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## Consejo de Derechos Humanos

20º período de sesiones

Tema 3 de la agenda

**Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo**

### **Informe del Experto independiente sobre las consecuencias de la deuda externa y de las obligaciones financieras internacionales conexas de los Estados para el pleno goce de todos los derechos humanos, sobre todo los derechos económicos, sociales y culturales, Cephias Lumina**

Adición

**Misión a Viet Nam\* (21 a 29 de marzo de 2011)\*\***

#### *Resumen*

En el presente informe, el Experto independiente sobre las consecuencias de la deuda externa y de las obligaciones financieras internacionales conexas de los Estados para el pleno goce de todos los derechos humanos, sobre todo los derechos económicos, sociales y culturales, recoge las conclusiones fundamentales de su visita oficial a Viet Nam, del 21 al 29 de marzo de 2011. El objetivo principal de la visita era evaluar las consecuencias que tiene la deuda externa del país en la efectividad de los derechos humanos y en el logro de los Objetivos de Desarrollo del Milenio. El Experto independiente examinó también las consecuencias del declive económico mundial para la carga de la deuda del país, los derechos humanos y los Objetivos.

Viet Nam ha realizado avances notables hacia el logro de los Objetivos de Desarrollo del Milenio y ha alcanzado las metas en lo que se refiere a reducción de la pobreza, acceso universal a la educación primaria e igualdad de género con bastante antelación a las fechas previstas. Ha realizado avances importantes respecto de los demás Objetivos, y es evidente el compromiso del Gobierno de lograrlos para la fecha establecida.

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\* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo del resumen, se distribuye únicamente en el idioma en que se presentó.

\*\* Documento presentado con retraso.

Pese a estos logros, Viet Nam se enfrenta a un a serie de problemas, en particular afrontar las enormes disparidades socioeconómicas que existen entre las minorías étnicas y el resto de la población, velar por que la financiación del comercio y los déficits presupuestarios no aumenten la carga de la deuda externa hasta alcanzar un nivel insostenible, afrontar las posibles deficiencias de la financiación en condiciones favorables como consecuencia de su situación de renta media baja, y hacer frente a los efectos del cambio climático.

## Anexo

[English only]

### **Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina, on his mission to Viet Nam**

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## **I. Introduction**

1. In this report, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, presents the main findings of his official visit to Viet Nam from 21 to 29 March 2011. The primary purpose of the visit was to assess the impact of foreign debt on the realization of human rights and the achievement of the United Nations Millennium Development Goals in the country. The Independent Expert also explored the impact of the global economic downturn on the country's external debt burden, human rights and the Goals.

2. The Independent Expert met with senior Government officials, including the Deputy Prime Minister and representatives of the Ministries of Foreign Affairs; Finance; Justice; Planning and Investment; Labour, Invalids and Social Affairs; Health; and Education and Training. He also met representatives of the State Bank of Viet Nam, as well as of the Financial and Budgetary Committee of the National Assembly, the Centre for Analysis and Forecasting, the National Institute for Finance, the country's development partners (bilateral and multilateral) and civil society organizations. Further, he visited Ho Chi Minh City, where he met with local government officials and representatives of civil society organizations.

3. The Independent Expert is grateful to the Government of Viet Nam for its invitation and full cooperation during his visit. He also extends his special gratitude to the United Nations country team in Viet Nam for its support throughout his visit and for its interest in his mission, as well as to all those who met with him.

## **II. Legal and institutional framework for human rights**

### **A. Human rights obligations**

4. Chapter V of the Constitution of the Socialist Republic of Viet Nam enshrines a number of "basic rights and obligations of citizens", including the rights to participate in managing the State and society (art. 53), to work (art. 55), to free enterprise (art. 57), to education (art. 59), to health care (art. 61), non-discrimination between men and women (art. 63), and to freedom of speech, the press, assembly and association (art. 69).

5. These Constitutional guarantees are complemented by an extensive range of domestic laws as well as standards contained in the international human rights treaties to which Viet Nam is a party.<sup>1</sup>

6. During the universal periodic review of Viet Nam in May 2009, the Government supported the review's conclusions and recommendations that called, inter alia, for its accession to or ratification of further major human rights instruments.

7. The Independent Expert welcomes the Government's commitment, as expressed during its universal periodic review, to ratifying the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; the

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<sup>1</sup> Viet Nam is a party to the International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child and its two Optional Protocols.

Convention on the Rights of Persons with Disabilities; the International Convention for the Protection of All Persons from Enforced Disappearance; as well as the Optional Protocols to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women.<sup>2</sup> He also welcomes the Government's commitment to developing a plan of action to implement effectively the universal periodic review recommendations.<sup>3</sup> In this connection, he encourages the Government to devise a plan of action with specific timelines and institutional responsibilities to ensure the effective implementation of the recommendations of the universal periodic review.

8. During his visit, the Independent Expert noted the ongoing discussions within the Government concerning ratification of or accession to the aforementioned international human rights treaties. In this regard, he urges the Government to take concrete measures towards reaching that commendable objective in a timely manner.

9. It should be noted, however, that the full realization of human rights requires much more than mere ratification of international treaties. These international instruments contain important obligations for States parties to take legislative and other measures, including the establishment of enforcement mechanisms, to give effect to the treaty provisions. Consequently, the standards contained in these instruments must be incorporated into domestic legislation.

10. The Independent Expert notes that the Government intends to harmonize its legislation with international human rights treaties. He also accepts that the Government faces a number of challenges in aligning its domestic legal framework with its international obligations, particularly that "the legal system of Viet Nam still lacks coherence while remaining overlapped and even contradictory in some areas".<sup>4</sup> According to the Government, there are difficulties in interpretation, implementation and enforcement of existing laws, weaknesses in education and awareness, as well as limited information and understanding of human rights among both duty-bearers and rights-holders.<sup>5</sup> Some of these challenges were evident during the visit of the Independent Expert.

11. While recognizing the foregoing challenges, the Independent Expert reiterates the view expressed by the Independent Expert on the question of human rights and extreme poverty that the Government needs to make further efforts to speed up the process of alignment of domestic legislation with its international human rights obligations.<sup>6</sup> In particular, the Government should increase its efforts in raising awareness among public officials of the international and domestic human rights obligations of Viet Nam and develop a plan of action towards mainstreaming of human rights. In this regard, the Independent Expert urges the Government to consider avenues for technical cooperation in the field of human rights with the United Nations Office of the High Commissioner for Human Rights and the country's development partners.

<sup>2</sup> A/HRC/12/11, para. 99.

<sup>3</sup> A/HRC/12/50 and Corr.1, para. 506.

<sup>4</sup> A/HRC/12/11, para. 22.

<sup>5</sup> During the universal periodic review, the country's First Vice-Minister for Foreign Affairs referred to "a segment of public servants [who] remain unfamiliar with the human rights treaties to which Viet Nam is party and occasionally have insufficient knowledge of government policies and the law." See A/HRC/12/11, para. 22.

<sup>6</sup> A/HRC/17/34/Add.1, para. 15.

## B. Institutional framework

12. The Independent Expert is concerned about the absence of an independent body to monitor human rights violations. He welcomes the ongoing consultations within the country on the creation of an independent national human rights institution. In his estimation, such a mechanism would serve as an important complement to the Government's efforts to fulfil its international human rights obligations as well as efforts to improve the social conditions of its people in a comprehensive and sustainable manner. Nevertheless, the Independent Expert considers that such a mechanism should be in full conformity with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles).

