on demand, implementing the strategy "People know, people discuss, people do and people supervise", under which people may participate from the planning stage through the organization and utilization of the projects; as well as by strengthening the coordination with other ministries and branches in the communication activities at all levels from central to local level; and by compiling handbooks on technology, protection and use of water resources, protection of agricultural and rural environment.

**Renovation of financial mechanisms**

389. This is achieved by creating a financial mechanism based on the principle of bringing into full play internal resources; users contribute parts of the construction costs and all operation, maintenance and management costs; the State supports the poor areas and provides the technologies that are being encouraged. Through the incentive policies covering tax, land, preferential credit capital and protection of investors', and drafting and promulgating regulations on water price range and water fee collection with regard to centralized water supply systems, the private sector and other economic sectors are encouraged to invest in the construction of water supply and sanitation works.

**Improving the organization, enhancing the effectiveness of state management, human resource development:**

390. Establishing a management system for water quality, works' management and maintenance after construction, will ensure the continuous and effective operation of all the works, and promote the understanding that water is a commodity and a special commodity; Developing and maintaining a monitoring, managing and supervising system for the sector's data; training staff and employees adequate in both quantity and quality will ensure the management and implementation of programmes and strategies.

**Researching and applying appropriate technologies**

391. This research, based on the pilot technologies will serve to assess, adjust, and expand these technologies to apply to similar regions, particularly advanced technologies to ensure the quantity, quality and sustainability of the project. Research will continue on the application of technological solutions for handling hazardous chemicals, saline water; models of toilets for areas prone to natural disasters and floods.

**D. Right to housing****Current situation**

392. Previously, housing was subsidized by the State with limited resources. However, at present, organizations and individuals are facilitated to be involved in housing development through the formulation of various policies. Article 15 of the 1992 Constitution stipulates that the State develops a socialist-oriented multi-sector commodity economy under the market mechanism and the State management; article 17 stipulates that citizens have the inviolable right to housing.

393. Law on Housing of 2005 (No. 56/2005/QH11 on 29 November 2005) focuses on housing development in accordance with the market mechanism, bringing into full play the potential of all economic sectors, the State adopts specific policies for some policy beneficiaries to improve their housing conditions. Law on Housing stipulates the right to



housing and housing ownership (art. 4), protection of the citizens' right to housing ownership (art. 5) and policies on housing development ( art. 6). Article 6 of the Law stipulates that "the State actively invests in developing the housing fund owned by the State to lease and lease-purchase to serve the mobilization and rotation requirements of the officials and public servants; adopts policies to provide direct support for a number of policy beneficiaries to improve the housing conditions."

394. To create a legal environment for the formation and development of real estate market, the State issued Real Estate Business Law (No. 63/2006/QH 11 on 29 June 2006). This law stipulates the rights and obligations of organizations and individuals engaged in real estate business and transactions related to real estate business.

395. The State always pays attention to the housing issues for the people. In 1991, the State enacted Ordinance No. 51-LCT/HDNN8 on Housing in order to shift from a subsidized system towards policies facilitating organizations and individuals to participate in housing development. In 2004, the Prime Minister approved the housing development orientation to 2020 (Decision No. 76/2004/QD-TTg on 6 May 2004) which aims at meeting the needs for housing of the people, expanding the capacity to mobilize investment capital from different economic sectors, promoting the formation of the real estate market, developing the housing fund for low-income people. In 2006, the State promulgated the Law on Housing regulating that Viet Nam will not use the State budget to develop; housing development shall comply with the market mechanism. The State has also promulgated policies to support housing development for some policy beneficiaries.

396. To support the policy beneficiaries' access to housing, the State have issued many policies such as: Supporting people with meritorious contribution to the revolution to improve their houses (Decision No. 118/TTg on 27 February 1996, Decision No. 20/2000/QD-TTg on 3 February 2000 of the Prime Minister), Investing in concreting foundation to avoid flood in the Mekong Delta (Decision No. 1548/QD-TTg on 5 December 2001 of the Prime Minister), Applying deferred payments for households in flooded areas with regard to house foundation and houses in residential clusters (Decision No. 105/2002/QD-TTg on 2 August 2002 of the Prime Minister), Applying deferred payments for ethnic minority households in the Central Highlands (Decision No. 154/2002/QD-TTg on 11 November 2002 of the Prime Minister), Housing and land assistance for households of ethnic minorities with difficult living conditions (Decision No. 134/2004/QD-TTg on 20 July 2004 of the Prime Minister), Housing programme for students of universities and colleges to 2010 (Decision No. 155/2005/QD-TTg on 23 June 2005 of the Prime Minister), Concreting schools, classrooms and service houses for teachers in the 2008-2012 period (Decision No. 20/2008/QD-TTg on 1 February 2008 of the Prime Minister), Supporting the poor with regard to housing (Decision No. 167/2008 / QD-dated 12 December 2008 of the Prime Minister).

## Results

397. Up to now, 10,870 veteran revolutionaries have been supported, 2,575 of whom have been supported with houses, 7,687 supported with money, the rest supported in other forms.

398. The Programme to develop population groups and branches in the flooded areas of the Mekong River delta with 817 projects targeting 744 groups, branches and 73 available residential embankments is being implemented. So far, 742 groups and branches and 72 embankments have foundations concreted. Provinces have completed 91,000 houses out of 111,233 required houses for households eligible to the programme.

399. By implementing Decision 134 of the Prime Minister, 340,071 houses have been provided to poor ethnic minorities with a value of VND 1,679 billion. 38,505 people have

been assisted to purchase houses owned by the State, 4,744 people have been given lands to build houses, 64,020 people have been given support in building or repairing houses, and 36,987 people have been given houses of gratitude.

400. In 1993, the average housing area was about 6.9 m<sup>2</sup>/person in urban areas and about 10.32 m<sup>2</sup>/person in rural areas. In 2000, the average housing area was 7.2 m<sup>2</sup>/person in urban areas, 12.2 m<sup>2</sup>/person in rural areas. By 2009, the average housing area reached 22.0 m<sup>2</sup>/person in urban areas and 16.1 m<sup>2</sup>/person in rural areas.

401. According to the general census of population and housing in 1999 and 2009, the rate of homeless households fell from 6.7/10,000 households to 4.7/10,000 households; the percentage of households living in shelters or houses of poor conditions reduced from 38.5 per cent to 15.2 per cent.

### **Challenges**

402. The State does not directly invest in the construction of houses; therefore there is no state-owned housing fund to regulate the market in case of fluctuations. There is also a speculation phenomenon of creating artificial demand to push up home prices beyond the affordability by workers. Some businesses just focus on building houses for sale. Thus, shortage of houses for leasing and selling has led to difficulties in the housing situation in the urban areas, especially for households with low incomes.

403. Despite gradual adjustments in salary policy, wages are still inadequate compared to reality. Moreover, there isn't any mechanism that enforces employers to have responsibilities in taking care of housing for their employees.

404. Houses for low-income people are still in shortage, the organization and selection of house owners in some places lack transparency and supervision of the community; therefore low-income people find it difficult to get access to these houses.

### **Orientation**

405. Vietnam focuses on the following actions:

- Continuing to implement the promulgated policies to support housing development for people with low-income in urban areas and poor households with housing difficulties in rural areas such as policies on the development of houses for rent for workers in the industrial parks (Decision No. 66/2009/QĐ-TTg on 24 April 2009); housing development policy for low-income people in the urban areas (Decision 67 / 2009/QĐ-TTg on 24 April 2009). Viet Nam strives to build houses for about 500,000 poor families with housing difficulties in the rural areas by 2012 under Decision No. 167/2008/QĐ-TTg on 12 December 2008; by 2015 resolve housing problems for 60 per cent of students with needs in accordance with Decision No. 65/2009/QĐ-TTg on 24 April 2009.

- Implementing a number of programmes and policies to support housing development for a variety of social beneficiaries, especially the low-income people. Focusing on supporting around 60,000 poor households with housing difficulties in poor districts; implementing the Programme to develop population groups and branches in the flooded areas of the Mekong River delta for the 2nd Phase, immediately directing and implementing dormitory projects for students, housing projects for workers of industrial parks, housing projects for low-income people with available land and sufficient conditions. The purpose of these programmes is to help rapidly and sustainably reduce poverty, improve social security, create favourable conditions for the people to have stable housing and livelihood.

- Amending and supplementing incentive mechanisms and policies to be more attractive to businesses so that they will invest more in building social houses for rent or lease-purchase purposes. Despite many incentive policies, the businesses have not shown much interest due to low profitability and long payback period.
- Continuing to implement the model of investment, construction and management, exploitation and operation of social housing projects invested with state funds. Researching and adopting housing policy for civil servants.
- Further improving appropriate credit mechanisms to create favourable conditions for households and individuals to get loans for housing improvement. Mobilizing investment at home and abroad to build houses, expanding international cooperation to acquire experiences in planning - architecture, managing projects and science & technology achievements in the area of developing and managing housing real estate market.

## **Article 12- Right to physical and mental health care**

### **Current implementation**

406. Viet Nam has participated and ratified the following international conventions and commitments: the Framework Convention on Tobacco Control initiated by the World Health Organization including production, sale and consumption of tobacco products. Viet Nam is the 47th country to ratify the Framework Convention and this Convention took effect in Viet Nam on 17th Mar 2005. Viet Nam has committed to implementing the relevant Millennium Goals. Viet Nam participated in the Statement on HIV/AIDS Commitments adopted at the special session of the 26th UN General Assembly in June 2001.

407. Based on the content of the Framework Convention on Tobacco Control, the Prime Minister issued Decision No.1315/QĐ-TTg on 21 March 2009 on the approval of the Implementation Plan of the Framework Convention on Tobacco Control including the objective, solution, timeline, responsibility and assignment of relevant agencies in codifying the regulations of the Framework Convention to implement rights and obligations of Viet Nam as a member of the Convention.

408. Viet Nam also submitted the following reports: “Viet Nam’s Millennium Development Goals” (2005), “Viet Nam continued path of Millennium Development Goals” (2008), “Viet Nam: 2/3 of the way toward the Millennium Development Goals by 2015” (2010); “3rd National Report on the implementation of HIV/AIDS commitments” in January 2008.

### **Viet Nam’s legal regulations on the health care rights**

409. Article 59 of the 1980 Constitution of the Social Republic of Viet Nam stipulates: “Workers have the right to rest. The State regulates the working, rest hours and recuperation of workers and officials. Retired, old, sick workers and civil servants or people who lose their working capability, have the rights to benefit from social security. The State gradually expands the coverage of social security in line with the development of the national economy and ensures that workers are entitled to benefit that right”. This article has created a firm legal basis for the health care activities in Viet Nam in the previous years and the years to come.

410. Article 61 of the 1992 Constitution expanded the subject to the entire population and affirmed that: “Citizens have the right to benefit from health care system”, accordingly the State regulates the medical costs, and reduction or exemption from medical costs”.

Apart from the rights to benefit from medical care, “Citizens have the obligation to observe the regulations on disease prevention and public hygiene”, “The illegal production, transportation, trade, stockpiling and use of opium and other narcotics are forbidden. The State requires mandatory rehabilitation for addicts and treatment of dangerous social diseases”.

411. In 2005, the Political Bureau issued Resolution No. 46/NQ-TW on the protection, care and enhancement of the people’s health in the new situation, the Resolution No.47/NQ-TW on further stepping up the implementation of population and family planning policies. These are important documents which determine the reform guidelines and improve Viet Nam’s health-care system in equal, effective manner, and help enhance directions in order to create favourable conditions for the protection, care and improvement of health with better quality; these documents also emphasized good implementation of population and family planning work in line with the national socio-economic development in the context of the comprehensive reform, industrialization and modernization; socialist-oriented economic development and international economic integration.

412. The Health Insurance Law No. 25/2008/QH12 adopted by the National Assembly on 14 November 2008 regulates health insurance schemes including the beneficiaries, premium, responsibility and payment method; health insurance card, scope of coverage of health insurance; organization of medical examination, treatment for participants in health insurance; payment of medical examination and treatment. This law has created a legal basis for the participation of health insurance by the whole population and facilitate the people to partake in health insurance programmes, creating sustained public resources for medical check-up and treatment, in which the government supports the payment of health insurance for the poor, children under 6 years old, people with contributions to the national revolution, policy and social beneficiaries. In order to implement the Health insurance Law, the Government promulgated Decree No. 62/2009/ND-CP on 27 July 2009.

413. Besides, other legal documents were also adopted and implemented such as Ordinance on Population (2003), Ordinance on Food Safety and Hygiene (2003), Law on Protection, Care and Education of Children (2004), the Pharmaceuticals Law (2005), Law on Prevention of HIV / AIDS (2006), Law on Donation, Removal and Transplant of Tissues and Human Organs (2006), Law on Gender Equality (2006), Law on Prevention of Domestic Violence (2007), Law on Prevention of Infectious Diseases (2007), etc.

414. In the 1989 Law on Protection of People’s Health, there are various points that should be amended, supplemented and concretized in many contents related to the adjustment of the medical check-up and treatment. On 23 November 2009, the National Assembly promulgated the Law on Medical Check-up and Treatment No. 40/2009/QH12. This law stipulates the rights and obligations of patients, medical practitioners; conditions for medical practitioners and medical examination and treatment institutions; expertise in medical examination and treatment.

415. Resolution No. 18/2008/NQ-QH12 on 2 June 2008 of the 3rd Session of 8th National Assembly on stepping up policies, and laws on the socialization of public services to improve the health-care quality. Article 2 clearly stipulates the increase of the annual budget for health care; ensure that the additional expenditure for health care is higher than the average expenditure increase of State’s budget. At least 30 per cent of the budget for health is used for preventive health; spend suitable budget rate for the health care of meritorious people, the poor, farmers, ethnic minorities and people living in disadvantaged areas and areas with special difficulties. Continue to issue Government bonds to invest in and renovate district and inter-district hospitals, communal health clinics, tuberculosis, psychiatric, cancer, tumour and paediatrics hospital; specific provincial hospitals in the mountainous and remote areas; complete the investment of upgrading district and inter-district hospitals in 2010.

416. Prime Minister's Decision No.153/2006/QĐ-TTg on 30 June 2006 on the approval of the Development Master Plan of Viet Nam's health care up to 2010 and vision by 2020, which identifies the goals of gradually building a modern and perfect health system in order to move forward equality, efficiency and development and meet the growing and diverse demand of the people for the protection, care and improvement of health; reduce the rate of infection and mortality, increase life expectancy and improve quality of life; meet and exceed the targets set in the Strategy of Care and Protection of People's Health in 2001 – 2010.

417. Prime Minister's Decision No. 30/2008/QĐ-TTg on 22 February 2008 on the approval of the Plan for building of the medical treatment network by 2010 and vision to 2020 concretized the goals of promoting the hospital and medical clinics networks as well as implementation measures.

418. Government Decree No. 43/2006/ND-CP on 25 April 2006 regulated the autonomy, self-responsibility in implementation of tasks, organizational structure, personnel and finance of commercial-based public service units with the aim of maximizing the capacity and activeness in terms of organizational structure, personnel and finance; and mobilize the contributions of the community to provide high quality services to society. In addition, the State pays due attention to the investment in clinics to ensure that social policy beneficiaries, ethnic minority areas, remote and disadvantaged areas are provided with better services in accordance with the regulations.

419. The long-term orientations for the health sector also appear in the Strategy of Care and Protection of People's Health promulgated by Prime Minister in the 2001-2010 and 2011-2020 periods. On that basis, the long-term strategies of the sector have been established such as the Population Strategy for Viet Nam in 2001-2010; National Strategy on Reproductive Health; National Nutrition Strategy; National Strategy on HIV / AIDS in Viet Nam in 2010 and vision by 2020; Programme on Prevention of Accident and Injury, Tobacco Control, Food Safety; National Policy on Health Equipment in 2002-2010.

