



## **LAND POLICY FOR SOCIOECONOMIC DEVELOPMENT IN VIETNAM**

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## OVERVIEW

This paper is part of a study “Policy Analysis for the Development of Land Policy for Socio-Economic Development.” Land policy relates to the institutional arrangements through which the Government of Vietnam defines which individuals and groups have access to rights in land and the circumstances that apply to gaining and retaining that access. The overall goal is to ensure that land in Vietnam is used efficiently and equitably so as to achieve the Government’s objectives of rapid economic growth, poverty reduction, food security, international competitiveness, social harmony, and environmental sustainability.

The de-collectivization of agriculture as part of the *doi moi* reforms which were formalized in the 1988 Law on Land represented a dramatic policy shift. By leasing land to individual farmers, the Government created the conditions that boosted agricultural output and exports, and raised rural income and wealth. It also provided a foundation for rapid urbanization, industrialization and economic modernization.

Field work, discussions with officials and scholars, and background research highlighted topics critical to the formulation and implementation of land policy. These topics – land as an asset, complementary public investments that raise the efficiency of land use, land conversion, food security, land consolidation, land and property taxation, and environmental sustainability – have been examined within a law and economics framework. Specific legal changes that would improve the implementation of land policy are also discussed. The cross-cutting issues of gender, ethnic minorities, and rural development are examined, where appropriate, under each topic.

Government restrictions on land use and tenure systematically reduce the value of land as an asset to farmers. Leases on cultivation land are short. Farmers have limited ability to convert land from one agricultural use (especially rice cultivation) to other uses, and they do not benefit from the transformation rent when land is recovered for non-agricultural purposes. These restrictions are inequitable – they require one of the poorest groups in Vietnam to bear a disproportionate share of the private and social costs of Vietnam’s modernization. No other group in Vietnam (particularly holders of land use rights in urban areas, or foreign investors) is treated this way.

The quality and scope of the infrastructure and other services available to farmers and rural communities are critical to any effort to raise agricultural growth and improve rural welfare. The efficiency of these services has a major impact on the productivity of land and other resources used in agriculture. They support urban development as well. By raising rural welfare and wellbeing, they reduce the cost of urban/industrial development by moderating the rate of rural-urban migration. Migrants leave rural areas by choice rather than being pushed out by poverty.

Attitudes towards land recovery in Vietnam diverge. One view is that, since the modernization of the economy requires the transfer of land from agriculture to non-agricultural uses, farmers and others from whom land use rights are withdrawn should accept this fact and move on. An alternative is that because land recovery contributes to economic modernization, those who lose their land use rights (and their preferred livelihoods) should be adequately compensated. The first view is common among Government officials. Farmers generally hold the second and see the dramatic increase in value of the land that they lose as evidence that they are being exploited.

Despite widespread support among officials for land consolidation to promote mechanization and raise agricultural output, direct official action so far has been limited. This cautious response is warranted given the large number of families who depend on agriculture. Any benefits of land consolidation, particularly when measured in terms of increased output and exports, need to be weighed against the private and social costs of rapidly displacing large numbers of workers and their families from agriculture.

Food security in Vietnam would be improved by broadening its definition to include food availability *and* access to food. This change would underscore the need to improve the productive capacity of agriculture (food crops, plantation crops, livestock, and aquaculture products) and increase the capacity of all Vietnamese families to generate incomes that allow them to gain access to adequate supplies of food. To move beyond its current emphasis on rice self-sufficiency, the Government and its agencies should supply a policy of food self-reliance. That is, they would need to focus on the food system as a whole and promote initiatives that would sharply reduce poverty, especially in rural areas.

The lack of a coherent system of land (and property) taxation in Vietnam represents a lost opportunity for local authorities to gain access to a stable source of revenue and effectively decentralize and modernize public administration. It creates distortions that reduce the economy's growth potential by over-taxing investment. The absence of land taxes worsens inequality by producing a major imbalance between those who benefit from the rapid gain in urban land values and those who bear the costs of providing the infrastructure services that contribute to those rising values. The absence of land taxes is a pro-rich strategy that undercuts the Government's efforts to reduce poverty.

Even without the anticipated effects of climate change, the environment that supports agriculture in Vietnam is subject to substantial threats and stresses. These need to be addressed to sustain the environment upon which the country's growth and development depends. Dealing effectively with current environmental problems has the added advantage of enhancing the country's ability to respond to climate change impacts as they emerge. To improve environmental management, the Government will need to create the incentives for individuals, private firms, and State-Owned agencies that induce them to behave appropriately. In addition to incentives, environmental management will require effective public oversight to ensure that the groups continue behaving responsibly.

Vietnam has a huge amount of law and related decrees, directives, and guidelines related to land and its management. These are regularly updated and amended reflecting the pressures associated with a market-driven economy with a socialist orientation. A major problem with land law, viewed broadly, is that it lacks a core set of principles related to the definition of rights, their orderly transfer, and their adjudication and protection. The Law on Land is currently being re-revised. It would be useful if the revisions remove existing biases in the law, especially those that apply to rural land use certificate holders. National welfare and wellbeing would increase if, in matters related to land, there were equal justice under the law for all Vietnamese.

## INTRODUCTION

The de-collectivization of agriculture as part of the *doi moi* reforms represented a dramatic shift in social and economic reorganization in Vietnam. Formalized in the Law on Land of 1988, the return of land to individual farmers created the conditions that led to a major expansion in agricultural output, exports, rural income, and wealth. Effects of that reform continue to reverberate through the economy.

The change in policy reoriented the Government's approach to economic and social management. The shift had several purposes: to raise the rate of economic growth, reduce poverty, achieve food security, promote international competitiveness, sustain the environment, and foster social harmony.<sup>1</sup> Meeting these specific objectives was part of the government's broader goal of achieving middle income industrial status for Vietnam by 2020.<sup>2</sup>

The reforms create opportunities and pose challenges. One challenge has been to develop a legal framework that is appropriate to an expanding, dynamic, globally-integrated economy. The Government has made many legal changes designed to move beyond the system of central planning and control and create an institutional structure consistent with a market-driven economy with a socialist orientation.<sup>3</sup> Some legal changes have anticipated and stimulated subsequent developments. However, many of them have reconciled emerging practices and behavior of the public and business community.

The latter has characterized land policy. Since the first changes, tentatively introduced by several cooperatives in Hai Phong during the late 1970s and formally incorporated in Contract 100 of 1981,<sup>4</sup> there have been at least four significant land laws (1988, 1993, 1998, and 2003) and numerous guidelines, directives, and decrees.<sup>5</sup> This pattern of catching up with ongoing developments underscores the Government's willingness to adjust. It is also consistent with international experience. No economy, anywhere, has moved from central planning and State control to alternate forms of organization without experimentation, learning, dislocation, and substantial lags.<sup>6</sup>

For some public policy issues, accepting whatever the economy "grinds out" has been sufficient.<sup>7</sup> For others, however, reacting to trends after they are well underway creates difficulties, particularly for groups that are being harmed by the law. One of those groups, namely Vietnamese farmers and rural residents, though large has minimal power, influence, or capacity to organize in ways that protect their interests. They are at a major disadvantage in the face of urban-based officials who frame, interpret and implement the law. This imbalance in power and influence has created social and economic problems which are likely to intensify while the anti-rural biases persist.

This situation need not continue, especially if the Government were to re-balance its approach to land management. A constructive shift would be to provide farmers and rural residents with the same rights and protections as urban land users. This would reduce social disharmony, prevent land policy from exacerbating rural poverty, and strengthen the foundation for sustained rural development. It would also help curb the highly lop-sided accumulation of wealth by selected insiders and their associates that the current land laws sustain.

In this study, we examine how the development of land policy influences socio-economic development. We discuss who wins and who loses from changes in land laws and regulations, the positive and negative impacts on economic behavior induced by these changes, and indicate how modifications in land policy would support and sustain future economic and social development in Vietnam.

The discussion is organized as follows. The following section describes what the paper is about, why the study has been undertaken, and some of the key issues that will be examined. Section 3 has an overview of the key data related to land, agriculture and economic and social indicators of welfare and wellbeing. Section 4 examines each of the issues that our field work, literature reviews and discussions with officials have shown are critical in determining how land policy relates to socio-economic development. Section 5 seeks to understand the impact of changes in land policy in terms of who wins, who loses and why as a result of changes in the land laws and their implementation. Section 6 has concluding observations and recommendations that, if adopted, would help Vietnam accelerate progress towards its socioeconomic development goals. Several annexes have material that supplements the points made in the text.

## **BACKGROUND AND CONTEXT**

This paper is part of a broader study “Policy Analysis for the Development of Land Policy for Socio-Economic Development.”<sup>8</sup> Land policy, as used here, refers to the action and activities through which the Government of Vietnam defines for individuals and groups their rights in land, specifies circumstances under which those rights may be transferred, and develops mechanisms for protecting those rights or for resolving competing claims among them. Vietnam’s formal (*de jure*) land policies are reflected in the various laws (such as LL1993 or LL2003), decrees, directives, and regulations. The policies are formulated by the central government and implemented by its ministries and their relevant departments at different levels. Vietnam’s informal (*de facto*) land policies are determined by the manner the various authorities and their agencies interpret, implement, and comply with the central Government’s directions. The overall effectiveness of land policy is determined by the degree of coherence between what is intended and what is achieved. The data below show that many provisions of land policy are implemented as intended but a significant number are not.<sup>9</sup>

As initially conceived, the study identified ten policy-related topics – the legal and regulatory framework for land, the land market and ownership trends, land taking and compensation, credit markets, land and property taxation, forest land, land and labor markets, ethnic minorities, competitiveness and (global) integration, and environmental concerns. Field work,<sup>10</sup> discussions with key officials and scholars, and background research by members of the team<sup>11</sup> indicated that several changes would be useful. One topic (food security) was added and some of those above were regrouped. The resulting eight topics – land conversion, food security, land consolidation, land as an asset, the complementary public investments that raise land productivity, land and property taxation, environmental sustainability, and suggested legal changes – are analyzed below. The cross-cutting issues of gender, ethnic minorities, and rural development are examined, where relevant, under each topic.<sup>12</sup>

Historical experience, in Vietnam and elsewhere, demonstrates that the use, allocation, disposition, and control over land have been some of the most sensitive, controversial, and



politically difficult in any society. That experience carries over to the present.<sup>13</sup> Land serves many purposes. It is a productive resource, whose principal feature is its location relative to input and product markets.<sup>14</sup> Location, in turn, is distinguished by climate, topography, soil type, and other physical characteristics which serve environmental, cultural, and administrative purposes. The productive use of land provides employment, creates output, generates income, and supports household and business expenditure. Land is a cultural asset for individuals and communities. It provides a sense of “place” and identity thereby contributing to the nation’s social capital, i.e., the set of relationships and networks that support and sustain communities and regions. Land is a tangible asset that can be valued in a market, exchanged, inherited, given or received as a gift, and used as collateral. For many individuals, especially in the rural areas, land is their main item of wealth and source of security.

Land is central to the generation and maintenance of public services. Examples include infrastructure, watersheds, coastal wetlands and fish spawning grounds, forests, parks, and preservation areas. A further public service is the “amenity value” of open space which increases (often sharply) as societies urbanize and per capita incomes increase.<sup>15</sup> Land is a political entity with boundaries that represent the limits of national sovereignty and provide the basis for international recognition and cooperation. Finally, land (or more generally space) serves as an administrative domain that defines spheres of responsibility and control for villages, districts, communes, provinces, and the central government.<sup>16</sup> Depending on the issue, e.g., infrastructure, environmental management, education, or land recovery, these areas of responsibility often overlap.

The Constitution of Vietnam provides for collective ownership<sup>17</sup> and State management of land.<sup>18</sup> The Constitution, however, provides no guidance how the land will be managed, by which State agencies, or who will have access to land and under what conditions. Those aspects are determined administratively and, as such, are subject to negotiation, interpretation, and regular amendment. This has created ambiguity and uncertainty regarding land management. It also provides the opportunity for officials at various levels of government to determine what the legal requirements are meant to mean and to whose advantage.<sup>19</sup>

These difficulties have little to do with the willingness of the Government to respond or modify the law. Difficulties arise because there is no established set of principles that enable matters related to land (and property) to be handled coherently and impartially. Access to land remains too highly politicized, and due to its scarcity, too lucrative for officials to dissociate themselves from influencing land issues for political, economic or other advantage.

If a set of principles were adopted, at a minimum it would ensure that land use rights, the conditions related to the transfer of those rights, and mechanisms for dispute resolution would be common to all land use right holders, follow due process, and be implemented equitably, transparently, and without prejudice. At present, the land laws and associated regulations apply for some of these matters and then primarily for urban residents and foreign investors. Farmers and rural residents do not enjoy similar access or protection.<sup>20</sup>

None of this would matter, if the outcomes were inconsequential. Yet, in its role as the nation’s landlord, the State does not provide equitable treatment to its largest constituency, namely farmers and rural residents. Allowing this to continue will not foster sustainable economic development.

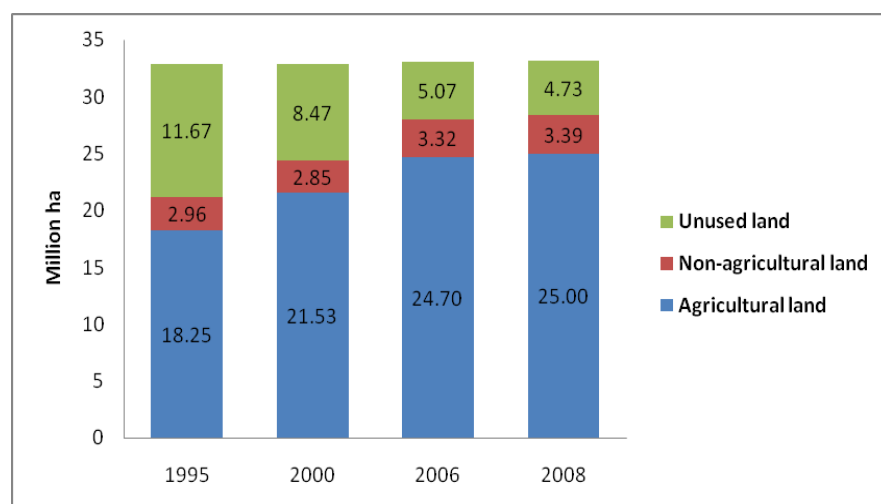
While it is relatively easy to focus on these problems in the context of land law, they reflect broader deficiencies in the legal status of property and wealth in general. No country has ever made the transition readily, or rapidly, from central control to a system where the decentralized access to property is subject to a consistent, equitable, set of property use rights that are allocated and protected in impartial, non-political ways.<sup>21</sup> Vietnam is not, and will not be the exception. Progress in these areas will continue as Vietnam modernizes. More important, progress will need to continue if the Government's ambitious goals of growth and industrialization are to be met. An enlightened land policy will be critical to that effort.

There is a now relatively robust and growing literature on land policy in Vietnam.<sup>22</sup> More studies are underway. Each of them highlights the importance, impact, and implications of changing patterns of land use as the economy urbanizes, industrializes, and globalizes. This paper builds out from that literature.

## LAND, LABOR AND OTHER SOCIAL VARIABLES

Land is formally classified as agricultural, non-agricultural, and unused. Agricultural land is divided into agricultural production land, forest land, fishery land, and salt-making land. Agricultural production land comprises annual crop land and perennial crop land. Annual crop land is further subdivided into rice land and land for other annual crops. Forest land is designated as production, protection, and special use. These categories are the basis of land administration and land use planning.<sup>23</sup>

The total land area of Vietnam is 33.2 million hectares.<sup>24</sup> Agricultural land increased from 18.2 million hectares (mha) in 1995 to 21.5 mha in 2000 and by the end of 2006 had reached 24.7 mha (or roughly 75 percent of Vietnam's total area).<sup>25</sup> Over this period, the main changes were the decline in unused land from 11.7 mha in 1995 to 5.1 mha in 2006 and the increase in forest land from 10.8 mha in 1995 to 14.5 mha in 2006. Within agriculture, the principal changes were the reduction in rice land from 4.3 mha in 1995 to 4.1 mha in 2006 and a marked rise in land for other annual crops and perennial crops.<sup>26</sup>



There are two other categories. The first is unused land consisting of unused low and high land and mountains without forests and trees. In 2006, there were 5.1 mha of unused land, down from

8.7 mha in 2000. The most dramatic reduction (of 3.1 mha) was in unused high land. The second was the increase in “non-agricultural land.” In 2006, there was 3.2 mha. Of this total, 929 thousand hectares (tha) was rural residential land and 80 tha was urban residential land. The areas in 2000, respectively, had been 2.9 mha, 923 tha, and 72 tha.<sup>27</sup>

These data show that the pattern of land use has shifted markedly over a brief period. The largest change, of 3.7 mha, was in unused land. Total land in agriculture increased by 3.2 mha with most of it (2.9 mha) being added to forest land. Non-agricultural land increased by 382 tha and fishery land by 347 tha. Land under perennial crops increased by 277 tha.

There were two significant declines. The area of mountains without forest and trees fell by 580 tha, the result of highly successful land reclamation efforts by central and local authorities.<sup>28</sup> The other decline was of 337 tha of rice land. Part of this was due to urban/industrial encroachment. But, some of it was the result of the general unprofitability of rice production relative to alternative uses such as shrimp, aquaculture, fruit production, vegetables, livestock, and floriculture (particularly orchids).

Data for 2008 show little variation in most of these categories.<sup>29</sup> Total agricultural land increased marginally to 25 mha. Crop land, rice land, and land under perennial crops remained the same. Forest land increased to 14.8 mha and unused land declined further to 4.5 mha. Non-agricultural land increased to 3.4 mha. One of the largest movements within that category was urban residential land which increased to 113 tha.

These changes in land use contributed, in part, to agricultural output which has grown rapidly by historical *and* international standards. Over the period, 1990 to 2000, agricultural output increased by an average of 5.9 percent per annum. From 2000 to 2008, the annual growth rate was 4.2 percent. Output was dominated by crop cultivation – with an 80 percent share in 1990 and 78 percent in 2008.<sup>30</sup> This performance transformed Vietnam from having widespread food deprivation to being the world’s second largest rice exporter (after Thailand). The country also began exporting large amounts of coffee, rubber, cashews, and aquaculture products.

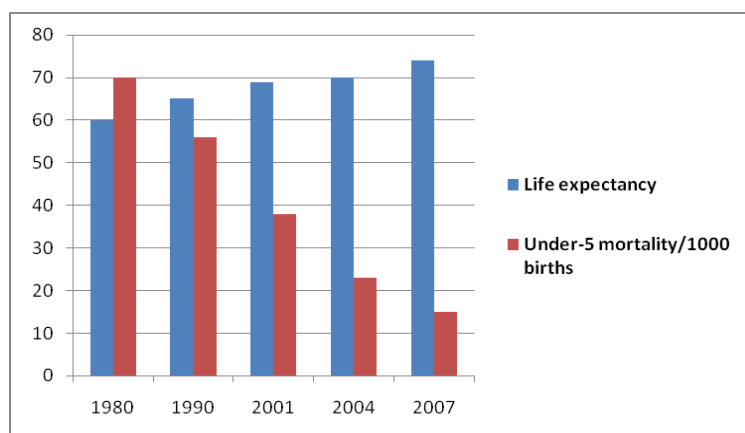
Major movements of population and labor force have accompanied the shift in land use. In 1990, 80 percent of Vietnam’s 66 million people lived in rural areas. By 2008, the rural population comprised 72 percent of its total of 86.2 million.<sup>31</sup> Changes in the workforce were more dramatic. In 2000, 62.5 percent of workers (or 23.5 million) were in agriculture, forestry and fisheries. By 2008, the number of workers had fallen to 22 million or 48.9 percent of the workforce. With the rural population having increased from 58.9 million in 2000 to 62 million in 2008, a structural reallocation of employment away from agriculture, forestry and fisheries was well underway. This welcome development has raised the amount of land per agricultural worker from around 0.9 hectares in 2000 to slightly above 1.1 hectares in 2008.<sup>32</sup>

Each of these changes is evidence of economic reform, the opening up to world markets, and general improvements in wealth and welfare. Perhaps the most dramatic change in Vietnam over the last two decades, however, has been in the food situation. Starvation and deprivation were widespread during the late 1970s and 1980s. Rice was scarce. Milled rice imports rose from 148 thousand tons in 1976 to 250 thousand tons in 1979 and, after falling for four years increased to 483 thousand tons in 1986. There was a major production response following the *doi moi* reforms. Rice imports fell to 55 thousand tons in 1989 and ceased in 1990.<sup>33</sup> In 1995, total grain

production was 26 million tons (25 million tons of rice). By 2008, it was 43 million tons (39 million tons of rice). Per capita grain production increased from 363 kg in 1995 to 502 kg in 2008, rising in all sub-regions except the South-East. A positive development was the increase in per capita grain output in the Northern Midland, Mountainous and Central Highland areas, places where food supplies have always been problematic.<sup>34</sup>

Since 1990, Vietnam has had adequate aggregate supplies of food. Annual exports over the last several years have been more than 5 million tons of rice along with large supplies of fish, aquaculture products, cashews and other products. In 2007 agricultural exports were 19 percent of the total merchandise exports of \$48.4 billion.<sup>35</sup> By contrast, food imports were 6 percent of merchandise imports of \$60.8 billion.<sup>36</sup>

The increased availability of food has led to improvements in key aspects of social and economic welfare. Perhaps the most sensitive of these measures is life expectancy at birth (which is driven by infant mortality) and under-5 mortality (which is primarily the outcome of nutritive status and health care). Life expectancy at birth was 60 years in 1980,<sup>37</sup> 65 in 1990, 69 in 2001, 70 in 2004 and 74 in 2007. Under-5 mortality was 70 per 1000 live births in 1980, 56 in 1990; 49 in 1995; 38 in 2001; 23 in 2004; and 15 in 2007.<sup>38</sup> These are remarkable improvements by any standards.



Nonetheless, the aggregate trends mask significant disparities. The increased food supply has yet to provide food security for all Vietnamese. The main problem is poverty. A large segment of the population lacks the income (or “capability”) to purchase food. To illustrate, in 2006 21.5 percent of the population was below the international benchmark for “absolute poverty” of \$1.25 per day<sup>39</sup> and 21.3 percent of children aged 7-14 was employed.<sup>40</sup> Children do not have to work unless their families are poor. For the period 2000-2007, 20.2 percent of children under-five were malnourished when measured on a weight-for-age basis.<sup>41</sup> Over the same period, under-5 mortality averaged 53 per thousand for the lowest income quintile in contrast to 16 per 1000 live births for the highest.<sup>42</sup>

An important dimension of poverty has been the substantial widening of the rural-urban income gap. Of the measured \$68.6 billion GDP recorded in 2007, 20 percent was in agriculture.<sup>43</sup> The associated activity absorbed 56 and 60 percent, respectively of all (44.4 million) male and female workers in Vietnam.<sup>44</sup> The implication is that roughly 26.5 million workers were occupied generating \$13.8 billion of GDP, an average of approximately \$520 per worker.<sup>45</sup> With GDP per

capita in 2007 of \$810, the average income of the remaining 17.9 million workers was approximately \$3100. This discrepancy in earnings shows up in the distribution of expenditure. The share of expenditure of the lowest quintile was 7.1 percent.<sup>46</sup> Based on the GDP datum above, this represented consumption expenditure of \$4.9 billion for 17 million people, or roughly \$290 per person. That amount is well below the benchmark for absolute poverty (even without adjusting for purchasing power parity) and is consistent with poverty data noted earlier. It largely accounts for the persistence of malnutrition and food insecurity.<sup>47</sup>

These data show highlight several positive developments over the last two decades: the general decline in agricultural employment; the increased area per agricultural worker; the rise in the aggregate food supply; the expansion of agricultural exports; and overall improvements in the welfare measures of life expectancy and under-5 mortality. Set against these, however, are the persistence of hard-core poverty, increasing rural-urban imbalances, significant welfare disparities across income classes, and the persistence of food insecurity particularly in rural areas.

Two further points are noteworthy. The data suggest that the period of “easy” expansion of agricultural land area is ending, if it has not already ended. Future agricultural growth will depend almost entirely on increased productivity. The second point is that population movements have produced a significant imbalance in the distribution of male and female labor across sectors. During the period 2003-2006, 60 percent of women were working in agriculture versus 56 percent of men, even though the number of male workers in agriculture outnumbered female workers.<sup>48</sup> When classified by skills the male/female imbalance is even more pronounced. The majority of unskilled female workers is employed in the rural areas.<sup>49</sup>

Changes in land policy will be needed to deal with these issues. The following sections examine what changes would be useful. We do that by organizing the discussion around the themes of land as an asset, complementary investments for raising the productivity of land, food security, land conversion, land consolidation, land taxation, environmental issues, and suggested changes in the law.

### **Land as an Asset**

Land is scarce in Vietnam. It is a valuable asset and a major component of national wealth.<sup>50</sup> Its market value has increased dramatically over recent decades. As noted earlier, the Constitution and Land Laws provide for collective ownership of land. Private ownership has no value. Land’s value comes from access. That is worth trillions of dong (billions of dollars).

When one allows for “adding-up” problems associated with any estimate of aggregate wealth,<sup>51</sup> the total value of land in Vietnam is currently around \$200 billion. To place this estimate in context, in 2009 the value of stock market equities was approximately \$35 billion; physical capital and equipment, \$240 billion; the money supply, \$115 billion (of which \$20 billion was foreign exchange); and gold, \$24 billion.<sup>52</sup> The main economic flows were \$94 billion for GDP and \$127 billion for the sum of imports and exports of goods.<sup>53</sup> By any of these measures, the aggregate value of land in Vietnam is large.

For most Vietnamese farmers, land is their primary asset and principal component of their wealth.<sup>54</sup> The law presently allows farmers the right to use, transfer, lease, inherit, mortgage, gift (or grant), and contribute land as capital to joint ventures.<sup>55</sup> Farmers cannot convert land into

non-agricultural uses.<sup>56</sup> Under the law, rice farmers require permission from local authorities to use their land for other agricultural purposes. The duration of land tenure is limited. For households and individuals who cultivate annual crops and engage in aquaculture, it is 20 years and for perennial crops and forests, the lease is fifty years.<sup>57</sup> The law determines upper limits per household for each type of land. For annual crops, it is 2 hectares (ha) in the Northern and Central provinces and 3 hectares in the Southern provinces.<sup>58</sup> For perennial crops, the limit is 10 ha for households with flat fields and 30 ha in the midland or mountainous areas. In effect, farmers' land use rights are closely circumscribed, narrowly defined, and relatively rigidly monitored.<sup>59</sup>

The value of agricultural land is derived from the demand for its present and potential future uses. That demand depends on the range of on-farm activities and the quality and supply of off-farm services that enhance the productivity of on-farm activities. It is also influenced by the institutional setting which determines lands uses and limits its convertibility.<sup>60</sup>

The major on-farm activities include crop production (rice, fruit, vegetables, maize, and cassava), livestock husbandry and aquaculture, and plantation crops (rubber, cashews, coffee, and pepper). Farmers can raise the value of their land by investing in ways that increases its productivity. The investments include improved water control, better drainage, appropriate soil husbandry practices, fertilization and composting, the control of weeds and noxious elements, and the protection of crops and livestock against pests and diseases.<sup>61</sup> Farmers can add (or maintain) value by cooperating with their neighbors to repair flood control structures, re-plant trees or rebuild shelter belts, and maintain pathways and nearby roads.