13. A number of Government and independent studies indicate that corruption is a serious problem, posing a significant threat to the country's socio-economic development.<sup>7</sup> The Government has described corruption as a "national plague that has complicated economic, legal, social dimensions"<sup>8</sup> and has significantly impeded the successful implementation of the *Doi Moi* (economic renewal) process.<sup>9</sup> In addition, corruption increasingly curtails people's access to basic services.<sup>10</sup>

14. According to the Asian Development Bank (ADB), corruption thrives because of "complicated and unclear administrative procedures, excessive regulations, the opaque nature of decision-making, lack of public information, bureaucratic discretion on the part of middle-level officials and long delays" in the country.<sup>11</sup> Even though the Bank's assessment dates back to 2001, it appears that the situation has only improved marginally and major factors are still evident.

15. Although the Government has responded with a range of anti-corruption measures including enactment of an Anti-Corruption Law in 2005, establishment of new anti-corruption bodies and the recent launch of the Viet Nam Anti-Corruption Initiative Program 2011,<sup>12</sup> implementation remains a challenge. The Anti-Corruption Law provides for three specialized anti-corruption agencies: the Anti-Corruption Department of the Governmental Inspectorate; the Department for Prosecution and Supervision over Investigation of Corruption Cases of the Supreme People's Procuracy of Viet Nam; and the Police Department of Investigation on Corruption Crimes of the Ministry of Public Security. The Anti-Corruption Law and Resolution 1039/2006/NQ-UBTVQH11 adopted by the Standing Committee of the National Assembly in 2006 assigns the Steering Committee for Anti-Corruption, headed by the Prime Minister, a mandate to instruct, coordinate, and monitor nationwide activities relating to the prevention and combating of corruption. According to *Global Integrity 2009*, however, the Office of the Steering Committee for Anti-Corruption,

<sup>7</sup> One report mentions the word "systemic" 35 times in relation to corruption-related problems, "weaknesses", "challenges" and "crises." See J. Acuña-Alfaro (ed.), *Reforming Public Administration in Viet Nam: Current Situation and Recommendations*, UNDP, Viet Nam Fatherland Front (VFF) and Centre for Community Support Development Studies (CECODES), November 2009.

<sup>8</sup> Viet Nam, Central Party Committee for Internal Affairs, "Report on the Findings of the Diagnostic Study on Corruption in Viet Nam", 2005, p. 6.

<sup>9</sup> Resolution No. 21/2009/NQ-CP dated 12 May 2009 of the Government, p. 3.

<sup>10</sup> "Universal Periodic Review for Viet Nam, Submission by the United Nations Country Team in Viet Nam", November 2008, p. 8.

<sup>11</sup> Asian Development Bank, "Summary of Viet Nam Governance Assessment", in *Key Governance Issues in Cambodia, Lao PDR, Thailand, and Viet Nam* (2001), p. 59.

<sup>12</sup> The VACI 2011 was launched on 9 December 2010 by the Government Inspectorate in association with the World Bank. It aims to promote innovative ideas to raise public awareness of new legal anti-corruption measures. It was funded by the Australian International Development Agency (AusAID), the United Kingdom International Development Agency Belgium, Finland and Sweden.

which is a specialized agency that advises and organizes the work of the Steering Committee, lacks impartiality since it consists of officials who are full-time officials in other agencies.

16. The Government Inspectorate, which also functions as an Ombudsman, receiving citizen complaints, is responsible for managing the prevention and combating of corruption. It has a subsidiary organ – the Anti-Corruption Department – with responsibility for assisting the Government Inspectorate in its anti-corruption function. However, the Department has no powers to investigate or prosecute and must refer cases on corruption to the People’s Procuracy for prosecution.

17. During his visit, the Independent Expert observed positive developments in the growing oversight role and influence of elected bodies such as National Assembly and People’s Councils. The vibrant debates on topics such as the national high-speed railway project and the Government’s proposal to move the political capital to Bavi District illustrate the growing initiative of the National Assembly which is also widely seen as an important opportunity for the further promotion and realization of human rights in Viet Nam.<sup>13</sup>

18. However, the effectiveness of the elected bodies is constrained by several factors including potential and perceived conflict of interest of part-time members of parliament/deputies; inadequate financial/human resources and capacity for independent in-house policy analysis; limited time for deliberations; high turnover of members of parliament/deputies; and limited involvement of people in decision-making.<sup>14</sup> Such constraints, coupled with limited (and sometimes perverse) incentives for elected representatives to improve constituency relations, may indeed undermine the ability of members of parliament and deputies to regularly engage with voters and utilize their feedback and information from the voters to inform their decision-making and oversight functions.<sup>15</sup>

### **III. External debt and debt sustainability**

#### **A. Legal and policy framework for public financial management**

19. The legal framework for financial management consists, inter alia, of the Laws on Accounting, State Budget, Independent Auditing, Corporate Income Tax, Value Added Tax, Personal Income Tax, Public Procurement and various decrees.

20. There is also a comprehensive law regulating the borrowing, utilization and repayment of public debt and the management of public debt.<sup>16</sup> The law applies to organizations and individuals with responsibilities relating to borrowing, loan use, debt repayment and management of public debt. It sets out the duties and powers of the National Assembly, the Government and other State entities in the management of public debt, as well as the responsibilities of organizations and individuals that receive debt guarantees. Under the law, the National Assembly has a broad range of powers in relation to public debt, including the power to approve debt ceiling levels and to oversee public debt.

<sup>13</sup> “Universal Periodic Review for Viet Nam, Submission by the United Nations Country Team in Viet Nam”, November 2008, p. 9.

<sup>14</sup> United Nations, “Balancing Human, Economic and Sustainable Development: Synthesis Analysis of Viet Nam’s Development Situation and Medium-term Challenges in Preparation of the UN One Plan 2012-2016”, final draft (Ha Noi, December 2010), p. 68.

<sup>15</sup> *Idem*.

<sup>16</sup> Law on Public Debt Management, No. 29/2009/QH12, Hanoi, 17 June 2009.

21. Nevertheless, the effectiveness of these laws is often hindered by delays in the promulgation of the necessary implementing decrees and regulations, or because of numerous amendments to those regulations within a short period of time. This situation has led to confusion in the implementation of laws and raised questions on the quality of many existing legal documents. Inconsistency within laws and between enabling decrees opens the door to violations, leads to tardiness in legal drafting by various agencies, and undermines the public and Government officials' confidence in observing the law.<sup>17</sup> The opaqueness and inefficiency of the public financial management system is often seen as a key factor allowing corruption to thrive.<sup>18</sup>

22. Following the adoption of the Law on State Budget, the budgetary process in Viet Nam has increasingly become decentralized to the provinces, many of which have in turn decentralized their management. Provinces can borrow only in domestic markets and the resources raised are used to finance capital expenditures, approved by the People's Council. A province's stock of outstanding debt cannot exceed 30 per cent of its annual budget, but the limit does not include contingent liabilities associated with the debts of provincial State-owned enterprises (SOEs).<sup>19</sup>

23. Predictability of funds for commitment to budgeted expenditures is very limited at the local level because the estimation of some revenue sources is often inaccurate, while other sources are not predictable.<sup>20</sup> This has a negative impact on budgeting and execution and creates difficulties for effective budget management.

24. The challenge of unifying the capital and recurrent expenditures (prepared by different ministries) into a single coherent budget remains problematic but unaddressed.<sup>21</sup> In spite of the efforts made to improve the system of accounting standards, the current accounting procedures applied to the agencies delivering public services are not fully aligned with international public accounting standards, thus causing difficulties in monitoring liabilities, assets and flow of funds.<sup>22</sup>

25. The Independent Expert notes that Viet Nam has undertaken important reforms to ensure budget transparency. The Law on Public Debt Management contains provisions concerning disclosure of information relating to public debt, including the obligation of the Government to provide detailed regulations on public debt information disclosure, the mechanism of public debt reporting and information flows. The Government discloses various information including annual budget documentation, in-year budget execution reports, summaries of State audit reports, and actual expenditures at the central, provincial and district levels.