420. In general, many important policies of the Party and the State have been enacted to meet the demands of national reform and development in the last 20 years. In the implementation process, the policies have been supplemented and adjusted in accordance with the reality of each period. The reform and improvement of the Vietnamese health system in an equal, effective and developed manner is on the right track.

421. Viet Nam has effectively implemented many important measures in order to build the health system in an equal, effective and developed manner, in which priorities are given to the poor, remote areas, ethnic minorities, children under six years old and policy beneficiaries; preventive health, basic health and activities to care for people's health. Therefore, the protection and care of people's health in recent years have made many important achievements.

422. The health indicators of the Vietnamese people have continuously improved and are higher than that of countries having the same income. In 2009, the average life expectancy of the Vietnamese reached 72.8; maternal mortality rate related to pregnancy was 68/100,000 live births; mortality rate of children under 1 year was only 15 per cento; mortality rate of under-five children was 25 per cent and the malnourished ratio of under-five children was only 18 per cent (see appendix 3).

## **Medical check-up and treatment**

### **Organization of health system**

423. By Prime Minister's Decision No. 153/2006/QĐ-TTg on 26 June 2006 on the approval of the Development Master Plan of Viet Nam's health care by 2010 and vision to

2020, the health system has been restructured in four main areas: preventive health services network; local health-care facilities; medical treatment and rehabilitation; network of production, circulation, distribution and supply of medicine.

#### **Medical check-up and treatment network**

424. The health care network from central to local levels has been gradually consolidated with 1,062 public hospitals with 140,000 beds, 74 private hospitals with 5,600 beds. The demand for medical examination and treatment of people is satisfied on a basic level.

425. The State always pays attention to the consolidation and improvement of basic health care network, in which priority is given to the investment and development of communal health centres. By the end of 2009, 100 per cent of communes had medical staff, over 90 per cent of health clinics had midwives or midwifery doctors and paediatric doctors, 69 per cent of communes had doctors; 85 per cent of villages had medical staff; 65 per cent of communes nationwide reached national standards for communal health care (in 2005 this rate was only 36 per cent). Health care network in the local communes has positively implemented the National Target Programme on health, facilitating the people's access to quality basic health service, especially the poor and ethnic minorities.

426. Over 70 per cent of the clinics in communes provide basic medical examination and treatment service for people with health insurance card. Following increased investment and staff, improved facilities and incentives for local staff, the communal health clinics have completed the National Target Programme, organized the monitoring of primary health care with good results, pregnancy care; facilitated people's access to health services, especially the poor, women and children. The total number of medical examination and treatment in communal health centres has increased as the result of good disbursement of health care fund for the poor, increased health insurance for children under 6 years old and the social policy beneficiaries.

427. The private health sector continues to grow. Currently there are over 30,000 private clinics, reducing considerably the overload of patients for government health clinics, contributing to the enhancement of quality services, offering new options to people when they look for health care. However, the number of private hospitals and beds accounts for a small ratio compared to that of public health facilities; the ratio of private hospital is 6 per cent and the number of beds is 3 per cent.

#### **Development of expertise and techniques:**

428. The quality of medical examination and treatment in health clinics at all levels especially the central and city level has increasingly improved. Some new and advanced techniques have been successfully applied and become popular in hospitals such as a kidney and liver transplant, in vitro fertilization, open heart surgery, angioplasty, endoscopy, bone surgery and transplant of bone marrow, vascular surgery, hard ball joints transplant, blood purification, Extracorporeal Shock Wave Lithotripsy (ESWL). Many advanced technologies were used at the provincial level, such as MRI, CT scanner, Digital Subtraction Angiography, biochemistry, haematology, blood transfusion, microorganism; nuclear laser medicine, increasing the ability of screening and early detection of cancer, more accurate diagnosis of lesions. Endoscopy surgery has become popular in most of hospitals at central and provincial levels.

#### **Increased investment in facilities, equipment, and human resources for basic health care:**

429. In the context of poor and inadequate facilities, equipments and limited capacity of human resources in health clinics, the Prime Minister issued Decision 47/2008/QĐ-TTg

dated 2 April 2008 approving the construction, renovation and upgrade of district and regional hospitals funded by government bonds and other lawful financial sources in the period of 2008-2010 with a total budget of VND 17,000 billion, in which VND 14,000 billion from government bonds; Decision No.930/QD-TTg on 30 June 2009 approving the "Investment in construction, renovation or upgrading of tuberculosis, psychiatric, tumour, paediatrics hospitals, and some provincial hospitals in the mountainous and disadvantaged regions with capital raised from government bonds and other financial sources in 2009-2013" in order to meet the health care demands of the local people and create favourable conditions for the poor and people in rural, mountainous and remote areas to access quality health services, thus contributing to reduce the overload of hospitals at central level and improve the quality of medical staff. The total investment of this project in 2009-2013 is roughly VND 45,280 billion, of which the government bonds for the local governments is about VND 32,628 billion, the annual budget of local governments and other legal funds is approximately VND 10,002 billion, the official development assistance (ODA) is about VND 2,340 billion; the Prime Minister's Decision No.950/QD-TTg on approval of the renovation and upgrading project of communal health clinics in mountainous and disadvantaged regions worth more than VND 3,200 billion.

430. Currently there are 95 training institutions for medical staff, of which there are 19 universities and 25 colleges. The quality of the training institutions has been gradually increased, contributing to improvement of the human resources training system. Around 4,000 doctors and 35,000 health workers are trained annually. The training of full-time doctors with priorities given to students in the Central Highlands, mountainous and remote areas has been promoted with a view to increasing the staffs in disadvantaged areas. Decision No.1816/QD-BYT on 27 May 2008 by the Minister of Health on approval of the project of regular transfer of staff at central level to work in hospitals at local level together with transfer of technology in order to narrow the gap of professional quality in lower level hospitals, contributing to relief of pressure on central hospitals and increase people's access to health services quality.

### **Preventive health**

431. Prime Minister's Decision No. 255/2006/QD-TTg on 9 November 2006 on approval of the National Strategy on Preventive Health by 2010 and Orientations by 2020 is a step to concretize the development guidelines of preventive health. The Law on Prevention of Infectious Diseases No. 03/2007/QH12 was adopted by the 7th National Assembly on 21 November 2007. These are the highest legal documents and the basis for the most effective control, management and prevention of diseases.

432. Resolution No. 18/2008/QH12 on 3 June 2008 of the National Assembly stated that "The annual budget of the local government should be reversed at least 30 per cent for preventive health care", Prime Minister's Decision No.1402-QD-TTg on 15 October 2007 on approval of the development project of district's preventive health care centres in the period of 2007 – 2010. Decision No.401/QD-TTg on 27 March 2009 approved the programme for diseases prevention in educational institutions under the national education system to promote health care in schools; Prime Minister's Decision No. 108/2007/QD-TTg on 17 July 2007 on approval of the National Target Programme on prevention of some social diseases, dangerous epidemics and HIV / AIDS; National Action Plan against Influenza Pandemic; Programme on Prevention of Malnutrition of Children and Iodine Deficiency Disorders; National Target Programme on Clean Water and Sanitation in the rural areas- Phase 2 (2006-2010 ), National Programme on Labour Protection, Labour Safety and Labour Sanitation by 2010.

433. Over the years, preventive health has made many important achievements in all aspects. The preventive health network has been strengthened and developed from the

central to provincial, district, commune, village levels and Viet Nam was recognized as a country possessing a strong preventive health system from central to grass roots level.

434. Many dangerous epidemics have been controlled, reversed and eliminated. Compared to the period 2001 - 2005, the number of infected people causing the epidemics reduced by 52.6 per cent and mortality down to 18.7 per cent. Viet Nam was the first country to successfully control the SARS epidemic in 2003 and was recognized worldwide. The A/H5N1 flu has been closely monitored, and was not widely spread. Malaria has been basically controlled, the infection ratio among 100,000 people dropped from 108.0 in 2006 to 24.0 in 2009, the death rate due to malaria among 100,000 people decreased from 0.25 in 1998 to 0.03 in 2008. No. severe pandemics occurred in recent years, contributing to the care and protection of people's health, especially ethnic minorities, people in the mountainous and remote areas. The expanded vaccination programme proves very effective, and helps reduce dangerous infectious diseases, improve the quality of life of the young generation. For example the infectious diseases contracted by children in 1985 decreased by 40 times compared to 1976 and in 2005 down by more than 140 times versus 1976. Viet Nam eliminated smallpox and polio, neonatal tetanus in 1978 and 2000 respectively. Since 2002 there has been no plague. Many other infectious diseases that may cause epidemic outbreaks such as dengue, viral encephalitis, tuberculosis, typhoid and other emerging diseases are controlled and do not cause pandemic, limiting the prevalence and mortality.

435. From 2006 to 2009, the vaccination rate of 7 vaccines for children under 1 year of age reached 82 per cent, in which the vaccination of polio, BCG, VGB is always high, over 90 per cent; the mortality rate of children under 1 year was controlled less than 15 per cent and children under 5 years old below 24 per cent, the maternal mortality rate was 70/100,000 live births. In 2010, this rate was estimated 68/100,000. Viet Nam has effectively implemented the National Target Programme (NTP) against dangerous epidemics, HIV / AIDS, and the NTP on Food Safety and Hygiene.

436. The scientific research has gained remarkable achievements such as transfer of biotechnology in production of vaccines and bio-medicine. Viet Nam is one of the few countries in Southeast Asia that can produce vaccines to meet the demand of the population. In 2000, Viet Nam was able to produce 5/10 of its own vaccines used in expanded vaccination programme. In 2005, Viet Nam could produce 9/10 vaccines used in the expanded vaccination programme, meeting 100 per cent demand for 7 of the 10 vaccines.

437. Border medical quarantine is conducted in most of the checkpoints to prevent dangerous diseases that may spread to Viet Nam, ensuring national health security.

438. Environmental health has been strongly implemented in many localities. The percentage of households using clean water and toilets continues to grow. The movement of building a village of "Health culture" is being multiplied.

439. The protection and health care of workers, prevention of occupational diseases, accidents and injuries have been paid attention to and strongly implemented. The number of test samples to measure the working environment increases by 5 to 10 per cent per year. The rate of workers having periodical medical check-ups and special medical examination in 2009 rose by 50 per cent compared to 2000. Education and communication to improve the health of workers, prevent occupational diseases, accidents and injuries, and build safe communities have been promoted and gained good results.

440. Health activities in schools have been gradually stepped up. Some health programmes have been introduced in school curriculum, initially protecting the health of students.



### Health care of mother and children

441. The State is always committed to ensuring the right to health care and in particular reproductive health, children health regardless of income, region, age and illness. Women and children not only have the right of health protection and care, but they can also choose a healthy lifestyle to protect their health. Health care for mothers and children is always identified as Viet Nam's priorities in the work of people's health care. In the conditions where economy is not highly developed, the Law on Protection, Care and Education of Children stipulated that under-six children are exempt from payment of medical care, examination and treatment fees in public clinics. Article 15 of the Law on the Protection, Care and Education of Children gives children "the right to health care and protection" and at the same time stipulates that "parents or guardians are responsible for implementing the provisions on health check-up, vaccination, medical examination and treatment for children" (art. 27). Recently the Health Insurance Law No. 25/2008/QH12 prescribes that under-six children can participate in health insurance programmes and the premium is paid by the State.

442. In addition, the State ensures that "Men and women are equal in the participation of education and communication activities in respect to health care, reproductive health and use of health services" (art. 17). The Gender Equality Law also states that "Men and women have equal choices, decisions to use birth control, safe sex measures to prevent HIV / AIDS and other sexually transmitted diseases".

443. Prime Minister's Decision No.136/QĐ-TTg on 28 November 2000 on approval of the National Strategy on Reproductive Health Care for 2001-2010 stated that the overall target up to 2010 is to substantially improve the reproductive health care and reduce the disparities between regions and people by better meeting the diverse needs of reproductive health and paying special attention to disadvantaged areas and people with difficulties.

444. The health care for mother and children in Viet Nam has achieved encouraging results. The health care of mother, children and family planning has been gradually changed to reproductive health care with a nation-wide network. The activities of reproductive health care have been carried out with seven components: safe mother, family planning, prevention of reproductive infections, adolescent health, safe abortion, health care for the elderly and IEC in reproductive health care. Along with the decline of maternal mortality, mortality rate of under-five and under-one children also decreased relatively fast and sustainably.

445. As the result of the National Action Plan on Nutrition, the child malnutrition rate has declined. The UNICEF's assessment on the situation of malnutrition in East Asia and the Pacific (2003) stated: "Viet Nam is the only country with the malnutrition rate decreased as expected. On average, malnutrition rate went down by 1.8 per cent per year in the last decade; the reduction of 2 per cent per year is a great achievement". In comparison with the UN Millennium Development Goals, Viet Nam's progress in the goal of reducing malnourished children under 5 years old is much more positive. UNICEF and WHO have recognized Viet Nam as having the most rapid decrease rate of malnutrition of children under 5 years of age in the region with the rate 1.8 per cent per year. The rate of under-five malnourished children continues to decline in all regions.

446. Expanded vaccination programme: since 1991, tetanus vaccination for pregnant women has been included in the programme. In 1997, hepatitis B vaccine and cholera vaccine, typhoid and Japanese encephalitis were included in the expanded vaccination programme in high-risk areas. After the period of piloting and gradually expanding the programme, all communes accessed to vaccination programmes in 2005. However, many vaccines against common and dangerous infectious diseases among children have yet to be included in the expanded vaccination programme, or only implemented in high-risk areas

such as typhoid, cholera, Japanese encephalitis. Rubella, mumps and other vaccines are not included in the expanded vaccination programme.

447. After Viet Nam was recognized by the World Health Organization of achieving the goal of eliminating polio in 2000, with the help of GAVI, vaccination against hepatitis B was extended nationwide in 2003. Viet Nam was recognized by the World Health Organization of eliminating tetanus for mothers and infants in 2005. Viet Nam has started to implement the 2nd shot of measles vaccine in schools since 2006. There are currently twelve vaccines in the immunization schedule, some of which are applied nation-wide and some others are only applied in high-risk areas.

### **HIV/AIDS prevention**

448. Over 20 years of combat, prevention and control of HIV/AIDS, with the awareness of HIV/AIDS is a danger to human health and the future generations, many legal documents have been established and promulgated by the State of Viet Nam, creating important legal framework for the prevention of HIV/AIDS, specifically:

449. The Ordinance on HIV/AIDS was issued in 1995. On 29 July 2006, the National Assembly of Viet Nam passed the Law on Prevention of HIV/AIDS No. 64/2006/QH11 on 12 July 2006. The law stipulates HIV / AIDS preventive measures and other conditions to ensure prevention of HIV/AIDS. The promulgation of this Law showed the strong political commitment of the Party and State to the prevention of HIV / AIDS and created an important legal framework facilitating HIV/AIDS prevention activities in Viet Nam. The Government issued Decree No. 108/2007/ND-CP on 6 June 2007 to provide guidelines for the implementation of the said Law.