As discussed further below, the off-farm setting affects the productivity of agricultural land and thus its value. Agricultural costs are influenced by the quality of infrastructure services (transport, storage, irrigation, flood mitigation, and telecommunications), the degree of competition in the markets for farm products and farm inputs, and the availability of relevant information.<sup>62</sup> The productivity of farmers, their families and others who support their activities is influenced by the availability of social services, such as health and education, and the security situation (reflected in the effort/resources required to protect property).<sup>63</sup> Finally, the prices of output are directly affected by rising urban incomes and the expansion of agricultural exports.

Non-agricultural uses of land, particularly urbanization and industrialization, also affect the value of agricultural land. These uses, broadly associated with modernization and economic transformation, raise the private and social opportunity costs (measured as the value of income or welfare foregone) of keeping land in agriculture. Rising urban population and incomes have boosted the demand for real estate adjacent to the major urban areas and along existing (and anticipated) corridors connecting them. As a result of this demand, approximately 600,000 hectares of rice land have been converted to non-agricultural uses over the last decade.<sup>64</sup>

A major part of the value of converted land is a "transformation rent." The "rent"<sup>65</sup> varies with the land's location, the local rate of economic growth, the quality of its associated infrastructure, and its industrial, commercial, and other potential. Another part of this rent is due to spillover effects from markets for alternative assets.

These spillover effects directly link the value of land with macroeconomic management. During periods of macro stability – evident in steady economic growth, budget balance, low inflation, modest rates of monetary expansion, relative balance on the external accounts,<sup>66</sup> a stable

exchange rate, and a sustainable debt profile – asset holders (whether local or foreign) have few incentives to modify their portfolios. They can readily satisfy their accumulation, liquidity and risk preferences by holding different combinations of local currency, bank deposits, equities, gold, real estate, foreign exchange, and other real property including land.<sup>67</sup>

However, when the budget is over-extended, the local supply of credit is increasing at rates well beyond the growth rate of the real economy,<sup>68</sup> inflation is high relative to international norms, the exchange rate is overvalued, the external accounts are deteriorating, and public sector debt is rising relative to GDP, asset holders will begin searching for safety.<sup>69</sup> For Vietnamese, this involves shifting into gold, foreign exchange, imported commodities, and real estate. The opening up of the land market in the 1980s added access to land to this list.

Macroeconomic management has given the economy an inflationary bias which induces asset holders to adjust the portfolios.<sup>70</sup> That bias, apparent since 1990, persists.<sup>71</sup> To illustrate, during the period 2005 through 2008, while the economy grew at around 7.8 percent per annum, total credit increased by an average of 34 percent per annum.<sup>72</sup> This was due, in part, to an “official” budget deficit and off-budget expenditure and net lending equivalent to 5 percent of GDP per annum.

Inflation, which was 8.3 percent in 2005 rose to 23.1 percent in 2008. Over the same period, the current account deficit on the balance of payments increased from 1.1 percent to 10.3 percent of GDP and the nominal exchange rate depreciated by 10 percent from VND 15907 per dollar at the end of 2005 to VND 17486 per dollar by the end of 2008.<sup>73</sup> Inflation moderated in 2009 largely in response to the decline in external demand during the global financial crisis. Land and real estate prices fell as well.<sup>74</sup>

The factors highlighted above – growing incomes, expanding output and exports, urbanization, and industrialization – generally increase the value of land. Yet, farmers as a group have gained little. Government restrictions on agricultural land diminish its productivity and its value.<sup>75</sup> Three restrictions are crucial – the length of time land is leased, constraints on convertibility, and the limited development of land use markets.

For cultivation land, the land use certificate is granted for twenty years. Under LL2003, this period ends in 2013.<sup>76</sup> The short-term nature of the period (let alone the terminal date) has reduced the incentive for farmers to make the long-term investments that would improve their land’s productivity. Vietnam would benefit if note were taken of international research showing that short-term leases deter investment and reduce agricultural income.<sup>77</sup>

A further consequence of the short-term lease is that it debases the inheritance and mortgage dimensions of the land use rights.<sup>78</sup> Few farmers reasonably expect to be dead within 20 years. Knowing that their heirs will inherit the tail-end of an expiring lease diminishes the value of land. The law provides that the State may permit the land use to continue beyond 2013. Yet, from that point onwards, farmers *de facto* will be tenants-at-will.<sup>79</sup>

The restriction on the ability to convert rice land to other agricultural uses reduces its value.<sup>80</sup> This restriction is inefficient because it prevents farmers from using land as productively as possible. Many studies in Vietnam show that income derived from rice cultivation is three to five times lower than that of other crops such as vegetables, fruits, and aquaculture.<sup>81</sup> The Government is aware of the problem with the Prime Minister specifically requesting the two

leading State-owned food corporations to calculate the rice floor price to provide farmers with a profit of 30 percent.<sup>82</sup>

This request highlights the inequity of the restrictions. By being compelled to produce rice, farmers are helping the Government meet its food security goal of national rice self-sufficiency.<sup>83</sup> Yet, farmers receive no tangible reward for this public service. The 30 percent margin is based on a narrow definition of production cost leaving farmers inadequately remunerated for their effort.<sup>84</sup> With incomes of approximately US \$28 per person per month from rice, half of the farmers who currently cultivate the four million hectares of rice land in Vietnam are at, or near, the national poverty threshold.<sup>85</sup>

Restrictions on the use of land reduce its marketability. Their low incomes prevent rice farmers from adding to their holdings. More important, while the land remains locked into rice production, farmers have no incentive to buy additional land. Farmers also recognize that if they expand their land holdings and then it is recalled, the compensation they receive will not reflect the price they have paid.<sup>86</sup>

The inequity of these restrictions is further illustrated by the few farmers who are prepared to “game” the system. Even though there are risks involved, they do this by holding multiple red books in the names of compliant relatives or friends.<sup>87</sup>

### **Complementary Investments to Improve the Efficiency of Rural Land Use**

As already noted, the value of land depends on the productivity with which farmers use it *and* the quality and coverage of the infrastructure and off-farm services that support the farming community. The Government has a major role in supporting the investment which complements on-farm activities.

An extensive literature, surveyed in the World Development Reports of 1994 and 2009, emphasizes the fundamental contribution of infrastructure and other off-farm services to growth and development, especially in rural areas.<sup>88</sup> Improvements in the quality and reach of infrastructure services reduce the real resource costs of linking producers and consumers through markets and supplying social services and other amenities to the general population. Reductions in these costs encourage the expansion of commercial, financial, and distribution networks. These, in turn, broaden the opportunities for enterprise, income generation, and wealth creation.<sup>89</sup>

The above Reports explain why location (defined as a particular position in geographical space) has value and how economic and social forces modify that value over time.<sup>90</sup> In particular, they focus attention on the instrumental value of the “economic supply of land” in economic growth and development.<sup>91</sup> In doing so, they identify how public sector investment that expands infrastructure and rural amenities raises the value of rural land for farmers and rural residents and adds to their wealth and welfare.

The themes of the 2009 WDR, “reshaping economic geography” are relevant to the Government’s program for industrializing and modernizing Vietnam. The Report identifies three determinants of the spatial pattern of growth and development – economic density, (economic)



distance, and (economic and social) division.<sup>92</sup> Economic density refers to income or expenditure measured as gross domestic product per unit area (e.g., square kilometer). Income generation tends to concentrate in well-defined locations due to economies of scale and agglomeration effects.<sup>93</sup> These produce cost advantages (lower input costs, particularly for information) and increase the rewards (higher output prices, or wages) for those who operate in or adjacent to dense locations. Economic distance is a measure of the resource cost of bridging the physical, time, and information gaps<sup>94</sup> between areas of high and low economic density. Economic (and social) division relates to the barriers that exist between states or regions within states due to differences in currencies, restrictions on trade and exchange, regulatory obstacles (both formal and informal), ethnic differences, and other features.<sup>95</sup>

There are several implications of viewing patterns of growth and development in terms of density, distance, and division. First, economic development is spatially uneven. Particular locations tend to acquire an advantage (as a market, transshipment point, sea- or air-port, source of raw materials, or administrative center). Second, “markets shape the economic landscape.” Markets always take time to develop and deepen but, once established, they benefit from “...growing cities, mobile people, and vigorous trade.”<sup>96</sup>

A third point is that “...human capital moves to where it is abundant, not scarce.”<sup>97</sup> This, too, is a consequence of agglomeration. A person’s knowledge and skills are more valuable in settings where there are many other people with knowledge and skills.<sup>98</sup> Fourth, declining transport costs enhance the benefits of specialization and increase in production scale.<sup>99</sup> These benefits promote trade and exchange among neighboring regions (and countries) rather than with distant regions or countries.

The Report has several implications for policy. Since economic activity tends to concentrate geographically (due to agglomeration effects, spillovers from skills and knowledge, and economies of scale), effective *national* development requires the government to generate resources in areas of high economic density and use them to promote development (raise welfare) in areas of low economic density. Such an approach is fostered by “spatially-blind institutions” that avoid regional or location biases; the promotion of spatially-networked investments designed to more closely integrate regions and districts; and the formulation of spatially-targeted interventions that encourage social and human development throughout the country.<sup>100</sup>

Some of these trends are well underway in Vietnam. A few locations are economically dense – Ho Chi Minh City, Hanoi, Hai Phong, Baria-Vung Tau, and Da Nang. Other cities and towns, even those that are growing rapidly, have significantly lower economic density.<sup>101</sup> Some of the income generated in the country’s growth poles is being used by the government to promote development more broadly. Noteworthy examples have been the expansion of infrastructure, particularly electricity and roads, and the extension of social services such as health and education.<sup>102</sup>

A third trend is the stronger (local) trade links notably within Asia.<sup>103</sup> Unit transport costs have fallen due to rising trade volumes and diminishing trade barriers. A fourth trend is that urban areas continue to attract large amounts of rural labor. As pointed out above, it is primarily the younger, better-educated workers who migrate.<sup>104</sup>

A trend in Vietnam, contrary to the conclusions in the World Bank's Report, is that public sector expenditures in rural areas are disproportionately lower than the share of the rural population in total population (72 percent in 2008)<sup>105</sup> and the share of agriculture in GDP (18 percent in 2008).<sup>106</sup> In 2005, for example, public sector investment in the rural areas was 7 percent of the total.<sup>107</sup> Data from the National Assembly showed that for the period 2000-2005 only 9 percent of the Government's budget for "basic investment" was spent on agriculture and rural development.<sup>108</sup> The limited amount of foreign investment in agriculture (less than 10 percent of the total) reinforces this imbalance.<sup>109</sup>

This disparity in rural-urban investment is counter-productive. It undermines agricultural productivity, reduces the opportunities for farmers and rural residents to generate income and create wealth locally, exacerbates rural poverty, and diminishes the potential for urban/industrial development.<sup>110</sup> It is also contrary to patterns of investment in countries that have grown rapidly.<sup>111</sup> Equally important, due to the increased crowding and congestion effects associated with high rates of rural-urban migration, it makes the task of developing urban areas more costly.

One consequence of the diversion of resources is that the agricultural sector is losing its dynamism. From 1990 to 2000, agricultural output increased on average of 5.9 percent per annum while over the period 2000-2008, it was 4.2 percent.<sup>112</sup> Consistent with standard "patterns of development" these growth rates were below the growth rate of other major sectors and the economy as a whole. The abrupt drop in the growth rate is surprising especially when a large amount of structural transformation is yet to occur in Vietnam and such a large share of the population depends on vigorous agricultural growth to provide them with a "pathway out of poverty."<sup>113</sup>

International experience compounds the concern. Evidence (primarily from India, China and Indonesia) demonstrates that one of the most effective means of promoting rural welfare and reducing rural poverty has been to expand rural infrastructure.<sup>114</sup> This requires large expenditures – on investment and then on operations and maintenance.

The diversion of resources from agriculture is a consequence of Vietnam's present, short-sighted, development strategy. Urban/industrial development is being promoted ahead of rural development. For sustainable long-term development, both sectors have to grow rapidly. Agricultural growth needs to remain robust, so that the labor relocating from the sector can do so voluntarily instead of being pushed out by poverty.

Since public policy is what governments do rather than what they say they do, there is widespread evidence of the systematic neglect of agricultural development. Two points stand out. The first is the imbalance in the allocation of public sector investment noted earlier. The second is the dominant role of international agencies in funding key aspects of agricultural and rural development. To illustrate, the MARD's "Plan of Agriculture and Rural Development for the year 2007"<sup>115</sup> projected total expenditure of VND 4056 billion, of which VND 1869 billion (46 percent) was foreign aid.<sup>116</sup> That share has been increasing and is due to rise further.<sup>117</sup> At the October 2009 Consultative Group Meeting in Hanoi, donors committed \$2.25 billion for agriculture over the period 2010 to 2015. No other sector in Vietnam depends so heavily as agriculture on foreign aid. That would change if the Government rebalanced its investment program.

Although basic improvements in transport, irrigation, input and product storage, processing facilities, telecommunications, and health and education would raise the net returns in agriculture, other areas could use additional public support. One of these is adaptive agricultural research.<sup>118</sup> There is much new technology and many new techniques that need to be studied and tested to determine their relevance to Vietnamese conditions.<sup>119</sup> The Government could usefully explore the possibility of public-private partnerships for these tasks.<sup>120</sup> This would engage farmers in upgrading their agricultural varieties and production techniques and provide the private business sector with a vested interest in agricultural prosperity.<sup>121</sup> Both would raise the value of agricultural land and add to farmer incomes and welfare, particularly of rural women.<sup>122</sup>

Some progress has been made in these areas, especially in efforts to upgrade research capacity and link Vietnamese scholars with their international counterparts.<sup>123</sup> Nonetheless, agricultural R&D, like other areas of scientific research, is receiving limited support especially when measured relative to international standards.<sup>124</sup>

Raising the rate of rural investment to improve agriculture infrastructure and other services requires finance. A large part of the cost of developing industrial zones is borne by displaced farmers through the low levels of land compensation. Part of the transformation rent generated when land is converted is used by “developers” to provide infrastructure. Modifying this system would raise the value of all agricultural land for farmers and stimulate on-farm investment thereby boosting productivity.

### **Land Conversion**

Sustained economic development in Vietnam depends on the conversion of land and other resources to more productive uses. Economic development is conventionally defined as economic growth (i.e., a sustained increase in real per capita income) plus structural transformation.<sup>125</sup> Major “sources” of economic growth are increases in productive inputs (such as land, labor, and capital), improvements in the productivity of these inputs, and changes in economic organization and management that sustain the increase in inputs and their improved productivity. Structural transformation comprises industrialization, urbanization and the demographic transition.<sup>126</sup> These, in turn, involve systematic shifts in factor supplies, product demand, and patterns of trade.<sup>127</sup>

Those changes modify how land is used. For example, industrialization involves the reallocation of land from crop, plantation, and livestock production to activities related to industry, materials handling and processing, transport, storage, and waste treatment and removal. Urbanization converts agricultural and other rural land (e.g., forests, grassland) into areas that provide residential, commercial, administrative, environmental, recreation, and infrastructure services. The change in land use is accompanied by the movement of labor from low productivity (mainly rural) activities to high productivity (mainly urban) occupations, a trend which accounts for much of the rapid growth over recent decades in Asia, and especially in Vietnam.<sup>128</sup>

Although these “patterns of development” are regularly repeated as countries modernize, they are all rooted in economic and social disruption.<sup>129</sup> Workers migrate, land that once generated income for farmers is paved over or built upon, communities disintegrate, and forested areas that sustained the livelihoods of ethnic minorities are logged or flooded to generate electricity and provide water and sanitation services for urban areas. As infrastructure improves, locally-

produced commodities face increasing competition from imports, and rural towns and villages are absorbed into broader administrative and social structures. Local workers who are displaced when land is converted discover that their existing skills have little value in the new circumstances. Older workers with limited education face the prospects of a future in which their standard of living stagnates or declines.

As noted earlier, the formal basis for the State management of land is contained in the Constitution and various land laws. They define how land may be used, by whom, and the conditions and procedures for modifying those uses.<sup>130</sup> Under current law, farmers have several land use rights.<sup>131</sup> Unlike urban and rural residential land,<sup>132</sup> the land that farmers hold is designated “within a land use term.”<sup>133</sup> Cultivation land has a lease of twenty years and plantation land fifty years.<sup>134</sup> Farmers cannot convert their land to other agricultural uses (e.g., cultivation land to livestock production) without authorization.<sup>135</sup> They cannot convert the land to non-agricultural uses.<sup>136</sup>

Land that is designated “within a land use term” can be readily recovered by the State. LL1988, Article 49 provides that farmers would be “allocated another piece of land” when their land use rights were recalled. LL1993 modified that provision to substitute cash payments when other land was not available.<sup>137</sup> Recent amendments, formalized in Decree 69, Article 42.2 requires the “land price” to be used to determine compensation.<sup>138</sup> There are several methods for computing that price.<sup>139</sup>

The power to recover land is effectively absolute. It applies in specific circumstances such as when land is not being used, or where it is not used for its intended purpose, or when “land users intentionally ruin land.” But, more generally it applies when “The State needs to use the land for purposes of national defense and security, national interests, public interests or economic development.”<sup>140</sup>

In principle, land recovery is an orderly process consistent with the requirements specified for land use planning and zoning. These are described in LL2003.

#### **Article 21. Principles for Making of Land Use Zoning and Land Use Plans**

The making of land use zoning and land use plans must be in compliance with the following principles:

1. In compliance with strategies, master zoning, social and economic development plans, national defense and security;
2. From general to details; land use zoning and land use plans of lower levels should be in accordance with the land use zoning and land use plans of higher levels; land use plans should be in accordance with the land use zoning which has been decided or approved by the competent state authorities;
3. Land use zoning and land use plans of higher levels should reflect the demand of land use of their lower levels;
4. Using land economically and efficiently;
5. Exploiting natural resources reasonably, and protecting environment;
6. Protecting and maintaining cultural-historical relics and landscapes;
7. Democratic and public; and
8. Land use zoning and land use plans for a period should be decided and

approved in the last year of the previous period.

Articles 22 through 30 of LL2003 describe how the system operates and by whom and Articles 3 through 10 of Decree 69 provide additional details. While these requirements suggest that land use planning and zoning practices in Vietnam are coherent, settled, and effective dimensions of public administration, there have been difficulties. Significant amounts of recalled land sits idle for years; land recovered for recreation and industrial parks remains underutilized; land set aside for environmental purposes is often not used or is used ineffectively; and, despite official discouragement, rice land continues to be converted to non-agricultural uses.

There are several reasons. First, the structure of land use planning and zoning is too complicated. Each level of government is meant to be involved and each level of government is meant to coordinate its efforts, internally and with other levels. The following illustrates one aspect of the problem: MONRE Minister Pham Khoi Nguyen reported on June 13, 2009 to the National Assembly that there were a total of 145 golf course projects in Vietnam (later revised to 166) on 52,700 ha of land, 10,500 ha of which was agricultural land. Together with his colleague the Minister of Planning and Investment Vo Hong Phuc, they affirmed that golf course projects were not subject to their jurisdiction because they are approved by provincial authorities. In response, the Prime Minister directed that the number of golf course projects be cut to 89 and that two-crop rice land must not be taken for that purpose.<sup>141</sup>

Second, the land use planning system is fundamentally flawed. Each article in Decree 69 is phrased in terms of “needs” and “requirements” yet the basic principles above refer to the “economic and efficient” use of land.<sup>142</sup> This circle cannot be squared. Some pricing or coherent (non-cyclic) rationing mechanism is required to ensure that “needs” with higher “revealed” value are chosen.<sup>143</sup>

Third, one Ministry, namely MONRE, is responsible for making the system work.<sup>144</sup> With so many actors (other ministries, provincial authorities, state-owned entities and security agencies) “needing” land, no single ministry has the capacity or influence to meet that responsibility. Indeed, Decree 69 recognized that MONRE would not be fully effective when it assigned the decision on the conversion of rice land and other protected land to the Prime Minister.<sup>145</sup> Fourth, despite the highly formal approach to land use planning and zoning, much of what happens in practice falls under the provision of “adjustments and supplements” to the annual land use plan.<sup>146</sup> And although, in principle, such modifications are meant to be consistent with the broader (five-year and one-year) plans, in practice land is recalled whenever the authorities (from the central to the local levels) decide they “need” it.<sup>147</sup>

This approach to land recovery in Vietnam is unfair to farmers.<sup>148</sup> It effectively precludes them from seeking redress even if they object to (or “denounce”) their treatment.<sup>149</sup> Furthermore, it differs fundamentally from the protections that *de facto* apply to non-agricultural land users.<sup>150</sup> These outcomes raise questions about the Government’s interpretation of its legal responsibility to “...uniformly carry out the state management on land nationally.”<sup>151</sup> More important, however, they adversely affect socioeconomic development.

Land recall is biased systematically against farmers and in favor of the public and private enterprises and individuals associated with land clearance and development. Farmers lose their main source of wealth and livelihoods.<sup>152</sup> Compensation payments offset some of these losses.<sup>153</sup>

But none of the compensation, even in provinces with generous schemes, enables farmers to benefit from the “transformation rent” from land conversion. Indeed, the land price which is published by provincial authorities at the start of every year and from which compensation is derived is invariably low by “market” standards, i.e., the value that would emerge in a “willing-buyer-willing-seller” exchange. The law provides for a “package of support,”<sup>154</sup> but its components do not make up for the low price. Some elements, such as service land, are not provided to farmers as promised and some of the support such as retraining does not effectively prepare displaced farmers for alternative employment.<sup>155</sup>

This rigid division of the land recovery process pointedly excludes farmers from any of wealth created when land is converted. This system persists, in part, because it is convenient for local authorities which lack resources. They assign land to developers/investors on the condition that the compensation they pay for recalled land and infrastructure development is subtracted from any rent they may subsequently need to pay.<sup>156</sup>

The value of recalled land after being converted to commercial, residential or industrial purposes is often hundreds of times the compensation paid to farmers. The revenue generated derived from selling the recalled land increases the pressure for local authorities to recover more land. With no effective voice in the recovery process, farmers are usually the last people to be informed about what officials intend doing. The law provides them with minimal ability to protect their interests ahead of the recall decision.<sup>157</sup> The discontent and disharmony provoked by these practices imposes a high social cost on land conversion.<sup>158</sup>

It is worth noting, that not all land transformation is profitable. The largely uncoordinated recall of land, despite the legal requirements related to land use planning and zoning mentioned above, in more than 50 provinces in the hope of promoting industrialization, has left large amounts of land under-used and unused. Land has been recalled and cleared awaiting potential investors in areas that have no comparative advantage for industrial or commercial activity. Missed in this centrally-directed scramble for “build-it-and-they-will-come” provincial development is the key lesson, noted earlier, that economic activity tends to concentrate geographically.

A recent assessment revealed that Vietnam has 228 industrial parks (IPs) in 54 provinces. Of these, 145 are in operation and 83 are the process of land clearance and infrastructure development. The total area is 58,220 ha of which 38,075 ha can be rented. Overall, 46 percent of the area of IPs is utilized. Among the currently operational IPs, 64 percent of the area is being used. The utilization varies by province and activity. Some IPs established in twenty five years ago are still operating at rates below 50 percent.<sup>159</sup>

## **Food Security**

The political, social and economic importance of food security in Vietnam cannot be overstated. The hunger, deprivation, and food shortages of the 1970s and 1980s had a profound impact at every level. Coming at a time when Vietnam was ranked among the World’s poorest countries and had minimal foreign exchange reserves, the difficulties created by this experience have shaped subsequent food, agriculture, and land use policies.

Rice comprises approximately 90 percent of staple food consumption, with corn, manioc, cassava, and sweet potatoes accounting for most of the rest. There is no national shortage of rice. Vietnam is currently the World's second largest rice exporter. Since 2005, annual milled rice exports have exceeded 5 million tons.<sup>160</sup> This represents approximately 8-10 million tons of paddy rice or close to one-fourth of the nation's production.

Vietnam has had adequate aggregate supplies of rice since 1990. This fact, however, has had no tangible impact on national food security policy which remains rice self-sufficiency, a point regularly reaffirmed by Vietnam's leaders. In 1998, the Politburo of the Communist Party noted that the first objective of the nation was to "ensure food security in any circumstance" and "to maintain rice land area using a combination of economic and administrative measures."<sup>161</sup> The Prime Minister defined the national food reserve as "the volume of rice of the government stored in good quality to be used for national food security, natural disasters relief and recovery, for national security and defense and others purposes." Responsibility for maintaining land under rice was assigned to the MARD, MONRE, and the ministries of Transportation, Construction, and Commerce and Industry.<sup>162</sup> In 2000, the Government reaffirmed its policy that rice is the basis of food security as well as the national food reserve.<sup>163</sup>

The Party's Central Committee in 2007 expressed its determination to maintain "...rice land to firmly and sustainably ensure food security for the nation."<sup>164</sup> This commitment was reinforced by a program, approved by the Party Politburo in August 2009, to keep land permanently under rice cultivation. It was part of a broader initiative, overseen by MARD, designed to "eliminate hunger by 2012."<sup>165</sup> Its principal aim is "...to ensure an output of 39 to 41 million tons of rice a year to secure food security for the country's projected population of 100 million in 2020 and 130 million in 2030." The Government announced that it will establish a national food security committee, headed by a Deputy Prime Minister, to implement the program. The committee's task will be to ensure that, by 2030, "...Vietnam's rice cultivation area must be kept permanently at 3.8 million hectares, including 3.2 million hectares of paddy rice."<sup>166</sup>

Given the country's history, focusing on rice self-sufficiency could be interpreted as policy short-hand for sustaining the nation's staple food supply. The advantage is indisputable. While Vietnam produces adequate supplies of rice, the Government will never face the problem of a national rice shortage or questions about its ability to achieve food security as it defines the term.

Yet, as a public policy, rice self-sufficiency is inefficient, ineffective and inequitable. It is inefficient because it locks land and other scarce resources (labor, physical capital, finance) into a low-value use.<sup>167</sup> This reduces agricultural output and lowers the nation's growth rate. With existing technology and factors of production, numerous agricultural products – vegetables, maize, fruit, orchids, aquaculture, and poultry and livestock – have significantly higher value productivity than rice.<sup>168</sup> Under current circumstances, the opportunity cost of rice production is high: Vietnam could produce less rice than currently and have higher GDP and Vietnamese farmers could have higher incomes and welfare. Farmers recognize this and, to the extent they are able, have been shifting away from rice.<sup>169</sup>

Rice self-sufficiency is an ineffective approach to food security. Despite large annual rice exports, many Vietnamese lack food, including rice.<sup>170</sup> They are too poor to buy food even though supplies are plentiful.<sup>171</sup> Vietnam produces millions of tons of rice that foreigners

consume while many Vietnamese (including rice farmers) remain ill-fed and under-nourished. According to World Bank data, 37 percent of children under-5 was underweight in 1990. By 2000-2007 the proportion had fallen to 20 percent.<sup>172</sup> This is a major improvement although if rice self-sufficiency actually ensured food security, that proportion would have fallen to zero.