26. From the perspective of transparent public financial management, however, there are a number of issues of concern. These include the disclosure of budget proposals only after adoption of the budget by the legislature; lack of a formal mechanism for public consultation on the budget limits; and a substantial delay in publishing annual accounts and audit reports. Furthermore, most of the legal provisions merely stipulate the kind of information that need to be made public and many neither assign personal and institutional responsibilities for the publication of the information, nor do they specify compliance

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<sup>17</sup> United Nations, "Joint Country Analysis of Viet Nam", B. Van Arkadie, Final draft (Ha Noi, 26 July 2010), p. 158.

<sup>18</sup> Economist Intelligence Unit, "Vietnam Country Profile 2008", p. 15.

<sup>19</sup> See Acuña-Alfaro (ed), *Reforming Public Administration in Viet Nam*, p. 87.

<sup>20</sup> United Nations, "Joint Country Analysis of Viet Nam", Final draft (Ha Noi, 26 July 2010), p. 169.

<sup>21</sup> "Vietnam Development Report 2010: Modern Institutions", Joint Donor Report to the Vietnam Consultative Group Meeting, Hanoi, December 3-4, 2009, p. 21.

<sup>22</sup> United Nations, "Joint Country Analysis of Viet Nam", p. 157.

mechanisms and procedures to appeal refusals.<sup>23</sup> All of these factors render public oversight considerably more difficult.<sup>24</sup>

27. The Independent Expert encourages the Government to introduce a law on freedom of information in Viet Nam in order to consolidate and expedite its efforts in increasing the availability and accessibility of information and to strengthen mechanisms of participation and accountability.

28. During his mission, the Independent Expert was informed by various stakeholders that policy development and the impact of socio-economic policies were hindered by limited participation and representation of all groups, as well as insufficient availability and use of evidence and validated data. He also noted that reliable, timely and comprehensive data on the impacts and results of many public investment policies, programmes and projects is unavailable.

29. Additionally, the lack of clear and systematic criteria for selection of public investment projects and programmes, poor coordination in planning, and weak monitoring and evaluation have contributed to the low efficiency of public investment and made it difficult for the public to assess the justifiability of those programmes and efficiency of the use of public resources.<sup>25</sup> Weak performance by public administration at the local level is closely linked to insufficient independent oversight of the public investment programmes.<sup>26</sup>

30. The Independent Expert urges the Government to fully implement legal provisions and ensure the availability and accessibility of accurate, timely and comprehensive data with regard to public finances and external debt. He further encourages the Government to consider establishing mechanisms that would ensure transparent public consultation and the free and informed participation of all segments of society, particularly ethnic minorities and the poorest, in the decision-making relating to and monitoring of public finances.

31. Finally, the Independent Expert notes that the National Assembly has a Finance and Budget Committee with responsibility for overseeing budget estimates and final accounts, and that it conducts live televised discussions of the State budget. He is confident that the growing influence of the elected bodies, particularly in their oversight function, will help increase transparency and strengthen accountability in the management and use of public finances.

32. In the Independent Expert's view, the above-mentioned initiatives can help enhance transparency and accountability in the management and utilization of public resources, and also contribute significantly to the effective implementation of the Government's national development strategies.

<sup>23</sup> "Vietnam Development Report 2010: Modern Institutions", Joint Donor Report to the Vietnam Consultative Group Meeting, Hanoi, December 2009, p. 123. An inventory of provisions on the information to be made public by all sectors of the Government has found as many as 30 laws and other legal documents containing such provisions. See M. Alcaide, "Access to Information in Viet Nam – Current Legal Framework" (2009).

<sup>24</sup> "Vietnam Development Report 2010: Modern Institutions", Joint Donor Report to the Vietnam Consultative Group Meeting, Hanoi, December 2009, p. 22.

<sup>25</sup> United Nations, "Joint Country Analysis of Viet Nam", pp. 170-171.

<sup>26</sup> United Nations, "Balancing Human, Economic and Sustainable Development", p. 73.

## B. Debt sustainability

33. As at the end of 2009, the country's public and publicly guaranteed external debt was 30.6 per cent of gross domestic product (GDP). According to the Government, the country's external debt increased from 29.8 per cent of GDP in 2008 to 42.2 per cent in 2010. At the end of 2010, the total external debt was US\$ 32.5 billion, including Government-guaranteed debt and other contingent liabilities.<sup>27</sup> No up-to-date information on the country's external debt (and trade and fiscal deficits) was available at the time of the Independent Expert's visit in March 2011.<sup>28</sup>

34. According to the 2010 joint International Monetary Fund (IMF)/World Bank debt sustainability analysis for Viet Nam, under the baseline scenario of sustained macroeconomic stability, the country's "external debt levels would be manageable provided that external borrowing remains prudent".<sup>29</sup> The assessment puts Viet Nam at low risk of debt distress, but also indicates that the debt-to-GDP ratio could rise to more than 60 per cent in the event of an exchange rate shock or if deficits are not addressed.<sup>30</sup> It is notable that the assessment does not include contingent liabilities.<sup>31</sup>

35. From a human rights perspective, however, the assessment has limitations. It is based on purely economic projections focusing on debt repayment capacity without reference to other demands on the Government's resources, including those needed for social investment.

36. In 2010, the IMF recommended that the Government adopt "a more ambitious plan to lower medium-term deficit and debt levels".<sup>32</sup> In 2009, the overall fiscal deficit was estimated at about 9 per cent of GDP, up from about 1 per cent in 2008.<sup>33</sup> The financing of the trade and fiscal deficits may increase the external debt, particularly in view of the fact that the country may no longer qualify for concessional lending as a result of its new status as a lower middle-income country. Most of the country's external debt is concessional with long maturity. Non-concessional borrowing as a consequence of its lower middle-income status could increase the country's risk of future debt distress.

37. Another risk for Viet Nam, as for other middle-income countries, is not that external finance will be unavailable, but that it will be too readily available. Experience from a number of Latin American economies over the years and the more recent headline cases of Europe serve as a warning against underestimating the impact of debt. In the event of a debt crisis, governments are often laden with an unavoidable responsibility to service debt beyond their strict legal obligations. It is therefore essential that Viet Nam establishes an effective system for monitoring and managing debt, including obligations entered into by sub-national government authorities, State-owned enterprises (SOEs) and the private sector.

<sup>27</sup> Viet Nam, Ministry of Finance, *Bulletin: External Debt*, No. 7, (Hanoi, July 2011), pp. 12 and 13, available from [www.mof.gov.vn](http://www.mof.gov.vn).

<sup>28</sup> A number of the country's development partners have pointed to shortcomings in the available economic data and underlined the need for timely release of data. See, for example, D. Mellor et al, "Asian Development Outlook 2011: Viet Nam", p. 5; and IMF, *Vietnam: Staff Report for the 2010 Article IV Consultation*, IMF Country Report No. 10/281, September 2010, pp. 1 and 4. This underscores the urgent need for the Government to address the challenges of access to information.

<sup>29</sup> IMF, *Vietnam: Staff Report for the 2010 Article IV Consultation*, p. 10.

<sup>30</sup> *Ibid.*, p. 14.