450. Directive No.54/CT-TW on 30 November 2005 of the 7th Party Central Committee's Secretariat on strengthening leadership in HIV / AIDS prevention in the new situation required the Party committees to strengthen leadership in prevention and control of HIV/AIDS in order to (1): Create dramatic changes in the awareness and responsibility of the authorities at all levels, mass organizations and all citizens, view HIV/AIDS prevention as an urgent and long-term task, (2) Attach importance to building and improving the legal system to create a favourable legal environment; implement policies and supporting mechanism to care for people living with HIV/AIDS, pay due attention to the interests of participants in the combat with HIV/AIDS, (3) Innovate, diversify and promote information, communication, education activities in society to reach out to the community, individual, family, especially teenagers and high-risk groups in order to develop the right perception of the risks and dangers of HIV/AIDS and have the right attitude, action, and behaviour to people living with HIV / AIDS, actively participate in the prevention and fight against this disease, attach the HIV/AIDS prevention with the programme of building good culture for family, village, hamlet, institution and unit; build a healthy lifestyle in accordance with the standards and ethics of society, (4) Consolidate the organizational structure, staff capacity, improve inter-agency coordination in HIV/AIDS prevention and combat, (5) Increase the State's investment, expand cooperation to make full use of the international community's support, promote the tradition of mutual care and support of the community and combat with stigma and discrimination against people living with HIV/AIDS, create conditions for infected people and their families see clearly their responsibilities to actively engage in AIDS prevention; encourage political and social mass organizations, non-governmental organizations and individuals in and out of the country to participate in HIV/AIDS prevention to establish social organizations to combat and prevent HIV/AIDS in Viet Nam.

451. Currently Viet Nam has over 100 legal documents relating to HIV/AIDS prevention and combat, including the Prime Minister's Directive No. 02/CT-TTg issued in February 2003 which regulates the organization and operation of agencies dealing with the

HIV/AIDS prevention and combating from central to local levels; regulations on finance and policies for HIV/AIDS prevention workers and people infected with HIV/AIDS.

452. In addition, Viet Nam is always aware of the importance of international cooperation in HIV/AIDS prevention. Viet Nam has signed important legal documents and treaties such as: The Millennium Declaration signed by 189 Heads of State in September 2000, in which the HIV/AIDS prevention and combat was regarded as one of the Millennium Development Goals. At the 2nd Asia-Pacific Ministerial Meeting on HIV/AIDS in Bangkok, Thailand on 11 July 2004, Viet Nam together with other countries committed to combating against the spread of HIV/AIDS and strengthening global cooperation for development in three dimensions: policy and law, mobilization of human resources and participation of the community.

453. HIV/AIDS prevention was one of the content of the National Target Programme against social, dangerous diseases and HIV/AIDS. According to Decision No. 36/2004/QĐ-TTg on 17 March 2004, Prime Minister approved the National Strategy on HIV/AIDS Prevention and Combat by 2010 and vision to 2020. The strategy pointed out the views, goals, solutions, action plans and implementation measures.

454. HIV/AIDS prevention in Viet Nam adheres to the objectives of the National Programme and has recorded encouraging results:

- Raise awareness and attention of authorities, sectors and people about HIV/AIDS and the work of AIDS prevention: more than 68 per cent of adults (15-49 years) have some basic knowledge of HIV and the main transmission routes (among the highest percentage in the world). The spread of AIDS was regarded as one of top four concerns by the people (survey conducted by the Centre of Public Opinion)
- The spreading rate of the disease: according to the results of key monitoring programmes, the development trend of HIV/AIDS in recent years has halted and did not increase as fast as the previous years, but basically the spread of HIV/AIDS is yet to be controlled. The prevalence of HIV/AIDS in groups such as drug users, sex workers has been declining in recent years. Safe blood transfusion and safety in health services are ensured. The blood screening system has been equipped throughout the country since 2000, 100 per cent of blood bags are screened before transfusion. Many blood donation campaigns collecting millions of safe blood units have been carried out.
- A monitoring and notification system of HIV epidemiology in 63 provinces and cities has been established. This system can track and step by step assess the development of HIV infection, creating a scientific basis for the policy-making process and determine the content, preventive measures and interventions. The lab system is increasingly consolidated and standardized, with the quality assessment of HIV testing from external experts. So far the Ministry of Health has appraised and permitted 72 laboratories across the country to provide the HIV tests (in 47 provinces and cities).

#### *Care and treatment of patients infected with HIV / AIDS*

455. In the period of 2001-2005, 100 per cent staff with occupational accidents, hazards were treated with HIV antiretroviral drugs. The number of AIDS patients having access to HIV antiretroviral (ARV) drug increased from 60 in 2001 to over 8,000 in 2006, 27,059 in 2008 and 37,995 in 2009. 207 ARV treatment points were established at district level.

456. International cooperation in AIDS prevention will be established and gradually expanded in three areas: mobilization of resources, exchange of information, experience and training, and active participation in the common activities of the region and the world.

**Food safety and hygiene**

457. The State focuses on food safety and hygiene. Within a short period (2000 - 2008) the State issued a series of legal documents to create a legal framework for food safety and hygiene including: the Ordinance on Food Safety and Hygiene (No. 12/2003 / PL-UBTVQH11 on 8 July 2003), Decree 163/2004/ND-CP in 2004 on guiding the implementation of the Ordinance on Food Safety and Hygiene; Decision No. 43/2006/QD-CP on approval of the National Action Plan to ensure food safety to 2010, which set out measures for safe food to advance toward a domestic market of safe food for consumption and export; Decision No. 149/2007/QD-TTg of the Prime Minister on approval of the National Target Programme on Food Safety and Hygiene from 2006 - 2010; Directive No. 06/2007/CT-TTg dated 28 March 2007 by the Prime Minister on the implementation of urgent measures to ensure food safety within the context of the pressing matters relating to food safety in Viet Nam; Decree No. 79/2008/ND-CP on system of management, inspection and testing of food safety and hygiene. These policies are very important, laying the foundations for sustainable development of food safety and hygiene sector.

458. Food safety and hygiene receive special attention from the National Assembly through the promulgation of law, and monitoring programmes. Particularly in April 2009, the Standing Committee of the National Assembly held its own agenda on food safety and hygiene. Accordingly, the National Assembly proposed to increase investment for food safety and hygiene from 880 VND/person/year to a minimum 9,000 VND/person/year. The National Assembly also approved the programme of establishing the Food Safety Law and this law is classified as a priority to be enacted in 2010.

459. By 31 December 2008, Viet Nam had 256 legal documents in accordance with the laws and international practices to create a legal framework to manage food production and business, generating the trust for consumers. At the same time, the responsibilities in management of food safety and hygiene have been assigned to ministries, agencies and authorities at all levels in a more transparent and specific manner in line with international practice.

460. Education and communication are identified as key tasks. The Month of Action for the food quality, hygiene and safety with different themes has alerted, awaken the whole society about the risks of unsafe food and mobilized the whole society to participate in the information, food inspection campaigns from the central to local levels.

461. Control and monitoring of food safety and hygiene have been promoted and become regular activities at both central and local levels. Inspection is also paid attention to, especially regular and periodic inspections of food safety and hygiene are undertaken on the occasion of national festivals and big events.

462. Food safety and hygiene testing systems from central to local levels were established: in 2006, the domestic laboratory could not conduct tests of food safety, but now the laboratories in the country can carry out most of the tests to examine food safety, causes of nearly 47 per cent of detected food poisoning cases.

**Health Insurance (HI)**

463. Health insurance is an important social policy of humanitarian significance and community bonding, which is a priority in the social security policies of Viet Nam.

464. Viet Nam's policy on health insurance is to move towards universal health insurance for all which is determined in the Constitution of 1992 "Combine public health development with private health sector; undertake health insurance programme, create favourable conditions for all citizens to benefit from health-care system" and these viewpoints are consistent in the documents of the Party. Resolution No. 46/TW-NQ of the

Politburo on the protection, care and improvement of people's health in the new situation, which stated: "Development of the health insurance programme for all the people, gradually achieving equality in health care, undertake cost-sharing between the healthy and the sick, the rich and the poor, people of working age, children, and the elderly"; The Resolution of the 10th Congress of the Communist Party of Viet Nam continued to emphasize: "Develop and improve the quality of health insurance, build and implement the roadmap of health insurance for the entire population with positive results; increase the forms of voluntary health insurance, community health insurance. Expand the public and private health clinics available for medical examination and treatment of health insurance participants. Limit and gradually reduce direct payment of hospital fees from patients. Renew the payment method by health insurance funds "; Directive No. 6 and 22 January 2002 of the Secretariat of the Party Central Committee on strengthening and improving medical facilities set out orientations for health insurance programme in rural areas, especially health insurance for the poor, policy beneficiaries and farmers"

465. The Health Insurance Law No. 25/2008/QH12 regulated the health insurance priority and policy, including potential participants, premiums, responsibilities and contribution method of health insurance; health insurance cards; health insurance coverage; organization of examination and treatment for health insurance participants; payment of medical examination and treatment fees, creating a legal basis for universal health insurance for the people and producing favourable conditions for the people to participate in health insurance programmes, creating a sustained public sources for examination and treatment for people, including the poor, children under 6 years old, meritorious people and the policy beneficiaries, since their health insurance premiums are supported by the State. To implement the Health Insurance Law, the Government issued Decree No. 62/2009/ND-CP on 27 July 2009.

466. The State budget pays for health insurance for beneficiaries of social policy (19.34 million people in 2008, accounting for 49 per cent of health insurance participants), including the poor, ethnic minorities living in disadvantaged areas and areas with special difficulties, people eligible for monthly social security benefits in accordance with the law and people who contributed to the revolution; veterans as determined by legal regulations regarding veterans; people directly involved in the resistance against the American in accordance with the Government regulation; family of people with contributions to the revolution in accordance with the law regarding those who contributed to the revolution; children under 6 years (minimum support of 50 per cent of health insurance for people in near-poor households and support at least 30 per cent of health insurance premium for the people in households of agriculture and forestry, fishing, and people with median income and students).

467. Health insurance has also achieved certain results: (1) the number of the health insurance participants increases rapidly, people are increasingly aware of the responsibilities of participating in health insurance programme. In 2008, the number of participants reached 37.7 million, accounting for 43.76 per cent of the population; (2) health insurance funds increased from a small proportion of the total health expenditures to about 1/3 of the State's budget for health and accounts for approximately 50-60 per cent of the state budget for the work of medical examination and treatment in some localities, creating a stable source for medical examination and treatment; (3) the scope and the right of participants are increasingly expanding. Although GDP per capita in Viet Nam is still low compared with other countries in the region but the benefits of people participating in HI programmes are fairly adequate and comprehensive to ensure high technology for medical examination and treatment, preventive health care and rehabilitation; (4) the expansion of medical examination and treatment available for health insurance, both public and private sector, especially at the communal level has created favourable conditions for health insurance participants to access and choose the examination and treatment clinics,

contributing to the consolidation and development of grass roots health networks, improving the quality of primary health care and medical examination and treatment of common diseases in grass roots clinics and reducing the overload of higher level hospitals, (5) health insurance schemes have gradually increased the medical clinics to change the management regime, use of resources and improve the quality of medical treatment; (6) health insurance policies have contributed to poverty reduction and achieving the objectives of social equity in the protection, care and improvement of people's health; (7) health insurance policies have also contributed to change people's perceptions in selecting financial solutions to their own health, at the same time contributed to the formation and development of the social security system in Viet Nam.

### **Management and supply of pharmaceutical products**

468. Prime Minister's Decision No. 37/CP on 20 June 1996 on the promulgation of National Medicine Policy of Viet Nam has two fundamental objectives of ensuring regular and adequate supply of quality medicine to people and ensure the right purpose, safe and effective use of medicine. The Government issued eight basic contents of the national medicine policy, including the policy on "Production, supply, import and export of medicine". On the basis of this policy, the Ministry of Health issued legal documents relating to the medicine supply, quality control and production. Decision 262/BYT-QD on medicine samples to determine quality, Decision No. 2412/QD-BYT on medicine quality management, Decision No. 1516/BYT - on 9 September 1996 on the application of the principles and standards of Good Manufacturing Practice of the Association of Southeast Asian Nations (GMP - ASEAN) in all pharmaceutical manufacturing facilities and Circular 12/BYT - TT on 12 September 1996 on guiding the implementation of GMP - ASEAN, Decision No. 1570/2000/QD - BYT on 22 May 2000 on applying the principle of "good laboratory practice medicine" (GLP), Decision No. 2701/2001/QD - BYT on 29 June 2001 on applying the principle "Good Storage Practice" (GSP), Decision No. 108/2002/QD-TTg of Pharmaceutical Development Strategy, which aims at achieving GPs in all production facilities, business, medicine testing by 2010; Decision 3886/2004/QD - BYT on applying the principles and standards of "Good Manufacturing Practice" (GMP) as recommended by the World Health Organization (WHO).

469. The Medicine Law was enacted by the National Assembly in 2005 and the Decree 79/2006/ND-CP issued on 9 August 2006 by the Government on detailed implementation of some articles of the Medicine Law are the highest legal documents for management of medicine.

470. In recent years, adequate supply of quality medicine for the prevention and treatment for people has always been the targets of the pharmaceutical sector, in which special priority has been given to ensuring adequate medicine for disease and epidemic prevention, natural disasters, floods, catastrophes. Costs of medicine use increased sharply in 2008, they were three times higher than in 2001, in which the domestically produced medicine increased by 4.2 times, the imported medicines increased by 2.2 times. The spending on medicine per person in 2008 was 2.74 times higher than that of 2001.

471. Increasing the quality of the retail stores and supply networks of medicine to form a professional retail system has an important impact on the development of Viet Nam's future pharmaceuticals sector. Medicine supply network has been expanded. In 2008 there were 1,336 businesses supplying medicine, 37 foreign-invested enterprises in operation with about 160 branches in the provinces, cities and nearly 40 thousand retail pharmaceuticals nationwide.

472. Information of medicine also contributed greatly to guide people on safe and effective use of medicine. Receiving, collecting and searching for medicine information,

the recommendation on the use of medicines and issues related to side-effects have been conducted.

### **Health equipment and facilities**

473. The relevant legal documents include: Decision No.130/2002/QĐ-TTg on 4 October 2002 of the Prime Minister on approval of the national policy on health equipment in the period of 2002-2010, Resolution No. 05/2005/NQ-CP on 18 April 2005 of the Government on the promotion and improvement of quality of socialization in the fields of education, health, culture and physical education - sports and Decree No. 69/2008/ND-CP on 30 May 2008 of the Government on the policy to encourage the socialization of education, vocational training, health, culture, sports and environment. Decision No.18/2005QĐ-TTg on 21 January 2005 of the Prime Minister on approval of the project "Manufacturing and production research of medical equipment by 2010" is an important legal basis to create great incentives to encourage investors, researchers and producers of medical equipment, and is also the legal basis for the development of industries producing medical equipment in Viet Nam.

474. The health system has been invested for upgrading, including health equipment (HE) both in quantity and value by the usage of multiple sources of capital: the State's budget, ODA, bilateral and multilateral aids and socialization. Patients can benefit from high-tech and modern health services, such as PET/CT, MRI, CT-Scanner which help early detect diseases, shorten treatment period, thus improving general health care for the people.

475. In order to gradually achieve the objective of ensuring adequate health equipment for hospitals at all levels, the Ministry of Health has coordinated the relevant ministries to implement many important projects aimed at mobilizing domestic capital and ODA resources for investment and upgrade of health equipment.

476. Socialization in health equipment has been increasingly expanded and diversified, particularly through the setting up of joint ventures, investing in and installing health equipment for diagnosis and treatment in public hospitals.

### **Health financing**

477. Regular State budget spending for Health has increased by 10-20 per cent annually.

### **Difficulties and challenges**

478. Viet Nam is a low-income country; economic growth is yet to be sustainable. There is a huge demand for preventive health care, health check-up and treatment while resources are limited. Disparity among regions and population remains large; therefore, more efforts must be made to ensure fair provision of health services and priority for beneficiaries of social policies, the poor and ethnic minorities.