Rice self-sufficiency is inequitable. To ensure that its approach to national food security is implemented, the Government requires one segment of the Vietnamese population (rice farmers) to continue an activity (rice production) that keeps them significantly poorer than they would be if they could use their resources more productively. This restriction obliges one of the poorest groups in Vietnam, without compensation, to subsidize the rest of society in the public interest.<sup>173</sup> No other group in Vietnam – for example, members of the armed forces, politicians, civil servants, party officials, or managers of state-owned enterprises – is required to make similar sacrifices of income or welfare. Indeed, these groups are well-rewarded for their public service.<sup>174</sup>

As a final point, rice self-sufficiency is at odds with the national objective of promoting the competitive expansion of exports. As a member of the World Trade Organization, Vietnam is committed to a rules-based system of trade and exchange. Rice self-sufficiency, implemented through quantitative restrictions on land use, is inconsistent with that commitment. Indeed, the country faces a dilemma when it objects to allegations of “dumping” by its trading partners.<sup>175</sup> Vietnam maintains that it has not been dumping industrial and seafood products. The consequence of pursuing rice self-sufficiency is to dump rice on the world market.<sup>176</sup>

Each of these matters could be constructively handled if the Government were to move beyond its commitment to rice self-sufficiency. This would involve shifting to the internationally accepted definition of food security which emphasizes availability *and* access to food. Rice self-sufficiency is an availability strategy which fundamentally ignores the issue of access.

Many international agencies extensively examined food security and its implications. For example, the Food and Agricultural Organization of the United Nations (FAO) defines food security as a situation in which “(P)eople at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life.”<sup>177</sup> The basic elements are the availability of quality food products; adequate supplies of safe, nutritious food; access to those supplies; the economic capacity to purchase food; and circumstances which assure that the food consumed contributes to an active (productive) life.<sup>178</sup>

This is a significantly more detailed requirement than rice self-sufficiency or even food self-sufficiency.<sup>179</sup> It essentially engages the whole economy – its productive capacity, physical distribution system, social re-distribution capabilities, and policies related to food storage, commodity reserves, foreign exchange holdings, and trade in food products – to ensure that all members of society have adequate food. It also requires the formulation and implementation of policies which guarantee access to food, especially poverty reduction initiatives and social welfare activities that enable the poor, especially women, to increase their productivity and incomes.<sup>180</sup>



Rice self-sufficiency relates to the supply of one commodity which, though critical in Vietnam, does not guarantee food security. Moreover, with Vietnamese consumption patterns changing – evident in the rising imports of wheat flour, milk and meat products – rice self-sufficiency is losing its relevance as an approach to *national* food security.

Broadening the definition of food security has two advantages. It highlights the availability of all food, not just rice. This is an important consideration as rising incomes, especially in urban areas, systematically upgrade the diet.<sup>181</sup> The second advantage is that it emphasizes the capacity of individuals and households to gain access to food. This will keep official attention focused on income generation and poverty reduction.<sup>182</sup>

As discussed earlier, Vietnam's principal food security problem is poverty. There are adequate food supplies (rice and other food products) but a large number of people lack the income to purchase adequate amounts of food. The evidence reviewed earlier is compelling.<sup>183</sup>

Rice farmers bear a large part of the cost of the Government's food security policy. Rice cultivation is the least effective means for poor farmers to raise their incomes. In some locations, income from rice cultivation is so low that when farmers are refused permission to convert their land to other uses, they leave it uncultivated. This has a doubly adverse impact on national development – it misuses land and it does not alleviate poverty.

Critics of a broader food security strategy will ask: if farmers are not compelled to produce rice, what assurance is there that future supplies will meet growing demand? Vietnam's population, currently approaching 90 million, is expected to reach 130 million by 2030. With national rice consumption projected to be 38 to 41 million tons,<sup>184</sup> and roughly 60 thousand hectares of rice land converted annually for infrastructure, commercial, residential, and industrial purposes, the area under rice (and most other agricultural products) will fall. That decline will be aggravated by climate change which, based on anticipated rates of sea level increase, will flood and/or degrade large parts of the Mekong and Red River Deltas.<sup>185</sup>

These projected "losses" of land from agriculture appear to underscore the wisdom of the Government's plan to keep land "permanently" in rice.<sup>186</sup> The problem is that this approach ignores the opportunity cost of rice production and the income and welfare gains from pursuing Vietnam's current competitive advantage.<sup>187</sup>

Vietnam's future economic growth depends on the rapid expansion of non-agricultural activities. Keeping land in rice has a high opportunity cost which can be measured in terms of lower urban income, foregone industrial production, reduced exports, and diminished national living standards. Because these costs are high, the pressure to convert rice and other agricultural land to non-agricultural uses will persist.<sup>188</sup> The Government can resist these pressures by prohibiting land conversion but that does nothing to reduce the opportunity cost.<sup>189</sup>

Openness to the international economy has mutual advantages. It allows Vietnam to increase its national income and accumulate foreign exchange reserves. That is, items for which the country has a comparative advantage (coffee, seafood, fruit, vegetables, cashews, rubber) can continue generating the income required to ensure that the national food supply (wheat, cooking oil, milk products, meat products, and additional rice if needed) can be imported. Using trade in this way

reflects a policy of food self-reliance,<sup>190</sup> the strategy common to all major developed countries.<sup>191</sup>

The implications for land policy are clear. Rather than insisting that land be kept under rice and reduce farmers' incomes without resolving problems of local food insecurity, the Government should ensure that all agricultural land is used as efficiently and productively as possible. This will enable the country to have more food, higher rural incomes, continued robust economic growth, and food security.

### **Land Consolidation**

Land consolidation is widely seen in Vietnam as essential for raising agricultural productivity, boosting incomes, and sustaining the growth of agricultural exports. International experience confirms that agricultural modernization is accompanied by the systematic consolidation of land *and* increase in average farm size, a pattern that will be repeated in Vietnam.

Vietnam's roughly 14.5 million farms comprise approximately 70 million land fragments (or parcels).<sup>192</sup> They vary in size, but none of them is large.<sup>193</sup> Fragmentation is more pronounced in the North than the South. The disadvantages of land fragmentation have been widely documented.<sup>194</sup> It hinders agricultural modernization; undercuts the "scale effects" that enable productive resources to be used efficiently; raises the costs of production and marketing; increases the difficulty for farmers with scattered plots to coordinate their efforts; and raises the cost of public efforts to promote land consolidation. Critics of fragmentation also refer to the waste of land in borders and paths, the time lost travelling between plots, and transport difficulties.<sup>195</sup>

There is a large literature on the benefits of land consolidation. These include the increase in the productivity of land through mechanization; improved labor productivity due to more effective organization and supervision; the better utilization of fixed capital; reductions in the unit costs of inputs such as seed, manure, and fertilizer; and enhanced transport efficiency. Land consolidation also enables public authorities to more effectively improve agriculture-related infrastructure by overcoming the physical obstacles of the "bad layout" associated with small plots.<sup>196</sup> A final advantage is that existing technologies are more readily adapted to production conditions on larger plots.

It is noteworthy that the disadvantages of fragmentation and benefits of consolidation reflect a financial and/or administrative perspective. The farmer's point of view is mostly ignored.<sup>197</sup>

Why would farmers who have to deal with the consequences of fragmentation every waking moment fail to recognize the inefficiencies and costs and voluntarily take steps to reorganize their plots of land? What has prevented small farmers, the world over, who are in regular contact with their neighbors from devising mechanisms for agglomerating their holdings so as to sharply reduce operating and other costs?

The short answer is that having land in different parcels is not the most binding constraint facing small farmers whether in Vietnam or elsewhere. Since land is often the farmer's principal asset, the persistence of fragmentation is evidence that the practice has important benefits.<sup>198</sup>

Part of the longer answer is that the advantages of consolidation apply only to larger farmers (or groups of cooperating farmers) who can raise the capital to mechanize their operations. Lacking the finance to increase their farm size or mechanize, small farmers find that land fragmentation is fully consistent with their efforts to increase output, incomes and welfare subject to variability in land quality, the availability of non-land productive resources, and their limited tolerance for risk.<sup>199</sup> A third part of the answer is that for an individual farmer, the information and coordination costs of unilaterally attempting to consolidate land by adding contiguous parcels to their holdings outweigh the potential benefits.<sup>200</sup>

For the farm household, land fragmentation has several advantages. It spreads risk; provides access to land with different agronomic features (slope, aspect, location, soil type, drainage); enables output to be diversified; enables resources (especially labor) to be allocated more efficiently over time and activities; and improves the liquidity of the household's main asset.<sup>201</sup>

Yet, while farmers may be optimally allocating their land and other resources given their constraints, they may still be poor and food insecure. These problems result from the lack of productive resources such as physical capital (including land), human capital, finance, and relevant information.<sup>202</sup> It is these deficiencies, rather than the degree of land fragmentation, that diminishes farm household welfare and impedes rural development.<sup>203</sup>

In Vietnam, the degree of fragmentation has its roots in poverty (farmers cannot afford larger farms), social pressures (when land was de-collectivized it was divided equitably among existing commune and village members),<sup>204</sup> and agricultural practices (farmers choose to have access to different types of land to diversify their activities and reduce their risks).<sup>205</sup> The extent of fragmentation is also the result of intense population pressure. The cultivated area per capita in Vietnam is only slightly more than 1000 square meters. This is among the lowest for any country in the world.<sup>206</sup>

While land fragmentation has drawbacks, one of them has *not* been lower yields (i.e., low land productivity). This outcome has been widely observed internationally.<sup>207</sup> Despite the high degree of land fragmentation, Vietnam's agricultural productivity (yield per hectare) and aggregate production (tons of rice, maize, and head of livestock) have increased significantly, and continue to do so.<sup>208</sup>

Notwithstanding this impressive performance, farmers' average incomes have increased relatively slowly, and in some areas not at all.<sup>209</sup> This has little to do with how land is physically arranged. Rather, small farmers are generally unable to afford additional productive inputs, including land. Consolidating Vietnam's limited supply of agricultural land will do nothing to provide them with more land.<sup>210</sup>

There is high level official encouragement for reducing fragmentation. Officials highlight the need for consolidation and suggest that action will be taken. Mai Ai Truc, former Minister in charge of MONRE, stated:

We will not be able to turn our agriculture to a mass production with high competitiveness in the process of international economic integration if we continue with this too small household agricultural production like it is today. That's the reason that the Party and the Government advocate promotion of

land consolidation.<sup>211</sup>

This was confirmed in a press report of November 2008: “At the October Session of the Government last week PM Nguyen Tan Dung confirmed: the Land Law will be modified to promote land consolidation, the Budget Law will be modified to increase investment into agriculture production, rural and farmer development.”<sup>212</sup>

The general logic, regularly repeated in our trips to the provinces,<sup>213</sup> is that only the larger, “better organized” landholders (whether individuals, corporations, or cooperatives) will have access to the capital that allows them to mechanize their operations. Other officials have argued that consolidation is the essential foundation for the spread of agro-processing and the commercialization of agriculture. Consolidation is also seen as providing a boost to employment.<sup>214</sup>

Notwithstanding this emphasis, the Government has been cautious. Beginning in the late 1990s, it began encouraging plot exchange and the voluntary rationalization of land holdings to improve production efficiency.<sup>215</sup> It has avoided administrative measures to force land consolidation.

Successful land consolidation involves three tasks. One: Land needs to be agglomerated, i.e., fragmented plots have to be combined in some orderly physical pattern. Two: The average farm size needs to increase.<sup>216</sup> Three: Farmers and farm household members displaced during these two operations need to be resettled and re-employed.

While the first two tasks would be “easy” administratively (especially given the State’s power over land recovery), the third task poses major difficulties. Land consolidation and farm enlargement may have the advantages of raising output and increasing exports. Its disadvantage is that it displaces large numbers of farmers, many of whom will have difficulty adjusting. More important, many of those who would be displaced have no desire to leave agriculture<sup>217</sup> particularly when the alternative is to eke out an existence on the periphery of the urban/industrial society. On both counts welfare and well-being would diminish sharply.<sup>218</sup>

Thus, the issue in Vietnam is *not* whether land consolidation is an appropriate strategy for modernizing agriculture and increasing output. The main question is how to deal with the social, economic, and political consequences of any program of forced consolidation and farm enlargement.

Such a program would raise additional questions. Who will decide which land should be consolidated? What criteria will be used? Who will gain from the process and how? Who will lose and how much?<sup>219</sup> What additional compensation will the Government offer farmers particularly since their displacement (their disrupted lives and loss of livelihoods) serves the national goals of raising output, expanding exports, and modernizing agriculture?

As already noted, the Government has been careful to avoid pushing land consolidation through administrative means. Some districts in several provinces have successfully induced farmers to voluntarily consolidate their land holdings to support mechanization, or to shift production to pigs, fish or poultry.<sup>220</sup> The Government support for commercial farms has been constructive.<sup>221</sup> The goal has been to “demonstrate high economic efficiency, generate hundreds of thousands of

jobs, make the best use of water surface area and land and contribute significantly into the integration of the country.”<sup>222</sup> Data reported by the MARD show that by mid-2009 there were 150,102 commercial farms throughout the country, with average size of around 6 hectares.<sup>223</sup> Their number has increased by approximately 8,600 per year since 2000. In 2009, these farms employed 510,000 workers.

Analysis by the World Bank has shown that the expansion of land use rights under the various land laws has facilitated the re-allocation of land. The ability to lease, sell, and/or transfer land use rights, has enabled the least efficient farmers to reduce their land holdings, or exit agriculture altogether. This has allowed the more efficient farmers to expand their holdings and boost the scale of their farm operations.<sup>224</sup> These changes, though modest, are having some impact. One of these is the increase in the area per agricultural worker from less than to slightly above 1 hectare.<sup>225</sup>

These are positive developments but they can only continue if the rest of the economy is expanding. Economic growth provides labor with the opportunity to move out of agriculture and generates the resources within agriculture to invest in ways that raise productivity.<sup>226</sup> Data reviewed above indicate that these processes are well underway in Vietnam.

The implication is that, without forcing the matter, some significant adjustment to the use of land is already occurring. In the meantime, agricultural output and agricultural exports continue to expand as existing farmers modify their practices, switch to more profitable activities, improve their cultivation and land management techniques, add fertilizer, and take advantage of improved information and market opportunities. This is enabling farmers (modestly but tangibly) to rationalize their land holdings through voluntary and market-induced consolidation.<sup>227</sup> The Government could usefully continue to encourage this trend.

### **Land (and Property) Taxation**

At present, taxes on land<sup>228</sup> generate almost no revenue, especially for local authorities.<sup>229</sup> A recent Ministry of Finance report noted:

Vietnam now has seven officially sanctioned taxes, fees, and charges related to land and buildings, excluding unofficial contributions from the public, as follows: issuance of land use rights certificates; agriculture land use tax; land rental/lease tax; land use rights transfer tax; sale/lease of state-owned homes/buildings proceeds; house and land tax; and registration fees.<sup>230</sup>

The only genuine land taxes among these – the agricultural land use tax and the house and land tax – yield small amounts of revenue. In 2005, they generated:

...2.8 percent of all land and building taxes and fees, 0.19 percent of total budget revenue, 0.35 percent of local budget revenue (including central government transfers), and 0.07 percent of GDP.<sup>231</sup>

These data are low by international standards.<sup>232</sup> Over the last two decades, the average share of GDP contributed by land and building taxes in OECD countries was approximately 2 percent. It was 0.5 percent for developing countries and around 0.6 percent in transition countries.<sup>233</sup>

Taxes on land typically comprise a substantial share of local authority (i.e., sub-national) financing. It was 13 percent in OECD countries, 16 percent in developing countries, and 8.5 percent in transition countries.<sup>234</sup> Again, in Vietnam, it was much less.<sup>235</sup> Thus, by international standards, land is untaxed in Vietnam. There are a number of reasons.

Since land is collectively owned, it has never been clear who would or should pay land tax. Weak tax administration has precluded the more extensive use of land taxes. Indeed, a major dimension of the ongoing tax reform, due to be concluded in 2010, is to strengthen tax administration.

A third reason for low land taxes is strategic. Gaining access to land has been a highly effective means by which the well-connected and their associates can amass wealth. A fourth reason is that, with readily available sources of revenue from oil and gas, trade flows, and state-owned enterprises, the Government has had little need to tax land (and other property).<sup>236</sup>

These reasons explain the low levels of land taxes. None, however, is a useful reason for allowing that situation to continue. Property taxation dates from Ancient Greece and has been common to all forms of social, economic, and political organization.<sup>237</sup> The Constitution assigns the State responsibility for managing land. Effective, efficient, and equitable management would oblige land users to pay for that privilege.<sup>238</sup>

Weak tax administration might have explained the limited land taxes in the immediate aftermath of *doi moi*. Many transition countries have found it difficult to deal with institutional blockages and move beyond the mind-set of central planning and control. Nonetheless, the persistence of weak revenue administration is a failure of governance, particularly when both sides of the budget are considered.<sup>239</sup> Between 2005 and 2009, the Government regularly spent an average of 32 percent of GDP on thousands of items. Yet, during that same period, it was consistently unable to raise revenue adequate to cover those expenditures.<sup>240</sup> The consequences of the resulting macroeconomic imbalances are discussed further below.

The absence of a land tax worsens inequality in Vietnam. Those with access to land (and real estate) have been able to increase their wealth without having to contribute any of their capital gains to the costs of promoting national development. This is unfortunate since the major current sources of revenue are unsustainable.<sup>241</sup> State-owned enterprises are being “equitized” and oil and gas are non-renewable resources.<sup>242</sup>

The tax reform now underway is anticipated to reallocate the burden of taxation, remove existing nuisance taxes (i.e., those that are costly to administer relative to the revenue generated), eliminate charges and fees that unnecessarily distort the economy, and add several taxes that will provide sustainable flows of revenue for both the central and lower levels of government. Land taxation will be part of that mixture.

Taxes on land (and associated improvements) have several advantages.<sup>243</sup> Land tax is an object tax not a subject tax (i.e., a tax on persons). The users of the land can be readily identified and the tax is (relatively) easy to collect. The land can be seized and sold or, if that is politically difficult, a lien can be placed on its transfer until the taxes are paid. For all practical purposes, the tax cannot be shifted so that it has minimal effect on the users’ behavior.<sup>244</sup> An annual tax on land is an implicit tax (though at a low rate) on the returns generated by access to land (and its

improvements).<sup>245</sup> Those who find the tax high relative to the income they derive will have an incentive to use the land more productively, or to sell/lease it to others who can.<sup>246</sup>

Land taxes provide a source of revenue to different levels of government to help pay for the construction and maintenance of infrastructure that raises the land's productivity. Since the quality of infrastructure services tends to be capitalized into the value of land,<sup>247</sup> taxing land users shares some of their gains with the Government.<sup>248</sup> Without a tax, these users are subsidized by other taxpayers or who, along with all other Vietnamese, bear the costs of inflation and exchange rate depreciation that results from deficit financing.<sup>249</sup>

A final advantage is that when local authorities have access to revenue from an annual tax on land, they become less dependent on central government transfers. It also induces them to promote the productive use of land as it helps expand their revenue base.

There are, however, several disadvantages of land taxation.

It is a highly visible, recurrent charge which (initially at least) can be politically difficult to introduce or expand. Valuing land and its improvements can be problematic. There are many existing procedures, used extensively abroad, to resolve this matter. The main difficulties are in keeping the valuation process open and transparent and the values up-to-date.<sup>250</sup> A land tax bears no relation to the user's ability to pay.<sup>251</sup> A further problem is that the tax base depends on local economic activity. Poor areas will have low revenues and rich areas high revenues. For equity and development purposes, the central authorities will still need to redistribute resources from rich to poor areas. As noted already, this is consistent with patterns of development in which resources generated in areas of high economic density support improvements in welfare in those with low economic density.

### **Environmental Management**<sup>252</sup>

No other topic is so highly integrated with land policy than environmental management. Nothing that the Government of Vietnam does to promote economic growth and development, improve the country's competitive advantage, foster social welfare and well-being, or pursue its goals for modernization and middle-income status is or can be detached from the environment. And no aspect of the environment – whether it flows over, through, under or on, rests upon, traverses, or stretches over – can be separated from the land and its associated space. The two are fully inter-connected and inter-dependent. Thus far, however, the links between environmental management and land policy have been weak.<sup>253</sup>

Vietnam's overall record on managing the environment is mixed. The ban on large-scale logging, widespread public sector support (including incentives) for reforestation,<sup>254</sup> efforts to protect coastal marshlands and mangrove areas, the management of marine resources, and the expansion of parks, nature preserves, and forest protected areas have been impressive and valuable achievements.<sup>255</sup> Other trends, however, are adverse. The largely unregulated use of pesticides, herbicides, and antibiotics has increased pollution in the Mekong and Red River Deltas.<sup>256</sup> These areas are already subject to intense pressure due to rapid urbanization and industrialization.<sup>257</sup> As a result of excessive pumping of ground water in the Mekong Delta, the land is subsiding adding to the problem of saltwater intrusion.<sup>258</sup> Dams and power plants such as Son La and Yali Falls (among others) have already created adverse local and down-river effects. The rapid expansion of personal and public transport poses health hazards through increases in

urban smog, dust, and particulates.<sup>259</sup> Delays in the installation of waste treatment plants in industrial parks have resulted in untreated solid waste and effluents being dumped into local waterways and landfills.<sup>260</sup> Upriver pollution has significantly raised the costs of water treatment and added to consumer spending on filtered water. Numerous projects, many with international donor support, are underway or planned to deal with these issues. Significant catch up is required.

Environmental sustainability is a major goal for the Government which, in some regards, has taken measures to avoid the problem of “grow now, clean up later” that have been strategies in some other Asian countries.<sup>261</sup> More important, environmental sustainability is fundamental to Vietnam’s goal of becoming a middle income industrialized country by 2020.

Over recent years, much of the discussion about environment has focused on the challenges and consequences of climate change.<sup>262</sup> Projections indicate that large sections of the two Deltas and coastal areas will be flooded and watershed and forest zones will experience more extreme weather.<sup>263</sup> Under some scenarios, rising temperatures will extend the dry season increasing the frequency of droughts and forcing changes in patterns of grain cropping and plantation production in the hills and highlands.<sup>264</sup> These potential outcomes highlight the need for constructive measures, beginning immediately, to ensure that the mitigation and adaptation strategies are adopted.

Although the effects of climate change are expected to be severe and for some regions, calamitous, a reality check is needed. There are already significant, persistent, environmental stresses in Vietnam. The adverse effects of past excesses need to be remedied and the environmental problems created by current activities need to be addressed. There are two reasons. First, it will help prevent, or at least moderate, further damage. Second, appropriate current responses will create the conditions (reflected in relevant policies, processes, incentives, institutions) that generate the capabilities that will enable the country to confront the consequences of climate change as they unfold.

The mixed record on the environment referred to above offers opportunities and poses challenges.<sup>265</sup> The reforestation, control of logging, reclamation of denuded land, and general improvement of the management of the hills and highlands generate useful spillover effects. The reforestation program represents a significant contribution to carbon sequestration. By stabilizing key watershed areas, the risk of flash flooding is reduced. Watershed protection also diminishes downstream siltation and pollution raising the efficiency of all watershed- and river-dependent activities.<sup>266</sup> The reduced silt load extends the effective life of dams and weirs, and eliminates the need for dredging rivers and harbors. Water treatment plants can operate at diminished capacity helping to lower their operating and replacement costs.

By contrast, the pollution associated with the over-use (and misuse) of insecticides and pesticides has direct effects on product quality especially of grain, fish, shellfish, and fruit. Sold locally, the contaminated products affect the health of Vietnamese consumers. When exported, they risk being condemned by foreign health authorities and, in the process, undermining Vietnam’s reputation as a responsible exporter.<sup>267</sup>

Saltwater intrusion has been accentuated by the damming of rivers beyond Vietnam’s borders and soil subsidence from the pumping of groundwater.<sup>268</sup> This reduces the area suited to double-



cropping of rice and other salt-intolerant crops. Farmers have adapted by expanding shrimp-rice rotations. Up to this point, the change has been highly profitable and environmentally beneficial.<sup>269</sup> Earlier efforts to build dykes to defend against salt water have often been counterproductive. Regular flooding of the delta is essential to sustain the fertility and structure of the soil. Moreover, even with careful management, dykes and barriers trap pollutants which degrade the soil and reduce crop productivity.<sup>270</sup>

Changes in land policy in Vietnam have already had a significant impact on the environment. The reforestation referred to above has been partly driven by the incentives provided under the various land laws. Participants in the reforestation program can gain access to land. Legal restrictions have reduced (though probably not eliminated) destructive practices connected with commercial logging. Finally, the de-collectivization of land use induced farmers to improve standards of land management. Indeed, it was the distorted incentives that produced the “tragedy of the commons” evident in the mismanagement of the hills and highland areas.<sup>271</sup>

In this respect, Vietnam’s experience parallels that elsewhere. Encouraging constructive environmental management practices requires appropriate incentives and institutional arrangements that induce land users to modify their potentially destructive behavior.<sup>272</sup>

The creation of institutional arrangements is critical. Land laws and legal directives might prohibit the misuse of pesticides and herbicides and the over-extraction of ground water. Ensuring compliance requires effective monitoring, transparent, honest administrative oversight, and penalties that deter polluters. Each of these areas needs attention.<sup>273</sup>

How are current land laws and land policy affecting land use incentives in Vietnam? Three issues stand out – keeping land permanently in rice production; rural poverty, aggravated by the land recovery process; and the short term leases for cultivation land. As noted earlier, permanent rice production keeps farmers poor. When farmers have too few resources to earn adequate incomes, the poverty is absolute.<sup>274</sup> In other cases, the deprivation is relative. But, even though their earnings from rice put them over the poverty line, their incomes could be significantly higher if they were allowed to shift their land into other activities – fruit, livestock, fish, vegetables, and flowers. The mining of the environment is already evident in the excessive pumping of groundwater and the pollution of rivers and fish ponds.<sup>275</sup> Typical of common resources that are inadequately monitored, individual farmers have no reason to hold back. This applies especially in cases where farmers are likely to have their land recalled. Finally, the short term lease on cultivation land (twenty years from October 1993) reduces the incentive for farmers to invest in all activities except those with the highest short-term pay-offs.<sup>276</sup>

Four other land-related policies create adverse incentives. The below-cost provision of irrigation water leads to its inefficient use and overloading of drainage systems.<sup>277</sup> The dumping of waste from industrial zones and agricultural processing plants in waterways often makes water unsuited for agricultural use. Chemical and antibiotics used in fish production frequently contaminate rice and fruit production areas.<sup>278</sup> Herbicides and fertilizers foul downstream areas posing health hazards and promoting algae and waterweed growth that clogs waterways and water filtration plants.<sup>279</sup>

Even if the appropriate incentives are created, however, environmental management and monitoring are critical to deter counter-productive behavior. Vietnam has state-of-the-art

environmental legislation but environmental damage continues in many areas, often unchecked, due to weak monitoring, compliance and enforcement.<sup>280</sup> Recent reports by the Ministry of Natural Resources and Environment indicate that fewer than 40 percent of the nation's industrial parks have appropriate waste treatment facilities and/or meet recognized standards of environmental management. The resultant pollutants<sup>281</sup> compound the effects of the other environmental contaminants noted above.<sup>282</sup>

In addition to appropriate monitoring, a critical requirement for environmental protection and appropriate management of environmental resources is poverty reduction. Poor people have few options other than to exploit every available short-term opportunity to gain a livelihood.<sup>283</sup> Setting aside resources for the future is not rational behavior for them. For this reason, one of the best means Vietnam has of dealing with its environmental issues is to continue reducing poverty.<sup>284</sup>

### **Suggested Revisions to the Law on Land**

Since the *doi moi* reforms were introduced, the Government has issued four Laws on Land in 1987 (in force 1988), 1993 revised 1998, and 2003. Implementing these land laws has required the promulgation of a huge body of so-called under-law regulation (government decrees, ministerial circulars and administrative guidelines). The Government recently announced that the 2003 Law on Land will be revised possibly in 2010 or 2011.