<sup>31</sup> IMF and the International Development Association (IDA), *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, 7 July 2010, p. 5. Available from [www.imf.org/external/pubs/ft/dsa/pdf/dsacr10281.pdf](http://www.imf.org/external/pubs/ft/dsa/pdf/dsacr10281.pdf)

<sup>32</sup> IMF, *Vietnam: Staff Report for the 2010 Article IV Consultation*, p. 4.

<sup>33</sup> IMF & IDA, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, p. 5.

38. The Independent Expert was informed by the Government that it was undertaking public debt management reforms aimed at introducing limits on the ratios of external debt and public debt to GDP (both at 50 per cent). Accordingly, it is preparing a draft strategy on debt for the period 2011-2020 and the Vision to 2030 for the approval by the National Assembly. The draft strategy aims to guarantee national financial security.<sup>34</sup> The Independent Expert is not in a position to comment on the strategy and vision as the requested documents were not available at the time of finalization of the present report.

### C. Impact of the global economic recession

39. The recent financial crisis and the economic downturn have had an impact on all countries, although the impact has varied. For Viet Nam, there are risks consequential to its great dependence on foreign direct investment (FDI), moderately diversified export structure, and modest rates of domestic savings prior to the onset of the crisis.<sup>35</sup> The global economic downturn has led to declines in exports and imports, remittances and FDI.<sup>36</sup> The country has experienced a severe decline in capital flows, which fell by half in 2008 and by half again in 2009.<sup>37</sup>

40. The slow recovery of the world economy may undercut growth prospects through reduced or disrupted global trade and knock-on effects (e.g. trade protection barriers) on Vietnamese exports, an important contributor to the country's growth.<sup>38</sup> GDP growth is likely to slow over the medium term as a result of the financial market turmoil and recessionary conditions in Europe and the United States, the country's largest export markets.

41. The country's external debt has been adversely affected by the global recession and domestic macroeconomic instability since the end of 2008.<sup>39</sup> In addition to the potential decline of official development assistance (ODA) due to the status of Viet Nam as a middle-income country, the Government's reliance on ODA to sustain its investment-based growth will increasingly be challenged by the decline in aid at the global level and the impact of the global downturn. Aid flows may be also hit by the fiscal consolidation under way in many Organization for Economic Cooperation and Development (OECD) countries.<sup>40</sup>

42. Although the stimulus measures taken by the Government in response to the crisis helped support GDP growth in 2009, they resulted in a widening of the trade deficit.<sup>41</sup> The trade deficit is currently estimated at US\$ 13.2 billion. Large private capital outflows led to losses in international reserves and depreciations in the exchange rate.<sup>42</sup> Consequently, the total external debt increased to 42.2 per cent of GDP by the end of 2010.<sup>43</sup>

43. In 2007, the Central Bank of Vietnam (SBV) allowed domestic credit to rise by nearly 50 per cent year on year, contributing to a rapid acceleration in inflation, which was

<sup>34</sup> Viet Nam News Agency, "Minister vows to stabilise prices of essential goods", 23 November 2010.

<sup>35</sup> United Nations, "Joint Country Analysis of Viet Nam", p. 56.

<sup>36</sup> IMF & IDA, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, p. 2.

<sup>37</sup> United Nations, "Joint Country Analysis of Viet Nam", p. 57.

<sup>38</sup> United Nations, "Balancing Human, Economic and Sustainable Development", p. 14.

<sup>39</sup> See Economist Intelligence Unit, "Vietnam Country Profile 2008", p. 23; IMF & IDA, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, p. 2.

<sup>40</sup> United Nations, "Balancing Human, Economic and Sustainable Development", pp. 14-15

<sup>41</sup> IMF & IDA, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, p. 2.

<sup>42</sup> IMF, *Vietnam: Staff Report for the 2010 Article IV Consultation*, pp. 5-6.

<sup>43</sup> Viet Nam, Ministry of Finance, *Bulletin: External Debt*, No. 7 (Hanoi, July 2011), p. 12.

also partly a result of a significant increase in global fuel and food costs.<sup>44</sup> The local currency, the dong, has also suffered a series of devaluations in the past few years, making United States dollars and gold appealing alternatives to the dong.<sup>45</sup> GDP growth slowed to 5.8 per cent year on year on average in the first three quarters of 2011,<sup>46</sup> which would impede the country's growth goals of 7-8 per cent and require re-evaluation of investment targets and spending programmes. The Government would need to strike a balance between a need to rein in the fiscal deficit (to prevent the economy from overheating and prevent financing problems)<sup>47</sup> and the urgency of strengthening social protection programmes in order to ensure that those affected by the economic slowdown receive adequate support and do not fall behind.

44. Striving to meet the goals of rapid economic growth and slower price rises, the Government made the fight against inflation its main priority and issued the so-called Resolution 11 in February 2011.<sup>48</sup> The Resolution contains six sets of policy measures to restore macroeconomic stability and maintain social security: tightening monetary policy; tightening fiscal policy; containing the trade deficit; increasing electricity prices while shielding the poor and using a more market-based mechanism for petroleum pricing; strengthening social security; and improving dissemination of policy information.

## IV. Human rights and the Millennium Development Goals

### A. National development policy

45. Since 1986, the Government has pursued a policy of *Doi Moi* (economic renewal), which laid the foundations for a market-driven economy. The country has since experienced rapid economic growth, as well as improved economic opportunities and incentives, permitting household incomes to grow along with increased household consumption and savings.

46. After its accession to the World Trade Organization, Viet Nam had access to large FDI inflows providing non-debt-creating financing. Substantial flows of FDI seeking cheaper labour to produce simple exports have also boosted the country's industrial production. Viet Nam has gained ground as a low-cost production location, especially for low-end manufacturing.<sup>49</sup>

47. The key objective of the country's national development policies is to "achieve major changes in poverty reduction, education and training reforms, build an advanced culture imbued with national identity, protection of and care for the people's health, reduction of unemployment, development of a social security network and build a sustained social cohesiveness".<sup>50</sup>

<sup>44</sup> Economist Intelligence Unit, "Vietnam Country Profile 2008", p. 15.

<sup>45</sup> Economist Intelligence Unit, "Vietnam Economy: declaring independence", ViewsWire, 9 November 2011.

<sup>46</sup> Economist Intelligence Unit, *Vietnam Country Report*, December 2011, p. 6.

<sup>47</sup> Outstanding public debt is estimated to have reached 57 per cent of annual GDP by the end of 2010.

See Economist Intelligence Unit, *Vietnam Country Report*, December 2011, p. 6.

<sup>48</sup> Resolution on major solutions for macro-economic stabilization, No.11/NQ-CP, 24 February 2011.

<sup>49</sup> UNCTAD, *World Investment Report 2011: Non-Equity Modes of International Production and Development*, p. 46.

<sup>50</sup> National report submitted for the universal periodic review of Viet Nam, A/HRC/WG.6/5/VNM/1, 16 February 2008, para. 32.