479. The demand for health check-up and treatment has continued to increase, both in terms of quality and quantity, exacerbating the overcapacity situation in provincial and central hospitals. According to 2007 statistics, overcapacity at all levels averaged 120 per cent while provincial and central levels this figure was 140 per cent. The reasons are that patients have total freedom in selection of treatment facilities while the shortage of specialized clinics, equipment at local hospitals is ever present, treatment cost at central hospitals are not much higher than that of local hospitals and also due to the ever higher demand of people for health services. The ratio of hospitals' beds per ten thousands of people is low. Besides, overcapacity is also a result of inefficient referral activities, and peoples' acceptance of the overload situation instead of looking for appropriate health services; effectiveness of health check-up and treatment is not high, leading to long treatment period in hospitals.

480. The population has continued to grow annually together with economic growth, particularly urbanization, industrialization and physical migration. Disease patterns, which primarily consisted of communicable diseases, now have shifted to lifestyle diseases, HIV/AIDS, injury, cardiovascular diseases, cancer and aging-associated diseases. Viet Nam is now confronting the “double burden” of communicable and incommunicable diseases, which leads to increasing health costs while the health budget is limited.

481. Globalization and international economic integration have opened up opportunities but also have put Viet Nam at risk of dangerous global diseases.

482. The network of medical facilities has fallen short of people’s demand for health care. Particularly in mountainous and remote areas, there is a shortage of health facilities as well as lack of maintenance. There has also been a lack of equipment and comprehensive investment. The medical staff remains scarce and poor in quality, failing to meet people’s increasing demand for health care. Hi-tech treatment is primarily applied at the central level and expensive, making it difficult for people to gain access to services.

483. The HIV epidemic has not been controlled effectively and there remains risks of HIV transmission in Viet Nam, particularly in provinces and cities such as Ho Chi Minh City, Ha Noi, Quang Ninh, Hai Phong, Son La, Thai Nguyen, Nghe An, Ba Ria - Vung Tau, Can Tho, An Giang and Kien Giang.

484. Although a legal framework, suitable policies, a National Strategy as well as a good plan for HIV/AIDS prevention and control exist, the implementation of these schemes remain a challenge and require better coordination and further attention of the State and agencies at both provincial and central levels.

485. Food poisoning and contamination as well as food-borne diseases remain common and have not been fully controlled. Violation of food safety regulations by food processing facilities has improved very slowly. The number of food poisoning cases involving more than 30 victims/case remains high. Although food safety testing plays an essential role in the state administration of food safety, it has not been consistently organized. There is a difference among laboratories’ testing capacities and lack of national standards for laboratories, which leads to difficulty in food safety testing.

486. Although the scope of health insurance coverage has expanded, overall coverage remain low. It is still common for private enterprises to neglect paying health insurance for their employees. Currently, approximately only 50 per cent of the business sector is covered by compulsory health insurance. Health check-up and treatment services covered by health insurance are not convenient for patients, failing to meet people's demand. Communication and education of health insurance policies are still weak. The awareness of health insurance’s importance in certain members of local authorities, mass organizations, Party Committees and civilians is to some extent, inadequate.

### **Orientations**

487. Vietnam focuses on the following actions:

- Implement resolution No. 46-NQ/TW on 23 February 2005 of the Politburo (tenure IX) on "the task of protecting, caring and improving people's health in the new situation" and resolution No. 18/2008/NQ-QH12 on 3 June 2008 of the 12th National Assembly of the Socialist Republic of Viet Nam on intensifying the implementation of socialization policy and laws to improve the quality of people’s health care. Accordingly, spending on health care shall increase at a faster pace than the national budget. The budget will be restructured in favour of mountainous, disadvantaged areas, preventive health and grassroots level health services, information, communications and education, health, family planning, food safety and hygiene activities. Investment will be made to improve the public



health system and ensure social security in the fields of protection and caring for people's health.

- Reform the financial mechanisms of public health agencies linked to the implementation of health insurance roadmap for the entire population, so that health services costs are sufficiently and reasonably calculated. Public financial resources, including the State budget and health insurance shall be the growing main contributor in total expenditure on health, playing the leading role in ensuring the operation of health check-up and treatment facilities in public hospitals. Through health insurance the State ensures the budget for health check-up and treatment for those with meritorious services to the country, the poor, ethnic minorities, children under six as well as health insurance support for near-poverty individuals.

- Increase the budget for health and at the same time mobilize resources from society, including that of the domestic and international private, non-profit sectors. Socialization of health services shall be boosted to enhance the mobilization of resources for health check-up and treatment and to diversify health services forms. Other services shall be developed apart from health services in health facilities to meet the diverse demands of the people, to help reduce overcapacity in public hospitals. Health check-up and treatment processes shall be improved, faculties and units relocated, administration areas reduced and replaced by treatment rooms with an increasing number of mobile beds. IT shall be applied in hospital management; working hours, shifts increased and increase the mobilization of the number of clinics and in-house physicians during peak hours, peak days. Construct on-demand, expand outpatient treatment facilities, especially for patients with stabilized chronic diseases who have entered the recovery period. Establish joint ventures with domestic and foreign partners to build more health check-up and treatment centres, maternal and infant health-care facilities, in particular, invest in building and upgrading, maintaining health facilities at various levels through Government bond.

- Implement the Law on Health Insurance, ensuring balance and sustainability for the Health Insurance Fund; Increase health financing through pay-in-advance mechanisms and compulsory health insurance schemes. This is the basic and long-term financial policy option for the health system of Viet Nam; introduce health insurance cards in health check-up and treatment to communes, villages and hamlets.

- Gradually complete the transition of the State budget from providing support to health service providers to move to support health service users. The State budget ensures the implementation of policies for beneficiaries of State subsidies to increase equality in health care, particularly for the poor, ethnic minorities, near-poor individuals and other beneficiaries of social policies.

- Continue to invest in infrastructure for health check-up and treatment, linked with building and upgrading financial and management mechanisms of public health units. Narrow health services coverage gap between regions and inhabitant groups; improve the capacity of health workers at grass roots levels; limit and soon terminate the unnecessary transfer of patients from local to central level hospitals.

- Carry out the implementation of the National Target Programme on health for 2011-2015 in order to prevent and control communicable diseases that cause epidemics such as diseases that are transmitted through digestive tract (cholera, dysentery, typhoid, worm), insects (petechial fever, malaria, Japanese encephalitis), and rabies. Adopt active measures to effectively prevent the spread of emerging and dangerous diseases (flu A H5N1, H1N1). Be well prepared for and respond to the risk of biological and chemical terrorist attacks. Maintain the achievement of immunity from poliomyelitis and neonatal tetanus. Continue to enhance the Expanded Programme on Immunization (EPI) to eliminate and root out common communicable diseases among children such as measles, diphtheria,

whooping-cough, virus hepatitis and expand vaccination for other diseases. Proactively control and prevent the risk factors causing non-communicable diseases, diseases related to the environment, profession, school, nutrition, corrupted lifestyle, accidents and injuries.

- Intensify environmental protection in the health sector; fundamentally deal with environmental pollution caused by polluting health facilities. Strengthen scientific research in management and testing. Develop policies, standards and norms, standardized criteria for traditional food and manage the risks of food contamination.

- Continue to engage in comprehensive international integration. Enhance the infrastructure, professional capacity, management of the health and financial system in health to improve the quality of check-up and treatment. Grant favourable conditions to foreign and Vietnamese investors to develop forms of health services, invest in construction of health infrastructures, equipment, technology and human resources and build health facilities that meet international standards to better serve patients. Provide resources to improve the professional capacity of the health services system. Develop policies to encourage the private sector to deliver services in rural areas and engage in preventive health care as well as contribute to local health activities.

- Provide training for the human resource force for a quality health check-up and treatment system. Standardize the network of practitioners through job certificate granting as soon as the Law on Health Check-up and Treatment enters into force. Gradually develop standards for hospitals in line with international standards and in accordance with Viet Nam's reality; Standardize professional instructions, and conduct regular testing and assessment of professional capacities.

- Develop hi-tech health-care treatment methods to meet the increasing and demanding need of people, reduce the number of cases in which patients must go abroad for costly health-care services.

- Expand the pharmaceutical industry and health equipment production. Pharmaceutically, strive for total medical production value over total usage to reach 70-75 per cent by 2015, 95-100 per cent by 2020 and for health equipment 40 per cent by 2015 and 60 per cent by 2020.

- Improve the attitude of health workers in serving patients, implement a code of conduct at health-care facilities and increase customer satisfaction.

- Gradually improve the application of IT in managing hospitals. Improve the health-care management and medical waste treatment system.

## **Articles 13 and 14- Right to education**

### **Implementation facts**

488. The State of Viet Nam has gradually completed its laws and regulations to ensure the rights to education and training:

489. The 1992 Constitution of the Socialist Republic of Viet Nam, amended in 2001 affirms that education expansion remains the top priority. The State and society shall expand education to enhance people's intellectual standards, train human resources, and invest in talented people. The goal of education is to form and cultivate personality, qualification and capacity of civilians, provide vocational training to labourers so that they are skilful, active and creative, proud of their nation, ethical and have the will to strive and contribute to wealthy people, strong country, meeting the demand of the cause of national construction and defence. The State shall expand and balance the education system including pre-education, secondary education, vocational education, tertiary and post-

graduate education, undertake universal secondary education, expand public, private and other kinds of educational institutions.

490. The 1998 Education Law stipulates that studying is the right and obligation of civilians, all civilians, regardless of ethnicity, religion, belief, gender, family origin, social status or economic context are equal in opportunities to study. The State shall ensure social equality in education and create favourable conditions so that everyone can study. The State and the community shall help the poor to study, and talented individuals to uphold their capacity. The State shall give priority and favourable conditions to children of ethnic minorities, children in disadvantaged areas, beneficiaries of preferential policies, disabled people and beneficiaries of other social policies to realize their rights and obligation to study.

491. The 1998 Education Law (art. 10) stipulates universal education as follows: the State shall decide the plan and level of universal education, put in place policies to ensure the implementation of national universal education. According to the law, all citizens at school age have the obligation to study and reach the universal educational level. Families shall be responsible for facilitating their members within school- age to study and reach the universal educational level.

492. The 2004 Law on Child Protection, Care and Education provides that children have the right to study; children do not have to pay for tuition fee to go to public primary schools. Families and the State shall be responsible for ensuring the realization of children's rights to study; finish universal education programme, facilitating them to study at higher levels, providing comprehensive education including moral, knowledge, sense of beauty, physical and vocational training; families and the community must work together to protect, care for and educate children. There shall be sufficient teaching staff, infrastructure, teaching and learning equipment to ensure quality education. The policy of tuition fee exemption, reduction, scholarship, social subsidy shall be implemented to realize social equality in education. Disabled children and children with inborn defects, children who are victims of poisonous chemicals shall be supported, cared for and provided with rehabilitation treatment by families, the State and the community. They shall be welcomed to integration class or special class for disabled children, assisted in academic and vocational training and other social activities.

493. The 2005 Law on Education affirms that:

- Studying is the right and obligation of citizens. All citizens, regardless of ethnicity, belief, religion, gender, family origin, social status, economic context are equal in opportunities to study. Social equality shall be implemented in education; conditions shall be created for all to be able to study. The poor shall be assisted to study. Those who are gifted shall be facilitated to promote their capacities. Conditions shall be created for children of ethnic minorities, children in disadvantaged areas, beneficiaries of social welfare policies, disabled people to realize their rights and obligations to study.
- The State shall create conditions for ethnic minorities to learn their own language and writing.
- Primary and Secondary school are universal education levels. The State shall ensure conditions to implement universal education. Families shall be responsible for creating conditions for members to study and reach the universal education level.
- The State shall establish ethnic boarding schools, ethnic day-boarding schools, pre-university schools for children of ethnic minorities, contributing to the development of human resources for these areas. The State shall prioritize and

strengthen investment in equipment and budget for these schools and their teachers.

- The State shall establish and encourage organizations, individuals to establish schools and classes for disabled people to help them rehabilitate, provide academic education and vocational training, help them integrate into community. Arrangement of teachers, facilities, equipment and budget shall be prioritized by the State. The State shall have preferential policies for schools and classes for disabled people established by organizations and individuals.
- The State shall develop scholarship policy to encourage students with excellent results in gifted schools, specialized schools, vocational training schools, university and post graduates, offer scholarships to students who are exempted from university entry exams, students at pre-university schools, ethnic boarding schools, vocational schools for wounded soldiers and disabled people. Ethnic minorities, beneficiaries of social welfare policies, orphans, the handicapped... shall be provided with State subsidy and shall enjoy tuition fee waiver and reduction.
- The State shall apply university entry exam exemption for ethnic students from disadvantaged areas to develop staff and civil servants for these areas. The State shall dedicate a number of places in university for certain beneficiaries, especially ethnic students from areas that lack or have very few staff who graduated from universities, colleges, technical schools, enable them to study at ethnic boarding schools, increase time for pre-university programme.

494. The 2006 Law on Vocational Training stipulates that vocational students shall benefit from the policies of scholarships and social subsidy. They can enjoy university entry exam exemption, educational credit policies, public services fee reduction and exemption applied for pupils and students. Students graduating from ethnic boarding schools can enter technical schools without entry exam and benefit from policies applied for students in ethnic boarding schools.

495. Article 71 of the Law on Vocational Training provides that disabled vocational students shall be covered by scholarships and social subsidy. They shall enjoy university entry exam exemption, educational credit policies, tuition fee and public services fee exemption and reduction, free-of-charge consultations regarding their profession and employment. They shall benefit from tuition fee reduction and waiver. Disabled poor vocational students shall be exempted from tuition fee, covered by scholarships and provided with travelling and accommodation and food stipends.

496. The education development strategy for 2001-2010 has put forward a goal to bring Viet Nam's education to soon catch up with developed countries in the region, uplift people's intellectual standards, develop human resources and invest in talented individuals. Education shall be diversified, and step by step standardized, modernized and socialized. (see appendix 4a).

497. Over the past years, Viet Nam has implemented many important master plans in education and training to maintain achievements recorded in the universalization and expansion of education. The Master Plan "Building the learning society for 2005-2010" has put forward the target to improve the outcomes of illiteracy elimination, raise the rate of literal people older than 15 from 94 per cent in 2000 to 98 per cent in 2010, of which people aged from 15-35 account for more than 99 per cent, accelerate the rate of illiteracy elimination among ethnic minorities. More than 65 per cent of disadvantaged children aged 6-10 years old and more than 55 per cent of disadvantaged children aged 11-14 years old who cannot go to school have been encouraged to study in universal programmes. The

Master Plan "Develop pre-education for 2006-2010" has been carried out with a view to creating a fundamental, sustainable and comprehensive transition in pre-education.

## **Outcomes**

### **Expanding the scope of education**

498. The scale of education and the network of educational institutions have been expanded, initially meeting better the demand for studying of society. The school year 2000-2001 welcomed nearly 18 million secondary students, 820,000 vocational students, 1 million college and university students. There were 118 students over every ten thousand people, the scale of vocational training increased by 1.8 times from 1997 to 2000.

499. The trained labour force in various forms at different levels in 2009 registered 14.9 per cent of total national labourers. Social equality in grass root education has been fundamentally ensured, education in ethnic minority areas has seen positive shift, 25 ethnic boarding schools and more than 100 ethnic day-boarding schools have been established. Elimination of illiteracy and universal primary education has been realized nationwide. Universal secondary education has been undertaken. 93.1 per cent of the people over 10 years old were literate (as of 2008); the average school years are 7.3. Fundamentally, Viet Nam has attained gender equality in education.

500. In the 2007-2008 school year, there were nearly 23 million students and pupils nationwide, a considerable increase compared with school year 2000-2001. The number of vocational trainees rose by 2.14 folds, technical students by 2.41 times, university and college students by 1.83 times, raising the number of college and university students over ten thousand people by 1.6 times, the number of post graduate and research students increased by 2.48 times.