The 1987 Law on Land dismantled the Soviet-style agricultural cooperatives and the State began recognizing the lease system. Limited rights were granted, initially for 20 years, to farm families to use agricultural land. Beginning with the 1993 Law on Land, the Vietnamese State extended the scope of land use rights for farmers and allowed the lease of land to foreign investors. It also recognized that land has value and the State had the right to determine that value when land was converted for industrial or residential purposes. As subsequently amended in 1998, the law provided increased protection to the land use rights of domestic enterprises. Yet, with an eye to investment promotion, the State sought to keep the land price low with its recovery value typically between 10 and 30 percent of the market price of the land.<sup>285</sup>

As noted earlier, the expansion of the market economy in Vietnam has increased the productive value of land. Foreign and domestic investors and land users in urban areas demand assurance that their land use rights are protected. The 2003 revision of the Law on Land addressed this issue. It extended the scope of protected rights of land users, including the right to capitalize all interests associated with land, such as the right to use land and the right to contribute land as capital in creating companies. Land use rights leased to investors and granted to families for housing purposes, *de facto*, have become a strongly protected private property right.

By contrast, there were no basic changes in the 2003 Law related to agricultural land. There is no clear stipulation whether the lease term of 20 years shall be extended or abolished. Farmers may exchange and transfer land, but they cannot decide to use land for other purposes. When agricultural land is converted to non-agricultural uses, farmers are entitled only to receive the compensation based on its value in agriculture. That value is decided by the State.

This has worsened the distribution of wealth in the country and fostered social disharmony. Compensation paid for land and clearing of land for investment projects has become increasingly contentious in the face of farmer resistance and demonstrations. Over the last five years, the number of claims and petitions on land disputes has doubled, reaching 12,000 per annum.<sup>286</sup>

The National Assembly has now placed the revision of the Law on Land on its legislative agenda.<sup>287</sup> Special attention is needed to create and protect the farmer's rights to agricultural and forestry land.<sup>288</sup> Dealing with these issues will be a critical means for the Vietnamese socialist State to create justice in the distribution of wealth and to ensure social harmony as the country modernizes.

Our analysis suggests six areas where amendments to the 2003 Law on Land would be useful. These include protection of farmers' property rights to land, enhancing transparency and consistency in the law related to land, providing for the flexible use of agricultural land, strengthening due process in land taking for investment projects, enhancing accountability and good governance in land management, and providing support for commercialization of (agricultural) land. Specific recommendations under each heading have been included in an annex.

*Property Right Protection for Farmers:* Stronger protection of farmers' land use rights will increase the cost to developers of land recovery. Though inconvenient for Government and other agencies that have been used to gaining access to cheap land with which to promote industrialization and urbanization, raising the tangible cost of land recovery will improve social equity. It will ensure that the gains of national development are more equitably apportioned among farmers, developers, and the various levels of government.

As it is now framed, the Law on Land overwhelmingly benefits domestic and foreign investors, urban residents, the serves the interests of land administration officials. Domestic enterprises are already demanding treatment equal to that of foreign investors. Specifically, they are requesting the same methods for paying lump sum land rentals and the full right to capitalize the lease on land. Current leases for commercial projects are for periods up to 50 years. In housing and development projects, the lease term is effectively unlimited.

By contrast, Vietnamese farmers experience several disadvantages noted earlier. These disadvantages are evidence that farmers are not well organized and they have limited means of collectively and publicly voicing their concerns. More important, since farmers are not represented in the law drafting process, their interests are not reflected in the Law on Land.

*Enhancing Consistency and Transparency of the Land Law:* The protection of farmers' rights to land requires not only the revision of the 2003 Law on Land but also wide ranging legal changes to support this right. To maintain consistency across the legal system, numerous other legal changes would be useful. Among others these include revisions to the 2005 Civil Code related to Property and Assets; amendments to the 2008 Law on Planning to increase farmer participation; and revisions to the 2008 Law on Housing and 2008 Law on Real Estate Market.

To improve the transparency of the law and ensure the law is user-friendly from a technical perspective, we suggest that the Government should codify the huge body of unsystematic administrative regulation (guidelines, ministerial circulars, decrees, and decisions) relating to land into systematic, easy-to-access and transparent laws. An example would be to codify the numerous under-law regulations on agricultural land taking and compensation into a Law on Land Conversion and Compensation.

*Encouraging the Flexible Use of Agricultural Land:* The earlier discussion has provided details of the multiple constraints Vietnamese farmers face in their attempts to efficiently utilize the land to which they have title. While foreign and domestic investors are free to commercialize their leased use right, Vietnamese farmers cannot do this. The Government continues to set an exceedingly low limit on how much agricultural land an individual farm family may hold. Other investors are not subject to the same limit. The 2003 Law still classifies agricultural land into different land use categories with rigid rules on how farmers may use that land. These rules prevent farmers from using their land in ways that are consistent with changing incentives and profitability as conditions change in local and world markets.

*Due Process for Land Taking:* Without basic changes in the Law on Land, it will continue to reflect the Government's focus on recovering and converting land to promote industrialization. If the foreign and domestic business communities are better organized and have more options to influence the drafting of the new law, farmers' interests will not be effectively considered, particularly in cases where agricultural land is deemed necessary for "development." Creating due process for land taking and compensation is without doubt the most sensitive issue in revising the 2003 Law on Land. The observance of due process will improve equity and help minimize the number of land disputes.

*Enhancing Accountability and Oversight in State Management of Land:* As indicated by Vietnam Development Report 2010 and World Governance Indicators (WGI), the accountability of the State apparatus in Vietnam has significant deficiencies. As power is increasingly devolved from the central government to 63 provinces and 17 large state "conglomerates" (SOE Corporations), there is an urgent need to strengthen law enforcement and administrative discipline. Moreover, since land is both scarce and valuable the prevention of corruption in its allocation and inefficiency in its use need to be top national priorities. Enhancing accountability of the state authorities in their activities related to land requires the participation of citizens, civil society and the media in the process of policy making, implementation, and enforcement. In particular, it requires the efficient supervision by the legislature and judiciary over administrative decisions.

*Public Services to Support the Commercialization of Land:* The role of the State in land management has been changing as Vietnam's modernization proceeds. From its initial role as a distributor of land and provider of public services that required large amounts of land (for health, education, infrastructure, and administration), the role of the State is now maturing. The State needs to shift from its direct involvement in short-term decisions (leases, conversion, land price etc.) to regulation and market facilitation. This will require a broad legal framework for land use, national land use planning, and land (and property) taxation. None of these should include the continued direct intervention by government to grant or transfer land use rights to investors.

These changes will convert the State's role into that of an impartial broker whose activities are designed to facilitate economic growth and social development.

## **WHO WINS AND WHO LOSES FROM LAND POLICY?**

In principle, the objective Government policy is to create an incentive system that stimulates desirable economic and social behavior and discourages undesirable activities and/or responses. Changes in policy are intended to modify behavior. There is, however, an upside and a downside. Some individuals and groups gain because the benefits derived from their economic/social activities have increased (or the costs have diminished). Others find the benefits of their preferred activities have declined (or the costs have risen).<sup>289</sup>

The gains and losses carry over to the macro level in the form of trade-offs and complementarities. This is evident in the outcome of Government policies designed to promote its development agenda of rapid economic growth, poverty reduction, social harmony, international competitiveness, food security, and environmental sustainability. Obvious trade-offs arise when the rapid economic growth leads to environmental degradation; or the over-exuberant expansion of export industries displaces farmers who slip deeper into poverty when they fail to find alternative employment; and social harmony diminishes as hyper-expansion of urban/industrial areas fractures rural communities and destroys traditional livelihoods. Complementarities are evident when rapid growth based on the joint expansion of agriculture and industry foster social harmony, poverty reduction, and food security. Indeed, much of Vietnam's economic success over the last two decades can be traced to these connections.

All of these relationships are relevant to the analysis of land policy. Specifically, they help identify who wins and who loses and the trade-offs and complementarities that result from the Government's land laws and their implementation. That, in turn, allows analysts to understand the consequences of the behavioral changes set in motion by the law and to suggest how land policy might be constructively modified to assist Vietnam achieve its socioeconomic development goals.

Based on the evidence – growth, welfare, wealth creation, and modernization – the de-collectivization of land was beneficial. Farmers, the government, urban residents, and the nation as a whole gained. That action revived the economy, enhanced food security and provided a foundation for rapid economic growth and social development.

The effects of subsequent implementation of the various land laws have been less clear cut. When viewed in broad terms, the principal losers have been farmers (and rural communities) and the principal winners have been the various groups of officials who control the allocation of land and those to whom the land is allocated. The country as a whole has gained in some ways and lost in others.

The principal loss borne by the country is the misuse of a scarce productive resource. Land has been recovered (and continues to be recovered) from agriculture (resulting in the loss of agricultural output and creating hardship for many farmers), compensation at some level has been paid, and some infrastructure has been provided (often clearing away existing infrastructure in the process). Yet, significant amounts of the land remain unused, often years after it is recalled.

None of this is anyone's fault or intention. There has been no grand strategy for selectively using or misusing land. No centrally planned economy has smoothly dismantled the instruments of control and central direction with a full understanding of the consequences. To the Government of Vietnam's credit, it has relatively rapidly modified its laws and responded to problems as they have arisen. A key problem is that the process through the system is being unraveled invariably reflects the administrative convenience of the officials from whom the controls and discretion are being taken.

Perhaps the fundamental problem with land policy in Vietnam is that each group involved in land management faces a different set of incentives. None of the recent changes in law (including the provisions that assign MONRE overall responsibility for the coherence of land use and zoning) has dealt with this matter.<sup>290</sup> Land recovery illustrates the point.<sup>291</sup> Except for projects that are in the general interest of the community as a whole (such as the expansion of infrastructure), farmers have few incentives to participate in land recovery.<sup>292</sup> Local authorities have an incentive to recover land to comply with central government and other directives about promoting industrial, commercial or other development or supporting the expansion of local non-agricultural activities. Due to the weak tax system, local authorities also have an incentive to recall land to gain access to revenue to cover infrastructure and other expenditure. Provincial authorities have an incentive to push for urbanization and industrialization so that they can be seen as contributing to the national goal of modernization and middle-income status.

Several other groups have an incentive to press for land recovery as well. These include public agencies and/or private agents who are contracted to clear the land, develop infrastructure, and the developers who gain access to land or, through their influence, can modify the pattern of land distribution in their favor.<sup>293</sup> Furthermore, all investors have an incentive to make the case to Government that land is a critical input to their decision to invest, especially if it helps them gain access to land on favorable terms.<sup>294</sup> Finally, none of the provincial or communal authorities has any incentive to admit that they were over-enthusiastic in recovering so much land. And even if they were over-enthusiastic, they will confirm that they were following the directives of the Central Government.<sup>295</sup>

While most officials and others engaged in the land recall process act as the legislation prescribes, some do not. Indeed, land administration is a topic in Vietnam which has proven to be the least transparent and accountable.<sup>296</sup> Farmers have plenty of evidence, locally and nationally, that they have been exploited.

It is these outcomes that undercut the Government's goals for socioeconomic development. Social harmony suffers, especially within communities where farmers have been displaced. Poverty worsens when the farmers who lose their land cannot re-generate a sustainable livelihood. The older generation and those with less education have difficulty finding new, stable, sources of income. The problem is accentuated when compensation is delayed and authorities fail to provide service land.<sup>297</sup>

These circumstances promote urban/industrial growth at the expense of farmers, aggravating rural-urban disparities in development, especially income inequalities.<sup>298</sup> To the extent that recalled land is not used, there is a direct loss of economic output and exports.<sup>299</sup> Rural communities often lose their coherence as they are absorbed in urban or suburban sprawl.

On the positive side, modern communities are created as professionals and other members of the expanding middle class gain access to the new jobs and upgraded accommodation. Moreover, when recalled land is shifted into a higher value uses, national income rises. Employment in urban, industrial activities increases along with output and exports leading to an improvement in aggregate national welfare. These are highly desirable outcomes which offset, at the macro level, the costs associated with disrupting farmer's lives and undercutting their livelihoods.<sup>300</sup>

The above provides a flavor for the overlapping and interacting interests associated with land recovery and land conversion more generally. What about the environment? Who wins and who loses if land use is environmentally unsustainable? Few Vietnamese can (or will) gain from leaving environmental challenges untended. Urban pollution – dust, soot, noxious fumes, toxic effluents, untreated sewerage, and contaminated groundwater – will intensify and the private costs of mitigation will increase. These costs will be capitalized into the value of land. Land which is up-river, elevated, and on the leeward side of contaminated areas will gain in value. Land which is down-river, low-lying, and on the wind-ward side of contaminated sites will lose value. In the rural areas, the spread of toxins and pollutants will raise costs, lower productivity, and continue having adverse effects on human health. Export markets may disappear or be increasingly difficult to maintain.

For its part, the Government has recognized that collective action is required to deal with the environmental challenges. This is evident in the details of the relevant legislation already enacted and associated decrees and regulations. But, passing laws is the easy part. The fundamental challenge, yet to be met, is ensuring that the legal provisions are properly enforced. Thus far, those who gain from the existing situation (of lax enforcement) are enterprises and individuals who should comply with emission, dumping, pumping, effluent-treatment and other standards, but do not. In the rush to industrialize and grow, key dimensions of environmental protection have been ignored. For example, a Government report in 2008 noted that of the 183 industrial zones in Vietnam, fewer than 65 had functional treatment plants.<sup>301</sup>

As a final example, it is worth considering who wins and who loses from the current system of revenue generation in Vietnam, especially the limited (almost negligible) taxation of land and related property?

Vietnam's tax system creates macro and micro level distortions which undermine growth and equity.<sup>302</sup> The principal macro distortion, noted earlier, is that the revenue system regularly fails to generate adequate levels of revenue to cover government/public sector expenditure.<sup>303</sup> This increases the dependence of the government and state-owned agencies on bank credit. (That most of this credit is supplied by state-owned banks compounds the distortion.)<sup>304</sup> The resulting rapid expansion of credit sustains the macro-economy's inflationary bias, adversely affecting the balance of payments and the exchange rate.<sup>305</sup> The latter induces the general public to protect the value of their assets by holding foreign exchange and gold<sup>306</sup> as well as land (the capital gains on which are not taxed).

The micro level distortions are evident in the composition of revenue. With petroleum extraction, trade, and the surpluses of state-owned enterprises providing the majority of government revenue, the contribution of income, property, and consumption taxes is low. This pattern of taxation discourages investment and encourages consumption.

At the local level, the virtual absence of land taxes creates several distortions. Local (sub-national) governments depend heavily on the sales of recalled land, the retention of taxes collected on behalf of the central government, and the proliferation of a variety of informal fees and charges. They also depend on transfers from the central government. The latter creates the incentive for well-off jurisdictions to under-state their revenue and for the poorer ones to inflate their deficits.

A major loser from the absence of land taxes is the Government (and the State more generally).<sup>307</sup> Local authorities also lose because they miss out on more predictable revenue stream derived from land taxes. The principal gainers are those with land use certificates in urban and rural areas whose assets increase in value due to demand pressures and improved infrastructure.<sup>308</sup> Others who gain are the various insiders (individuals and enterprises) with access to the untaxed transformation rent from land conversion. The gainers have an incentive to lobby for higher rates of land recall and they will seek to delay comprehensive tax reform, especially the expansion of land taxes.

The losers modify their behavior in several ways. The State raises taxes (or keeps them high) on items that are already being taxed (resource extraction, trade flows, state-owned enterprises) or it expands its direct and indirect use of bank credit. To the extent that this boosts the rate of inflation above comparable international levels and depreciates the exchange rate, the whole country bears the cost, most directly through lower economic growth.

## **CONCLUDING COMMENTS AND RECOMMENDATIONS**

The dozens of land-related laws, regulations and directives that have been promulgated by the Government of Vietnam since the *doi moi* reforms have produced many desirable outcomes. Agriculture has been de-collectivized, widespread food deprivation is no longer a reality, agricultural output has expanded rapidly, rural incomes and welfare have increased, and the conversion of land to non-agricultural uses has laid the foundation for the growth and prosperity that is propelling Vietnam to middle-income industrial status.

Land policy has been central to the country's economic revival, a point well understood by the Government given the number of times it has amended, modified and otherwise extended the land reform, first formalized in the Law on Land of 1988. Notwithstanding the success so far, policy of any kind needs to be efficient, equitable and effective. Efficient so that national resources are not wasted; equitable so that all Vietnamese, rather than a select few, can benefit; and effective so that what is intended in fact materializes.

When judged against these criteria, land policy in Vietnam scores well in some regards and poorly in others. Significant amounts of national resources have been wasted by the over-zealous (and largely uncoordinated) recovery of land to support urbanization and promote industrialization. Major inefficiencies and associated costs have arisen because weaknesses in environmental management have allowed the degradation of land and other natural resources. Inequalities have widened because the land laws and regulations have been framed and implemented in ways that are systematically biased against farmers and rural residents. Rural-urban imbalances in public investment have compounded those inequalities. Each of these has undercut many of the Government's efforts to promote socioeconomic development.



The outcome is that agricultural growth is lower than its potential because farmers are prevented from allocating land efficiently. The value of agricultural exports is less than it could be because land is required to remain in (low-value) rice production. Sustainable approaches to environmental management are by-passed due to the limited lease term on cultivation land. Rural poverty is higher than it would be otherwise because farmers are required to keep their land in rice, the compensation many of them receive for recalled land does not enable them to establish a viable alternative livelihood, and the limited Government attention to rural development has left significant numbers of people vulnerable. Social harmony has suffered because farmers generally feel cheated when they see the grossly inflated values for land they are required to surrender. Finally, food insecurity persists despite national rice self-sufficiency due to official inattention to problems of “access” to food.

The key policy issues for developing agriculture, promoting rural development and providing farmers with access to land are well recognized and understood by the Vietnamese Party and State. Yet, the existing Law on Land protects business investors and grants the provincial peoples committees with wide-ranging discretion to convert agricultural and forestry land for development purposes. These biases will have to change if farmers and rural residents are to be treated justly and equitably under the law.

No one challenges the notion that for Vietnam to urbanize and industrialize, it is essential to transform low productivity farm land to higher productivity industrial, commercial and residential uses. Indeed, the Government’s goal of promoting a “socialist-oriented market economy”<sup>309</sup> is impossible without such a shift in land use. However, what need not be inevitable is that farmers and rural residents continue to bear a disproportionate share of the transformation costs. If land policy is to foster socio-economic development, its provisions and implementation will have to be re-oriented so as to redistribute the burdens of national adjustment. Continuing the current biases and inequities in land policy is not a viable development strategy. Without tangible changes that rebalance the development trajectory, Vietnam may make it to middle-income industrial status by 2020 but its policy makers likely to discover that that status will be increasingly difficult to maintain.

## **SPECIFIC RECOMMENDATIONS**

One: Revisions to the Land Laws should be based on a consistent set of principles that apply to all rights in land. Key changes are the need to recognize and to protect of legitimate property rights of the farmers in regard of their leased land. This would require the Government to manage land “uniformly” so that some groups are not selectively favored while others are systematically harmed. These rights would be appropriately defined, the circumstances under which they can be transferred would be consistently and transparently identified, and there would be impartial and non-prejudicial procedures for defending (and or adjudicating) claims to those rights. In the interests of catering to the welfare of all Vietnamese, the State would end its biased management of land. Administrative acts which constrain the free utilization of farmer’s rights shall be limited and the enforcement of those acts shall be supervised rigorously.

Two: All individuals and firms with access to rural land should be granted the same basic land use rights as those enjoyed by other (local and foreign) urban, industrial, and commercial land

use right holders. Subject to uniform, transparent zoning provisions, these rights would include the length of tenure and ability to sell or transform the use of the land.

Three: Given the overall scarcity of land in Vietnam and the national responsibility to use it efficiently, access to land use rights should be viewed as a privilege. Accordingly, land and associated structures should be subject to an annual *ad valorem* tax. For equity and administrative convenience, property below a pre-determined value should be exempted. This system of property taxation would be designed to enable government to gain from the capital appreciation that occurs when land use is converted in ways that enhance its value. It would also ensure that those whose land and property holdings benefit from the government provision of infrastructure and other services contribute to the cost of these amenities.

Four: Land use planning and zoning should be made “economical and efficient” as required by law, or abandoned. The current system is arbitrary, inefficient, uncoordinated, and a relic of central planning. It undermines national welfare, wastes land, and erodes farmers’ wealth. At a minimum, the coordination of the development of development parks and economic zones should be centralized to avoid the continuation of the arbitrary displacement of farmers as all provinces over-zealously promote central government directions related to industrialization.

Five: Land compensation should be based on the opportunity cost principle with farmers allowed to benefit directly from the “transformation rent” generated during land recovery. This can be done by enabling them to sell their rights on a willing-buyer-willing seller basis or retaining the use rights as the land is transformed through cooperative or condominium arrangements. Restrictions that keep land permanently in rice should be dropped. Such a change would expand farmers’ choices, boost agricultural productivity, raise agricultural output and income, and enhance rural welfare. Removing restrictions on rice land will not threaten food security in Vietnam. It will allow the country to move beyond its present high-cost strategy of rice self-sufficiency (which, as the Government’s own data reveal, does not achieve food security) permitting Vietnam to become fully food self-reliant. But, if the Government continues to require farmers to grow rice on a permanent basis, their production should be fully subsidized. This will reward rice farmers for their public service. It will also reduce poverty among rice farmers, raising rural welfare and wellbeing.

Six: Removing land use restrictions will boost the market for rural land, increasing its liquidity and value as an asset to farmers and all other asset-holders. This will encourage rural adjustment by enabling efficient farmers to accumulate land and provide inefficient farmers with a means of profitably exiting from farming. The Government can facilitate this adjustment by fulfilling its responsibilities (LL2003, Article 6.2i) of “managing and developing the land use rights market,” increasing the flow of information on land sales and purchases, fully consulting with farmers during the formulation of land use plans (if these are retained), and by ensuring that provincial, communal and local authorities comply with relevant zoning provisions. Special attention will need to be given to the spillover effects from the Government’s macroeconomic management. Inflationary pressures feed directly into the market for secure assets, one of which is land.

Seven: The government should continue its program of facilitating land consolidation, without taking administrative measures that force its pace. Several activities would help. First, upgrade rural infrastructure so that farmers can increase their productivity. Second, help lower the costs of coordination through active campaigns to encourage farmers to voluntarily exchange land.

This will enable farmers to increase their plot sizes without completely foregoing the risk-reducing advantages of fragmentation. Third, support the selective spread of mechanization, especially for harvesting, transport, and processing of output. Fourth, improve rural grain/product storage by upgrading critical areas of technology, such as drying and handling. Fifth, provide additional support for adaptive agricultural research so that farmers can raise their output and incomes in ways that keep risks within acceptable bounds. Sixth, remove the restrictions on land use noted in five above. This will reduce poverty thereby reducing barriers to farmers' willingness and ability to adapt and, when beneficial, relocate.

Eight: The land laws need to include incentives for improved environmental management. One of these is to ensure that farmers are induced by security of tenure and long leases to invest in their land. Another is to improve monitoring so that mismanagement of resources (excessive pumping of groundwater, over-use of chemicals to boost short-run output, and misuse of pesticides) are discouraged (and effectively prevented). A third change will be to actively engage the farming and rural communities in environmental management and protection through open, transparent, participatory consultations about land use and development.

Nine: Special attention is needed to the public sector investment (and, where it can be encouraged, private sector investment) that enhances farm productivity. Investment in agriculture and rural development needs to be expanded. Existing investments in electrification, water treatment, and transport services should be extended. The quality and scope of agricultural research needs to be upgraded by boosting local research capacity and drawing on international collaborative efforts, especially in areas related to environmental protection, pest and disease management, and crop and livestock improvement. The expansion in rural infrastructure will provide farmers with additional "pathways out of poverty" and increase the economic supply of land. The latter will boost farmer incomes and wealth and increase their security.

Ten: As a means of moderating rural-urban income and welfare disparities, the anti-rural bias in development spending needs to be reversed. Basic aspects of rural development – improved education and health, expanded markets, community participation, women's empowerment, and appropriate production incentives to stabilize livelihoods and enhance food security – need to be addressed. These activities would have an important dividend for urban development as they reduce the need for rural residents, forced by poverty, to migrate to the urban areas. Re-emphasizing rural development would have the benefit of re-balancing the pattern of national development and allowing the orderly transfer of resources from rural to urban areas that underpins the industrialization, urbanization, and modernization being sought by the Government.

## **ANNEX: Land Policy and Rural Development**

Rural Development is central to the responsibilities of the Ministry of Agriculture and Rural Development (MARD). Although the main study has focused on land policy and socioeconomic development, a sub-theme has been the relationship between land policy and rural development. Rural development should be seen as a critical component of the Government's broader strategy for socio-economic development.<sup>310</sup> Rural development contributes to growth, poverty reduction, social harmony, international competitiveness, food security, and environmental sustainability through its emphasis on rural participation, empowerment (especially of women), gender equality, and reductions in vulnerability.<sup>311</sup>

For Vietnam, aspects of rural development that could be usefully pursued are the capacities of rural communities to generate sustainable livelihoods and the expansion of investments in the infrastructure and social services that enhance rural standards of living.<sup>312</sup> Each of these would more fully engage women in income-generating and welfare-improving activities and contribute to efforts to overcome remoteness and increase the security of the rural population, especially of ethnic minorities.

The main challenge in developing the rural areas in Vietnam is reducing poverty. That goal has been stressed by the Government as part of the SEDP 2006-2010 and is prominently featured in the platform being prepared for the 2011 Party conference.

In Vietnam, as in most developing countries, poverty is largely a rural phenomenon. The basic problem is that there are no readily available or easily implementable measures that provide the necessary "pathways out of poverty."<sup>313</sup> This is especially true for the very poor who are scattered throughout the rural areas. A further problem is while reducing poverty special efforts need to be taken to overcome vulnerability so that large numbers of the rural non-poor do not fall into poverty.<sup>314</sup>

There is now a large literature on rural development in Vietnam. A World Bank assessment identified the following challenges: stagnant agricultural productivity; limited scope for diversifying rural livelihoods; weak development of markets; limited infrastructure, particularly in remote areas; widening income gap between rural and urban areas; vulnerability to natural hazards; unsustainable patterns of natural resource use; limited capacities of public institutions responsible for rural development; and "misalignment of public expenditure serving rural sector interests."<sup>315</sup>

The Government of Vietnam's assessment of the prospects and problems for rural development emphasizes many of the same areas, even if the potential remedies differ. According to MARD, the main rural development issues comprise the following: weak capacity to organize and operate production activities; limited competitiveness of agricultural products in terms of price and quality; agricultural technologies, though important, have not "become a major trigger to promote growth and development"; the value-chain (production-processing-distribution-marketing) remains weak for many commodities; management needs to be improved to ensure investment are productive; "the system of rural technical and social services are inadequate; agricultural "policy and institutions have not been...revised and amended [in a timely fashion] to meet new development needs"; and the results of the administrative reform and technical training programs have been rather limited.<sup>316</sup>

Land features as an entry point in most of these items. One is asset security which is derived from access to land and the assurance that land rights will not be summarily withdrawn. A second dimension is income security. Long-term access to land encourages investment which, in turn, raises productivity, output, and income. A third dimension is food security. Rising levels of output and income enable farmers to provide additional food and nutrition for their families. The overall security of the farming community will be enhanced if public sector investment raises the quality of infrastructure and other services that support farming activity.