48. The Government also pursued a programme of gradual reform of SOEs mainly through sales, closures and equitization (part-privatization), which involves converting an SOE into a stockholding company, under which the shares are transferred to private ownership. Underlying the reforms is awareness of negative impacts that ineffective management and financial troubles at large SOEs could have on the larger economy. In 2010, the Vietnam Shipbuilding Industry Group (Vinashin) nearly collapsed with debts of around US\$ 4 billion and defaulted on its first scheduled repayment of a US\$ 600 million international syndicated loan.<sup>51</sup> The Government faced the dilemma of either bailing out the firm to preserve the country's reputation in the international financial markets or to let Vinashin resolve its own problems, thus sending a firm message to other SOEs to exercise financial prudence. International creditors demanded that the Government bail the company out as they had lent to Vinashin only because the Government provided a letter of support to the SOE, enabling it to procure a quasi-sovereign rating from a credit-rating agency, Standard & Poor's, in 2007.<sup>52</sup>

49. Equitization of SOEs has proceeded more slowly than was expected however. Annual and five-year targets have gone unmet for more than a decade. It is difficult to ascertain the exact number of SOEs and how many of these have been equitized. In February 2011, the general director of the State Corporation for Investment Capital, which manages the Government's interest in SOEs, noted that it had sold stakes in 442 enterprises since it was established in 2005 and it still had 538 enterprises in its portfolio.<sup>53</sup>

50. Viet Nam is well established in the ranks of countries that have attained "medium human development". The milestones in its development bear testimony to its achievements in income and non-income dimensions of human development. Gross National Income (GNI) per capita has increased from under US\$ 200 in 1990 to US\$ 1,110 in 2010. Consumption-based poverty rates fell significantly from 37.4 per cent in 1998 to 14.5 per cent in 2008.<sup>54</sup>

51. Despite this progress, the scope and pace of socio-economic development has varied across different geographical regions and segments of the population. Poverty is strongly linked with geographic location and ethnicity as well as with non-monetary deprivations, including lower living standards and poorer health and education status.<sup>55</sup> In contrast to the decrease in urban poverty from 9.5 per cent in 1998 to 3.3 per cent in 2008, rural poverty fell from 44.9 to only 18.7 per cent.<sup>56</sup> The effectiveness of official policies targeting vulnerable segments of the population is constrained by the absence of effective monitoring or redress mechanisms and the lack of validated, harmonized and continuous data and information.<sup>57</sup>

52. It is important that the Government adopts comprehensive and rights-based measures to ensure that all parts of the population enjoy equally the benefits of the reform process and are able to fully realize their human rights. The Government should establish

<sup>51</sup> Economist Intelligence Unit, "Vietnam Economy: debt debacle", ViewsWire, 21 January 2011.

<sup>52</sup> Economist Intelligence Unit, "Vietnam Economy: creditors demand a Vinashin bail-out", ViewsWire, 16 June 2011.

<sup>53</sup> Economist Intelligence Unit, "Country Commerce: Vietnam", April 2011, p. 8.

<sup>54</sup> See Viet Nam, General Statistics Office, "Results of the Survey on Household Living Standards 2008" (Ha Noi, 2010).

<sup>55</sup> UNDP, *Social Services for Human Development: Viet Nam Human Development Report 2011* (Ha Noi, November 2011), p. 25.

<sup>56</sup> See Viet Nam, General Statistics Office, "Results of the Survey on Household Living Standards 2008".

<sup>57</sup> "Universal Periodic Review for Viet Nam, Submission by the United Nations Country Team in Viet Nam" (November 2008), p. 8.

necessary mechanisms and reform its social security and protection system in order to promote and institutionalize more equitable and sustainable socio-economic development.

## B. The Millennium Development Goals

53. Viet Nam has made remarkable progress towards achieving the Millennium Development Goals and realizing a range of economic, social and cultural rights, such as education, health, work and social security. According to the national poverty line,<sup>58</sup> poverty has been reduced from 60 per cent in 1990 to 13.8 per cent in 2008,<sup>59</sup> making Viet Nam one of the first countries to achieve Goal 1 (to reduce extreme poverty). It has attained three out of the eight Goals: reducing poverty by half; making primary education available to all; and ensuring gender equality.<sup>60</sup> It is making significant progress towards achievement of the remaining Goals.

54. In spite of these positive results, a number of challenges remain. They include addressing the high poverty rate in rural areas and remote regions, and among certain groups, particularly ethnic minorities,<sup>61</sup> children, women and immigrants; and ensuring quality and accessible education, especially in remote areas and among ethnic minorities.<sup>62</sup> In addition, Viet Nam faces complex socio-economic challenges and changes, such as a volatile macroeconomic environment, structural changes in the economy and labour market, demographic transition, fast-paced urbanization and internal migration, increasing natural disasters, and growing expectations of the Government. If not properly addressed, these challenges could reverse the gains and undermine future human development outcomes.<sup>63</sup>

55. The Government's commitment to attaining the Millennium Development Goals is reflected in a number of policy measures and actions that it has taken. These include the adoption of: national development goals (referred to as the Viet Nam Development Goals) to support the implementation of the Goals and mainstreaming them into a range of national socio-economic strategies and plans; the Social Economic Development Strategy (2001-2010); the Social Economic Development Plans (2001-2005 and 2006-2010); and the Comprehensive Poverty Reduction and Growth Strategy of 2002.

56. During his visit, the Independent Expert was informed that the Government was in the process of preparing a Social Economic Development Strategy (2011-2020) and Social Economic Development Plan (2011-2015).<sup>64</sup> In that context, he hopes that lessons are drawn from the previous cycle, including those of weak capacity of local authorities, especially in the poor regions, to prepare evidence-based plans linking planning with

<sup>58</sup> The country's poverty line is considered to be low by international standards. See World Bank, "East Asia and the Pacific Economic Update 2010, Volume 2: Robust Recovery, Rising Risks" (2010).

<sup>59</sup> National report submitted for the universal periodic review of Viet Nam, A/HRC/WG.6/5/VNM/1, 16 February 2008, para. 33.

<sup>60</sup> Socialist Republic of Vietnam, *Millennium Development Goals 2010 National Report: Vietnam 2/3 of the Way Achieving the Millennium Development Goals and Towards 2015* (Ha Noi, August 2010), pp. 9-18.

<sup>61</sup> See United Nations, Human Rights Council, Report of the Independent Expert on minority issues, Gay McDougall, Addendum: Mission to Viet Nam (5-15 July 2010), 24 January 2011, A/HRC/16/45/Add.2, paras. 20-30.

<sup>62</sup> Socialist Republic of Vietnam, *Millennium Development Goals 2010 National Report*, pp. 16-17.

<sup>63</sup> See UNDP, *Social Services for Human Development: Viet Nam Human Development Report 2011* (Ha Noi, November 2011), chap. 2.

<sup>64</sup> Copies of the draft strategy and plan were not available to the Independent Expert at the time of the report's finalization. It is therefore not possible for him to make substantive comments on those documents.

budgeting and ensuring sectoral plans are in line with relevant policies, as well as poor horizontal and vertical coordination between administrative agencies.<sup>65</sup>

57. The Independent Expert also notes that the previous socio-economic strategy and plan had a major drawback; namely, the lack of a link to the State's human rights obligations. Consequently, he urges the Government to ensure that the country's human rights obligations are taken into consideration in the design and implementation and evaluation of the Strategy and Plan, as well as in the implementation of measures to achieve the Millennium Development Goals.<sup>66</sup>

### C. The impact of external debt on human rights and development

58. It is widely acknowledged that high external debt burdens and dependency on foreign assistance can constitute obstacles to efforts by States parties to comply with their human rights treaty obligations, particularly those relating to economic, social and cultural rights.<sup>67</sup>

59. The country's external debt burden does not appear to have had an adverse impact on the capacity of the Government to create the conditions for the realization of human rights. Nevertheless, the Independent Expert remains concerned that the financing of the trade and fiscal deficits may result in the diversion of resources from social investment programmes, thereby undermining the realization of human rights, particularly economic, social and cultural rights.

<sup>65</sup> United Nations, "Balancing Human, Economic and Sustainable Development" p. 73.