501. In general, all communes have pre-schools and primary schools, secondary schools in all communes or cluster of communes, high schools in all districts. Vocational training schools, colleges and universities have been mostly established in densely populated areas, special areas and provinces in under-developed regions such as the Northwest, Central Highland, Mekong River Delta. There are ethnic boarding schools and day-boarding schools for children of ethnic minorities in mountainous provinces and districts.

502. All provinces and cities nationwide have eliminated illiteracy according to national standards, completed universal primary education and are now proceeding with universal secondary education. By December 2008 47/63 provinces and cities (74.6 per cent) had attained universal primary education at required age. By the end of 2010, all provinces and cities had recorded universal secondary education.

503. The number of dropout students at secondary level has decreased considerably through the years. The number of drop-out students in term I of school year 2006-2007 was 148,000 (0.9 per cent), 2007-2008 school-year was 147,000 (0.94 per cent), 2008-2009 school year was 86,000 (0.56 per cent), equal to a decrease of 41 per cent from school year 2007-2008 to 2008-2009. The Ministry of Education and Training has instructed managers at all education levels to calculate the number of drop-out students for each specific reason, regularly check students' performance at the beginning of a school year, identify reasons why students deliver ill performance to timely coordinate with social forces, authorities, local mass organizations to mobilize and encourage drop-out students to return to schools. For those who show poor performance and are unlikely to take secondary education, introduce them to regular education centres and appropriate ways of learning. Vocational training units and technical schools have been allowed to welcome students who do not graduate from secondary schools or high schools. Disadvantaged students have been supported with textbooks and notebooks, stationery, and tuition fee reduction and

exemption. The State has helped families through hunger eradication and poverty alleviation policy and mobilized parents to facilitate their children's study.

504. Private educational institutions have been growing. In the 2007-2008 school year, there were nearly 6000 private kindergartens, 95 private primary schools, 33 private secondary schools, 651 private high schools, 308 private vocational training institutions, 72 private technical schools and 64 private colleges and universities. The number of pupils and students studying in private educational institutions has been increasing. In the 2007-2008 school year, the number of students, pupils studying in private educational institutions accounted for 15.6 per cent (while this of 2000 was 11.8 per cent), among which secondary and high-school students accounted for 9 per cent, technical students 18.2 per cent, vocational students 31.2 per cent, college and university students 11.8 per cent.

505. Currently, there are more than 9,000 community learning centres, nearly 700 regular education centres at district and provincial level, 1,300 IT centres, many universities have distant learning programmes. Besides, there is a number of language and IT centres, professional skills improving centres with foreign elements operating in Viet Nam. A learning society is forming in Viet Nam.

**The education system has ensured the realization of the right to Education of all citizens.**

506. A civilian education system that is relatively complete, uniform and diverse has been established with all educational and training levels, ranging from kindergarten to post-graduate. A network of secondary and high schools have been built nationwide. There are boarding and day-boarding schools for children of ethnic minorities in mountainous provinces and many districts. There are many kinds of vocational training schools and classes, short vocational courses. Universities and colleges have been set up nationwide, in most populated areas, regions and provinces. Technical infrastructure of schools has been improved and upgraded. The number of schools and classes that meet the national standards has increased. The education system has been diversified in form, method and resource, step by step integrating into the common trend of world education.

507. From a system that consisted of only public schools and formal education, the education system now consists of informal education, open schools, distant learning programmes, and international exchange programmes. The proportion of students and pupils in private schools has continued to rise, in school year 2000-2001, 66 per cent of kindergarten children, more than 50 per cent of nursery children, 34 per cent of secondary and high school students and more than 11 per cent of university students went to private institutions.

*Primary education*

508. The Law on Education 2005 affirms that primary and secondary education is universal. According to point a paragraph 1 of article 26 of the Law on Education 2005, primary education shall cover 5 school years, from grade 1 to 5. Age for grade 1 shall be 6. Paragraph 2 of article 27 of the Law on Education stipulates that the goal of primary education is to create initial foundation for the appropriate and long-term moral, intellectual, physical development, sense of beauty and basic skills of students so that they can continue to secondary schools. In the 2007-2008 school year: There were 6,871,795 students (1993: 8,909,000 students), among which 3,175,825 were girls, 1,099,045 were ethnic minorities, 6,832,218 went to public schools, 39,577 went to private schools, there were 14,939 primary schools (1993: 8909), among which, 14,844 were public (1993: 8903), 95 were private (1993: 6). 344,853 teachers, among which, 266,676 were female, 38,056 were ethnic minorities, 342,647 worked for public schools and 2,206 worked for private schools.

*Secondary education*

509. According to point b, Paragraph 1, article 26 of the Law on Education 2005, secondary education shall extend for four years from grade 6 to grade 9. Students shall have to finish primary schools in order to enter grade 6 which is expected to start at the age of 11. The goal of secondary education shall be to help students consolidate and uphold achievements of primary education, provide students with common knowledge at secondary level and initial understanding of technical and vocational matters to continue to high schools, technical schools, vocational training or start working. In the 2007-2008 school year: there were 5,858,484 students (1993: 2,804,5430 students), among which 2,856,483 were female, 874,642 were ethnic minorities; 5,790,187 went to public schools, 68,297 went to private schools; There were 10,485 secondary schools (1993: 8,282 schools), among which, 10,452 were public (1993: 8,210 schools), 33 were private (1993: 72 schools); 312,759 teachers, among which, 210,774 were female, 20,118 were ethnic, 310,201 worked for private schools.

*High-school education*

510. According to point c, paragraph 1 article 26 of Law on Education 2005 "high-school education shall cover three years, from grade 10 to 12. Students shall have to graduate from secondary schools to enter high schools, which is at the age of 15. Viet Nam also stipulates specific cases in which students can study at a higher level than their corresponding age due to their outstanding intellectual, or at a lower level due to socio-economic difficulties, students who are ethnic minorities, disabled, physical and mentally underdeveloped students, students who are orphans and have no guardians, poor students according to the State's regulations, students who return from overseas, students who study at higher level or repeat class, the learning of Vietnamese by ethnic minority children before entering grade 1." School year 2007-2008: there were 3,070,023 students (1993: 576,678), among which 1,587,714 were female, 305,055 were ethnic minorities; 2,238,141 went to public schools, 831,882 went to private schools; 2,476 high-schools (1993: 1,216), among which, 1,825 were public, 651 were private; 134,246 teachers, among which 75,004 were female, 5,665 were ethnic minorities, 105,092 worked for public schools, 29,154 worked for private schools.

*Vocational training*

511. As stipulated in article 32 of the Law on Vocational Training, technical training shall extend from three to four years for those who graduate from secondary schools, from one to two years for those who graduate from high-schools, vocational training shall take no more than one year for elementary level, one to three years for intermediate and college level. Article 33 of this Law stipulates regulations and goal of vocational training which is to train labourers by providing knowledge, teaching professional skills at various levels, moral and professional ethics, awareness of disciplines, industrial working styles, health to help them seek jobs, become self-employed or continue their study to improve professional skills, meeting the demand for socio-economic development and national defence and security. In the 2007-2008 school year: there were 1,696,500 vocational trainees, 614,546 went to technical schools (1993: 120,828 students); 284 technical high-schools and vocational colleges, 276 technical schools (1993: 267 schools), 20,195 vocational trainers, 14,658 technical trainers (1993: 9,474 teachers).

512. Regular education: in the national education system, apart from formal education, regular education is also provided. Regular education has helped people to learn and work at the same time, learn continuously all their life to complete their personality, expand knowledge, raise academic level, professional skills and capacity to improve the quality of life, find suitable jobs and adapt to social life. The State has put in place policies to expand regular education, implement Education for All, and build a learning society (art. 44 Law

on Education). Regular Education programme includes: literacy elimination programme and follow-up programmes, education programmes that are responsive to learners' demand, programmes that provide knowledge, skills, technology transfer, advance courses to improve and further professional skills, education programmes for national education system's certificates (the forms include: work and learn, distant learning, guided self-learning).

### **Improving the quality of training**

513. In recent years, quality management has been attached special importance. A specialized group on assessing and testing education quality has been set up. Apart from the establishment of the General Department of Testing and Education Quality Accreditation at the Central level in August 2004, other Testing and Education Quality Accreditation units have also been set up in 60/63 Education and Training Departments (accounting for 95 per cent). 77 specialized units have been set up to ensure quality of education in universities and colleges. By December 2008 there had been 114/163 (70 per cent) universities applying the self-assessment model.

514. Quality schools have been set up in many provinces. A number of universities have used international curriculum. By December 2008 there has been 23 advanced international training programmes introduced in 17 universities in which the teaching language was English. In parallel with teaching programme reform, textbooks and learning materials, teaching methods in universities have been initially reformed towards the promotion of pro-activeness, dynamism, creativity of learners while applying IT in learning and teaching.

### **Realizing social equality in education**

515. Social equality in education has been improved, particularly, there have been more and more opportunities to study for girls, ethnic children, poor and disabled children. Tuition fee waiver and reduction, scholarships, loans to study and other supporting policies have enabled most poor children, children who are beneficiaries of social welfare, policies families to study, 53 per cent of students and pupils nationwide enjoy tuition fee waiver and reduction.

516. Education in ethnic minorities areas: policies on ethnic minorities by the State and Party has been implemented, together with efforts by ethnic minorities, education in ethnic areas has recorded many achievements in terms of scale and network of schools and classes, infrastructure of schools, teacher training, particularly the development of ethnic boarding and day-boarding school system, universal primary education, universal secondary education. Kindergarten, once absent in these areas, is now present in all mountainous communes for children of 5 years old.

517. Over the past years, the annual number of 5-year-old children going to school has risen continuously. In the 2007-2008 school year, the number of children going to school was 1,192,030, accounting for more than 90 per cent of 5-year-old children. In the Central Highland alone, in the 2007-2008 school year, 17,289 5-year-old children out of 20,512 were encouraged to go to school, accounting for 84.3 per cent.

518. The network of primary school has extended to all communes. The number of schools and classes has increased so that schools are closer to inhabitants, making it easier for pupils to go to schools. The system of combined classes has expanded and showed effectiveness in tackling the lack of teachers and infrastructure. There are middle schools or schools of various levels in most communes or clusters of communes. There are high schools and joint schools of secondary and high school education in most mountainous districts (except for some districts that have just been set up).



519. The number of ethnic students at all education and training levels has increased annually. In the 2007-2008 school year, there were 50,947 kindergarten children (equal to 8.3 per cent of kindergarten children nationwide), 398,572 nursery children (14.8 per cent), 1,099,045 primary pupils (16 per cent), 874,642 secondary pupils (14.9 per cent), 305,055 high school students (9.9 per cent), 34,858 technical students (5.7 per cent), 13,976 college and university students (0.9 per cent) who came from ethnic minorities.

520. Ethnic boarding schools: the system of ethnic boarding schools has been set up and expanded, contributing to the development of ethnic minority human resources for the provinces. The State has focused investment to move ethnic boarding schools to economic and political centres of each locality, while building more ethnic boarding schools from Central to district levels. Ethnic boarding schools have been concretized and some enjoy the best facilities in the province. The system of combined classes has been expanded and showed effectiveness in tackling the lack of teachers and infrastructure. There are communal secondary schools and inter-level schools in most communes and clusters of communes. There are high schools or inter-level schools in most mountainous districts. In the school year 2003-2004, in total there were 271 ethnic boarding schools at central, provincial, district and clusters of commune level with approximately 66,282 students. In the school year 2008-2009, there were 284 ethnic boarding schools at central, provincial, district and clusters of commune level with approximately 85,000 students, among whom 70,000 were beneficiaries of scholarships.

521. Ethnic language teaching in schools in ethnic areas: Every ethnic minority in Viet Nam has its own language, so far, there have been 30 groups with their own scripts. In realizing the policy of the Party on ethnic minority, ethnic languages have been taught in schools, mostly in primary schools. In some provinces, ethnic languages have also been taught in provincial and district ethnic boarding schools. Currently, ethnic languages have been taught in primary schools in 15 provinces with 188,051 pupils, accounting for 11.53 per cent of ethnic students nationwide.

522. The exemption of university and college entry exams: With a view to developing quality human resources for ethnic minorities, particularly those that live in areas of special difficulties, the Government has put in place policies which allow ethnic students to enter university without taking the entry exams. This is applied to ethnic minorities living in difficult areas or ethnic minorities with very small population and increased each year. The Government has created favourable conditions to ensure the quality of education, increased the time of pre-university education for those exempted from entry exams. The policy of exemption of university and college entry exams has contributed to dealing with the shortage of local labour force, especially teachers, health staff and managers.

523. Education of disabled children: Currently, there are roughly 1 million disabled children, among which the deaf accounts for 15 per cent, the blind 27 per cent, the mentally ill 27 per cent, those with linguistic problems 19 per cent, with mobility defects 20 per cent, the rest are other kinds of disabilities. The education management system for disabled children has been strengthened and expanded. To date, all 63 provinces and cities nationwide have set up steering boards for disabled children education at district levels. The education of disabled children has increasingly expanded; the number of disabled children going to schools has increased rapidly. In the school year 2008, there were nearly 1 million disabled children going to schools, 3 per cent of whom went to special classes, 97 per cent went to integration classes. The network of teacher training facilities for disabled children education has been set up and grown rapidly. So far, there have been 4 universities and 3 colleges with faculties and units for special education, 10 centres to support and expand integration education for disabled children with a supporting network which started to operate in some provinces.

524. Education for poor children: The support policies for poor pupils and ethnic pupils, particularly in difficult areas such as exemption and reduction of tuition fee, loans for students, textbook lending, scholarships for poor students who overcome difficulties have enabled more and more poor children to gain access to high-level education. The gap between income groups in education accessibility has been narrowed. The rate of primary pupils has exceeded 90 per cent for major inhabitant groups. This for ethnic minorities and the poorest has also seen an upward trend, particularly among the poorest.

525. Gender equality in education: fulfilling international commitments, the Government of Viet Nam has issued a number of policies to create equal opportunities to education for all. Gender equality has been stated in Viet Nam's very first Constitution and the current Constitution, issued in 1992 and then amended and supplemented in 2001. On 29 November 2006, the National Assembly adopted the Law on Gender Equality to fix inappropriate gender-related points in the legal system. Many legal guidance documents have been issued to translate the law into reality. To realize the goal of gender equality in education, the Ministry of Education and Training has implemented Resolution No. 11-NQ/TW of the Politburo on women related work during industrialization and modernization and enforced the Resolution's spirit through implementation of guidance documents. The literacy rate of women has risen and the gender gap has been narrowed. The literacy rate of female 15 years old and older is higher than other countries in the region, rising from 86.46 per cent in 2000 to 90.22 per cent in 2004. By 2005, 96.87 per cent of women under 40 years old were literate. The literacy rate among women from 15 to 25 rose from 93.51 per cent in 2000 to 96.21 per cent in 2004.

#### **Improving financial capacity for education**

526. Investment in education by the state budget and other sources has increased. The State budget for education rose from 8 per cent in 1990 to 15 per cent in 2000, and now accounts for 20 per cent (of GDP). Many programmes and master plans have been able to mobilize diverse and maximum resources for education development, particularly for lower and upper education.

527. State spending on education has increased annually at an increasing rate. Spending on education in GDP rose from 4.1 per cent in 2001 to 5.6 per cent in 2008. This clearly shows the attention paid to education by the State; however, Viet Nam's GDP is not very high while there is a lack of infrastructure for education. The budget for education rose from VND 19.747 billion in 2001 to VND 81.419 billion in 2008 (rose by 4.1 per cent, equal to 15.5 per cent of the total state budget), in 2006 rose by 5.6 per cent (equal to 18.4 per cent of the total state budget). Since 2008, the Government of Viet Nam has dedicated 20 per cent of its budget to education.