The problem for MARD is that the breadth of its responsibilities is not matched with the resources (finance, human capacities, and technical expertise) to adequately achieve the broad-based improvements in rural welfare and wellbeing being sought. Agriculture generates roughly 20 percent of GDP, 30 percent of exports and remains the principal livelihood for 60 percent of the Vietnamese population. Yet, as the World Bank and other data confirm, agriculture receives around 7 percent of public spending. Evidence suggests that other public expenditure may be similarly imbalanced.

To enhance its effectiveness, MARD should identify specific areas and activities that have significant spread effects. Three, directly related to land, are noteworthy. First, expand rural infrastructure in ways that increase the economic supply of land. Second, restructure the laws related to land recovery and compensation so that displaced farmers do not sink further into poverty.<sup>317</sup> Third, promote adaptive agricultural research so that all farmers can raise their productivity.

A further issue that warrants the Ministry's attention is to ensure that the government's food security policy is consistent with the livelihoods strategy of farm and rural households. In making this assessment, it will be important to examine the degree to which the rural labor supply has access to land, how changes in household composition (e.g., as children leave) affect individual food consumption, the changes in household health that help improve nutrition, trends in household income from farm and non-farm sources, and the availability of finance to support higher levels of output. Other relevant dimensions include the household's relationships with and obligations to the broader (rural) community, changes (especially improvements) in the household's information about farming technology and techniques, changes if any in gender-based rights to land and obligations associated with those rights, the general improvement for the household in the provision of public services (health, water, sanitation), changes in environmental hazards and the modifications of behavior (such as production patterns) to accommodate those changes.

None of these measures will catapult farmers out of poverty. Yet, they will help stimulate rural areas so that incomes can rise steadily, economic and food security can improve, and the welfare and wellbeing of the isolated and vulnerable, particularly the women among them, can be enhanced.

## **ANNEX: Some Relevant Principles**

Land policy is one of the instruments available to the Government to ensure that land (and space more generally) contributes to socioeconomic development. As noted in the text, land policy deals with who has rights to land, where, and under what conditions and the institutional arrangements for managing those rights.

Several principles are relevant to the formulation and implementation of land policies. The most important are efficiency, (horizontal and vertical) equity, and effectiveness. These principles are fundamental to the country's efforts to make progress towards its various socioeconomic goals and the broader objective of middle income, industrial status for Vietnam by 2020.

Efficiency is central to economics. It refers to achieving desired goals at the least resource cost or, alternatively, the greatest output for a given input of resources. Focusing on efficiency highlights the importance of avoiding waste, behavior that will be essential if Vietnam is to grow in ways that enable its other objectives to be achieved. Indeed, it is only by using the nation's resources efficiently (i.e., to achieve the most output for a given level of input) that the country can begin to grow at its potential and reach (and sustain) the goals that have been set.<sup>318</sup>

Horizontal equity requires that individuals and groups in similar circumstances be treated in similar ways. An example would be to grant all land use right holders the same length of tenure. Vertical equity is the general idea that those who are better off should bear a larger share of the burden of reaching the nation's goals (or share less in the distribution of benefits). Progressive income taxes and means-tested access to social services reflect this idea. Vertical equity would require that those who benefit from the sharp increase in land values when the government provides complementary infrastructure services should be taxed to defray some of the costs involved. Without such taxes, the select few who have access to land with improved services gain at the expense of the rest of the society, an outcome that accentuates inequalities in wealth.

Effectiveness relates to the degree of coherence between a policy's stated goals and the actual outcomes achieved. As a matter of policy, land recovered for industrial purposes is meant to be used in ways that generates income, provides employment, and contributes to the growth of output and exports. When the land sits idle, due to disputes with land use certificate holders or due to official over-estimation of potential demand, none of these advantages materialize. In fact, the losses are compounded. The Government pays compensation and incurs development expenses and farmers lose their output and their livelihoods.

Other issues besides efficiency, equity, and effectiveness are relevant. They include the pervasiveness of trade-offs; the influence of agglomeration or scale effects in economic organization; the need to move beyond "muddling through" in public policy; and the importance of distinguishing between the "price" and "cost" of social action.

Since economic resources are always scarce, by definition, their use always involves trade-offs. This implies that public policy goals can be achieved by using available resources in different ways. For example, national rice self-sufficiency can be met by insisting that some land remains permanently in rice production. An alternative is to provide farmers with the appropriate incentives so that they produce the desired amount of rice with seasonal variations in production being smoothed out through storage and improved distribution activities.

Scale or agglomeration effects arise because of the fixed capacities of specific productive resources. Infrastructure, such as roads, railway, air transport, or electricity generation, does not come in a form that enables incremental adjustments to capacity. The expansion of knowledge and generation of ideas require the cooperation of large numbers of inter-connected people who experiment, improvise, and adapt to do new things or do existing things in new ways. Their inter-connections (or networks) multiply exponentially as more people interact. It is the networks and connections that stimulate the development of something new or allow current activities to be undertaken in new ways.<sup>319</sup>

Public policy can be (and often is) based on indecisiveness and delay. That approach, however, represents an implicit acceptance of whatever outcome the economy “grinds out.”<sup>320</sup> Under some circumstances, a “wait and see” approach can be effective, especially if there are major uncertainties about the outcomes or those outcomes have large downside risks. It is also an explicit recognition that not all social issues require a purposeful government response. Indeed, large amounts of research show that the distortions associated with “government failure” can often be more costly than the inefficiencies produced by market failure.<sup>321</sup> Nonetheless, inaction and reaction are not optimal for every issue. As experience in Vietnam has shown, land recovery requires one of the poorest groups in the country to bear disproportionate costs of economic modernization and industrialization. Many farmers have had their livelihoods undermined so that the rest of the country can grow rapidly and “develop.” Continuing to allow the system to “grind out” this outcome exacerbates poverty and worsens rural welfare and well-being.

A final point relates to the question of power and responsibility. The Constitution provides no room for dispute over land ownership or land management. Land is collectively owned and the State manages the land. Furthermore, there can be no dispute over the State’s power to recover land for public purposes. Every sovereign state, the world over, has that power. What can be disputed (and often is by individual Vietnamese) is whether that power is exercised responsibly. When the State is the final arbiter, to whom do those who have been harmed by the State’s behavior appeal for recompense, or turn for an impartial hearing?

## **ANNEX: Law and Economics**

The basic approach in the land policy study is law and economics, i.e., the application of economic principles to legal issues. Laws, rules, regulations, and directives provide the legal context within which individuals and firms interact to improve their economic welfare. The law and its related conditions create the incentives and disincentives which stimulate or discourage economic activity. The behavior of individuals and enterprises depends on the incentives they face and the constraints under which they operate.

The economic system broadly determines how resources are allocated to generate output, how the output is distributed across sectors and divided among the factors of production, and how the incomes that arise from productive activity is spent, where, and by whom. The legal system provides the broad regulatory setting within which these economic activities are organized.

In all societies, the formal application of laws and regulations and the informal interpretation of what they allow or prohibit, create winners and losers. Both groups modify their behavior: the former to increase their advantage through the expansion of profitable activities and mutually advantageous exchange; the latter by foregoing such opportunities or acting in ways that limit the losses they incur.

The challenge for any Government in using the law to re-direct or modify economic behavior is to ensure that the opportunities created and/or the constraints imposed are consistent with national goals. For Vietnam, those goals generally relate to rapid economic growth, poverty reduction, and expanding trade. Progress towards them requires a stable, consistent, and transparent system of laws and regulations implemented in a manner that citizens generally accept as being fair or equitable.

Two fundamental economic principles are efficiency and rationality. Efficiency relates to the achievement of particular social and economic objectives at minimum resource cost. The focus on efficiency is derived from the normative view that there is no special *national* advantage in purposefully wasting resources, i.e., choosing high cost alternatives to achieve the country's economic and social objectives. In practice, powerful individuals and groups can and often will modify laws or reinterpret them to their benefit. A common example is the use by state-owned enterprises of their political influence to limit (or prohibit) competition in the markets in which they operate. In these and other instances, the law and economics approach helps identify who wins, who loses, and the costs of the resulting distortions and inefficiencies.

Rationality is the basis of predictable behavior. Individuals, acting in their own interest, learn and adapt and respond consistently to the choices they face within their constraints – of wealth, income, time, and skills – and their preferences for risk. A rational actor will choose the opportunities that provide the most benefit and avoid the activities that impose the highest costs. Thus, a farmer legally restricted to growing rice can be expected to choose the combination of available resources which yields the highest return from rice (measured as output or profit). A farmer not restricted to rice will choose the combination of activities (which may include some rice) that yields the highest net income.

The land laws in Vietnam are regularly modified and amended. Though it serves the policy makers' purposes, it adds to the uncertainty faced by land users, especially farmers. The land



laws, as noted in the main text, are also highly selective. They confer a limited number of rights which can be transferred under tightly defined conditions. For farmers at least, there are few legal means to defend these rights, especially from the demands of the State.

These circumstances generate two behavioral responses. First, with limited tenure and few avenues for defending their use rights, farmers have no incentive to make long-lived investments. Most of their effort will be directed towards achieving the greatest short-term advantage possible from their access to land. Second, the discretion available to government officials and their agents in recovering and allocating land creates substantial incentives for “gaming” the system to their advantage, and to the farmers’ disadvantage.

## ANNEX: The Price and Social Cost of Land Recovery

Official discussions of land policy in Vietnam reveal confusion about the price and social cost of land.<sup>322</sup> The confusion adversely affects farmer welfare.

Our provincial visits revealed a common story. Land is recalled; the amount of compensation offered is much lower than the value farmers attach to it; disputes delay land clearance; the disputes are eventually resolved, aided by the payment of additional compensation and farmers' knowledge that they may be removed by force.<sup>323</sup> There are other common themes. In general, local officials do not believe that farmers should object to their treatment.<sup>324</sup> These same officials regularly note that a major constraint on land recovery is the high price the government (or its agents) has to pay as compensation.

Something is amiss. Vietnamese farmers across the country assert that the compensation they are offered when land is recalled is too low and government officials and other observers outside of farming see the compensation paid as too high?<sup>325</sup>

The problem is that the price of land is being confused with its opportunity, or economic cost. Officials focus on the price in cash and kind that is being provided. By contrast, farmers emphasize the opportunity cost of the land they are being required to relinquish.

Price is generally understood to mean the amount paid by a buyer<sup>326</sup> and received by a seller for some good or service.<sup>327</sup> The opportunity cost of a resource (or commodity) is the value of alternatives foregone when the resource (or commodity) is used in one way rather than another.<sup>328</sup> Opportunity cost has private and social dimensions.<sup>329</sup> For example, during a particular growing season, a farmer can plant his/her land in flowers or vegetables, but not both. The government, acting on society's behalf, could leave the land in agriculture or recover it for some other purpose, but not both. The opportunity cost for the farmer (assuming the land is not recalled) is the anticipated production (or profit) foregone. For society, the opportunity foregone is the anticipated output or welfare sacrificed by not recalling the land. For both the individual and society, the benefit *after the fact* is what the land actually produces.<sup>330</sup>

The price offered by the Government does not compensate for the stream of income and output farmers forego when they lose their use rights. Farmers sacrifice production opportunities which directly affect their current and future income, wealth, food security and standing within their communities. Furthermore, farmers see their forced exclusion from a share of the transformation rent when land is recalled as compounding their loss.

Indeed, it is precisely because farmers cannot share this rent that the Government and the "developers" (whether state-owned agencies or private firms) gain access to the resources used to clear the land, i.e., remove structures and provide infrastructure that serves residential, commercial, industrial, or other purposes.<sup>331</sup>

The farmers' perceptions of loss are accentuated by the treatment they receive from provincial and other officials during land recovery. Many officials operate on the principle that since the

State is responsible for land management, the Government and its agents can and should recall land as, and when they see fit.<sup>332</sup>

As noted in the main text, the law favors the officials. The Constitution and Land Laws grant the State the authority to manage land and LL2003, Article 38.1 provides for land recovery whenever “The State needs to use the land for purposes of national defense and security, national interests, public interests and economic development.” There is no land use that this article does not exclude. Moreover, the law has no provision for an individual land use right-holder, *before-the-fact*, to defend that right against the State’s claims.

Does any of this matter? And, if so, how does it matter? At one level, the issue is clear cut. In its capacity as the nation’s landlord, the State granted farmers land use rights. At a later date, having decided the land is “needed” for some other purpose, the State then withdraws those rights. By objecting, farmers are challenging the State’s claim that it “needs” the land.

Yet, at another level, land recovery as currently implemented, selectively and often unnecessarily destroys the livelihoods of a group of poor Vietnamese who lack the ability to defend their interests.<sup>333</sup> With the Government directly involved in land recovery and interested in its outcome, there is no one to argue the farmers’ case.

Farmers lose in two ways. They do not receive payments which compensate for the value they have foregone. This is the short-term opportunity cost. The longer term loss is the additional effort and cost farmers incur as they adjust to their new circumstances.<sup>334</sup> This represents a social cost which may show up on the budget if special measures are required to prevent the Government’s goals for poverty reduction, social harmony, and sustainable growth from being undermined. The country as a whole loses because a significant proportion of the rural population, relative to the period prior to land recovery, is less productive, has lower incomes, is poorer, and has diminished potential for generating sustainable livelihoods.

Other individuals and groups gain. They include the Government which is spared the direct expenditure needed for compensation and land clearance when its agents use the transformation rent for those purposes. The “developer” and their associates who share the transformation rent also benefit – in two ways. First, since the rent is typically so large, developers have few incentives to be efficient.<sup>335</sup> Second, with the rent more than adequate to reward those who share it, they have an incentive to urge officials to recall more land. This reinforces the cycle of farmer displacement.<sup>336</sup>

## **ANNEX: Suggested Revisions to the Law**

There are six areas that could be useful considered by the Committee responsible for re-drafting the Law on Land.

### **Protecting the Property Rights of Farmers**

The areas that would warrant action under this heading include:

- formally abolishing the 20-year term for agricultural land, thus creating equality among all users of land, whether foreign or domestic investors, or farmers;
- recognizing long-life land use right of the farmers in regard of granted land while maintaining the notion of “ownership of the whole people” of land;
- recognizing all transfers and exchanges of land which are conducted under free and open agreements among farmers and other acquirers;
- ensuring the equal treatment among users of housing land and agricultural land, equal treatment among urban land users and land users in the rural areas;
- providing equal treatment of local agricultural land users relative to the land use rights granted to foreign investors.

### **Enhancing Consistency and Transparency of the Land Law**

The consistent protection of farmers’ rights requires revisions to numerous other laws besides those related to land. Examples include:

- Revise the 2005 Civil Code (Chapters Property and Assets);
- Revise the 2008 Law on Planning to ensure that farmers have the right to participate in planning activities related to their land (specifically the right to be informed on planning activities, the right to be heard, the right to claims and access to justice through the judiciary in case of need);
- Reconsider the need to revise all related laws, including the 2008 Law on Housing, 2008 Law on Real Estate Market.

As noted in the text, the law should be made user-friendly from a technical perspective. Accordingly, it would help if the Government codified the large body of unsystematic administrative regulation (guidelines, ministerial circulars, decrees, and decisions) relating to land into a systematic, easy-to-access and transparent set of laws. An example would be to codify the numerous under-law regulations on agricultural land taking and compensation into a Law on Land Conversion and Compensation.

### **Encouraging the Flexible (and Efficient) Use of Agricultural Land**

To encourage the flexible and efficient use of land, and provide equitable treatment across land users (individual and corporate), Vietnam would benefit from a more pragmatic approach to land management. Specific examples include:

- Reconsider the size limits for agricultural land, either by abolishing them or adjusting them to in ways that supports agricultural modernization;
- Abolish the conditions that apply to the exchange of agricultural land, such as removing the requirements that purchasers of agricultural land have to be farmers;
- Expand the use of land taxation to prevent rural-urban wealth disparities from widening. This would require the introduction of property tax for all land users, with suitable exemptions to reduce administrative costs and to avoid taxing the smallest and poorest land holders;
- Simplify the current categories of land use so that farmers can freely decide the pattern of production guided by productive capacities, commercial incentives, and market forces.

### **Ensure Due Process in Land Recovery**

Due process in land recovery that reflects all legitimate interests, including those of farmers, requires:

- Strict and limited use of land taking for public purposes. In this respect, the Drafting Committee should consider narrowing the scope of the term “public purpose” so that only pure sovereign acts are included. These would be confined to the construction of national roads and infrastructure, government buildings, environmental protection, and for defense and security purposes.
- Specify strict procedures (due process) for land taking, such as requiring disclosure of public purpose, facilitate hearing involving related parties before the local councils or other peoples’ representative bodies. Most important, the law should require that the process of taking land by authorized agencies (whether State or otherwise) can occur only *after* complying with these procedures.
- Furthermore, due process should be required in all administrative acts that impinge on farmers’ rights to agricultural land. Any administrative decision which may restrict the farmer’s rights should involve consultation with the farmer in advance. Moreover, farmers need to be informed of their rights to make claims or petition to challenge the administrative decisions.
- All other land uses besides “public purpose” shall be deemed as commercial or business in accordance with the business definition by the 2005 Law on Enterprise. Using land for business purposes involves activities such as: the conversion of land for residential use; conversion of land to industrial use; and taking land for building of entertainment and for-profit services like medical care and education. In these cases, State agencies do not have the right to decide on taking of land. The acquirer has to buy the land use right from the farmers. In other words: conversion of land to all other development purposes (either for housing projects, for building of hospitals, high schools or private universities) needs to be defined as commercial. The outcome should be that farmers shall have more rights to negotiate on conversion and compensation when land is for commercial purposes. Or, if they do not wish to sell, they may use their land to acquire equity in the commercial activity.

## **Enhancing Accountability and Oversight in the State Management of Land**

While most of the relevant issues in management and oversight go beyond the scope of potential revisions to the 2003 Law on Land, appropriate reforms can be achieved through small steps. Some examples include:

- Facilitate farmers' participation in the formation of land use policy, i.e. disclosure of policy proposals, clarification of policy aims, facilitate policy impact assessments, undertake hearings in peoples' representative bodies (provincial, district peoples' councils) in projects relating to land conversion, strengthening existing institutions like Fatherland Fronts and VUSTA, and Vietnam Farmers Association in exercising oversight on administrative authorities;
- Implementing Resolution 49 of the CPV Polit Bureau on Judiciary Reform. This relates to strengthening the organizational and professional capacity of the regional administrative courts to handle claims of farmers against administrative acts at the provincial level. (Creating regional administrative courts is essential to keep these courts independent from the provincial authorities.);
- Promote access to justice through the provision of legal aid and consultant services to support the farmers in litigation. This would involve making available funds to support legal counsel for farmers who submit claims to the courts and to represent their interests in litigation, publishing all court decisions dealing with land use right disputes, and allowing the media to report the court's decisions to the public;
- Allow farmers to associate freely, particularly to seek reasonable means to help them to make public their collective concerns related to land issues. In negotiating for compensation, for example, numerous institutions need to act collectively if farmers' interests are to be protected. This should be a free association allowed by law.

## **Providing Public Services to Support the Commercialization of Land**

Particular legal issues that will support the commercialization of land include:

- Clarification of land use rights of SOEs, state-owned farms and existing state-owned agricultural cooperatives. This should involve the conversion of previously granted land to long-term leases to ensure equal treatment among all land users;
- Equitization of SOE and other state-owned farms, in which land use rights are considered as part of their business assets. This will significantly narrow the scope for direct State intervention in land transactions;
- Construct a national registration system of land use rights derived from the land records of the provincial agencies. This registration system is a pre-requisite for introducing the property tax;
- Reforming the registration system currently based on the name of the land user into registration based on the individual land parcel. The registration shall include all obligations and rights registered relating to that piece of land (for example mortgage, securities, neighbors' rights, buildings, easements, and other restrictions in regard of construction or use of land);

- Reducing the financial cost of registering land use rights. The State may require a small fee for land title registration, but it should not be for revenue generation. That is the role of land taxation; and
- Drafting and issuing regulations to provide information from land registration to the public. The aim of land registration is not to issue the “land use right certificate,” but to provide reliable information relating to land that is open to public access.

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## Endnotes

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<sup>1</sup> These objectives will continue to be pursued over the next ten years. Decisions at the 11<sup>th</sup> Party Congress are intended to: "...help the country maintain a stable, democratic and content society and political life, further improving the people's spiritual and material lives, firmly defending national sovereignty, unity and territorial integrity and further heightening its position in the international arena." (VNS, 2009, July 6, p.1) Significant progress has been made in all these areas. The United Nation's Human Development Index provides evidence. The HDI, a composite of literacy, school attendance, economic growth, and life expectancy for Vietnam was .590 in 1985. By 2005, it had reached .733. This improvement closely matches that of China over the same period, respectively .595 and .777 (United Nations 2007, Table 2, p.235).

<sup>2</sup> The Asian Development Bank reviewed the Government's Socio-economic Development Plan (SEDP) 2006-2010 the general goals of which were: "...accelerate sustainable economic growth and development; significantly improve people's material, cultural and spiritual life; create the foundations to boost industrialization and modernization and to gradually develop a knowledge-based economy; and improve Vietnam's status in the region and the world." (ADB 2007, Ch.II). The ten-year strategy to be approved at the 2011 Party Congress is designed to boost "...modernization and industrialization in a sustainable manner, enabling the country to become an industrialized nation by 2020" (Thanhnien Daily July 5, p.2).

<sup>3</sup> Chapter II, Article 15.2 of the Constitution of Vietnam 1992 refers to "developing a socialist-oriented market economy."

<sup>4</sup> Instruction 100 (13 January 1981) "Product contract to the working people and groups"

<sup>5</sup> The repeated modifications of the land law reflect the pressures of commercialization of land (and property) as Vietnam industrializes and urbanizes. In traditional Vietnam, private property rights in land existed but legal protections were weak and unsystematic. French rulers introduced the modern land registration system, protecting private land. With the collapse of colonial rule and the subsequent war, the registration system was abandoned. Following the unification of the country, land was nationalized. The 1980 Constitution of Vietnam declared that all land and natural resources belong to the "ownership of the whole Vietnamese people."

<sup>6</sup> Part of the problem of reforming an economy is the time lag required to determine if conditions have changed and to understand (at least in part) the direction of change (Griliches 1951). It then takes time to formulate a response, implement it, and determine if the changes have had the desired impact.

<sup>7</sup> The reference to "muddling through" (Lindholm 1959) is intentional. It is one of several approaches to public policy.

<sup>8</sup> The UNDP project document states that the policy analysis is consistent with the UNDAF Outcome "Government economic policies support growth that is more equitable, inclusive and sustainable." It also fits with the expected Country Program (CP) Outcome of "National pro-poor policies and interventions that support more equitable and inclusive growth." The expected CP output is an improved "understanding of challenges improved policy options identified to respond to socio-economic impact of globalization and integration benefits of the international economy more equitably distributed." The specific "government priority" identified in the document is: "assess socioeconomic impact of land policy on rural development and recommend new policies aimed at spurring human and economic development in rural areas." This priority was taken from the Government of Vietnam Socio-Economic Development Plan 2006-2010 (MIPA 2006).

<sup>9</sup> Two issues are involved. First, the law is implemented as formulated and the effects are counterproductive (i.e., inefficient and/or inequitable). Second, the law is not implemented as formulated with similar outcomes. In both instances, the law could be constructively amended.

<sup>10</sup> The team visited An Giang, Binh Dinh, Binh Duong, Thai Binh, Vinh Phuc, and Ha Tay district in Hanoi. A trip to Dak Lak was cancelled due to continuing sensitivity about land issues.

<sup>11</sup> The team consists of staff from the Institute of Policy and Strategy for Agriculture and Rural Development (IPSARD) of the Ministry of Agriculture and Rural Development, the Fulbright Economic Teaching Program (FETP), and the John F. Kennedy School of Government, Harvard University.

<sup>12</sup> The initial list also included competitiveness. This is central to the whole discussion. Without continued improvements in competitiveness, Vietnam will not meet its goal of middle income, industrial status by 2020, irrespective of how often or in what direction land policy is changed.

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<sup>13</sup> International evidence, particularly China, Brazil, India, South Africa, and Colombia and numerous others, highlights the continuing relevance and difficulty of land reform in developing countries (Barraclough 1999; Deininger 1999; Conning and Robinson 2001; Banerjee and Iyer 2002; Jardim 2003; Morinobu 2006; Sethi 2006; van der Molen and Taludar 2007; Peters 2007; Uwakonye and Osho 2007; McCarthy and Bernstein 2008; Lambais 2008; Perkins 2009).

<sup>14</sup> Writing in 1817, David Ricardo stated: “Rent is that portion of the produce of the earth which is paid to the landlord for the use of the original and indestructible powers of the soil” (Ricardo 1821, 1911, Ch.II, p.33). Since soil fertility, soil structure, local topography, and ground cover can be readily changed through use, misuse, and purposeful modification with fences, bunds, drains, dams etc., modern economic analysis treats location as the only “original and indestructible” attribute of land. Even then, location is a relative concept since technical change and investment can change economic “distance” (World Bank 2009, Ch.1).

<sup>15</sup> A component of this value is amenity derived from agricultural use, open space, habitat preservation, watershed management, and “non-development” among others. Studies by Irwing, Nickerson and Libby (2003), Nickerson (2005), and Fleischer and Tsur (2009) examine the amenity value of rural (non-urban) land and explain how it is estimated.

<sup>16</sup> Land is a political asset as well. It is a source of influence and power for those who have authority over its allocation, recall, and re-distribution. Each of these is subject to abuse.

<sup>17</sup> Chapter II, Article 17 states: “The land, forests...and all other property determined by law as belonging to the State, come under ownership by the entire people.”

<sup>18</sup> The Constitution (Chapter II, Article 18) asserts: “The State manages all the land according to overall planning and in conformity with the law, and guarantees that its use shall conform to the set objectives and yield effective results...” LL1988, Article 1 combined both provisions: “Land belongs to all people under the State’s uniform management.” This is repeated in LL2003, Article 5.1: “Land is under the ownership of the entire people and the State is the representative of the owner.” (See also LL2003, Article 7, and 7.2)

<sup>19</sup> Our field work and interviews with officials have shown that these (re-)interpretations vary by location, the intended/actual use of the land, and the private/public orientation of the officials involved. The ambiguities and inequities related to land management by the State and its agencies generates large numbers of disputes and grievances. As noted below, these are the single largest source of petitions from citizens to the National Assembly.

<sup>20</sup> The recent move to amend Article 121 of LL2003 to combine the red and pink books for (urban) residential land holders discriminates against other land use right holders. They are not allowed to confound the value of the land with the value of the structures.

<sup>21</sup> Though significant improvements can be made and in some areas are already underway, Vietnam has made some major changes in its legal system (Quinn 2003).

<sup>22</sup> Marsh and MacAulay 2001, 2003; Ravailon and van de Walle 2003, 2006, 2008; Marsh 2006; Pham Van Hung, Marsh, and MacAulay 2007; Ngo Viet Hung 2007; Van den Broeck *et al.* 2007; Dang Hung Vo and Do Duc Doi 2008; Lemmens 2008; Ton Gia Huyen and Tran Thi Minh Ha 2009; IPSARD 2009 [Land Use]; Dang Hung Vo 2009.

