



VOICES *OF*

*Vietnamese women*

ENTREPRENEURS



# **LAWS AND REGULATIONS THE BUSINESS ENVIRONMENT**

In recent years there has been increasing recognition that a country's legal and policy environment is a key factor in its achieving sustainable business and job growth. In Vietnam, the government has demonstrated a strong commitment to transforming the economy from centrally planned to market-oriented. Since launching the economic reforms known as *doi moi* ("renovation") in 1986, the country has experienced remarkable growth, driven largely by the private sector.<sup>5</sup> During the Tenth Communist Party Congress this spring, the political leadership reaffirmed its commitment to further integrating Vietnam into the global economy and to continuing with related reforms, such as the Common Investment Law, which facilitates business investments. The government is also firmly centered on fulfilling the United Nations' Millennium Development Goals, which include poverty eradication, gender equality and women's empowerment, by the year 2015.

However, despite its progress and future ambitions, Vietnam still has a long way to go in terms of improving business conditions for

private firms in general and for women-owned enterprises in particular. In the World Bank's annual *Doing Business* report, which compares the business enabling environment across countries, Vietnam ranked 99 out of 155.<sup>6</sup> Most enterprises, whether male- or female-owned, report difficulties when it comes to understanding and following complex regulations, dealing with government officials, and providing insights regarding potential policy changes. Businesswomen in Vietnam also believe that the absence of a policy dialogue mechanism through which they can address their chief concerns, such as access to capital and land, imposes additional limitations on their success.

## **LEGAL ISSUES**

As is the case for most entrepreneurs in Vietnam, whether male or female, legal issues pose a significant concern for women business owners. Many female entrepreneurs simply do not have the time or resources to understand the full impact of regulations relating to their businesses. Different laws

specify a variety of complex requirements, inadvertently creating a great administrative burden for businesswomen. In practice, the implementation of laws varies according to the level of government (national, provincial, or local); to complicate matters further, actual procedures often diverge from those required by rules on the books. As one business woman comments,

*"Enterprises find the implementation of policies and laws frustrating, unclear and too dependent on the discretion of government officials."*

In a fairly constant legal environment, such inconsistencies would be problematic enough, but given Vietnam's ambitious pace of reform, they can be downright confusing.

Entrepreneurs often find it difficult to get accurate and timely information on proposed changes affecting businesses:

*"Laws and policies in Vietnam change so fast...so there's no choice but to work hard and try my best to stay on top of them."*

Even when such details are available, official "commitments" tend to differ from what is ultimately decided. For example, while the government officially insists that private sector

growth is important for the country, many regulations and practices still tend to favor state-owned companies.

*"Although the government has opened the printing industry to private companies, preference is still given to state-owned enterprises. For example, only state-owned companies can publish materials about religion."*

Some laws, originally meant to be beneficial, actually prevent enterprises from operating efficiently. For example, although the labor code in Vietnam recognizes the special circumstances of working mothers, it effectively raises businesses' cost of hiring them:

*"At present, there are very few special policies to support enterprises that employ a lot of women. Government policy is that female workers have four months of maternity leave, and one extra hour per day off during the child's first year. For enterprises that employ mainly women, this means having to deal with a labor shortage throughout the year."*

Many women entrepreneurs are eager to employ other women, but existing government incentives in this area, such as tax benefits, require measures that lie beyond the capacity of small companies:



*"There is a policy that says enterprises employing many female workers are eligible for a tax reduction, but such businesses have to meet ten specific conditions, including one that requires the enterprise to have childcare facilities."*

As a result, both the actual and perceived costs associated with hiring females make it more profitable to hire men.

## TAXES

High regulatory costs on and constraints to doing business are other common problems for entrepreneurs. Several women complained about illogical tax laws and collection practices:

*"Our [income] taxes increase every year. The tax authorities don't care whether we've actually had profits, or what our expenditures were throughout the year. They also don't care that even though we may have high revenues, our profits may not be very high. They just fix an amount each year and make us pay that in taxes."*

Businesswomen involved in international trade also face other charges besides income tax:

*"We are required to pay the VAT [value added tax] immediately when importing goods; but it is only after we sell the products that we can get the VAT refund. This is difficult for enterprises that lack capital because even if they haven't sold the goods yet, they have to pay the VAT in advance. This can have a huge impact on the cash flow of small enterprises."*

Another common concern is that officials apply tax regulations in an inconsistent manner, thereby creating a breeding ground for "unofficial payments." Bribes are practically a standard for doing business in Vietnam, so much so, in fact, that businesswomen view them as facilitation fees



that reduce document processing times rather than as an element of corruption. One woman put it matter-of-factly:

*"We had a difficult time trying to get our tax refund because we didn't pay enough of a bribe. We gave them some money, but they wanted more. And if we don't pay that, they will just make our lives difficult."*

## INTELLECTUAL PROPERTY RIGHTS

Beyond taxes, another problem that limits the growth and innovation of many women-owned enterprises, particularly design, craft or other creative businesses, is Vietnam's inadequate enforcement of intellectual property rights:

*"My company has registered for intellectual property rights protection, but frankly, even if there are violations, there is nothing we can*

do. For example, in 1995, I won the third prize in a national contest for my design of a wooden toy. But when I went to an exhibition, I found that a state-owned company also in the education industry had exactly the same design as mine. I couldn't do anything because my company was small and private, competing against a large SOE."

## CONTRACT ENFORCEMENT

Contract enforcement in Vietnam is still rather weak, especially since laws and policies are applied inconsistently throughout different levels of government and/or regions. When disputes arise, women business owners tend to find that resolution through courts or arbitration is quite prohibitive in terms of time and costs:

*"Going to a commercial arbitrator is no different than going to court. Court fees and arbitration fees are both very high. And because the processes are so time-consuming and have an impact on the business, enterprises don't have time to pursue them."*

Consequently, many women entrepreneurs often just prefer to cut their losses and proceed with business as usual.

## RECOMMENDATIONS

Businesswomen suggested several ways in which the government can improve the legal environment for enterprises. Harmonizing laws and procedures is crucial:

*"We have to do business according to the law. So it is important to have a clear, reliable legal system that can be followed."*

Also, women entrepreneurs suggested that information related to laws, policies and potential changes should be more readily available, through channels such as business associations, newspapers, the internet and other public media. As Tran Thi Lan Huong states:

*"I just want to do business in an environment where the competition is fair and healthy. Entrepreneurs need to have better access to information. We generally don't have easy access to information about laws and policies, and the relevant authorities usually aren't forthcoming when enterprises want to find out this type of information."*

Women business owners regard government efforts that specifically encourage private sector development as crucial. The draft SME Development Plan for 2006-2010 tasks the Ministry of Planning and Investment (MPI), Ministry of Justice (MOJ), and Ministry of Finance (MOF) with reducing costs, streamlining regulations and reforming tax policies for small and medium-sized enterprises. Such measures may particularly encourage women entrepreneurs, many of whom have informal businesses, to register their operations formally and thus have easier access to capital.

Ultimately, businesswomen in Vietnam would like to have a more permanent "home" that allows them to advocate their regulatory and policy concerns to government officials. Governments in other countries have implemented high-level advisory boards, special task forces and public-private dialogue mechanisms for women's business issues. In Vietnam, where the government already consults the private sector when forming strategic and economic development plans and where the machinery for gender equity is rather well-established, such approaches may prove effective in boosting women's enterprise development.

## NAVIGATING THROUGH UNCERTAINTY STAY INFORMED ABOUT GOVERNMENT POLICIES



**VU THI TU HANG**, 54, is the director of Binh Dan Hospital in Da Nang. In 1996, Hang opened the first private hospital in Vietnam. Despite the initial lack of a clear legal framework for business, Hang has managed to establish a successful venture. Today, the hospital has annual revenues of VND7 billion (US\$450,000). Early this year, Hang opened a second hospital, also in Da Nang, that was expected to earn a revenue of VND30 billion (almost US\$2 million) in its first year of operation.

*During my 20 years as an employee of the Da Nang General Hospital, I encountered patients who had to wait for months before they could have operations. In 1989, an idea popped up into my head - I would open a private practice that could serve patients faster. Initially, we had more patients than we could serve. In order to increase our capacity, we had to turn our health care center into a major hospital where operations could be carried out legally.*

*At that time, government policies relating to the health care sector were ambiguous, especially the regulations that defined what the private sector could do. The Ministry officials were nervous because nobody had opened a private hospital before. It took me one and a half years to get permission from the Ministry of Health for my hospital.*

*Because the legal framework was undefined, other people were afraid of investing in the health care sector. At the beginning, only a few people supported my idea. People said a private hospital wouldn't be as respected as a public one. They advised me not to leave my important position at the state hospital.*

*During the initial years, I ran my business without any clear idea of government policy. The government did not consult businesses about potential changes in laws and regulations. However, during the last few years, I have gone to Hanoi many times to discuss regulations affecting private hospitals with the government. Now I feel that the government respects the private sector more than before; it takes the effort to clarify the policy environment and make it more favorable for business. Now businesspeople are actually invited to official meetings.*