528. The proportion of students and pupils who enjoy tuition fee waiver and reduction: according to annual statistics, the estimated proportion of students and pupils who enjoy tuition fee waiver and reduction at various levels is as follows: pre-school 28 per cent, primary school 100 per cent, secondary and high-school 28 per cent, vocational school 15 per cent, technical school 23 per cent, college and university 22.5 per cent.

529. Since school year 2007-2008, disadvantaged vocational students, college and university students can borrow to pay for their study (752,000 students have been loaned with the maximum of VND 800,000 per month).

#### **Environmental protection education**

530. Environmental protection is of vital importance to a nation and human kind. Environmental protection in general and education and training on environmental

protection in particular has been implemented in Viet Nam for many years now with a number of policies on and measures of environmental education in schools.

531. Implementing Directive No. 36/CT-TW dated 25 June 1998 of the Politburo on enhancing environmental education during industrialization and modernization, the Prime Minister issued Decision No. 1363/QĐ-TTg dated 17 October 2001 on the adoption of the Plan “Integrating environmental education into national education system”, the basic goals of which were as follows: (1) Provide pupils and students at all levels of the national education system with knowledge about laws and the Party and State’s policies and guidelines on environmental education, knowledge of the environment so as to protect the environment in a self-imposed manner and (2) Train teaching staff, teachers, science-technology researchers and managers on environmental protection.

532. The tasks of environmental protection education have been widely and well undertaken within schools, education of climate change has been incorporated into the curriculum at all levels. A number of environmental protection activities have been undertaken in educational institutions, achieving initial results. Activities such as dissemination of information on environment and building an educational environment that is green – clean – nice have been organized by schools. A number of painting, writing and art competitions on environmental protection have been held with success.

533. Awareness on the importance of environmental protection and the task of environmental protection education has been raised. The implementation of Directive 36/CT-TW dated 25 June 1998 of the Politburo, Decision 1363/QĐ-TTg dated 17 October 2001 of the Prime Minister, Decision 256/2003/QĐ-TTg dated 2 December 2003 of the Prime Minister on the National Environmental Protection Strategy to 2010 and Orientations to 2020, Resolution No. 41/NG-TQ dated 15 November 2004 of the Politburo on environmental protection during industrialization and modernization has been strengthened. Environmental protection has been fully understood as an important task for the education and training services, effective measures have been set forth to introduce environmental protection education to all levels, human resources for environmental protection during industrialization and modernization have been trained and invested in.

### **Difficulties and challenges**

534. The teaching and learning of ethnic students are difficult as the schools are scattered and far from home, resulting in limited time for studying and combined classes.

535. In some mountainous areas, remote areas and disadvantaged areas, the lack of pre-school and secondary school teachers has been going on for many years, many teachers must teach in combined classes (where pupils of different grades study together), while there has been more than enough teachers in some advantaged areas, particularly big cities.

536. Reform of teaching methods has been slow. Professional skills cannot catch up with the development of science and technology.

537. Although the budget for education and training has been given priority through year-on-year growth, it still falls short of demand and is not enough to create breakthroughs.

### **Orientations**

#### **Orientations towards education and training development by 2020**

538. First, it is important to comprehensively enhance the quality of education and pay due attention to education on dignity, ethics and lifestyle for pupils and students. The scale of education shall be expanded properly both in terms of universal and specialized

education to create a society of education and facilitate lifelong study for all. Vocational education must be intensified, including professions of high technology. Facilities of vocational education shall be enlarged and centres of vocational education at the district level should be developed. Programmes of vocational education shall be implemented actively for students from ethnic minorities of extremely difficult and remote areas. Universal primary education shall be boosted for pupils at school age and universal secondary education shall be carried out sustainably; outcomes of illiteracy eradication shall be maintained and relapse into illiteracy shall be prevented. Occupational orientation shall be implemented. The proportion of pupils repeating their classes and dropping out of schools shall be reduced. The State shall put in place policies on assistance for nursery schools, ensuring attendance for most school-age children.

539. Second, State's management of education and training shall be remarkably reformed. Decentralization shall be conducted at educational facilities to generate momentum and activeness. Enhanced rights to self-reliance and self-responsibility of schools shall be coupled with the completion of transparent mechanisms, which ensure the supervision of State's agencies, mass organizations and society. The application of IT and communication in educational management at all levels shall be promoted.

540. Third, it is crucial to train teachers at all education levels and civil servants in charge of educational management, meeting requirements for quantity, quality, personality and benchmark in accordance with the conditions of each region.

541. Fourth, it is essential to continue to improve the curriculum, creating significant changes in educational methods.

542. Fifth, resources for education and State's investment in education shall be increased. Priorities shall be given to national target programmes to handle scattered investment. Financial mechanisms in education and training shall be adjusted, making remarkable contributions to quality improvement, scale expansion and assurance of equality in education. Regulations on scholarships, tuition fees and education assistances in nursery schools, secondary and high schools must be suitable to economic conditions of each area and household; tuition fees for vocational education and universities will be shared by both the State and learners. Pupils and students of policy families and poor households are exempt from tuition fees; pupils and students of near poor households are eligible for reduced tuition fees; while those with extremely low income are eligible for assistance. Students of vocational training courses and poor households shall be offered loans at preferential interest rates.

543. Sixth, social justice must be ensured in education. The State shall focus on investment in areas of difficulties and ethnic minorities, gradually bridge the educational gap among areas. The policies on students exempt from university entrance examination and training under contracts between universities and localities shall be carried out. Training for ethnic cadres (party, administration and mass organizations at grass roots level) shall be provided. Systems of boarding schools and day schools shall be continually developed. Policies on priority and assistance for ethnic students shall be implemented. Special attention shall be given to children of wounded soldiers, revolutionary martyrs, and families with contribution to the state, pupils in extremely difficult situation and pupils with disability. Funds for study and talent encouragement and assistance to excellent pupils shall be promoted.

544. Seventh, international cooperation in education and training shall be strengthened. Favourable conditions shall be further created for officials, students and pupils to study abroad with focuses in areas our country has strong demand for. And at the same time, management of and assistance to students studying abroad shall be intensified.

## **Article 15- Right to take part in cultural life and scientific research**

### **A. Right to take part in cultural life**

#### **The background of implementation**

545. Viet Nam has signed and ratified international commitments as follows:

- 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property on 26 August 2005 (Decision No. 957/2005/QD/CTN);
- The Convention for the Safeguarding of the Intangible Cultural Heritage on 26 August 2005 (Decision No. 957/2005/QD/CTN);
- The Berne Convention for the Protection of Literary and Artistic Works, coming into effect in Viet Nam on 26 October 2004;
- The Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, taking effect in Viet Nam on 6 July 2005;
- The Brussels Convention for the Distribution of Programme-Carrying Signals Transmitted by Satellite, taking effect in Viet Nam on 12 January 2006;
- On 11 January 2007, Viet Nam officially became the 150th member of the World Trade Organization (WTO). All member countries of WTO must follow provisions of the TRIPs Agreement, an Agreement on Trade-Related Aspects of Intellectual Property Rights in the system of WTO agreements;
- The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, coming into effect in Viet Nam on 1 March 2007.

#### **Regulations of Vietnamese laws on the right to participate in the cultural and artistic life of individuals and organizations:**

546. Regarding creativeness and enjoyment, Vietnam has established regulations in laws and instruction documents on culture, arts, intellectual property, press and publishing such as the Law on Cinematography ( No. 62/2006/QH11), the Law on Cultural Heritage ( No. 28/2001/QH10), amended and supplemented the Law on Cultural Heritage on 19 June 2009; the Law on Intellectual Property ( No. 50/2005/QH10), the amended and supplemented Law on Intellectual Property on 19 June 2009; the Law on Publishing ( No. 30/2004/QH11), the amended and supplemented Law on Publishing on 3 June 2008 ( No. 12/2008/QH12); the 1998 Press Law amended in 1999, 2008.

547. Viet Nam has also issued a number of guiding documents, aimed at shaping a culture imbued with national identities:

(a) A number of significant resolutions have been released, including the Resolution of the 5th Plenum of the Central Party Committee (the 8th tenure) on building an advanced Vietnamese culture imbued with national identities. The central task of the Resolution is to develop ideology, ethics, lifestyle and cultural life in society and underscores that a healthy lifestyle should be established in grass roots units (families, villages, communes, wards, collective quarters, firms, farms, plantations, schools and military units) and residential areas (cities, rural and mountainous areas), meeting people's diverse and increased cultural demand; the Resolution 23-NQ/TW dated 16 June 2009 of

the Politburo on continued building and developing of literature and art in the new stage; and the Resolution of the 7th Plenum of the Central Party Committee (the 9th tenure) on ethnic people's affairs;

(b) The Government has issued a number of important decrees, instructions and documents to implement resolutions of the Party: Decree No. 96/2007/ND-CP of the Government on instruction of implementation of the 2006 Law on Cinematography, which allows individuals to participate in cinema activities, namely film production, popularization and publishing. On 18 June 2009, the 12th National Assembly adopted a law on amended and supplemented provisions of the Law on Cinematography; the State has created more favourable conditions for private sectors to participate in cinematography as well as enhance effectiveness of State's management nationwide. Decree No. 43/2006/ND-CP dated 25 April 2006 stipulates the right to autonomy, self-responsibility for the implementation, structural organization, personnel and finance of State-run units and increases the rights of autonomy and self-responsibility in implementation. Decree No. 11/2006/ND-CP dated 18 January 2006 of the Government on cultural activities and business of public services was promulgated. Circular No. 69/2006/TT-BVHTT issued by the Ministry of Culture and Information (the former name of the Ministry of Culture, Sports and Tourism) regulates business of discotheques, karaoke and computer games, allowing individuals to participate in cultural activities such as circulation and sale of films, tapes, music records, theatres, art shows, fashion shows, cultural and art exhibitions, organization of festivals, discotheques, karaoke, computer games, other cultural services and forms of entertainment. Decree No. 02/2009/ND-CP of the Government dated 6 January 2009 allows and encourages private sector to establish private libraries to serve the public and private sector is enabled to receive equal treatment for their library's products and services. Instruction No. 39/1998/CT-TTg of the Prime Minister on "Strengthening culture and information activities in ethnic minority and mountainous areas " was released.

548. To realize the guidelines on socialization of social activities in the spirit of the Resolution of the 8th National Party Congress, the Government issued legal documents: Resolution No. 05/2005/NQ-CP dated 18 April 2005 on strengthening socialization of education, health care, cultural and sport activities. Decree No. 69/2008/ND-CP on encouraging socialization of activities in the areas of education, vocational training, health care, culture, sports and environment.

549. Policies, programmes and projects to facilitate the establishment of cultural institutions at grass roots level:

(a) Decision No. 25/2004/QD-TTg dated 27 February 2004 of the Prime Minister on approval of the project "Developing culture and information in Central Highlands by 2010";

(b) Decision No. 271/2005/QD-TTg dated 31 October 2005 of the Prime Minister on approval of planning and development of a system of grass roots culture and information institutions by 2010;

(c) Decision No. 167/QD-TTg dated 14 July 2006 of the Prime Minister on approval of the project "Developing culture and information activities in the Mekong River Delta by 2010";

(d) Decision No. 2238/QD-BVHTT dated 12 July 2007 of the Minister of Culture and Information (now known as the Ministry of Culture, Sports and Tourism) on approval of the project "completion of culture and information institutions at grass roots level in upland and mountainous areas in the North by 2010".

550. To protect copyright, Viet Nam has established legal documents as follows:

(a) The Civil Code taking effect on 1 January 2006 and the Law on Intellectual Property coming into force on 1 July 2006 have created a safe legal corridor to encourage creative activities and protect outcomes of creative labour;

(b) Decree 100/2006/ND-CP dated 21 September 2006 gives instructions on implementation of articles of the Civil Code and the Law on Intellectual Property Rights and relevant rights;

(c) Specific laws such as the Publishing Law, the Press Law, the Law on Cultural Heritage and the Law on Cinematography stipulate provisions related to the protection of copyright in accordance with each area. The Civil Code, the Penal Code and the Customs Code have provisions on copyright and relevant rights, depending on the nature and scope of each law;

(d) Circular No. 01/2008/TTLT-TANDTC-VKSNDTC-BCA-BTP dated 29 February 2008 of the Supreme People's Court, the Supreme People's Procuracy, the Ministry of Public Security, the Ministry of Justice gives instructions on criminal responsibilities for infringement upon intellectual property rights;

(e) Circular No. 02/2008/TTLT-TANDTC-VKSNDTC-BVHTTDL-BKHCN-BTP dated 3 April 2008 of the Supreme People's Court, the Supreme People's Procuracy, the Ministry of Culture, Sports and Tourism, the Ministry of Science and Technology and the Ministry of Justice provides regulations on dispute settlement of intellectual property rights at the People's Court;

(f) Instruction No. 36/2008/CT-TTg dated 31 December 2008 of the Prime Minister on enhancing the management and implementation of the protection of copyright and relevant rights, particularly consultative activities, legal advice, dissemination, and education, implementation, verification and handling violations of copyright and relevant rights;

(g) Decree on Fine of administrative violations of copyright and relevant rights in line with an Ordinance on amendment to provisions of an Ordinance on Fine of administrative violations was founded.

#### **Focusing on preservation and promotion of traditional culture of ethnic minorities:**

551. To implement the Resolution of the 5th Plenum of the Central Party Committee (the 8th tenure) on "Building and developing an advanced Vietnamese culture imbued with national identities", the Resolution of the 7th Plenum of the Central Party Committee (the 9th tenure) on ethnic affairs, the Prime Minister issued the Instruction No. 39/1998/CT-TTg on "Strengthening culture and information in ethnic minority and mountainous areas" and Decision No. 124/2003/QĐ – TTg on approval of the project "Preserving and developing traditional cultures of Vietnamese ethnic minorities". The Government has tasked specialized agencies to build up a number of projects to promote traditional cultures of ethnic minorities; conduct surveys and develop plans to restore typical traditional festivals of ethnic minorities; and preserve and promote traditional cultural institutions of ethnic minorities' communities in establishment of cultural life at grass roots level and the preservation of traditional cultural activities such as folk songs and dances, costume, cuisine, crafts, languages and scripts of ethnic people.

552. Activities on preservation and promotion of the essence of traditional cultures of ethnic minorities have been paid attention to and included in programmes on verification in localities. Activities on preservation of villages and festivals of ethnics have been gradually preserved and built on in line with current conditions of ethnic minorities' and mountainous areas mainly in the North, the Central Highlands and the South West.

553. Regarding the implementation of the National Target Programme on culture, at the end of 2008, there were over 50 traditional festivals and 20 traditional villages, which are typical of ethnic minorities nationwide were received financial assistance for preservation.

554. Cultural exchanges have been organized to preserve typical cultures of ethnic people and increase solidarity among ethnic minorities such as the Festival of Culture and Sports of Khmer ethnic people in the South, the Cultural Days of Khmer in Ha Noi, the Festival of Culture of North-Western ethnic people, the Cultural Days of Cham people, the Cultural Days of North-Eastern ethnic people, the Cultural Days of Mong people, the Cultural Days of Hoa, the Cultural Days of Muong ethnic people, the Music Festival of Then songs – Tinh musical instrument and exchanges among pupils and students of ethnic minorities in Ha Noi, Da Nang and Ho Chi Minh City, etc. These activities reflect the due attention of the Party and State to ethnic cultures, affirming the soundness of policies and guidelines on ethnic solidarity.