<sup>23</sup> Land use planning in Vietnam is guided by Decree 68/2001/ND-CP of the Government on Master Planning and Land Use Planning, and LL2003, Articles 21 through 30 and Decree 69, Articles 3 through 10.

<sup>24</sup> Vietnam also benefits from oil and gas and fishing in its economic exclusion zone (EEZ) of approximately 42 million hectares. Many of the products of the EEZ are trans-shipped, transported, stored, processed and used on-shore.

<sup>25</sup> GSO data show that in 2008 agricultural land was 25 mha (GSO “Land Use (as of 1 January 2008)”).

<sup>26</sup> IPSARD (2009, pp.10-11) Data derived from the 2006 Agro Census.

<sup>27</sup> Some of the land use categories are being redefined. The GSO reported that in 2006, there was 602.7 tha of residential land of which 106.7 tha was urban residential. By 2008, the total had increased to 620 tha with 112.5 tha of urban residential land.

<sup>28</sup> FAO 2000; Jong, Do Dinh Sam and Trieu Van Hung 2006

<sup>29</sup> Data from the Government Statistics Office “Land Use (as of 1<sup>st</sup> January 2008)” [According to decision number 1682/QD-BTNMT of August 28, 2008 of the Ministry of Environment and Natural Resources.]

<sup>30</sup> GSO table “Output value of agriculture at 1994 prices by kind of activity”

<sup>31</sup> GSO table “Average population by sex and residence” The decline in agricultural employment as a share of the total has been dramatic. To illustrate in 1990-1992 agriculture provided 73.8 percent of total employment in Vietnam; by 2003-2005 that datum had declined to 58.8 percent (WDI 2009, Table 3.2, p.140).

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32 Sources: GSO data Tables “Average population by sex and province”; “Employed population as of annual 1 July by ownership and by kind of economic activity”

33 Data are from FAOSTAT the Food and Agricultural Organization of the United Nations online database.

34 Grain production per capita in Northern Midland and Mountainous regions and Central Highlands were 210 kg and 160kg in 1995; corresponding data for 2008 were 390kg and 406 kg per capita ([www.gso.gov.vn](http://www.gso.gov.vn), “Grain per capita per locality”).

35 *World Development Report 2009*, Table 4.4

36 *ibid.*, Table 4.5

37 WDI 2003, Table 2.20, p.114; The WDI 1997, Table 2.14, p.88 reports life expectancy at birth of 61 years for males and 65 for females in 1980.

38 WDI 1997, Table 2.14, p.88; 2003, Table 2.20, p.114; 2006, Table 2.19, p.122; 2009, Table 2.22, p.124

39 WDI 2009, Table 2.8, p.69

40 WDI 2009, Table 2.6, p.62

41 WDI 2009, Table 1.2, p.20. Over the period 2000-2006, twenty-five percent of children were malnourished measured by weight-for-age. For the whole population, 21.5 percent lived on less than \$1.25 per day over the period 2000-2007 and 48.4 percent lived on less than \$2 per day (both adjusted to reflect purchasing power parity). Overall, 28.9 percent of the population was below the national poverty line (United Nations 2009, Table I; World Bank 2009, Table 2.8).

42 Under-5 mortality was 66 per 1000 when parents of the children have no education. By contrast, when parents have secondary education or higher it was 29 per 1000 (United Nations 2009, Table N).

43 WDI 2009, Table 4.2, p.210

44 WDI 2009, Table 2.2, p.46

45 Measured in 2000 prices, the productivity per worker in agriculture in Vietnam over the period 2003-2005 (when agriculture and the economy overall were growing rapidly) was \$305. Comparable data for China, Cambodia, and Canada were \$407, \$314, and \$44,133 (WDI 2009, Table 3.3, p.144).

46 WDI 2009, Table 2.9, p.74

47 For reference, GSO data ([www.gso.gov.vn](http://www.gso.gov.vn), “Production Value of Cultivation”) showed that in 2000, the value produced by an average rice farmer was VND 3.88 million [equivalent to \$278]. By 2008, this total had risen to VND 5.58 million [or, \$328]. The conversion was at the interbank rate: December 2000, VND 13980=\$1; December 2008, VND 17000=\$1.

48 WDI 2009, Table 2.3, p.50. In 2007, there were 16.9 million female workers in the rural areas and 17.9 million male workers (GSO “Labor force as of 1 July by sex, residence, and province”).

49 Data for 2006 and 2007 reported by the GSO “Rate of female employed as of 1 July by qualifications and by resident and province” and “Average population by sex and province” show substantial urban/rural imbalances in female employment. The majority of the least skilled women is employed in rural activities. More men than women are employed in both the rural and urban areas but the imbalance is more pronounced in the urban areas.

50 Assets, wealth and income are related. An asset is any item (or artifact) which has value because of the purpose it serves, or what has to be given up to acquire, or retain it. Wealth is the sum of all assets net of liabilities. (Analysts treat liabilities as negative assets.) Income is the return on wealth. In a competitive market, the value of a person’s wealth is the sum of the streams of expected income yielded by his/her assets compounded at a relevant rate of interest.

51 As John Maynard Keynes famously noted, individual assets are liquid (i.e., can be exchanged in a market) but there is no such thing as the liquidity for the economy as a whole. (The world financial meltdown in 2008 and the continuing problems of Greece illustrate the point.)

52 In 2009, the estimated asset stocks were: stock market ~\$35 billion (VNS January 25, 2009, p.19); gold ~\$24 billion (Tuoi Tre online “More than \$20 billion held by people,” at <http://www.tuoitre.com.vn/Index.aspx?ArticleID=308003&ChannelID=11> accessed on 3/26/2009); physical capital such as buildings, equipment and land ~ \$400 billion derived using a capital-output ratio of 4.3 that was estimated from data in WDI 2009, Tables 4.1, and 4.9; money supply (VND) ~ \$ 115 billion (IMF 2009, Table 6, p.26), of which recorded foreign exchange ~ \$20 billion. The value of land, at best a guesstimate is on the order of \$180 billion. This was derived as twice the GDP which is based on Japanese data (Iwata 2007, Table 6, at [www.kc.frb.org/publicat/sympos/2007/PDF/Iwata](http://www.kc.frb.org/publicat/sympos/2007/PDF/Iwata)). Deriving the aggregate value of these assets poses difficulties. Apart from gold and foreign exchange, where Vietnamese holdings are small relative to global markets, none of the other items can be liquidated collectively without massively depreciating their values.

53 [www.gso.gov.vn](http://www.gso.gov.vn). “Imports of goods 2009” “Exports of goods 2009”

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<sup>54</sup> There is little information on the extent to which farmers use their title to land to raise finance or gain access to additional resources. A recent decree issued by the Ministry of Finance enables farm households to apply for and receive loans of up to 50 million dong without collateral. For businesses, the limit is 200 million dong. The only requirement is for farmers to provide their red-books as evidence of title to lending agencies.

<sup>55</sup> LL2003, Articles 4.4 and 46.2;

<sup>56</sup> LL2003 Articles 70, 74.1; Decree 69, Articles 6.1, 10.1.

<sup>57</sup> LL2003, Article 67. There is no limit on the lease on residential land (see LL2003, Articles 83, 84) or as referred to in law “using land stably.” Businesses, unlike individual farmers, can lease cultivation land for 50 years (LL2003, Article 67).

<sup>58</sup> The law has an anomaly. MARD defines commercial farms in the North as having more than 2 ha; in the South the lower limit is 3 ha (People’s Army 2009). Individuals cannot legally hold more than these limits. In effect, individuals cannot legally accumulate areas large enough to become commercial farmers.

<sup>59</sup> During our provincial visits we learned that the rigidity of monitoring depends on the farmer’s influence in the commune and his/her willingness to cooperate with local officials. The basic control exerted by the authorities over farmers is their power to deny compensation when land is recovered, if they view the land as not having been properly used (LL2003 Article 42, and Decree 69, Article 14).

<sup>60</sup> Part of that institutional setting is the degree of control that authorities exercise over the use of land. Land is often exploited for mining (minerals, construction materials, or “fill”). Coal extraction activities in Quang Ninh rice land are well known. Farming land is used in other localities for gold, titanium, and zinc mining. While none of this may be legal (or fits the official land use category), it modifies the value of land.

<sup>61</sup> Their adoption depends on the willingness of farmers to gain new knowledge and apply it about farming techniques. Improvement, however, is not the only possibility. Poor management, neglect and exploitative practices reduce the value of land. An example was the overcutting of forested areas when land was owned communally.

<sup>62</sup> Improvements in these services (particularly transport) increase the “economic supply of land” (Schultz 1953, Ch. 13; Mellor 1966, Ch.10; Eicher and Baker 1992, pp.93-96). The economic supply of land is the physical area which, for given technology, market conditions, and “overhead capital,” yields a positive net rent.

<sup>63</sup> A theme of the World Development Report 2009 “Reshaping Economic Geography” (World Bank 2009) is that improvements in infrastructure, social and other services throughout the country (and not just in favored areas) are critical for raising productivity and incomes and increasing welfare of the whole population.

<sup>64</sup> See “Compensation for recalled rice land double the residential land,” Sai Gon Giai Phong Online, available at <http://www.sggp.org.vn/xahoi/2009/7/197480/> accessed on 07/20/2009.

<sup>65</sup> Economic “rent” is the difference a productive factor is paid and the payment required to keep it in its current use.

<sup>66</sup> This implies that the trade deficit is fully funded by remittances, foreign direct investment, and aid flows.

<sup>67</sup> The links can be traced through a general equilibrium portfolio model of the type developed by Tobin and Brainard (1963) and Tobin (1969). See also Goodhart (1989, Ch.12) and Hakansson (1998). Neihans (1978, pp.234-241) has a framework that can be used to trace adjustments in the main assets in Vietnam – foreign exchange, gold, land, real estate, local currency, and equities. In this framework, portfolio adjustment is a continuous dynamic process in which prices move to clear asset markets in each period. Asset holders adjust their portfolios to progressively minimize the difference between their desired and actual holdings. Due to transactions costs, adjustment takes time and generates spillover effects across asset categories. For example, in order to purchase land, asset holders will normally have to build up their cash balances. This will involve selling gold and foreign exchange or other assets. The implication is that reducing the gap between the desired and actual stocks of one asset can increase the desired/actual gap for other assets.

<sup>68</sup> Some of the over-extension in the budget shows up in credit growth as public expenditures are shifted off-budget to the State-Owned Enterprises. Their expenditure, in turn, is financed by credit supplied by state-owned banks. The IMF separately reports off-budget expenditures and net lending (IMF 2009, Table 1, p. 21).

<sup>69</sup> Land speculation has been widely reported and officially condemned in Vietnam. It is noteworthy, however, that on an aggregate basis, there is little that is speculative about land (and real estate) in Vietnam. Their prices have regularly increased at rates well beyond the rate of consumer price inflation and the rate of depreciation of the local currency. Consequently, owning titles to land and real estate has been one of the safest medium and long-term investments available.

<sup>70</sup> The supply of land in Vietnam is limited and with only small amounts entering the market each year. With incomes and demand growing rapidly, land (and real estate) prices are volatile. This is a standard result from



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microeconomics. For any given increase/decrease in demand, the commodity with the least elastic supply experiences the greatest price fluctuations.

<sup>71</sup> The GDP deflator (a composite of the import price deflator and the consumer price index) increased at an annual average of 15.1 percent between 1990 and 2000; between 2000 and 2007, the increase was 6.6 percent (WDI 2009, Table 4.14, p.258). Comparable prices changed by much smaller margins in Cambodia, China, Korea, Indonesia, Philippines and Thailand. Only Lao PDR and Myanmar had rates of inflation higher than Vietnam over those periods.

<sup>72</sup> These data are from IMF (2009) and the World Bank's World Development Indicators 2009.

<sup>73</sup> IMF (2009, Box 1, p.13) uses two separate estimates to show the degree to which the exchange rate is overvalued. The market has demonstrated that the currency is overvalued: imports have exceeded exports by a large margin keeping pressure on external debt through the current account deficit.

<sup>74</sup> Between the start and end of 2008, some land and real estate values in Ho Chi Minh City declined by 70 percent. ("Price of land and houses decline nearly 70%," Phap Luat online available at <http://phapluattp.vn/231659p1014c1068/gia-nha-dat-giam-gan-70.htm> accessed 10/22/2008). Much of that value was regained during the economic recovery of 2009.

<sup>75</sup> Value productivity and physical productivity are related. The physical productivity of an activity in a particular location is the tangible, physical output (e.g., tons of rice or fruit per hectare). The value productivity is the physical productivity multiplied by the price of the output, i.e., VPP = Price x TPP. When output prices are low (as in the case of rice) and physical productivity increases are constrained by the nature of the crop, value productivity will be low.

<sup>76</sup> LL2003, Article 67

<sup>77</sup> The basic reference is Cheung (1969). There is, however, a rich literature which includes Wunderlich and Chryst (1958), Mellor (1966, pp.248-265), Stiglitz (1998), Deininger and Ali (2008), and Omura (2008).

<sup>78</sup> LL2003, Articles 4.4, 46.2, and 106.

<sup>79</sup> LL2003, Article 67.1 "Upon the expiry of the term, the State shall continue to allocate or lease land if the land user has land use demand, has strictly complied with laws on land during the period of his/her occupancy and the use of such land is in accordance with the approved land use zoning." Even without this provision, any doubts land use holders may have about their tenant-at-will status is dispelled by Article 5.4: "The State shall hand over land use right users in the form of allocation, lease of land, recognition of land use rights of land users who are using land stably, and shall stipulate rights and obligations of land users."

<sup>80</sup> LL2003, Article 74.1: "The State shall promulgate policy to protect water rice cultivation land and restrict the use of such land for non-agricultural purposes." Section 2 forbids its conversion to other agricultural uses.

<sup>81</sup> Interview with Mr. Pham Ngoc Lieu, vice director of the Southern Fruit Research Institute.

<sup>82</sup> See "PM requests 30-percent profit for rice growers," in Ministry of Foreign Affairs website, available at <http://www.mofa.gov.vn/mofa/en/nr040807104143/nr040807105039/ns090306090047>.

<sup>83</sup> The compulsion is reinforced by a clause in LL2003, articles 38.11 which affirms that the State can recall cultivation land that is not used for more than 12 months for its intended purpose.

<sup>84</sup> The 30 percent applies only to variable costs. The floor price ignores depreciation charges, land maintenance, wages of labor, and an allowance for the cost of capital.

<sup>85</sup> See "No profit from rice cultivation" in *Tuoi Tre* newspaper, available at <http://www.tuoiitre.com.vn/Tianyon/Index.aspx?ArticleID=349151&ChannelID=3> accessed on 11/23/09.

<sup>86</sup> Our team interviewed several farmers in Vinh Phuc whose land has been recovered to create an industrial park. They had lost their land, had no employment, and had almost exhausted the compensation payment. The service land they have been allotted had little value because the industrial park remains empty.

<sup>87</sup> An example is Mr. Dang Van Hien. He has the largest rice holding in An Giang. His 145 ha is divided into 45 red books using the names of his relatives and friends. See "Limit land area: expand or exclude?" (available at <http://nongnghiep.vn/NongnghiepVN/vi-VN/61/158/48/48/48/30381/Default.aspx> accessed on 21/03/09).

<sup>88</sup> "Infrastructure for Development" (World Bank 1994); "Reshaping Economic Geography" (World Bank 2009).

<sup>89</sup> The connections run both ways: increasing incomes and wealth also expand the opportunities for commercial, financial and entrepreneurial activities.

<sup>90</sup> Krugman 1991; Grigg 1995; Wu and Gopinath 2008

<sup>91</sup> The issues are discussed in greater detail in a companion brief on complementary investment.

<sup>92</sup> "Rising densities of human settlements, migration of workers and entrepreneurs to shorten the distance to markets, and lower divisions caused by differences in currencies and conventions between countries are central to successful economic development" (World Bank 2009, p.12).



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<sup>93</sup> Scale refers to the volume of economic transactions; agglomeration effects reflect the inter-connections among those transactions.

<sup>94</sup> Distance is also measured as the resource cost (time, effort, equipment charges) of travel or transport between two locations.

<sup>95</sup> Other barriers include traditional rivalries, antipathy, and lack of trust.

<sup>96</sup> World Bank (2009, p.13) This is a dynamic version of Adam Smith's "extension of the market". The two are inter-dependent with the division of labor (and specialization) driven by and, in turn, driving the extension of the market.

<sup>97</sup> World Bank 2009, p.21

<sup>98</sup> This outcome fits within theories of groups and teams (Olson 1965, 1998; Radner 1998). Adding a productive/skilled person to a team raises his/her output together with that of the whole team.

<sup>99</sup> World Bank 2009, p.21

<sup>100</sup> World Bank 2009, pp.23-24

<sup>101</sup> This pattern is also evident in the pattern of foreign investment, more than 60 percent of which is clustered in HCMC, Hanoi, Dong Nai, Binh Duong, and Baria Vung Tau (GSO "Foreign direct investment projects licensed from 1988 to 2008 by province").

<sup>102</sup> According to data provided by the National Assembly, and reported by Le Tuan (2006), between 2000 and 2005, "...there had been 17,902 billion dong invested into rural bridges and transportation system. There were now only 219/899 communes without road access to commune centers, 88.37% of communes reached by electric grid, 58% of households in rural area using sanitary water." Recent efforts in electrification are noted by Lao Dong (2010).

<sup>103</sup> For the decade 1997 to 2007, Vietnam's share of exports "within region" increased from 14.4 to 19.8 percent. For imports, the increase was from 13.4 to 33.9 percent. Over that same period, exports to, and imports from, "high income economies" declined (World Bank 2009, Table 6.5, p.342).

<sup>104</sup> Our discussions with provincial officials in Binh Dinh confirmed that few young, educated local residents took local jobs. A large number of them preferred to migrate to larger centers especially Ho Chi Minh City. Local employers had to rely on migrants from other areas of the country (Provincial interviews July 2009).

<sup>105</sup> World Bank 2009, Table 3.1, p.136; GSO data "Average population by sex and by residence"

<sup>106</sup> World Bank 2009, Table 4.2, p.210; GSO "Gross domestic product at 1994 constant prices by economic sector"

<sup>107</sup> World Bank 2005, p.1

<sup>108</sup> "...basic investment from the government budget for agriculture and rural development accounted for only 9% of the total basic investment of the government into the whole economy but that was 57% of the whole investment into this sector. It meant investment into this sector was very low. FDI into this sector was only 7.3% of total FDI of the country" (Le Tuan 2006).

<sup>109</sup> Though not readily available from the published data, it is likely that similar imbalances in government expenditure exist in health and education and other "soft" expenditures. The differences in rural/urban health indicators are indicative of continued expenditure imbalances.

<sup>110</sup> The redirection of resources away from agriculture by administrative means is equivalent to a tax on the sector. It lowers the growth rate of agriculture putting downward pressure on the overall national growth rate. This has been a fundamental mistake of the majority of governments in developing countries.

<sup>111</sup> IFPRI 2002; Fan 2005; World Bank 2007, Ch.3; Blanco Armas, Gomez Osorio, and Moreno-Dodson 2010

<sup>112</sup> World Bank 2009, Table 4.1, p.206; See also GSO "Gross domestic product at 1994 constant prices by economic sector"

<sup>113</sup> World Bank 2007, pp. 45-49

<sup>114</sup> IFPRI 2002; Fan 2005; Blanco Armas, Gomez Osorio, and Moreno-Dodson 2010 The expansion of infrastructure has a dual effect on the value of land, or space more generally. The stock of infrastructure assets – roads, ports, bridges, watershed areas, tidal estuaries, fish hatcheries, forest reserves, railways, storage facilities, schools, hospitals, health clinics, airfields – occupy large tracts of land. But these assets also change the value of the land it absorbs and the adjacent land/space. The location of a water treatment plant, sanitation facility, or garbage dump typically reduces the value of nearby areas for specific uses (residences, schools, retail outlets) although it raises its value for other uses such as a bottling plant or recycling facility. Similarly, the extension of roads and railways typically raises the value of adjacent land or space even as it devalues the location for other uses (such as crop production or watershed management). These points are confirmed by the deprivation and starvation that persists in the remote areas of the country (World Bank 2005; Hai Van 2010). The pressure to expand urban infrastructure has pre-empted the resources that might otherwise have been used to upgrade infrastructure in the

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rural areas. The outcome is that urban consumers travel more conveniently and experience less food security at the expense of those who are remote and vulnerable.

<sup>115</sup> Source: ICARD (Website of MARD) May 11, 2007

<sup>116</sup> “MARD presented a plan for 4,056 billion dong (2,187 billion from domestic sources and 1,869 billion dong from foreign sources) to invest into the sector. Investment was to be made into Irrigation (2,735 billion dong), Agriculture (423 billion dong), Forestry (417 billion dong), Science and Technology (235,6 billion dong), Training 87,6 (billion dong), others (98 billion dong), planning and architecture (40 billion dong) and investment planning (20 billion dong).”

<sup>117</sup> “Information from the meeting of Consultation Group (CG) and the World Bank (WB) yesterday (October 28, 2009) in Ha Noi disclosed that *ODA accounted for 50-60% of investment into agricultural sector*” (Van Nguyen 2009, italics in original).

<sup>118</sup> In 2007, slightly more than 2 percent of the MARD budget (VND 87.6 billion) was allocated to training and around 6 percent (VND 235.6 billion) to Science and Technology. Most of the budget (VND 2735 billion or 67.4 percent of the total) was allocated for irrigation expansion or upgrading. A media report noted: “The World Bank’s World Development Report 2008, titled “Agriculture for Development,” said that Vietnam invested only 0.13 percent of its gross domestic product (GDP) from agriculture into research and development (R&D), while other agricultural nations spent 4 percent of agricultural GDP on R&D” (VietNamNet, “Eating the feeding hand” August 30, 2009). The last figure appears to be an error. The total *public* agricultural R&D spending for Asia and the Pacific in 1981 was 0.36 percent of agricultural GDP and in 0.41 percent in 2000 (World Bank 2007, Table 7.1, p.167). At 0.13 percent, Vietnam is well below regional averages. The source of the data is G-J Stads and Nguyen Viet Hai (2006, Figure 5, p.7). That source shows that expenditure on R&D was 0.17 percent of agricultural GDP in 2002.

<sup>119</sup> Vietnam has a solid track record of technology adaption. Example includes hybrid rice (Hossain, Tran Thi Ut and Janaiah 2003) and *steculia foetida* (Khanh Vy 2009).

<sup>120</sup> See World Bank 2007, pp.170-171

<sup>121</sup> Farmer Field Schools (FFS) has been especially successful in Vietnam. These are field demonstrations to small groups of farmers of improved techniques, practices, varieties, and activities (Rejesus *et al.* 2009).

<sup>122</sup> Studies of rural development indicate that major advances in poverty reduction and rural wellbeing can be made by investments in communications and technology, improvements in health and education services, and changes in institutional arrangements which empower women (IFPRI 2002; Agnet 2008). Gender roles in agriculture are changing although the dual role of women as producers and caregivers persists. Public policy should be directed to enhancing both dimensions.

<sup>123</sup> The Agricultural Science and Technology Indicators website summarizes agricultural research in Vietnam ([www.asti.cgiar.org/vietnam](http://www.asti.cgiar.org/vietnam)). It shows: research expenditure has grown rapidly from the mid-1990s (albeit from a low base); most of the research is conducted by the 28 organizations overseen by MARD (70 percent of the research staff, 60 percent of the budget); Vietnam’s spending on agricultural research is low relative to international comparators (noted above); research activity is highly centralized in Hanoi and Ho Chi Minh City; and private support for agricultural research is “minimal.”

<sup>124</sup> Agriculture, however, is not the exception. By international standards, all R&D has low funding. In Vietnam, total spending on R&D (defined as “creative work undertaken to increase the stock of knowledge, including on humanity, culture and society, and the use of knowledge to devise new applications”) was 0.23 percent of GDP over the period 2000-2006. Comparable data for lower middle income countries were 1 percent and for East Asia and Pacific countries 1.42 percent (World Bank 2009, Table 5.12, pp.316-7).

<sup>125</sup> Meier 2005, p.7.

<sup>126</sup> Kuznets 1966, Ch.1

<sup>127</sup> Chenery and Syrquin 1975; Syrquin and Chenery 1989. Chenery and Syrquin describe the patterns of development for large and small countries using trends in investment, government revenue, education participation, domestic demand, production by sector, foreign trade, labor allocation, urbanization, the demographic transition, and income distribution.

<sup>128</sup> GSO data on labor productivity per sector show some of the potential gains in gross output. For example, in 2008 the estimated output per employed person in agriculture and forestry was VND 12 million. The estimate per employee in real estate, renting, and business activities was VND 214 million (Source: GSO table “Production by employed population by kinds of economic activity.”) There is ample scope for raising national income (and welfare) by shifting resources from low productivity to high productivity uses.

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<sup>129</sup> This theme is not new. It was emphasized by social commentators in the 18<sup>th</sup> and 19<sup>th</sup> centuries as they observed the Industrial Revolution and analyzed its impacts especially the disruption of traditional activities and displacement of workers (Smith 1776; Engels 1845, 1887; Disraeli 1845; Moore 1966). There is renewed interest in worker displacement both within and from agriculture (Doutriaux, Geisler and Shively 2008; Kandilov and Kandilov 2010).

<sup>130</sup> Many provincial officials interviewed by our team stressed the prohibition on private land ownership and the State's role in managing land. These features are not unique to Vietnam. Every nation exercises "sovereignty" at some level and all land titles are contingent. This was reinforced when one of us (McPherson) contacted the officials who responsible for land use where he lives (Belmont Massachusetts). He enquired about the restrictions on his property under Massachusetts and United States law. The land is freehold. Yet, a room or a storey cannot be added to the house without a building permit. The lateral dimensions of the house cannot be permanently extended under any circumstances. A hole cannot be dug on the land more than 9 inches deep without a "dig safe" permit; a hole of 5 feet deep requires a trench permit. Under a 1925 Massachusetts law (amended in 1975) the land cannot be converted from single-family residential (its present zoning) to any other purpose, including two-family residential. It is prohibited to conduct a commercial enterprise, undertake factory-like production on the property, take in boarders, mine for minerals, or pump groundwater. Acting in the greater public good, the town authorities can take the property under the principle of eminent domain. Any compensation is related to prevailing market conditions and determined by two State-approved assessors. Finally, the specifications of the house and land, its valuation for taxation purposes, are part of the public record which can be inspected by any citizen. This information can also be obtained by entering the address in Google.

<sup>131</sup> LL2003 Article 46.2 (and Article 4.4) refers to the "...exchange, assignment, inheritance, making gift, lease, sub-lease, mortgage, capital contribution..."

<sup>132</sup> LL2003, Article 66, deals with the "right to use land on a stable and long term basis..." This includes protective forestry and specialized forest land, residential land, land used for national defense and security, administrative buildings, and religious purposes.

<sup>133</sup> LL2003, Article 67

<sup>134</sup> Enterprises and organizations using cultivation land can have a lease of fifty years (source LL2003, Article 67).

<sup>135</sup> LL2003, Article 70, Article 74.1; Decree 69, Article 6.1. Under LL2003, Article 38.11, cultivation land left idle for more than 12 months is subject to recall.