<sup>66</sup> In a recent publication advocating a rights-based approach to the Millennium Development Goals, the Office of the High Commissioner for Human Rights highlighted similarities between human rights and the Goals, and argued that human rights can strengthen efforts to achieve the Goals. See United Nations, Office of the High Commissioner for Human Rights, *Claiming the Millennium Development Goals: A human rights approach*, United Nations Publication, Sales No. E.08.XIV.6 (2008), pp. 3-4.

<sup>67</sup> See Commission on Human Rights resolutions 1998/24, 1999/22, 2000/82, 2001/27, 2002/29, 2003/21, 2004/18 and 2005/19; and Human Rights Council decision 2/109 and resolutions 5/1, 7/4, 11/5, 12/119, 14/4, 16/4 and 17/7. See also the following concluding observations, Committee on Economic, Social and Cultural Rights: E/C.12/1/Add.106 (Zambia); E/C.12/1/Add.78 (Benin); E/C.12/1/Add.71 (Algeria); E/C.12/1/Add.66 (Nepal); E/C.12/1/Add.63 (Syrian Arab Republic); E/C.12/1/Add.62 (Senegal); E/C.12/1/Add.60 (Bolivia, Plurinational State of); E/C.12/1/Add.57 (Honduras); E/C.12/1/Add.55 (Morocco); E/C.12/1/Add.49 (Kyrgyzstan); and E/C.12/1/Add.48 (Sudan); Committee on the Rights of the Child: CRC/C/15/Add.218 (Madagascar); CRC/C/15/Add.204 (Eritrea); CRC/C/15/Add.207 (Sri Lanka); CRC/C/15/Add.197 (Republic of Korea); CRC/C/15/Add.193 (Burkina Faso); CRC/C/15/Add.190 (Sudan); CRC/C/15/Add.186 (Netherlands/Netherlands Antilles); CRC/C/15/Add.179 (Niger); CRC/C/15/Add.174 (Malawi); CRC/C/15/Add.172 (Mozambique); CRC/C/15/Add.160 (Kenya); CRC/C/15/Add.152 (Turkey); CRC/C/15/Add.138 (Central African Republic); CRC/C/15/Add.130 (Suriname); CRC/C/15/Add.124 (Georgia); and CRC/C/15/Add.115 (India); Committee on the Elimination of Discrimination against Women, *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 38 (A/57/38)*, paras. 149 (Uganda) and 155 (Trinidad and Tobago); *ibid*, *Fifty-sixth Session, Supplement No. 38 (A/56/38)*, part one, para. 227 (Jamaica) and part two, paras. 161 (Guyana) and 227 (Netherlands); *ibid*, *Fifty-fifth Session, Supplement No. 38 (A/55/38)*, para. 44 (Cameroon). See further United Nations, Human Rights Council, Consolidation of findings of the high-level task force on the implementation of the right to development, 25 March 2010, A/HRC/15/WG.2/TF/2/Add.1, para. 54.

## D. A rights-based approach to development

60. The Independent Expert considers that, with the demonstrated commitment of the Government and the continued support of its development partners, it is not unlikely that Viet Nam will make further progress towards the remaining Millennium Development Goals by the target date of 2015. However, he underscores that, while poverty alleviation and implementation of the Millennium Development Goals lay an important foundation for the promotion and protection of human rights, they are not in themselves guarantors of such protection.

61. A rights-based approach is an indispensable part of any sustainable development strategy; it enhances the effectiveness of development policies and programmes and contributes to the achievement of sustainable results, while ensuring that development challenges are sufficiently and equitably addressed and that the fundamental rights of the people are fully respected in the process.

62. In its report to the universal periodic review, the Government underlined that the people of Viet Nam are at the centre of the Government's national development strategy.<sup>68</sup> According to the national model of human development, development can only be meaningful when it serves and is owned by each person.

63. The Independent Expert fully supports that approach, which is consistent with the notion of development as set out in the United Nations Declaration on the Right to Development. In order to fully ensure that principle, however, it is important that national economic and social policies and programmes be firmly anchored to a human rights-based framework that underscores the principles of equality and non-discrimination, participation, transparency, accountability and indivisibility of all human rights. These principles are vital components of any sustainable development strategy. A human rights-based approach that guides the design, implementation and evaluation of socio-economic programmes and projects will not only enhance the effectiveness of the Government's development strategy, it will also contribute to achieving sustainable results.

64. The people of Viet Nam are not only the main beneficiaries of the Government's social and economic development strategies; they are also the main stakeholders in the country's development.<sup>69</sup> The Independent Expert therefore believes that every effort should be made to involve them fully in the design, implementation, monitoring and evaluation of development policies and programmes. In this vein and in order to strengthen the effectiveness and sustainability of its socio-economic development strategies and ensure genuine national ownership, he urges the Government to consider adopting a national human rights plan of action, as recommended in the Vienna Declaration and Programme of Action. By informing the design and implementation of the national development strategy, the plan may contribute to ensuring that the Government's policies and programmes are fully consistent with its human rights obligations.

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<sup>68</sup> A/HRC/WG.6/5/VNM/1, paras. 57-58.

<sup>69</sup> The Government formally accepts that "Each individual is the object of benefits of human rights, as well as the subject exercising them", and further acknowledges that "The people's supervisory role is promoted through the openness and transparency of the Government's and National Assembly's activities." See A/HRC/WG.6/5/VNM/1, paras. 67-68.

## V. International assistance and cooperation

### A. Role of official development partners

65. Official development assistance (ODA) has played an important role in advancing human development in Viet Nam. The country is one of the world's largest recipients of ODA. Between 1993 and 2009, ODA supplemented nearly 11 per cent of total social investment and 17 per cent of the total State budget. It has increased from US\$ 2.4 billion in 2000 to US\$ 8 billion in 2009.<sup>70</sup> During the period 2011 to 2015, ODA committed capital is expected to be at approximately US\$ 26-28 billion, with disbursed capital at approximately US\$ 14-15 billion.<sup>71</sup> It should be noted, however, that actual aid disbursements are typically about two thirds of the amounts pledged.<sup>72</sup>

66. Viet Nam has many multilateral and bilateral development partners. Multilateral development partners include ADB,<sup>73</sup> the World Bank,<sup>74</sup> IMF and European Union.<sup>75</sup> The development partnership is coordinated through Consultative Group meetings, co-chaired by the Government of Viet Nam and the World Bank. The Consultative Group meetings serve as a forum for discussion between the Government and its 50 bilateral and multilateral development partners on economic policy issues, strategies for reducing poverty, and ODA effectiveness. At the December 2011 meeting of the Group, development partners pledged US\$ 7.39 billion to Viet Nam in ODA for 2012.<sup>76</sup>

67. The country is one of eight countries where the One United Nations Initiative (One Plan) is being implemented. The initiative aims to make the United Nations in Viet Nam more effective by harmonizing management and operational practices and procedures, and working towards the convergence of United Nations activities under a common plan of action with the Government. The One Plan is the United Nations key framework for strengthening national capacities and supporting the implementation of the national socio-economic development plan especially in the following areas: policies to support equitable and inclusive growth; availability and quality of social and protection services;

<sup>70</sup> Socialist Republic of Vietnam, *Millennium Development Goals 2010 National Report*, p. 92.

<sup>71</sup> United Nations, "Joint Country Analysis of Viet Nam", p. 68.

<sup>72</sup> Economist Intelligence Unit, "Vietnam Country Profile 2008", p. 23.

<sup>73</sup> As of December 2010, the ADB had provided 114 sovereign loans amounting to US\$9.09 billion, one sovereign guarantee of \$325 million, 255 technical assistance grant projects amounting to \$199.5 million, and 26 other grants totalling \$150.1 million. See ADB, Factsheet: Asian Development Bank and Viet Nam, December 2010.