**Attaching great importance to cultural activities in areas of ethnic people:**

555. Ethnic minorities reside mainly in mountainous areas including the North West, the Central Highlands and the South West. Being aware that culture in areas of ethnic people is a pressing issue, which needs to be resolved and is also a long-term and strategic issue due to objective and subjective elements. Therefore, it is essential to have thorough research and assessment to make concrete and right steps for progress.

556. To implement the Resolution of the 5th Plenum of the Central Party Committee (the 8th tenure) on “Building and developing an advanced Vietnamese culture imbued with national identities”, the Resolution of the 7th Plenum of the Central Party Committee (the 9th tenure) on ethnic affairs and Decisions 168, 186, 173 of the Government, the Ministry of Culture comes up with timely instructions with concrete projects and programmes as follows:

(a) Decision 25/2004/QĐ – TTg dated 27 February 2004 of the Prime Minister approves the project “Developing culture and information activities in the Central Highlands up to 2010”. Beneficiaries of this project are ethnic people in the Central Highlands. The aims of the project are to preserve selectively, safeguard and promote values of traditional culture and typical cultural values, phase out the obsolete; build and develop new cultural and artistic values, form a civilized lifestyle and families of new culture in the Central Highlands, contributing to the socio-economic stability and development;

(b) Decision No. 167/2006/QĐ – TTg dated 14 July 2006 of the Prime Minister on approval of the project “Developing culture and information activities in the Mekong River delta up to 2010” with objectives of preserving, building and promoting selectively traditional cultural values and typical cultural values, phasing out the obsolete; building and developing new values on culture and art, forming a civilized lifestyle and families of new culture in the Mekong River Delta; uniting to promote collective strength of peoples, improving cultural life in all economic, political and social activities, contributing to reversing the peaceful evolution plot of hostile forces for socio-economic stability and development; collecting, researching and popularizing cultural and artistic values and promoting traditional crafts of ethnic minorities in the Mekong River Delta.

557. Supporting activities for culture and information have been implemented in border areas with China, Laos, Cambodia, mountainous, remote areas and islands. After 15 years of implementing these activities, cultural life has been upgraded and traditional cultural values of ethnic minorities have been preserved in border, coastal areas and islands.



**Building mechanisms and policies on cultural activities in areas of ethnic minorities:**

558. Mechanisms and policies formulated under the framework of the National Target Programme on culture have been continually implemented by concrete plans, projects on management to identify the scale and beneficiaries. The beneficiaries are ethnic minorities, hamlets, villages and communes in mountainous, remote and extremely difficult areas (Programme-135 communes). Therefore, the spiritual life of ethnics has been improved. The system of culture and information institutions at grass roots level has been gradually established, phasing out “blank-areas” without cultural enjoyment benefits.

559. Policies on assisting, sponsoring and annually awarding for artists composing works on ethnic minorities and mountainous areas have been implemented. This has contributed to encouraging authors to create new cultural values, preserve and promote traditional cultural values of ethnic minorities.

560. A preferential policy on cultural enjoyment for ethnic minorities has been implemented (Decision No. 170/2003/QĐ – TTg dated 14 August 2003 of the Prime Minister). Beneficiaries of this policy are people in extremely difficult communes in mountainous and remote areas, stipulated in the Programme 135 of the Government.

**Implementing the National Target Programme on Culture aligned with grass roots development movements of culture and information:**

561. The National Target Programme on culture focuses on the building and development of cultural life at grass roots level, especially in mountainous and remote areas, islands, border areas of ethnic minorities; areas which have no cultural enjoyment have been eradicated, and spotlights of culture have been shaped in various aspects of spiritual life. Authorities in charge of culture at grass roots level has paid due attention to improve facilities of culture houses as well as train staff in charge of culture at grass roots level.

562. The system of houses of culture, libraries, clubs, mobile information groups, mobile theatres have received due attention; Cultural works and institutions have been established widely, especially the establishment of grass roots Culture Houses in villages and communes, contributing to enhancement of the spiritual and cultural life of local people.

563. Assistance projects on means for cultural activities in remote and extreme difficult areas have been implemented; To date, most of extremely difficult communes in remote and border areas have been provided with equipments. These equipments help localities eradicate “spots of no-culture enjoyment” in communes in remote and border areas; and create favourable conditions for officials, people and soldiers in remote and border areas to participate in cultural activities, access new knowledge of economics, culture, science and technology, enhance people’s knowledge and push back outdated customs.

564. Provision of mobile culture - information trucks for communes in remote areas and ethnic minorities has contributed to serving ethnics in remote areas through appropriate programmes and activities such as disseminating information, showing films, art performances, poster exhibitions, books, guidance for professional skills for cultural activities at grass roots level. These activities have met requirements of cultural dissemination in remote areas in context of difficulties of travelling among communes caused by distances.

**Strengthening the protection of copyright**

565. To strengthen measures to protect copyright and relevant rights, the Vietnamese Government has participated in International Treaties on copyright and relevant rights such as the Berne Convention for the Protection of Literary and Artistic Works, Geneva

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, Brussels Convention for the Distribution of Programme-Carrying Signals Transmitted by Satellite, and Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. The participation in International Treaties provides an opportunity for Viet Nam to formulate and enhance its legal system on copyright and relevant rights in accordance with international laws.

566. Viet Nam has gradually improved its legal system on copyright in line with International Treaties, creating adequate conditions to adjust social relations on copyright and relevant rights in Viet Nam and establishing a legal environment for the process of comprehensive international integration.

567. Financial assistance has been provided to State agencies and organizations to purchase copyrights, popularize works, performances, records, visual records and broadcast programmes which have ideological, scientific and artistic values in the interest of the people and for the socio-economic development.

568. Priorities are given to development and training of civil servants and staff in charge of management and implementation of the protection of copyright and relevant rights; and training for officials in charge of protecting the copyright on behalf of a group of authors and artists.

569. Scientific research projects related to laws, mechanisms, policies and applications of scientific and technological measures on protection of copyrights and relevant rights have been given priorities.

570. Training of knowledge related to authors' rights and other relevant rights has been strengthened in schools at various levels. Curriculum of authors' rights and other relevant rights has been included in the teaching programmes of universities, colleges and vocational training schools.

### **Performing arts**

571. The right to participate in performing arts and enjoyment of cultural values are not only codified in laws, but also implemented by executive agencies and supervised by legislative ones. Specifically, all people have the right to perform and organize art performances, the right to establish theatres and establish art troupes. Most of districts, provinces, cities and economic groups nationwide have established theatres or cultural centres, which serve as places for art performances and cultural enjoyment for all. There are 135 professional artistic units, including public and private groups. Annually, about 300 new art performances are designed with 20,000 performances, including nearly 3,000 performances serving people in mountainous and remote areas.

572. The State has invested in and encouraged all sectors to participate in the research and dissemination of advanced scientific applications in art performances and meet the demand for performing art in society.

573. Artistic works and scientific research projects on performance art of individuals and groups are spiritually and materially protected on the basis of the legal framework on intellectual property rights and international conventions signed by Viet Nam. The Department of Copyright, the Ministry of Culture, Sports and Tourism, the Centre for Protection of Musical Copyright and the Association of Vietnamese Musicians are agencies directly participating in management and protection of the said interests.

### **Building grass roots cultural life**

574. Families, hamlets, villages and districts of culture have been built. A civilized lifestyle has been realized in wedding, funeral, festival, communications and art

performances at grass roots level, thus creating profound changes in people's awareness of the role of culture in socio-economic development, contributing to the building of cultural life at grass roots level.

575. The building of Culture Houses in communes, wards, hamlets and villages has become a nationwide movement. By December 2007, there were 58 Centres of Culture and Information at provincial level, four Centres of Culture, Information and Exhibition, 670 Bureaus of Culture at district level, 388 Centres of Culture and Information, 176 Houses of Culture, 4,197 Culture Houses at communal level, 3,663 Culture Houses at community level; 37,124 Culture Houses at hamlet level; 7,558 communities have sports ground; 34,303 hamlets have sports ground. There are currently 2,991,989 cultural clubs, 713,392 people's art groups; 13,586,622 people are doing exercise regularly. This is a fundamental advantage of the system of cultural institutions at grass roots level in disseminating and concretizing guidelines of the Party and the State, providing guidelines and creating favourable conditions for people to actively participate in organization and management of culture and information activities in localities.

576. Local authorities have well disseminated contents and criteria on building families of culture, organized the assessment and recognition for the title of "Family of culture" in accordance with regulations in an open, democratic and serious manner. By 2008, 13,523,995 families were awarded with the title of "Family of culture" nationwide, accounting for 80.67 per cent, including 534,649 typical families of culture.

577. Local authorities have implemented active and effective measures to give instructions and realize the objective of enhancing the quality of building villages and residential areas of culture. People's Committees at provincial level have issued a statute on recognition of the title of villages and residential areas of culture, concretized and applied the contents and criteria suitable to the socio-economic conditions in localities and attached the building of villages and residential areas of culture with settlement of pressing social issues such as social evils, traffic accidents, diseases, realization of cultural life in wedding, funeral, festival and poverty reduction. By 2008, there were 41,530 villages of culture nationwide, making up 47.87 per cent, including 7,482 typical villages of culture.

578. Festivals are broadly organized and well managed. By 2008, there were 7,966 festivals, including 7,039 traditional festivals, accounting for 88.36 per cent, 332 revolutionary historic festivals, accounting for 4.16 per cent, 544 religious festivals, accounting for 6.82 per cent; 10 festivals stemmed from foreign countries, making up 0.12 per cent and 40 other festivals, accounting for 0.50 per cent. Demand for organizing festivals are increasingly high in most of localities, especially culture and tourism festivals. Festivals are regularly organized and models and mode of management of festivals have been established in line with conditions of localities. Northern provinces have a large number of festivals at the village, commune and national levels imbued with unique cultural identities of various regions and ethnics. A number of quality festivals have contributed to the enhanced prestige of tourism brands, attractiveness of localities and drawing attention of foreign tourists.

### **Cinematography**

579. Regarding film production, the State annually sponsors production of children, historical, tradition, ethnic minorities, documentary films, scientific films and cartoons. To date, there have been 40 private enterprises with film studios, including 10 studios producing movies, series or advertisements. Films produced by private enterprises have contributed to the increased number of made-in-Vietnam films. Private film enterprises produce both entertaining and artistic films, gradually meeting people's demand, attracting people to the cinemas as well as meeting the demand of viewers for Vietnamese films on television.

580. The legal corridor of film importation and release has been expanded for the private sector. Several private enterprises have invested capital or formed joint ventures with foreign investors to upgrade cinemas, built multi-purpose cinemas in major cities such as Ha Noi, Ho Chi Minh, Hai Phong, Da Nang and other provinces. The number of cinemas has increased; Mega Company has 53 movie houses with 7,582 seats and Galaxy has 6 movie houses with 1,718 seats, forming a film release and import network. Private enterprises have annually imported 100 movies, creating a positive change in the market of film release.

581. Film exportation has been gradually undertaken. The quality and technology of filmmaking have been paid much attention by private film companies to satisfy criteria of international film festivals. In fact, the number of companies capable of exporting films is only a few such as the Viet Nam Media, Thien Ngan Company and Chanh Phuong Company with about 30 films per year. Their export market is mainly in Asia.

#### **Fine arts, photography and exhibitions**

582. In terms of fine arts, photography and exhibitions, the participation of the private sector is huge. Investment in this area over the years has been mainly from private sector. The State only plays a supporting role in opening composing, trainings camps, and organizing big exhibitions on the national or regional scale.

583. Photography services have seen rapid development; the number of photographers has increased, many photographers have gained high rankings in the international photographers ranking system. Galleries have been invested in by the private sector with thorough plans, greatly contributing to the development of the market of fine arts; and painters now can live on their works. International sculpture camps have been initially developed with sponsorship of domestic and foreign private sectors, the result of which are statue gardens, contributing to the improvement of urban cultural environment.

584. Investment in galleries and multifunctional exhibitions has increasingly drawn the attention of the private sector. The Phu My Hung residential area has opened a large-scale exhibition, meeting demand for organizing fairs and exhibitions of Ho Chi Minh City and adjacent provinces. Recently, a number of private companies specialized in organizing fairs and exhibitions have been established and operated smoothly.

#### **Libraries:**

585. Currently, there are about 7,000 libraries and reading rooms at grass roots level managed by the culture and information service, over 7,500 post offices and Culture Houses in communes, 10,000 law bookshelves, 400 bookshelves in border posts. Regarding private libraries, according to incomplete statistics, there are about 40 libraries with an average amount of publications of 8,000, equivalent to a library at the district level.

#### **Museums**

586. The private sector has paid much attention to investment in museums, including eight private museums: three museums in Ha Noi: a museum of revolutionary soldiers arrested by the enemy; a museum of fine arts of Phan Thi Ngoc My; a fine arts museum of Sy Tot and families; a museum in Thanh Hoa: a museum of Hoang Long antiques; a museum in Hoa Binh: a museum of cultural space of Muong ethnics; a museum in Binh Dinh: a museum of ancient potteries Vijaya - Binh Dinh; a museum in Nam Dinh: a museum of war objects; a museum in Ho Chi Minh City: a museum of Vietnamese traditional medicine. Besides, many individuals have established their own collections to serve the public.

## **Education**

587. There are 15 schools of culture and fine arts nationwide, with tuition paid by students, and nine schools of culture and fine arts which are allowed to invite foreign teachers or Vietnamese teachers living abroad to teach, with the majority of costs borne by foreign partners.

## **Copyright**

588. There are 32 organizations providing copyright consultation services across the country. Most of these organizations are run by the private sector, including four law offices engaged in copyright consultation services. During 1999-2003, over 30 per cent of cases of copyright registrations annually were made through organizations providing copyright consultation services.

589. Viet Nam Centre for Protection of Music Copyright has been established. After two years of operation, this Centre signed 460 consignment contracts with musicians. The Centre has concluded 755 consignment contracts with authors and 2,200 members. The Recording Industry Association of Viet Nam was established in August 2003. To date, there are 45 organizations and individuals voluntarily applying for its membership.

## **Literary and artistic creation and press**

590. To encourage artists and reporters to produce new quality works, the Prime Minister has decided to provide financial assistance from the State's budget to sponsor creative activities of literary and artistic works for arts and literature associations since 2000.

591. The State's sponsorship has created favourable conditions for the artistic circle and the Association of Literature and Art of Viet Nam to operate in line with their orientations and functions, and encouraged artists and reporters, reflecting the attention of the Party and State to the artistic circle.

## **Difficulties and challenges**

592. The level of cultural enjoyment of all people in rural areas, especially remote, mountainous areas and areas of ethnic minorities is still low. Superstition, tradition of burning votive papers, social evils and violation of laws has been slow to be addressed. Uncivilized behaviours in public places and the disappearance of traditional cultural values have not been resolved for good and even are relatively popular in many places.

593. There is a lack of planning for construction of institutions, capital, facilities leading to incapability of organizing diverse cultural activities and meeting people's demand. Activities of cultural institutions in hamlets and villages haven't given consistent instructions. Guidelines are only limited for community gathering. Some Culture Houses don't have specialized officials and lack managers.

594. Objectives and criteria on building cultural life, regulations and conventions on lifestyle of culture haven't been implemented in the self-aware manner. Thus, people's spiritual life hasn't recorded considerable and stable progress. The management of movements in some places hasn't been given concrete and regular instructions. Administrative formality and orders are still popular. Activities on disseminating and mobilizing people to promote their active role and self-management haven't received due attention.

595. The financial assistance of the State in building a cultural life, especially cultural institutions at grass roots level is limited, even in provinces and cities recording high economic growth. Mechanisms and policies on attracting various resources for socialization are unclear.