<sup>136</sup> There are several legal restrictions on the conversion of rice land. LL1993 allows the conversion of rice land if the provincial authorities give permission and only if the amount is less than 2 hectares. Areas above 2 hectares require the permission of the Prime Minister. Article 74 of that Law relates to land that is reserved exclusively for rice production. It restricts the conversion of that land to non-farm purposes. Rice farmers are prohibited from converting the land to perennial crops, forests, aquaculture production, or non-farm uses without permission of relevant government officials. In their contributions to land use planning, government administrators at all levels are required to identify rice land in their jurisdictions and to strictly control its use. At local levels, the conversion of rice land to other agricultural and non-farm purposes is scrutinized, no matter how small the area. The process for any rice land conversion is involved and time-consuming. The provisions in the Land Laws have been reinforced by decrees and implementation guidelines. Decree 69, Articles 6 and 10 (August 2009) reaffirm the restrictions. Our team has received mixed messages on this point. At a meeting at Thanh Tay University (February 4, 2010), we were informed by a former Minister of Agriculture and Rural Development that under the law there are no restrictions on farmers converting their land between agricultural uses. The same point was repeated in a meeting with members of the Economic Committee, National Assembly (February 5, 2010). Yet, in the provinces we visited, local authorities regularly prevent farmers from converting their land, particularly rice land. As noted below, under the law (Decree 69, Article 14.1) farmers can be denied compensation if land is not used as intended

<sup>137</sup> See also LL1993, Article 27 and LL2003, Article 42.2.

<sup>138</sup> "Land recalled by the government is compensated by land types with the same use purposes. If the land is not available compensation is made in terms of land use rights on land price at the time recall decision is issued."

<sup>139</sup> Planners could set the price and let quantities adjust; they could set quantities and let prices adjust; or they could "imitate" the market and set price and quantities. Any gaps in the last-mentioned used to be reconciled by black markets and/or rationing (often both).

<sup>140</sup> LL2003, Article 38.1. The emphasis has shifted over time. LL1993, Article 27 stated: "In case of utmost necessity, when the State recovers land being used by a land user, for national defense, security, national benefit, or public benefit purposes; the land user shall be given compensation for the damages." LL2003 dropped the "utmost necessity" and simply referred to the State's "needs."

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<sup>141</sup> It was further stipulated that golf course development must not absorb more than 5 percent of rice land. Why 89 golf courses were allowed to proceed is not clear.

<sup>142</sup> Decree 68/2001/ND-CP of the Government on Master Planning and Land Use Planning is also framed in terms of needs. “Need” is a poor criterion for using land efficiently. For example, in 2008 Long An Province had 16 industrial parks covering 10000 ha with a utilization rate of 13 percent. The Province, however, had plans for the recovery of an additional 4000 ha for industrial parks.

<sup>143</sup> Every economy confronts this problem. Markets are incomplete and trade-offs exist among equity and efficiency. Accordingly, some public allocation mechanisms are required to compensate for market failures, indivisibilities, asymmetric information, and so on. Vietnam would benefit from a system that goes beyond one in which each level of government asserts what it “needs.” But, in the absence of such a system, various “needs” are reconciled administratively with government agencies that are better organized or more forceful in getting their way, or the “needs” are determined exclusively through political influence. Each work, but none is economical or efficient as required by law. Nor are they equitable.

<sup>144</sup> Decree 69, Article 10.2 states: “The Ministry of Natural Resources and Environment is responsible in front of the Government in examining the implementation of targets in land use planning, plans of national and provincial levels.”

<sup>145</sup> Decree 69, Article 9.8: “Special cases that land of rice, special purpose forests, protection forests is to be converted to other uses must be reported to the Minister of Natural Resources for consideration and submitted to the Prime Minister for decision.”

<sup>146</sup> Decree 68 (2001)

<sup>147</sup> Our provincial visits revealed that most land use plans are rudimentary, out of date, and subject to regular revision. The latter is provided for under Decree 68 and, by default, is the principal mechanism for land use planning.

<sup>148</sup> It is horizontally inequitable: residential property holders in similar circumstances receive significantly different official treatment.

<sup>149</sup> None of the provincial or communal authorities with whom we spoke believes they are being unfair or inequitable. They all emphasized that they were adhering strictly to the guidelines provided by the Central Government in all matters related to the land laws. The LL2003 provides for disputes and complaints (Article 105.6; Article 123; Article 136.2a, b; Article 138). Land use right holders have the right to complain and denounce decisions. The problem is that the disputes are typically settled by the same senior official, often the Chairman of the People’s Committee, who was instrumental in the initial decision to recover the land.

<sup>150</sup> In our provincial visits, only Binh Duong has a consultative process which explicitly seeks to ensure that land holders participate in the planning and preparation of land recovery.

<sup>151</sup> LL2003, Article 7.2

<sup>152</sup> Farming should not be romanticized as an occupation. Kazmin (2009) quoted several Vietnamese farmers who would willingly sell their land if they could obtain an appropriate price. By migrating to the cities, young people demonstrate that they have no interest in being farmers. As a result there are age and gender imbalances in agricultural employment. Sixty 60 percent of women worked in agriculture during 2003-06 relative to 56 percent of men (WDI 2009, Table 2.3, p.50). The rapid growth of non-agricultural employment, from 14.9 million in 2000 to 23 million in 2008 has helped large numbers of workers leave agriculture. Between 2000 and 2008, agricultural employment fell from 23.5 million to 22 million (Data from [www.gso.gov.vn](http://www.gso.gov.vn)).

<sup>153</sup> In Binh Duong (July 2009 interview), our team learned that compensation is essentially market-based. It includes a cash payment related to the market value of the land, a building plot (depending on the size of the holding recalled), service land, food ration, and retraining with preferential access to employment in the local industrial zones.

<sup>154</sup> Decree 69, Articles 17 through 22 describes support for moving, relocation, “life and production stabilization,” and “income sources change and job creation.” Each level of support offered is determined by the Provincial People’s Committees. This creates significant anomalies since the richer, more dynamic provinces have the capacity to be more generous (Binh Duong for example). Yet, it is in the poorer provinces where support is the least generous and alternative employment is unavailable that farmers can least afford to be displaced from their land.

<sup>155</sup> We learned this in our field visits, especially in Thai Binh and Vinh Phuc. It is also evident in the IPSARD study of displaced farmers in Ha Tay (IPSARD 2009).

<sup>156</sup> This reflects the all-too-familiar “exchanging land for infrastructure” that is driven, in part, because local authorities do not have regular sources of income for development. This issue is discussed in the section on taxation below.

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<sup>157</sup> LL2003, section 4 deals with “recovery of land.” It is precise, cogent, and to the point. It is organized entirely in the interests of the State and the officials who administer land recovery. There is nothing in its provisions protecting the interests of agricultural land use right holders once the decision has been taken that Article 38.1 applies.

<sup>158</sup> For example, in Thai Binh province, we were informed that it had taken 9 years to reclaim land for an industrial park. The main delays were due to protests by farmers over compensation. This is a broader problem: Many of the growing number of land disputes arise because of the inequity in the distribution of the surplus derived from land recovery. Most provinces have a Land Development Fund. Its function is to recall and clear land, invest in infrastructure, and then sell the land to raise revenue for the local government. In Binh Dinh, the LDF raises around VND 150 – 200 billion per year in revenue for local authorities.

<sup>159</sup> *Journal of Construction*, November 2009

<sup>160</sup> In 1995, milled rice exports were below 2 million tons. Rice exports have exceeded 5 million tons annually since 2005. The 2009 total was around 6 million tons. In 2001, rice exports earned \$625 million; in 2006, that total was \$1.3 billion. The estimate for 2009 is \$2.8 billion (Vietnam Agriculture, December 18, 2009).

<sup>161</sup> Resolution 06-NQ/TW dated November 10, 1998 “On some issues of agriculture and rural development”

<sup>162</sup> Decision 137/1998/QĐ-TTg

<sup>163</sup> Resolution 09/2000/NQ-CP of the government on “Some Policies and Measures to Promote Distribution of Agricultural Products,” dated June 15, 2000

<sup>164</sup> Party Central Committee’s Resolution 26-NQ/TW on agriculture, farmers and rural development dated August 5, 2007. The basic view was reaffirmed by Prime Minister Nguyen Tan Dung. In February 2009, he stated: “Proper land for rice cultivation must be maintained at any price” (Viet Nam Net/VIR “Eating the feeding hand,” August 30, 2009).

<sup>165</sup> Xiong Tong (2009)

<sup>166</sup> VietNamNews (August 23, 2009). Mr. Nguyen Tri Ngoc, Director, Crop Production Department, MARD noted: “The Politburo has concluded that if Vietnam wants to ensure its national food security and socio-economic stable development, it must permanently keep its rice land to ensure farmers’ lives and rice exports.”

<sup>167</sup> Mr. Nguyen Tri Ngoc (quoted above) stated: “It is clear that rice cultivation brings in fewer profits than other sectors. But food security is a national-level issue [that] needed to be prioritized.” (*ibid.*)

<sup>168</sup> Evidence from several provinces shows that revenue from aquaculture is 6 to 8 times higher than for rice cultivation on the same area (MARD: Report on Master Planning of National Rice Land to 2020, with Orientation to 2030 – Report kindly provided by IPSARD, Hanoi.)

<sup>169</sup> The data are compelling. When farmers have had the chance to abandon rice production, they have not hesitated. Between 1990 and 2008 the share of agriculture in GDP decreased from 32 to 18 percent. Over the same period, the share of cultivation output in agriculture declined from 80 to 72 percent. Rice production dropped even more sharply from 67 to 57 percent, despite the rapid expansion in the volume of output noted earlier. Having accounted for 17 percent of GDP in 1990, the contribution of rice to GDP in 2008 was slightly above 7 percent. Vietnamese farmers have been “voting with their feet.” They will continue to do so while rice remains unprofitable relative to other activities. (Data are derived from several GSO tables: national GDP by sectors; GDP of Agriculture Sub-Sectors; Contribution of Food (90% rice) into Cultivation.) It is worth noting, however, that all farmers will not shift out of rice together. Older farmers have a low “reservation wage.” They will continue with rice production because it matches their skills and risk preferences. Highly efficient producers will continue as well. Other farmers will find the coordination costs of shifting their plots out of rice, given existing patterns of local organization including arrangements related to irrigation, are too high. They, too, will continue rice production. More important, if too many farmers were to make the shift out of rice, its price and profitability would rise, boosting output (just as it did following the *doi moi* reforms).

<sup>170</sup> Recent data show that 6.7 percent of all households, comprising 8.7 percent of households in the rural sector and about 1 million people in mountainous areas experience regular shortages of rice (Vietnam *Infoterra* Newsletter, No/3/2009). Hai Van (2010) reported on villagers in Muong Te District who subsist primarily on cassava. At most, they have rice for three months of the year. A rat plague destroyed their most recent crop.

<sup>171</sup> A major theme of recently inaugurated journal *Food Security: the Science, Sociology and Economics of Food Production and Access to Food* (launched in 2009) is that families with resources “rarely suffer from chronic hunger.” This reinforces the point, now well accepted among specialists, that food insecurity results from poverty (IFPRI 2002, p.8; FAO 2003).

<sup>172</sup> World Development Indicators (2009, Table 1.2, p.20) Based on weight-for-age, twenty-one percent of children under 5 years old were malnourished in 2007. Measured as height-for-age, it was 34 percent. See also United Nations (2009, Table I).

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<sup>173</sup> Moreover, the group that the farmers subsidize by continuing to grow rice is significantly better off than the farmers themselves. This is illustrated by data from the GSO. From 2000 to 2008, the country's real GDP increased by almost 80 percent, but the agricultural sector grew by less than 40 percent. Rice cultivation will not help farmers to become prosperous. In the rice-rich Mekong Delta which produces half of the country's rice tonnage and supplies 90 percent of rice exports, 26 percent of households were living below the national poverty level in 2008. Along with the North-East mountainous region, this is the highest concentration of poor households in Vietnam. By contrast, the area that produces the least rice in the country, i.e., the eastern part of the Southern region, has the lowest share of poor households (8.4 percent) in the country.

<sup>174</sup> One measure of the differential in welfare is provided by the rural-urban income gap in Vietnam. Of the measured GDP of \$68.6 billion in 2007, 20 percent was in agriculture (WDI 2009, Table 4.2, p.210). This absorbed 56 and 60 percent, respectively of all (44.4 million) male and female workers in Vietnam (WDI 2009, Table 2.2, p.46). That is, roughly 26.5 million workers were occupied generating \$13.8 billion of GDP, an average of approximately \$520 per worker. With measured GDP per capita of \$810, the average income of the remaining 17.9 million workers in 2007 was approximately \$3100. This discrepancy in average earnings is reflected in the distribution of expenditure. The lowest quintile in Vietnam (many of whom are rice farmers) had total expenditure equivalent to 7.1 percent of the total (WDI 2009, Table 2.9, p.74). That is, the bottom 17 million people in Vietnam had consumption of \$4.9 billion, or roughly \$290 per person per annum, well below the \$1 per day international benchmark. This largely accounts for the extent of the malnutrition and food insecurity across the country. For reference, GSO data ([www.gso.gov.vn](http://www.gso.gov.vn), "Production Value of Cultivation") showed that in 2000, the value produced by an average rice farmer was VND 3.88 million [equivalent to \$278]. By 2008, this total had risen to VND 5.58 million [or, \$328]. The conversion was at the interbank rate: December 2000, VND 13980=\$1; December 2008, VND 17000=\$1.

<sup>175</sup> ChinaNews 2009; EUBusiness 2009 Vietnam has been in several anti-dumping disputes over recent years – bicycles, stainless steel fasteners and shoes with the EU; and catfish and shrimp with the United States.

<sup>176</sup> WTO membership has other implications. In the first nine months of 2009, Cambodia exported more than a million tons of rice to Vietnam. The downside of this is that Vietnamese rice farmers, who are already poor, face additional competition. The upside is that Vietnamese consumers have access to food at lower real cost (measured as the income share spent on food). Source: Mr. Nguyen Tho Tri, VFA Vice President, quoted in VietNamNet September 9, 2009.

<sup>177</sup> The FAO has a slightly more elaborate definition as well: "Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life" (FAO 2003, 2006). Several other definitions are available. The United States Department of Agriculture notes that food security "for a household means access by all members at all times to enough food for an active, healthy life." It continues: "Food security includes at a minimum (1) the ready availability of nutritionally adequate and safe foods, and (2) an assured ability to acquire acceptable foods in socially acceptable ways (that is, without resorting to emergency food supplies, scavenging, stealing, or other coping strategies)" (USAID 1992). The World Health Organization uses a three-part definition of food security – food availability: sufficient quantities of food available on a consistent basis; food access: having sufficient resources to obtain appropriate foods for a nutritious diet; and food use: appropriate use based on knowledge of basic nutrition and care, as well as adequate water and sanitation (WHO 2002). The International Food Policy Research Institute in its study of "Food Security For All" by 2020 described its vision: "a world where every person has access to sufficient food to sustain a healthy and productive life, where malnutrition is absent, and where food originates from efficient, effective, and low-cost food systems that are compatible with sustainable use of natural resources" (IFPRI 2002, p.1).

<sup>178</sup> Globaleducation, "Food Security," November 17, 2009

<sup>179</sup> At the Davos economic summit (January 2010), Prime Minister Nguyen Tan Dung raised the issue of global food security and the critical role of the Food and Agricultural Organization of the United Nations in promoting that objective. He noted: "...it is important to guarantee three major factors including the availability (supply of food at any time and everywhere), sustainability (a stable supply system) and access of the people (opportunity to buy food)." The PM offered to share Vietnam's "experience and knowledge of food security with all countries through the bilateral and multilateral cooperation programs." (Reported in *VietNamNet*, January 31, 2010).

<sup>180</sup> Mellor 1988, pp.1001-1002; World Bank 2007, esp. pp.94-95. The International Food Policy Research Institute has regularly emphasized the indispensable role of women in food and nutrition security (IFPRI 2000, 2005).

<sup>181</sup> This is an implication of Bennet's Law which relates to "calorie substitution." As per capita incomes rise, consumers demand higher quality foods. It leads to an increase in the share of calories supplied by wheat flour



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products, milk, fish and meat and a systematic reduction in share of calories derived from rice, tubers, and other starchy foods. A shift in consumption patterns consistent with Bennet's Law is evident in Vietnam. Annual imports of wheat and wheat flour exceed one million tons and annual dairy products imports amount to around three quarters of a billion dollars (Source: GSO data on imports and exports, [www.gso.gov.vn](http://www.gso.gov.vn)).

<sup>182</sup> It is a major element of the emphasis by the United Nations on "capabilities" reflected in its Human Development Indicators.

<sup>183</sup> An example is the GSO "Socioeconomic situation in 11 months of 2009" ([www.gso.gov.vn](http://www.gso.gov.vn)). The report for December 2009 noted: "Generally in 11 months, the country had 641,400 households with 2,823.6 thousand members suffered from food shortage. Compared to same period last year, the number of hunger families reduced by 31% and hunger members by 27.6%. Since the beginning of the year, nearly 40,000 tons of food and over VND 40 billion from administrative levels, sectors, organizations and individuals have been provided to hunger families to help them in overcoming the food shortage."

<sup>184</sup> Xing Tong (2009). This assumes that average per capita consumption of rice will be two-thirds of its current level, a direct implication of Bennet's Law referred to above.

<sup>185</sup> The *Rural Economic Times*, April 4, 2008 reported a MONRE scenario showing that if the sea level rise is one meter, 5,000 sq.km of the Red River delta and 15,000-20,000 sq.km of the Mekong delta will be flooded. At current productivity levels, this is equivalent to the loss of 5 million tons of rice.

<sup>186</sup> Based on current projections, over the period 2009 to 2020, roughly 600,000 hectares will be converted from agricultural uses. That is, the roughly 9.3 million hectares of agricultural land at present will shrink to around 8.5 million hectares. With rice land declining by 55,000 hectares per annum, the total rice area by 2020 will be around 3.5 million hectares (An Ninh Thu Do, The Capital Security, February 14, 2009).

<sup>187</sup> Food self-reliance is consistent with competitive advantage. Countries that are food self-reliant focus on the efficient expansion of their food, fiber, and biofuel producing capacities recognizing that they can supplement their domestic supplies of staple commodities through commodity imports and improvements in their basic infrastructure to ensure the food supplies (domestic and foreign-supplied) can be efficiently stored and transported.

<sup>188</sup> In reality, 3.8 million hectares will only remain permanently under rice if the Government ensures that producers are adequately rewarded. Permanent future restrictions on cultivation land in Vietnam are likely to fail for the same reasons that restrictions on agricultural output (through central planning and collectivization) failed in the past. As the area of land in rice falls below 3.8 million hectares, the Government will confront the question of whether it is prepared to provide the necessary incentives.

<sup>189</sup> The annex on price and opportunity cost explains why.

<sup>190</sup> Despite the Government's emphasis on rice self-sufficiency, rice self-reliance is emerging in Vietnam. The evidence of rice imports from Cambodia, cited above, shows that the trend is already underway. See "Cambodia will be the largest rice exporter of the world", IPSARD. Available at <http://ipsard.gov.vn/news/newsdetail.aspx?targetid=3364> accessed on 08/26/2009.

<sup>191</sup> Panagariya (2002) has an excellent review of food self-reliance and food self-sufficiency. China is self-reliant in food as well (Chen and Duncan 2008). All developed countries are food-secure and most are food self-reliant. The United is an example. In 2008, it imported \$80.5 billion of food and agricultural products. The cost was amply "covered" by its \$115.3 billion of food and agriculture exports. Thus, despite being the largest food producer in the World (the US regularly carries over from one season to the next almost double the total annual grain production in Vietnam), it lacks a competitive advantage in tropical fruits and a host of other products (temperate crops grown during the northern winter). Rather than waste its scarce resources (land, labor, skills, capital) on their production, the U.S. imports them. Vietnam could profitably follow this lead.

<sup>192</sup> Marsh and MacAulay 2001, p.6; 2003, p.4. Ton Gia Huyen and Tran Thi Minh Ha (2009) note: "There are estimated to be between 70 - 100 million land parcels in the country, where in the urban areas there is usually one land parcel per household, in the rural areas one household could be using from 3-15 land parcels."

<sup>193</sup> Data from the twelve-province Vietnam Access to Resources Household Survey 2006, VARHS06 (Van den Broeck *et al.* 2007. Table 3, p.164) show that the average number of plots per farm was highest in Phu Tho (7.4 with a maximum of 17) and lowest in Khanh Hoa (2.5 with a maximum of 12). The average size of plot ranged from 331 sq m in Ha Tay to 6899 sq m in Dak Nong. The poorest expenditure quintile had an average of 4.9 plots (with a maximum of 17); those in the highest expenditure quintile held an average of 4 plots (with a maximum of 18).

<sup>194</sup> Buck's study of agricultural organization in China during the 1930s discussed the consequences of land fragmentation (Buck 1964). Dumont (1957) specifically examined the advantages and disadvantages of fragmentation, its institutional determinants (high population pressure, limited transport infrastructure, and traditional inheritance codes) and collective difficulties in re-consolidating land parcels (high transactions costs,

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limited wealth). The dominant opinion, evident in the earliest literature, is that fragmentation is inefficient and seriously limits efforts to raise agricultural productivity. That opinion is prominent in Vietnam, especially among officials.

<sup>195</sup> Marsh and MacAulay (2003, p.4) note: “Small and fragmented land holdings are recognized as a problem for agricultural development in Vietnam....Around 10 percent of these plots have an area of only 100m<sup>2</sup> or less.... These small and scattered land holdings hamper mechanization and involve additional time and labour for farming activities that must be carried out in geographically distant plots.”

<sup>196</sup> McPherson (1982) provides references and examples.

<sup>197</sup> Many officials refer to the “evils” of fragmentation, a prejudice that precludes reasoned discussion. This approach is evident in Vietnam as well (e.g., Vu Minh Viet 2008). A recent IPSARD (2009, p.16) review of agriculture in Vietnam noted: “Land fragmentation is an obstacle for the development of commodity-production agriculture with reasonable size as well as for the application of technology and science into production for improved productivity.”

<sup>198</sup> An alternative explanation is that there are insurmountable costs that prevent farmers, generation after generation, from consolidating their land. We return to this point below.

<sup>199</sup> McPherson (1983) examines this behavior using a portfolio allocation framework.

<sup>200</sup> For an individual, the actual coordination problem is daunting (Olson 1965; 1998). National income and welfare could be raised through centrally-imposed (or negotiated) land consolidation with all participants being appropriately compensated for adverse changes in their land holdings (including the loss of land). This reorganization does not occur for several reasons. One: there is a “first mover” problem – who decides where to begin (and when)? Two: there are management issues, particularly, who (or which agency) has the skills to undertake the necessary (forced) reorganization or (voluntary) negotiations? Three: compensation schemes are rarely if ever implemented and certainly none is available on the scale needed to have a tangible impact on the degree of land fragmentation in Vietnam. Four: As noted in the text, few farmers will seek to consolidate their land unless they can also simultaneously increase their farm size.

<sup>201</sup> Holding several land fragments increase farmer’s liquidity. Smaller parcels are easier to sell or lease as (and if) the need arises.

<sup>202</sup> Although referred to earlier, the point is worth restating. Agricultural value added per worker (in 2000 prices) in 1990-92 in Vietnam was \$214; in 2003-2005, it was \$305 (World Bank 2009, Table 3.3). That is, workers who depended entirely on agriculture for their income earned considerably less than the absolute poverty criterion of \$1.25 per day (adjusted for purchasing power parity).

<sup>203</sup> The insurmountable barrier, referred to earlier, that explains the persistence of fragmentation is poverty. This point was emphasized by Dumont (1957). He argued that, in Europe, it was only when the industrial/commercial sector had expanded sufficiently to absorb redundant agricultural labor that land consolidation could occur and rural poverty began to decline. In the United States, poverty drove settlers from their holdings and the land was re-consolidated often under Government programs.

<sup>204</sup> This began with Contract 100 and was formalized under *doi moi* when the Land Law 1988 was enacted (Marsh and MacAulay 2001, pp.2-3). The division of commune-held lands explicitly sought to promote equity across households by giving them access to different types of land. Thus, at the time, government officials clearly understood the instrumental value of land fragmentation.

<sup>205</sup> Given the farmer’s opportunities and resource constraints, the degree of fragmentation, is fully consistent with a “safety-first” (or “safe-fail”) strategy (McPherson 1983).

<sup>206</sup> Derived from GSO data for 2008 showing that the total population was close to 85 million and cultivated area was approximately 9.3 million hectares. This is less than a third of the cultivated area per capita in Thailand and Cambodia (World Bank 2009, Table 3.1).

<sup>207</sup> Numerous sources are provided in McPherson (1982, 1983). It was first widely discussed in assessments of the outcomes of India’s National Sample Surveys and Buck’s study of China in the 1930s. Although these (and other) studies refer to the “evils” of fragmentation, they almost invariably found that land productivity (reflected in yields) was high. This “inverse farm size/productivity relation” in which small farms have higher output per unit of land has been widely researched with some recent contributions (see Assuncao and Braido 2007 and its citations). A major explanation, directly relevant to Vietnam, is that smaller farms also have higher labor input per unit of land. That trend will continue for the foreseeable future.

<sup>208</sup> To illustrate, measured relative to a base of 1999-2001=100, the crop production index was 60.2 in 1990-92. By 2003-2005 it was 120.4. The livestock production index increased more sharply from 57.9 in 1990-92 to 131.1 in



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2003-2005. Cereal yield averaged 3097 kilos per hectare in 1990-92 and 4726 kilos in 2005-07 (World Bank 2009, Table 3.3).

<sup>209</sup> This is particularly the case when incomes are compared across ethnic minorities (Marsh and MacAulay 2003; Pham Van Hung, MacAulay and Marsh 2007; Doutriaux, Geisler and Shively 2008).

<sup>210</sup> A recent study by IPSARD staff reached this conclusion (IPSARD 2010).

<sup>211</sup> Vu Minh Viet (2008) "Land Consolidation-A Breakthrough Option" *Agroviet* July 2.

<sup>212</sup> Vu Minh Viet, *Agroviet* Nov 3, 2008. This source also quoted a Politburo member who stressed the need to promote land consolidation to boost commodity production and improve farmers' incomes.

<sup>213</sup> These points were emphasized during our visit to An Giang in April 2009. A key theme of the discussions was the need for the Government to promote consolidation to support mechanization and raise output.

<sup>214</sup> "Lower Mekong Basin governments are promoting the commercialization of agriculture and agro-processing in order to increase incomes and create employment. Commercialization is also having an impact on the ways in which farmers manage their land" (Rowcroft 2008).

<sup>215</sup> IPSARD (2009, Section 3). Directive 18/1999/CT-TTg related to the exchange of plots among households to increase plot size. Decision 94/2002/QD-TTg derived from Resolution V of Central Committee IX stated: "Government encourages farmers and local authorities at all levels to convert small and scattering land plots to large plots to create favorable condition for cultivation."

<sup>216</sup> Consolidation alone will be counterproductive. It will raise risk, reduce the diversity of farmers' output, and generally lower his/her income and welfare.

<sup>217</sup> Farmers not committed to agriculture would have already left. Historically, this has been the principal means by which extreme land fragmentation has been overcome in agricultural systems ranging from the United States, Europe, and North Africa. As more people leave agriculture (many by abandoning their holdings) the plots can be reorganized in ways that increase farm size (Dumont 1957; McPherson 1983). Vietnam is not at that point yet. Employment options for older farmers (especially women) with low levels of formal education are limited outside of agriculture.