<sup>74</sup> As of February 2012, the World Bank's (IBRD and IDA) commitment to Viet Nam was approximately US\$15 billion for 111 projects focusing on infrastructure, public administration reforms, finance, education, health and social services and environment. See [www.worldbank.org/en/country/vietnam/projects](http://www.worldbank.org/en/country/vietnam/projects).

<sup>75</sup> In July 1995, the European Union signed a Framework Cooperation Agreement with the Government of Viet Nam with four main objectives: (1) increased bilateral trade and investment; (2) support for sustainable economic development of Viet Nam and improvement of living standards of the poor; (3) support for efforts by Viet Nam at economic restructuring and move towards a market economy; and (4) environmental protection. The Agreement also contains a clause which stipulates that respect for human rights and democratic principles are the basis for European Union-Viet Nam cooperation. See Cooperation Agreement between the European Community and the Socialist Republic of Vietnam, Official Journal of the European Communities, No. L 136/29.

<sup>76</sup> "CG meeting agreed on restructuring the economy and ensuring social stability as key medium-term priorities", Press release, 6 December 2011, World Bank. Available from: <http://go.worldbank.org/00JXLYP7C0>.

environmental protection and management of natural resources and cultural heritage; democratic governance, natural disasters, communicable diseases and emergencies.<sup>77</sup>

68. The Independent Expert notes the Government's commitment to enhancing the impact of aid in reducing poverty and inequality, increasing growth, building the capacity of human resources and institutions, and accelerating achievement of the Millennium Development Goals. In 2005, Viet Nam adopted the Hanoi Core Statement on Aid Effectiveness, a local adaptation of the Paris Declaration on Aid Effectiveness. In 2010, the Deputy Prime Minister underscored the important role ODA would play in the 2011-2015 socio-economic development plan and reiterated the Government's commitment to use ODA in the most effective way.<sup>78</sup>

## B. Role of civil society

69. There are numerous civil society organizations (CSOs) operating in the country. These include local mass-organizations, professional associations and community-based organizations, as well as several international non-governmental organizations. There are six main mass organizations: the Fatherland Front, Women's Association, Farmers' Association, General Federation of Labour, War Veterans Association and Ho Chi Minh Youth Union, which together have about 31 million members (excluding members of the Fatherland Front). According to the Government, there are 450 professional associations and 350 social associations and organizations operating nationwide, 18 trade unions at the national level and 6026 trade unions at the local level. Seventy-four per cent of the population belong to at least one organization.<sup>79</sup> According to some sources membership of these organizations is not always voluntary and mass organizations are closely related to the ruling Communist Party or the State.<sup>80</sup> However, the Government underscores that the Constitution guarantees the freedoms of assembly and association and that, accordingly, everyone is free to join or not to join any organization that best serves to protect their interests.

70. The role of CSOs ranges from delivering care and social welfare services, to providing social and peer-group support, and to participating in oversight and monitoring of decision-making and service delivery. Most organizations are involved in the provision of services to poor and disadvantaged segments of the population. Many associations with both a national office and provincial branches are increasingly monitoring government and industry projects, especially those using public resources.<sup>81</sup>

71. The Viet Nam Union of Friendship Organizations (VUFO)-NGO Resource Centre coordinates the activities of some 120 international non-governmental organizations (INGOs) in the country.<sup>82</sup> It also supports Vietnamese non-governmental organizations (NGOs), non-member INGOs, United Nations agencies, Government agencies and the donor community in Viet Nam. Apart from its coordination role, VUFO-NGO Resource

<sup>77</sup> "Universal Periodic Review for Viet Nam, Submission by the United Nations Country Team in Viet Nam", November 2008, p. 9.

<sup>78</sup> World Bank, "Vietnam: Stable macro economy a key foundation for long term development, according to CG participants", Press release, 8 December 2010. Available from: <http://go.worldbank.org/MUBE0AW8G0>.

<sup>79</sup> Irene Norlund, "Filling the Gap: The Emerging Civil Society in Vietnam" (2007), p. 1.

<sup>80</sup> Ibid.

<sup>81</sup> See VUFO-NGO Resource Centre, "Forms of Engagement between State Agencies & Civil Society Organizations in Vietnam: Study Report" (Ha Noi, December 2008).

<sup>82</sup> See VUFO-NGO Resource Centre, *International NGO Partnerships for Development: An overview of information sharing and coordination through the INGO Working Groups during 2010* (Ha Noi, December 2010).

Centre fosters dialogue between INGOs and the country's development partners. It has also provided inputs into several Government policy documents, notably, the Socio-Economic Development Plan (2011-2015), the Five-Year Health Sector Development Plan and the United Nations One Plan.

72. The Grassroots Democracy Decree adopted in 1998 (updated in 2003) provides considerable scope for people to be involved in public affairs at local (sub-national) levels. The scope for participation includes involvement in planning and decisions about community services and projects, participating in budget formulation, and conveying complaints about Government programmes and authorities' actions.<sup>83</sup> However, the implementation of the Grassroots Democracy Decree still varies from province to province.<sup>84</sup>

73. There are indications of growing engagement of CSOs in Viet Nam. Nonetheless there are a number of factors that hamper the effective functioning of CSOs. First, the Government has yet to take a systematic approach to recognizing and engaging in dialogue with CSOs.<sup>85</sup> Second, CSOs point to inadequacies and loopholes in the current legal regime applicable to them, notably that the legal framework is not comprehensive, insufficiently facilitative or supportive for the establishment and operation of CSOs, and lacks an effective mechanism for interaction and dialogue between CSOs and State agencies.<sup>86</sup> It is notable that the adoption of a Law on associations has been under discussion for more than a decade.<sup>87</sup> Third, the procedures for establishing an association are cumbersome and time-consuming, the criteria for approval of organizations are either not transparent or overly stringent, and State oversight is cumbersome and overlapping.<sup>88</sup> Finally, the mechanisms of participation remain hindered by capacity constraints and a legacy of a top-down organizational culture.<sup>89</sup> Relations between the Government and CSOs are deemed to be below a medium level in terms of organizations' autonomy, their cooperation with the Government, and the level of support they receive from it.<sup>90</sup> For organizations to be able to participate effectively, enabling conditions, such as transparency, accountability, access to information and "a seat at the table", must be in place.<sup>91</sup>

74. Additionally, information about financial assistance from donors, channelled or registered through the People's Aid Coordination Committee, is not available to the public.<sup>92</sup> Lack of transparency in this regard could lead to ineffectiveness and overlaps in projects funded by donors and INGOs.

75. CSOs (including local and international NGOs) play a critical accountability and monitoring role particularly with regard to implementation of national development

<sup>83</sup> See UNDP, "Deepening Democracy and Increasing Popular Participation in Viet Nam", (2006), pp. 11-22.

<sup>84</sup> See UNDP, "Deepening Democracy and Increasing Popular Participation in Viet Nam", (2006)

<sup>85</sup> United Nations, "Balancing Human, Economic and Sustainable Development", p. 21.

<sup>86</sup> See VUFO-NGO Resource Centre, "Developing a Sound Legal Environment for the Development of CSOs: Contribution of NGOs for the Vietnam Development Report 2007", (Ha Noi, September 2006).

<sup>87</sup> "Vietnam Development Report 2010: Modern Institutions" Joint Donor Report to the Vietnam Consultative Group Meeting, Hanoi, December 2009, pp. 110-111

<sup>88</sup> "Vietnam Development Report 2010: Modern Institutions", Joint Donor Report to the Vietnam Consultative Group Meeting, Hanoi, December 2009, pp. 114-115

<sup>89</sup> "Vietnam Development Report 2010: Modern Institutions", Joint Donor Report to the Vietnam Consultative Group Meeting, Hanoi, December 2009, p. 134.