**Orientations**

596. Culture is a spiritual basis of society and constitutes both objectives and momentum for socio-economic development. Vietnamese culture being shaped is an advanced culture imbued with national identities and unity in diversity of Vietnamese ethnics. The movement of “All people unite to build a cultural life” will continue to be strengthened with the focus on building families of culture, villages of culture, residential areas of culture, agencies of culture, communes, wards and towns of healthy lifestyle, and elimination of drugs and prostitution. The system of culture and information institutions at grass roots level will be completed and its quality will be enhanced.

597. The movement of building families of culture, villages of culture and residential areas of culture shall be profoundly developed with quality and effectiveness. 100 per cent of families of culture, villages of culture and residential areas of culture will be recognized, creating remarkable changes in implementation of policies on “gender equality”, elimination of domestic violence, ensuring harmonious families, dutiful children, exemplary grandparents and parents, families escaping from poverty, making a fortune and providing assistance to disadvantaged families.

598. An advanced lifestyle shall be implemented in weddings, funerals and festivals; Regulations in office culture shall be carried out, including culture in State agencies, political organizations, commercial bases, enterprises, public places and traffic culture. The implementation of regulations on building a cultural lifestyle will be given instructions and supervised, coupled with the assessment of current titles of families, villages, residential areas, agencies and enterprises. Backward customs, superstition, bad habits and social evils shall be removed.

599. Quality of movements on building families of culture, villages of culture, and residential areas of culture shall be ensured. The building of a system of culture and sports institutions in communes and wards will be completed. Communes and wards with recognition of healthy lifestyle shall be established without social evils; and goals of national standards on health care, education and rural traffic shall be achieved. The proportion of poor households shall be reduced. Movements on culture, art performances, sports and implementation of culture lifestyle shall be established and developed. Management of authorities at commune level shall be enhanced. The management of authorities at commune level shall be intensified with the State’s support together with socialization of cultural activities. Active consciousness and self-management of community shall be exploited and promoted.

**Major projects**

600. The major projects are as follows:

- Completing mechanisms and policies on promotion of literary and artistic works creation;
- Establishing and implementing a Master Plan on programmes and art performances serving people in remote and border areas, islands and areas of ethnic minorities;
- Establishing and implementing a Project on honouring typical craftsmen of the country;
- Completing mechanisms and policies on artists, pupils, students and teachers of art schools;
- Building a mechanism on coordination and implementation of a Strategy on culture development among the Ministry of Culture, Sports and Tourism, the Commission of Education and Communication, the Central Committee

of the Fatherland Front of Viet Nam, the Central Theoretical Council on Literature and Arts, the National Committee on the Union of Literature and Arts of Viet Nam;

- Fundamentally completing the establishment of cultural institutions from the central to local levels.
- Building and implementing a Coordination Project to create the synergy of the Culture, Sports and Tourism service for socio-economic and cultural development;

## **B. Right to take part in scientific research**

### **Implementation**

601. Article 60, chapter III of the 1992 Constitution of the Socialist Republic of Viet Nam stipulates that “Citizens have the right of doing scientific and technical research, invention, innovation, technical improvement, enhancement of production, and engagement in literary, artistic creation and criticism, and other cultural activities. Copyright and the right to industrial ownership are protected by the State”.

602. Over the past years, a number of important documents on strategic orientations, mechanisms and policies on scientific and technological development have been issued such as Resolution of the 2nd Plenum of the Central Party Committee, the 8th tenure (1996), Conclusion of the 6th Plenum of the Central Party Committee, the 9th tenure (2002), Resolution of the 9th Plenum of the Central Party Committee, the 9th tenure (2004), Strategy on scientific and technology development of Viet Nam by 2010 (2003), Project on renewing the management on science and technology (2004) and other concrete policies on building capacity and renovating mechanisms for management of science and technology.

### **Relevant legal documents:**

603. The relevant documents are set out below:

- Right to industrial ownership and technology transfer stipulated in Chapter 2 and Chapter 3 (part VI) of the 1995 Civil Code
- An Ordinance on Radiation Safety and Control adopted by the Standing Committee of the National Assembly in June 1996
- An Ordinance on the Protection of Consumers’ Rights adopted by the Standing Committee of the National Assembly in May 1999
- The 2000 Law on Science and Technology
- The 2006 Law on Technical Norms and Standards
- The 2007 Law on Quality of Goods and Products;
- The 2008 Law on Nuclear Energy;
- The 2008 Law on High Technology.

604. For the first time the viewpoint about creating equal opportunities for every citizen in science and technology activities has been officially acknowledged, which helps unleash people’s creativity and diversify funding for scientific and technological activities. The 2000 Law on Science and Technology stipulates:

(a) Article 27 on encouraging the application of the results of scientific research and technology advances: The State adopts policies and measures to encourage all

organizations and individuals to actively apply the results of scientific research and technology advances in socio-economic development, national defence and security, material and cultural life improvement for the people. Organizations and individuals shall apply the results of scientific research and technology advances in socio-economic management reform and technology innovation, thus enhancing the competitiveness of products that enjoy tax and credit preferences and other incentives.

(b) Article 41 prescribes: The State encourages organizations and individuals to establish Funds for Science and Technology Development in accordance with the law. These Funds operate as non-profit organizations aimed to provide grants and interest-free or low-interest loans to support organizations and individuals engaged in scientific and technological activities.

605. The 2005 Law on Intellectual Property specifies in article 9 that "organizations and individuals have the right to take measures provided by the law to protect their own intellectual property rights and are obliged to respect the intellectual property rights of other organizations and individuals under the provisions of this Law and other relevant legal documents."

606. The 2006 Law on Technology Transfer provides in article 8 for the rights to conduct technology transfer activities as follows:

- The technology right holders have the right to transfer their rights to ownership and use.
- Organizations and individuals may transfer the right to use that technology if so permitted by the technology right holders.
- The technology use rights can be transferred by the right holders (organizations and individuals) if the industrial property has expired or is not protected in Viet Nam.

607. The Strategy for development of science and technology of Vietnam up to 2010 approved by the Prime Minister in Decision No. 272/2003/QĐ-TTg dated 31/12/2003 is an important document mapping out the roadmap for science and technology development. The National Fund for Science and Technology Development was established by the Government under Decree 122/2003/NĐ-CP dated 22 October 2003;

608. The Statute on High-tech Parks, specified in Decree No. 99/2003/NĐ-CP dated 28 August 2003 and Decision No. 53/2004/QĐ-TTg dated 5 April 2004 by the Prime Minister on the policies for investment promotion in high-tech parks, set out important mechanisms and policies to accelerate the establishment and development of high-tech parks;

609. The programme to support enterprises' development of intellectual property implemented since 2005 has continuously been scaled up to build on its progress. To implement important laws on science and technology introduced since 2005, a number of actions have been taken, including the establishment of a National programme on raising productivity and quality of Vietnamese products; National technology innovation programme; Master Plan on application of nuclear energy for peaceful purposes. In particular, the Corporate Income Tax Law allows enterprises to earmark 10 per cent of their before-tax profit to establish their own science and technology development fund.

### **Outcomes**

610. Vietnam has officially established science and technology cooperation with approximately 70 countries and international organizations, including almost all developed countries, countries in the region, particularly the ASEAN countries.



611. International cooperation in science and technology has become more diversified and multilateral, building on traditional existing ties while establishing and expanding cooperation with new partners. From a passive recipient of grants and assistance, Viet Nam has been moving towards proactive, equal and mutually beneficial cooperation. Meeting the demand on the ground, international cooperation in science and technology has helped address pressing issues facing the country towards industrialization and modernization.

612. International cooperation in science and technology helps Viet Nam upgrade existing technologies and acquire new technologies, raise the country's overall level of science and technology, modernize technical facilities, exchange information, share experiences as well as introduce scientific and technological advances.

613. Viet Nam has fully delivered on its WTO commitments on intellectual property (complete the legal system for protection of intellectual property in accordance with the TRIPS), those under the Agreement on Technical Barriers in Trade (TBT Agreement), obligations to update the WTO on Viet Nam TBT and provide information from WTO to the authorities in Viet Nam TBT network.

614. Access to and applications of the advances of technologies available in the world have helped Viet Nam in producing goods with high high-tech contents. Through scientific and technological programmes, research activities have become more closely linked with production and life, bringing about practical socio-economic benefits. The results of many research projects have been applied in production to create new products with high quality for export, substitute imported goods and contribute to improving the level of technology, production capacity and competitiveness of the economy. Some specific results include:

615. In agriculture, the most remarkable contribution of science and technology is creating and producing new plant varieties and animal species (around 34 breeds/ year). To date, new high-yield varieties have been planted in 80 per cent and 60 per cent of the areas for growing rice and corn respectively; hybrid varieties of maize have been created with the same import quality and 1/2-1/3 of the price, helping domestic hybrid maize varieties regain 60 per cent of market share in the country from multi-national companies, saving tens of millions of dollars per year and bringing about VND 300-400 billion/ year to farmers.

616. Fisheries and aquaculture production for export represent one of the strengths of Vietnam and is among the three largest sectors in the country in terms of export value. Science and technology contributes significantly to this sector's export turnover of US\$ 2 billion as seen in important and determining stages of aquaculture farming. The transfer of production and breeding technology in high-yield tiger prawn farming (5.5 tons/ ha) serves as a cornerstone in aquaculture restructuring in the Northern coastal provinces, creating an important export commodity for the Red River Delta. The application of genetic technology has helped in early detection and prevention of diseases as well as protection of the breeding areas which are worth hundreds of billions of dong. Investment in research on and completion of technologies for breed production of unisexual tilapia farming, artificial catfish production, sea crabs, snails, garrupas and abalones helped create new jobs as well as a foundation for export to reach US\$500 million/ year.

617. In health sector, the most prominent achievements include the research and development of vaccine production technology followed by the capacity of producing 9 out of 10 vaccine types listed under the Extended Immunization Programme as well as the successful application of high technologies in the production of recombinant hepatitis type B vaccine. Vietnam has acquired a number of modern technologies such as the standard image diagnosis, endoscopy, in vitro fertilization, kidney transplant, coronary artery dilatation, cardiac valvuloplasty with two valves at only a half or one-third of the cost for the same treatment abroad, saving hundreds of billions of dong for society each year. In

early 2003, scientists in Vietnam's health sector made a significant contribution to promptly detecting, epidemiologically monitoring and successfully developing a regimen for treatment of severe acute respiratory syndrome (SARS). Vietnam became the first country in the world to successfully control the pandemic.

618. In industry, Vietnamese scientists have applied new technologies in the development of telecommunications infrastructure which helped improve the connection speed and bring down Internet rates. In transportation, with science and technology advances, Vietnam managed to manufacture some types of express and transport trains with capacity from 11,500 to 13,000 tons. Thanks to research and application of modern scientific and technological advances, Vietnamese experts have succeeded in designing the technology and instructing the construction of cantilever bridges, cable-stayed bridges, highways, terminals and harbours with the scale and technology on par with the region.

### **Difficulties and challenges**

619. Science and technology have become a direct and leading production force. The strength of each country depends largely on the capacity of its science and technology. The advantage of natural resources and cheap labour is becoming less important while the role of human resources with high qualifications and creativeness is of decisive significance in the context of economic globalization. The competitive edge belongs to enterprises using new technologies to create products and services that satisfy the diverse and changing needs of customers. Multinational companies, with strong financial position and science and technology, are dominating the market of advanced technologies.

620. To adapt to the current context, developed countries had to adjust their economic structure towards the development of industry and services with high technological content and environmental friendly technologies. They tend to transfer to developing countries technologies that consume more fuel, energy and cause more pollution. To deal with this, developing countries must give priority to training quality scientific and technological human resources, increasing investment in technological innovation and scientific research, particularly for high-techs, to quickly catch up with the development trends of the world and create competitive advantages in attracting advanced technology transfer from developed countries and multinational companies.

### **Orientations**

#### **Reform in management and organization of scientific and technological activities:**

621. These reforms are intended to:

(a) Further consolidate economic and financial regulations and policies to create the momentum for scientific and technological development; reform tax and credit policies; formulate policies on financing the application of domestically-attained scientific and technological advances; regulations on associating education, research, production and business; mechanisms to diversify sources of investment for scientific and technological activities, encourage enterprises to invest in technological innovation, attract and effectively utilise foreign investment for the development of science and technology. Increase investment in science and technology.

(b) Focus investment in basic application-oriented research; research on the formulation of policies and strategies as well as the identification of science and technology priorities; invest in enhancing science and technology; establish a solid scientific and technological foundation; make breakthroughs in key economic sectors.

(c) Increase investment in scientific and technological activities in universities and formulate regulations to establish the link between training and research in universities

and research institutes; provide appropriate financial mechanisms to encourage cooperation between universities, research institutes and enterprises.

(d) Review and decide on the organizational and operational models in science and technology activities. The State provides adequate funds for organizations which mainly conduct basic scientific research, studies for policy and strategy development and research for public utilities. Institutions mainly involved in research and development of technologies for production and business will speedily move towards financial independence and gradually towards becoming a science and technologies businesses. This process of transition will be supported by tax credit and social insurance preferences.

#### **Establish and develop a science and technology market**

622. The projects on mechanisms and policies to promote the development of science and technology market will be completed, as will laws on intellectual property and technology transfer; organizations responsible for the management of and support to the development of science and technology market will be established; and institutions focusing on providing consultation, brokerage and technology transfer services will be developed.

#### **Develop science and technology capacity**

623. This is achieved by the following means:

(a) The development of the plan and the provision of training for strong pool of scientific and technological personnel with particular emphasis on the training of highly qualified staff, project managers and scientists of world-class level.; and the development of the planning and master plan on training of scientific and technological human resources.

(b) The establishment and development of strong scientific and technological institutions capable of undertaking scientific tasks on an international scale;. The creation of favourable international conditions for organizations and individuals working in science and technology to engage in education, training, exchanges, and joint-research with counterparts around the world and in the region; and encouraging and attracting foreigners and overseas Vietnamese to invest and cooperate in realizing the scientific and technological goals of the country.

(c) Together with training, adopting policies to stimulate the creativeness of scientific and technological professionals and in addition to important policies to utilise and honour groups and individuals with significant services, the State will pay special attention to entitlements for scientists, attaching their responsibilities and research outcomes. Suitable policies shall be put forward to ensure that Vietnamese scientists with worthy contributions to the country are entitled to appropriate rewards and remuneration. Regulations will be formulated on benefit sharing between the creators and the users of scientific and technological achievements (scientists, entrepreneurs and service providers) so as to fasten the link between scientists' responsibility and the products of their scientific and technological research. Legislations will be amended to foster the implementation of labour contract for scientific and technological staff.

#### **Provide strong leadership to fulfil key tasks**

624. The key tasks include:

- Promoting the transfer of scientific and technological advances in agriculture and rural areas, remote and disadvantaged areas together with strengthened cohesion

between socio-economic programmes and science and technology programmes for agriculture and rural areas.

- Developing mechanisms and policies for science and technology transfer programmes in the agricultural sector and in rural areas; strengthening coordination with local authorities in implementing key tasks in science and technology to create the momentum for socio-economic development in each area and each economic zone. Initially, the programmes shall focus on the development and introduction of new plant varieties and animal breeds as well as the models for preservation technologies of agricultural, forestry and aquaculture products to raise the value and competitiveness of agricultural production; formulating preferential policies to attract scientists to work in rural areas and remote and disadvantaged regions.

- Implementing the Project on mechanisms and policies related to development of high-tech in various fields (information, biology, materials, electronic engineering, automation, etc.) and working on projects, such as the National Fund for Technological Innovation, National Venture investment Fund, Project on reform of financial mechanisms for public service delivery agencies in science and technology.

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