<sup>90</sup> Norlund, "Filling the Gap", p. 2.

<sup>91</sup> United Nations, "Balancing Human, Economic and Sustainable Development", p. 13.

<sup>92</sup> Norlund, "Filling the Gap", p. 25. The Committee is an agency established by the Government to coordinate all international NGOs in Viet Nam.

strategies and fulfilment of human rights obligations. In order for these organizations to effectively carry out their role, their operational environment must be enabling. Consequently, there is an urgent need for the Government to streamline the procedures for registration and operation of CSOs through the adoption of a comprehensive law that establishes an enabling environment for CSOs in the country.

## VI. Key challenges

76. Despite the commendable socio-economic progress it has made, Viet Nam faces a number of challenges, including those linked to the newly attained “lower middle-income country” status. During his visit, the Independent Expert heard repeated concerns about the so-called “middle-income country trap”, according to which non-concessional loans would replace concessional loans and grants offered through ODA. A number of the country’s development partners have indicated that they are reviewing their engagement with Viet Nam in the light of its lower middle-income status. ODA pledges by the country’s donors of the Consultative Group decreased from US\$ 7.9 billion in 2010 to 7.39 billion in 2011.

77. Although ODA has made a significant contribution to financing the country’s development, commentators note that Viet Nam has not become heavily dependent on aid.<sup>93</sup> Thus, the adjustment to the decline in concessional assistance is seen as manageable, but the shift in the balance of external flows will pose new risks and policy challenges.<sup>94</sup>

78. Nevertheless, it is the Independent Expert’s considered view that Viet Nam will need some time to consolidate its position as a lower middle-income country and to be in a position where it can rely on market-based financing for its development needs without risk of debt distress. He therefore urges the country’s development partners to continue, in the interim, their support to the country through ODA disbursements and concessional lending.

79. The country’s economic growth over the past decade has largely been driven by a combination of steady economic reforms, integration into the world economy and a stable macroeconomic environment. Nonetheless, its greater integration into the global economy has been a mixed blessing. While integration has resulted in better trade and investment opportunities, enhanced flow of goods and services may also cause social problems in sectors of the population, especially among the most vulnerable groups. Another consequence of increased foreign investment has been the widening income gap between skilled and unskilled workers.

80. The impact of climate change poses another challenge.<sup>95</sup> Viet Nam is prone to environmental hazards and is vulnerable to sea level rise, particularly in the Mekong River Delta region. These may at some point occasion loss of agricultural export revenues, food insecurity, loss of livelihoods and induce migration, and ultimately affect development. To address this challenge, the Government should consider developing an overall climate change strategy with long-term goals on adaptation and mainstreaming climate change considerations in public and private sector plans.

81. The Government acknowledges the above-mentioned challenges and is working to address them. In consultation with various stakeholders, including the National Assembly and development partners, it is developing a socio-economic development strategy for the

<sup>93</sup> United Nations, “Joint Country Analysis of Viet Nam”, p. 69.

<sup>94</sup> Ibid.

<sup>95</sup> The United Nations in Viet Nam has reported that more than 1 million people are affected each year by natural disasters, and that climatic disasters are set to become worse. See United Nations, *Achieving the MDGs with Equity, MDG 7: Ensure environmental sustainability*. Available from <http://vn.one.un.org>.

period 2011-2020 and a five-year socio-economic development plan for the period 2011-2015. The Independent Expert urges the country's development partners to support these policies. For its part, the Government should ensure greater transparency and oversight by, inter alia, the National Assembly as well as increased participation by the public and CSOs in relation to the State's public finances.

## **VII. Conclusions and recommendations**

82. **The Independent Expert commends the Government of Viet Nam for the progress it has made with regard to the realization of economic, social and cultural rights, such as education, health, work and social security, as well as its achievements of the Millennium Development Goals on poverty reduction, universal access to primary education and gender equality well ahead of schedule. He also notes the progress it is making towards the achievement of the remaining Goals. Nevertheless, a number of challenges remain such as ensuring that the financing of the trade and budget deficits does not increase its external debt burden to an unsustainable extent, addressing possible shortfalls of concessional financing as a consequence of its lower middle-income country status and addressing the impact of climate change.**

83. **Based on his findings as outlined in this report, the Independent Expert makes the following recommendations, addressed to the Government of Viet Nam and to its international development partners.**

### **A. Government of Viet Nam**

**The Independent Expert urges the Government to consider:**

84. **Devising a plan of action with specific timelines and clear institutional responsibilities to ensure the effective implementation of the recommendations of the universal periodic review and the various treaty bodies.**

85. **Accelerating the process of ratification of the international human rights treaties to which it is not party and harmonizing its legislation with its international human rights obligations.**

86. **Developing a national human rights action plan as recommended in the Vienna Declaration and Programme of Action to, inter alia, inform the design, implementation and evaluation of national development strategies. By informing the design, implementation and evaluation of national development strategies, the plan would contribute to ensuring that Government policies and programmes are fully consistent with its human rights obligations.**

87. **Establishing a national human rights institution in full conformity with the Paris Principles.**

88. **Exploring avenues for technical cooperation in the field of human rights with the Office of the High Commissioner for Human Rights and its development partners. Such cooperation would be particularly useful in the development of a national human rights action plan, establishment of a national human rights institution in conformity with the Paris Principles and implementation of measures to raise awareness of human rights among public officials.**

89. **Strengthening measures to combat corruption, including by establishing a single independent anti-corruption body with powers of investigation and enforcement. Such body should be accountable to the National Assembly.**

90. Strengthening the mechanisms for public oversight of public finances. In particular, it should adopt legislation to guarantee access to information, transparent public consultations and to ensure the availability and accessibility of accurate, comprehensive and timely data concerning public finances and external debt.

91. Taking measures to ensure that the financing of the trade deficit does not adversely impact on social investments or threaten progress towards the Millennium Development Goals. In particular, the Government should strengthen the social protection system for vulnerable groups.

92. Adopting a rights-based approach to development in order to enhance the effectiveness of development strategies and to contribute to the achievement of sustainable results, while ensuring that development challenges are sufficiently and equitably addressed and the fundamental rights of all people under the State's jurisdiction are respected.

93. Addressing the challenge of climate change by, inter alia, adopting an overarching climate change strategy with long-term goals on adaptation and mainstreaming climate change considerations in public and private sector plans.

94. Streamlining the legal and administrative procedures for the establishment and regulation of CSOs to ensure that they are able to more effectively discharge their critical accountability role and to contribute to the country's development.

95. Urgently addressing the socio-economic disparities that exist between the ethnic minorities and the rest of the population.

## **B. Development partners**

The Independent Expert urges the country's development partners to:

96. In the light of the recommendation in paragraphs 86 to 88 above and in view of the limited resources available to OHCHR for its technical cooperation activities, consider financing the development of a national human rights action plan, the establishment of a national human rights institution and human rights awareness raising activities for public officials.

97. Continue supporting the country through ODA disbursements and concessional lending until it is able to consolidate its position as a lower middle-income country and is in a position where it can rely on market-based financing for its development needs without risk of debt distress.

98. With respect to the IMF and World Bank, ensure that their debt sustainability assessment are sufficiently comprehensive and, in particular, take into account the other demands on the Government's available resources, especially those required for social investment and progress towards the Millennium Development Goals.

99. Engage in a dialogue with the Government with a view to creating an enabling environment for the operation of CSOs and building the capacity of these organizations to more effectively contribute to the country's development.