<sup>218</sup> In October 2009, our team met with farmers displaced by land recall in Vinh Phuc and Ha Tay (now part of Hanoi). From their reactions and comments, these farmers view the loss of land as undermining their future livelihood. Most were unsure of what their future particularly since the authorities had not provided the service land that was supposed to be included in their compensation. Their options were to grow vegetables on their remaining land (even though it was in a designated rice area), have their wives engage in petty trade in Hanoi, send relatives out to find casual jobs, and produce commodities such as candles and incense (IPSARD 2009b).

<sup>219</sup> In personal communication, Professor Dwight Perkins, Harvard University noted that in China, land consolidation schemes have often been promoted by the well-connected as a means of giving them access to large tracts of land at the expense of small land holders.

<sup>220</sup> Bac Ninh introduced a program of "land swapping" in 1998 to encourage farmers to reduce the extremes of land fragmentation as a means of raising productivity (Economicnews.com, September 11, 2009). In Phu Tho, officials have induced farmers to combine their holdings so that aquaculture activities can expand ([www.baophutho.org.vn](http://www.baophutho.org.vn), March 6, 2008).

<sup>221</sup> Resolution 03/2000/NQ-CP dated February 2, 2000 promotes the development of commercial farms as a means of expanding output and modernizing agriculture.

<sup>222</sup> People's Army 2009

<sup>223</sup> The GSO reports that in mid-2008 there were 120699 commercial farms with the largest number (57483) in the Mekong Delta and the lowest (4423) in the Northern Midlands and Mountain Areas ("Number of farms by province" at [www.gso.gov.vn](http://www.gso.gov.vn)).

<sup>224</sup> Ravaiillon and van de Walle 2003; Pham Van Hung, MacAulay and Marsh 2007.

<sup>225</sup> Van den Broeck *et al.* (2007). An overview by IPSARD of land accumulation indicates that, especially over recent years, the number of farmers in Vietnam has not fallen significantly. Those who are leaving agriculture are the young and the very old. This shift in population is evident in the data provided by the GSO. In 2000, 62.5 percent of workers (23.5 million) were in agriculture, forestry and fisheries. By 2008, the share had dropped to 48.9 percent. This comprised 22 million workers. Since the rural population had increased from 58.9 million in 2000 to 62 million in 2008, there had been some significant reorganization of labor away from agriculture, forestry and fisheries. With total agricultural land of 21.5 million hectares in 2000 and around 25 million hectares in 2008, the area per agricultural worker had risen from 0.9 hectares to slightly above 1.1 hectares. This is important progress. Yet, with agricultural workers comprising half the workforce (and roughly the same size as the total urban population) the degree of consolidation and accumulation will need to remain measured. (Sources: GSO data Tables

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“Average population by sex and province”; “Employed population as of annual 1 July by ownership and by kind of economic activity”).

<sup>226</sup> This pattern has been evident in Europe, North America, and Latin America (McPherson 1982, 1983). A dynamic non-agricultural sector supports the transfer of labor out of agriculture. In the United States, for example, the process has been underway since the late 1920s when its rural population peaked. It had been underway in the United Kingdom from the latter part of the 19<sup>th</sup> Century. In Europe and Latin America, the process came later.

<sup>227</sup> Given that agricultural output has expanded at a far greater rate since 1995 (a total of 68 percent) than the increase in the land base (a total of 37 percent), Vietnam provides additional evidence of the point stressed by T.W. Schultz (1951) that the contribution of land to output declines in importance as economies modernize. This trend, solidly underway in Vietnam, raises questions about the efficacy of emphasizing land consolidation as a means of sustaining growth of agricultural output.

<sup>228</sup> The topic is land taxation. In practice, any tax on the use value of land will be levied on improvements, such as buildings, irrigation and drainage ditches, shelter belts, and so on. The analysis carries over to taxes on the value of these items as well.

<sup>229</sup> Most taxes on agricultural land were suspended in 2003; they are meant to be restored in 2010 (Le Huu Anh 2007). Yet, even before their suspension, their revenue yield was low.

<sup>230</sup> Rosengard and Do Ngoc Huynh 2008, p.7

<sup>231</sup> *Ibid.* See also “Vietnam: Statistical Appendix”, IMF (2007, Table 14, p.17)

<sup>232</sup> Reports in the local press (November, December 2009) suggest that the National Assembly has been paying more attention to land (and property) taxation.

<sup>233</sup> Data are taken from Rosengard and Do Ngoc Huynh (2008, Table 1) who, in turn, derived them from Bahl and Martinez-Vasquez (2007, p.17).

<sup>234</sup> Rosengard and Do Ngoc Huynh (2008, Table 2) based on Bahl and Martinez-Vazquez (2007, p.17)

<sup>235</sup> Rosengard and Do Ngoc Huynh (2008, p. 27) noted that even in HCMC where land and property markets have boomed the yield was minimal: “...only 6.3 percent of local regular revenue generated in 2004 came from annual fees and charges on the city’s greatest store of wealth, its rapidly appreciating stock of land and buildings.” Recent evidence from the Ho Chi Minh City website shows that land-related taxes still provide less than 7 percent of revenue.

<sup>236</sup> From 2001 to 2005, petroleum-related taxes yielded 25 percent of total government revenue. And, in 2005, State-owned enterprises (including oil) paid 82 percent of the corporate income tax, 49 percent of excise taxes, and 43 percent of the value-added tax.

<sup>237</sup> Auerbach 1998

<sup>238</sup> It is consistent with the benefit principle of taxation. With access to land limited, a land tax acts “...as a kind of social audit and performance standard of stewardship to promote equity towards those excluded” (Gaffney 1998). Vertical equity and the efficiency of tax administration are improved if low-value land holdings are exempted. In practice, this implies that only the largest farms would be taxed.

<sup>239</sup> The original meaning of “governance” (when traced back to Geoffrey Chaucer and Edmund Spenser) is “public administration.” That meaning fits the purpose here.

<sup>240</sup> IMF (2009, Table 1, p.21) Data relate to 2005 to 2008 with projections for 2009. Revenue and grants over that period averaged 27 percent of GDP. The budget deficit (including off-budget expenditure) averaged 4.8 percent of GDP. It was one reason why monetary growth has averaged 30 percent per annum over the last five years and the outstanding public and publicly-guaranteed debt is at “debt watch” levels (a World Bank term) of 47 percent of GDP. Relevant data for earlier periods are available in IMF (2007, Statistical Appendix).

<sup>241</sup> IMF (2009, p.4) “it will also be important to develop a long-term framework of revenue and expenditure management that will preserve fiscal sustainability. In addition to ongoing tax reforms, further efforts to broaden the tax base are needed.” See also Ishii (2009), Rosengard and Do Ngoc Huynh (2008) and IMF (2007, pp.12-16).

<sup>242</sup> Current projections suggest that Vietnam will begin to import crude oil within a decade. Data available in November 2009 show that total daily oil production was 314 thousand barrels, consumption was 281 thousand barrels, and net exports were 33 thousand barrels. Proven reserves have been constant, 600 million barrels, for the last decade. (Data source: Energy Information Administration <http://tonton.eia.doe.gov/country>.) Recent press reports confirm these reserve levels.

<sup>243</sup> As Rosengard and Do Ngoc Huynh (2008) note: “We are referring to an annual tax on the market value of land and buildings, not a one-time tax on assets or wealth such as an inheritance tax or a capital gains tax (usually part of the income tax) or a transaction tax on the transfer of land and buildings (usually part of a sales or value added tax).”

<sup>244</sup> Its “excess burden” is low (Auerbach1998; Shoven 1998).

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<sup>245</sup> Auerbach 1998

<sup>246</sup> Gaffney (1998) noted: “A land tax based on market value, not varying with actual use, is a fixed cost that sharpens marginal incentives.”

<sup>247</sup> Auerbach (1998); Gaffney (1998); Rosengard (2008, p.5)

<sup>248</sup> With or without the tax, governments typically find themselves on an expenditure carousel. After spending resources to upgrade urban infrastructure (e.g., transport, sanitation, drainage, and public amenities) designed to relieve pressure on existing urban amenities, the improvements attract additional migrants and further concentrates economic activity. The demand for additional infrastructure intensifies. A tax on land and buildings ensures that those who benefit from public facilities contribute to their expansion and upkeep. Rosengard (2008) reviewed how different taxes would help cover these expenditures.

<sup>249</sup> A third option is a decline in the level/quality of public services.

<sup>250</sup> This problem can be overcome by making the valuations a matter of public record. For example, in Massachusetts (USA), the value of every parcel of land is posted on each town’s website and is available in print for public inspection. Property values are re-assessed at the start of every year. (Information kindly supplied by the Assessor’s Office, Town of Belmont, Massachusetts, December 2009.)

<sup>251</sup> As noted, it is an object tax, not a subject tax (Auerbach 1998; Gaffney 1998)

<sup>252</sup> Material in this section will be supplemented by work by IPSARD staff on “climate change and land policy.” The discussion here of environmental issues focuses on the current approaches to environmental management in Vietnam and the threats and stresses that already exist. Constructively addressing these issues will provide a foundation to help the country to deal with the projected impacts of climate change as they emerge.

<sup>253</sup> A separate study would be needed to unravel the interacting mandates that each agency has with respect to land. MONRE is meant to manage land and administer environmental issues but the Prime Minister’s Office, and Ministries of Agriculture, Construction, Industry, Finance, and Planning as well as the security agencies and state-owned agencies, provincial and communal authorities have jurisdiction over land matters. As noted elsewhere, this jumble of overlapping mandates and prerogatives accounts partially explains the overall ineffectiveness and fundamental infeasibility of the present structure of land use planning and zoning.

<sup>254</sup> FAO 2000; de Jong, Do Dinh Sam and Trieu Van Hung 2006

<sup>255</sup> Vietnam has formulated and passed large amount of progressive legislation aimed at protecting the environment and improving environmental management (Dang Viet Khoa 1996; Do Nam Thang and Dang Kim Khoi 2009).

<sup>256</sup> A World Bank study showed that more than 35 percent of farmers had high levels of toxicity. This was the result of the indiscriminate and largely unregulated use of pesticides and insecticides (World Bank 2006).

<sup>257</sup> WEPA 2003; Tran Duc Thanh *et al.* 2004; Romanowicz 2007; Boa Anh 2008; VNA 2008; VietNamNet 2009; Minh Hung 2009. Professor Nguyen Viet Anh, of the Hanoi University of Civil Engineering’s Institute of Environment Science and Engineering reported in VietNamNet (2009) noted: “...rapid urbanisation and industrialisation were the main causes for increased waste and wastewater.” Ministry of Construction data show “...the country’s total amount of solid waste is estimated at 12.8 million tonnes per year, of which urban areas produce 7.2 million tonnes, accounting for 54 per cent.” Furthermore: “Current sewerage systems do not have the capacity to respond to wastewater and urban area run-off demands, industrial centres and agricultural land. The MoC estimates that only 6 per cent of urban wastewater is treated and the drainage service coverage is only 60 per cent.”

<sup>258</sup> This problem is not unique to Vietnam. It has been a feature of agricultural activity on the Nile Delta and Central Valley of California in the United States as well.

<sup>259</sup> In a presentation at the Fulbright School, Ho Chi Minh City, January 30, 2010, Peter Goldmark provided data showing that Vietnam had the highest growth rate of green house gases in the World during the first decade of this century (Goldmark 2010).

<sup>260</sup> Vietnam News “Industrial hub forced to get serious about rising waste” (February 2, 2010, p.4) highlights the problem of rapid industrial expansion that proceeds well ahead of the capacity to treat the discharges and handle the waste. (See also VietNamNet 2009.) Our discussions with provincial authorities in Vinh Phuc and Binh Dinh indicate that some delays are strategic. The fines for improperly treated effluents are significantly less than the costs of installing and operating waste treatment plants.

<sup>261</sup> Fuller 2007

<sup>262</sup> Examples include the Copenhagen Conference on Climate Change (December 2009) and the *World Development Report 2009, Development and Climate Change* (World Bank 2009). At the Economic Forum in Davos (January 2010), the Prime Minister referred to the potentially adverse effects of climate change on Vietnam’s agricultural output.

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<sup>263</sup> UNDP HDR 2008, Ch. 2; World Bank 2010, Ch. 2

<sup>264</sup> Mydans 2009; Tran Nhu Trung 2009

<sup>265</sup> Do Nam Thang and Dang Kim Khoi (2009) review the basic approaches used by the Government (particularly the enactment of legislation and promulgation of regulations) to address environmental challenges and climate change. Their discussion shows that while Vietnam has passed many path-breaking laws related to the environment, there are major gaps and lags in effectively monitoring and enforcing environmental regulations.

<sup>266</sup> The Government's emphasis on reforestation and forest protection continues. A conference in Hanoi (reported in Viet Nam News, "Forests hold poverty solution", Viet Nam News, February 3, 2010, p.2) stressed the role of forest protection in poverty reduction and the generation of environmental services. At the conference, it was announced that Vietnam has a goal of expanding forest cover to 40 percent of the land area.

<sup>267</sup> See: "Export markets dwindle over Vietnam chemical-tainted seafood". Ha Noi Young Business Association. Available at: [http://www.hanoiba.org.vn/english/0/hyba\\_details.aspx?DataID=3202](http://www.hanoiba.org.vn/english/0/hyba_details.aspx?DataID=3202). Assessed on 02/08/2007.

<sup>268</sup> Pomerantz 2007; World Bank 2009; VietNamNet 2009a; Tuoi Tre 2010

<sup>269</sup> Farmers require less fertilizer on their rice since the residue from shrimp provides organic matter. The shrimp, in turn, require less supplementary feeding because some of their nutrition comes from the rice crop residue (Le Thanh Phong *et al.*, 2007).

<sup>270</sup> Romanowicz 2007; Tuoi Tre 2010. This point is underscored by the large amount of untreated effluents that are discharged by the major cities and ultimately affect down-river activities. Some evidence is given in note 257 above. A further example: "According to Hanoi Natural Resource and Environment Department, every day the total amount of urban wastewater discharged is 500,000 m<sup>3</sup>, of which 100,000 m<sup>3</sup> is from industries, hospitals and other services. Only 8-10 per cent of the amount is treated in four newly built wastewater treatment plants with total capacity of 48,000 m<sup>3</sup> per day." (VietNamNet 2009).

<sup>271</sup> There is a tragedy of the commons emerging with respect to the Mekong River as well. Each country is extracting larger amounts of water and polluting the river with little concern for other users (Phuuc Buu 2010).

<sup>272</sup> Panayotou 1995; Vincent and Gillis 1998; Bauman 2004; Vincent and Sivalingam 2006

<sup>273</sup> Do Nam Thang and Dang Kim Khoi 2009; Mydans 2009

<sup>274</sup> That is, average earnings are less than \$1.25 per day, adjusted for purchasing power parity.

<sup>275</sup> In some provinces, this "mining" is aggravated by the uncontrolled extraction of coal, gold and other minerals on designated farm land referred to earlier.

<sup>276</sup> See: "Land consolidation: worry about the short term lease", Phap Luat Online. Available at:

<http://www.agro.gov.vn/news/newsdetail.aspx?targetid=13276>. Accessed 03/27/2009. This article argues that no farmer is interested in investing when the land lease is so short. As Mr. Hoang Kim Giao, Head of the Department of Livestock and Husbandry noted: "The investment on a husbandry farm is very big, especially on the environmental treatment system. If farmers can only lease the land for a short period, they won't invest their money on their land".

<sup>277</sup> It also leads to the over-construction of reservoirs and dams, with their consequent environmental effects, to meet the excess demand for irrigation water.

<sup>278</sup> Romanowicz 2007. The inter-linking of fish ponds with other irrigation activities often creates adverse effects. Antibiotic- and other pollutant-laden effluents from the fishponds drain into rice fields undermining the productivity of these activities. "Aquaculture threatens the water source". Available at:

[http://www.vfej.vn/vn/chi\\_tiet/18620/nganh\\_nuoi\\_trong\\_thuy\\_san\\_de\\_doa\\_nguon\\_nuoc](http://www.vfej.vn/vn/chi_tiet/18620/nganh_nuoi_trong_thuy_san_de_doa_nguon_nuoc). Accessed 09/30/2009. A

further problem is the increased soil salinity which precludes rice growing. See:

<http://www.tuoi-tre.com.vn/Tianyon/Index.aspx?ArticleID=112836&ChannelID=3>. Appropriate soil husbandry practices would require rotations to leach the salt out of the soil.

<sup>279</sup> See: "Report from Mekong Delta: environmental pollution caused by catfish", Tuoi Tre online. Available at:

<http://www.tuoi-tre.com.vn/Tianyon/Index.aspx?ArticleID=198998&ChannelID=126>. Accessed 04/29/2009. On average, each kg of catfish creates 4 kg of waste which is dumped into the surrounding environment. It is estimated that in 2007, roughly 4 million tons of waste were discharged into the environment from the catfish ponds. The article reported a statement by Mr. Nguyen Van Thanh, Director of An Giang Seafood Department: "Most of the catfish rearing households have no sewage treatment ponds for treating the intake water before it goes to the fish ponds and the waste before it goes to the irrigation canals or rivers."

<sup>280</sup> World Bank (2007, Ch.8) has guidelines to improve monitoring and oversight.

<sup>281</sup> A report by the Industry Policy Research Institute pointed out that "...119 of the country's total of 183 industrial parks do not have dedicated waste treatment systems. In addition, in urban areas, only 60-70 percent of solid waste is collected and processed" ("Environmental pollution raises alarm," VietNamNet, December 5, 2008; See also Romanowicz 2007).

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<sup>282</sup> Studies show that groundwater in the Mekong Delta has a high arsenic content (Benner *et al.*, 2008; “Water shortage could spell doom in the south,” *LookAtVietnam*, November 14, 2009). The rapid pumping of groundwater is leading to product contamination and increasing rates of chronic arsenic poisoning in the population.

<sup>283</sup> International experience has shown that engaging local groups in efforts to manage environmental resources and rewarding them for their efforts are far more effective than the promulgation of rules and directives that undermine their livelihoods (World Bank 2000, pp.82-85; Morley and Coady 2003). In view of the Government’s emphasis on social harmony, this approach would be constructive. It would seek to induce local groups to pursue their livelihoods in ways that are economically rewarding, socially equitable, and environmentally sustainable. Since one of the principal reasons why local groups “mine” environmental resources is poverty, conditional cash transfers may be needed and, where appropriate, would prove useful in generating the desired behavior. The latter is an extension of the law and economics approach. Regulations do not work on a sustainable basis when they cut across the interests (including survival) of affected groups. Income supplement (such as conditional cash transfers) or welfare-enhancing improvements in local infrastructure would reinforce the behavior the regulations are seeking to influence. The outcome would be a reduction in poverty and the patterns of resource use that are environmentally sustainable.

<sup>284</sup> The recent World Development Report “Environment and Development” (World Bank 2010) noted that the historical evidence is compelling. Rising income and improving welfare provide countries and their populations with the expanding “capabilities” to respond appropriately to environmental issues.

<sup>285</sup> Dang Hung Vo 2009

<sup>286</sup> VDR 2010

<sup>287</sup> Resolution 31/2009/QH12

<sup>288</sup> Dang Kim Son, IPSARD 2008 Dang Hung Vo 2009

<sup>289</sup> Whether these activities are good or bad for the individual – smoking, driving at high speed, saving a fixed share of income every week, exercising regularly – is not the issue. The policies change the benefits/costs of whatever happens to be the preferred activity.

<sup>290</sup> The Ministry of Natural Resources and Environment faces significant trade-offs. It is required to ensure that land is used but the environment is preserved; that land is converted “cheaply” to stimulate economic growth but that appropriate investment is made to reduce adverse environmental impacts; and that land is used efficiently and economically but that the “needs” and “requirements” of all competing government entities are met.

<sup>291</sup> A similar exercise with respect to land use planning and zoning would reveal that there are few incentives for authorities to be overly systematic in their approaches. Despite what appear to be relatively rigid provisions related to land use planning and zoning (noted earlier), the law also allows all administrative level to adapt and amend its land use and zoning plans without significant cost or consequences. Under these circumstances, the default option becomes regular adaptation and modification.

<sup>292</sup> By contrast, when farmers are provided with an opportunity to contribute land in the broader public interest (for roads, schools, clinics) they regularly participate.

<sup>293</sup> An example is Phu Quoc where major tourist development is displacing locals land use holders. Difficulties have arisen over compensation, the pace of development, unused land among others (Tran Dinh Thanh Lam 2006; LAV 2009; VNS 2010).

<sup>294</sup> Those terms, indeed, are favorable. Most investors can gain access to land for a one-time up-front fee. The law (Decree 69, Article 13) states: “Regarding land rented out by the government in conditions of one payment for the entire life of rent contract, the payment made is equivalent to cases that land is allocated with land use right fees for the entire duration.” This arrangement is a generous subsidy since the computation is based on historical land use fees. These are already low. As a result the enterprises paying the up-front fee, effectively, are guaranteed a large capital gain for the time they hold their lease.

<sup>295</sup> Our team heard this from officials in every province we visited.

<sup>296</sup> VOVNews 2005; Tran Dinh Thanh Lam 2006; GAN 2009; ASM 2009.

<sup>297</sup> IPSARD (2009). Farmers interviewed by our team stressed the need for access to service land. This would provide them with a location on which to start a new business and with property they could hand to their heirs. Yet, as illustrated by site visits in Vinh Phuc, service land has little value if the industrial park remains undeveloped.

<sup>298</sup> The Government of Vietnam has been widely praised for the progress made in poverty reduction. The decline in poverty has been accompanied by significant increases in inequality (World Bank *World Development Indicators* 2003, Tables 2.6, 2.8 and 2009, Tables 2.8, 2.9).

<sup>299</sup> Few alternative uses for this land have been found although some administrations (especially in Ho Chi Minh City and Hanoi) are beginning to aggressively reassess idle land (Minh Nam 2009; Le Hung Vong 2009; Thanhnien

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Daily 2009); VietNamNet/VNS 2009. Other efforts reports in the press include “Many State conglomerates leave millions of square meters idle,” VNEconomy, November 10, 2009; “1200 “hanging” projects all over country,” VNEconomy, May 26, 2009

<sup>300</sup> This disruption would be fully offset if the compensation farmers received were equivalent to the amounts they would have voluntarily accepted to sell their land use rights and exit agriculture. This did not occur. Accordingly, from the farmers’ perspective, the gains in GDP do not cover the individual costs of displacement and the social costs associated with losing rural livelihoods.

<sup>301</sup> The survey by the Industrial Policy Research Institute noted that 119 out of the country’s 183 industrial parks “do not have dedicated waste treatment systems. Do Ram Thang and Dang Kim Khoi (2009) noted that waste treatment plants were often only working when environment inspectors arrived for pre-announced visits. At other times the effluent was simply dumped or left untreated.

<sup>302</sup> The macro/micro focus on the effects of taxation, and tax policy, is from Tanzi and Zee (2000). They note: “The study of tax policy is concerned with the design of a tax system that is capable of financing the necessary level of public spending in the most efficient and equitable way possible.”

<sup>303</sup> Vietnam regularly raises significantly more revenue as a share of GDP than comparator countries, including its neighbors. For example, in 2007 lower middle income countries generated on average 16.2 percent of GDP in revenue; for East Asia and the Pacific countries the share was 11.6 percent (WDI 2009, Table 4.10, p.242). For Vietnam, revenue was 27.2 percent of GDP in 2007 (IMF 2009, Table 3). But, as Tanzi and Zee (2000) note, it is not the level of revenue that matters for macro purposes, it is the relationship between revenue and expenditure and its impact on money creation, credit, debt, the balance of payments and the exchange rate.

<sup>304</sup> According to the IMF (2009, Tables 1 and 4) public investment has been approximately 10-11 percent of GDP; overall investment has been roughly 35 percent of GDP. Much of the “private” investment is undertaken by SOEs, the activities of which the IMF noted there is little information (see IMF 2009, pars. 31, 32, 42).

<sup>305</sup> Some indication of the extent of the growth in credit can be seen in the *International Financial Statistics Yearbook, 2008*, pp.681-682. Net claims on the Government increased from VND 3.9 trillion in 1996 to VND 32.3 trillion, at 10-fold increase in just over a decade. The “claims on the rest of the economy” (which includes the state-owned enterprises) increased from VND 50.8 trillion in 1996 to VND 1068 trillion in 2007, a twenty one-fold increase. With real income growing at around 7 percent per annum, equivalent to a doubling of real output/income over 11 years, there has been a major imbalance between the availability of credit and the rise in real output. Consequently, there is no mystery why consumer prices have doubled, the exchange rate has depreciated sharply, the balance of trade remains chronically in deficit, foreign debt is high relative to GDP, and there has been over-exuberance in markets for equities, land, and real estate.

<sup>306</sup> Ishii (2009) made this point at the December 2009 Consultative Group meeting.

<sup>307</sup> Some of this loss in revenue was voluntary due to the suspension of several land taxes in 2003 (Le Huu Anh 2007).

<sup>308</sup> In personal communication, Jay Rosengard noted: “public investments create private windfalls.”

<sup>309</sup> Constitution of Vietnam 1992, Chapter II, Article 15.2

<sup>310</sup> This remains true even though the emphasis has shifted over time. Griffen (1973) examined differing “styles” of rural development referred to as technocratic, reformist and radical. The World Bank has emphasized poverty alleviation through technological adoption and rural market expansion (IDA 2008). The Food and Agricultural Organization of the UN underscores the importance of raising incomes, increasing food supplies and improving nutritive status (FAO 2006). Others, such as DFID, have promoted a livelihoods approach as a means of improving rural incomes and welfare (Krantz 2001). The Rome conference on food security and the Copenhagen summit on climate change have focused attention on promoting methods of raising food supplies in an environmentally sustainable manner.

<sup>311</sup> Butterfield (1977) noted that rural development “is not an end state, but a process by which the rural population of a nation improves its level of living on a continuing basis.” He defined “effective rural development” as comprising: “(1) rising levels of output and living; (2) a degree of organized, disciplined participation by the rural poor in planning, implementation and evaluation; (3) national policy focus on the small, labor-intensive producer as the economic engine of development; (4) systematic provision of improved technology plus appropriate physical infrastructure, and (5) organized links between farms, villages, market towns, and provincial centers.”

<sup>312</sup> This is consistent with the broader (recent) rural development literature which pays detailed attention to agricultural R&D, irrigation, education, roads, telecommunications, electricity, soil and water management, crop protection, inclusive growth, food security, and environmental management. A key lesson from international experience is that for rural development to be effective, the agenda needs to be consistent with implementation

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capacity. This has been a major challenge in Vietnam. Many local organizations have been unable to implement the programs as intended (Bui Ba Bong 2004; Fan 2005; World Bank 2005).

<sup>313</sup> World Bank 2007, Ch.2

<sup>314</sup> Krishna (2004) discussed why some groups emerge from and other groups fall into poverty. Families escaped poverty through increased access to resources, information/training which raised their productivity, and diversification of income sources. Families that fell into poverty had exhausted their reserves (and therefore lost their ability to cope) through misfortune (drought, ill-health, loss of family head), rising debt, and rising costs of social/customary obligations. Krishna's principal finding is that these separate dynamics occur even as public-sector poverty reduction programs are being implemented. A basic conclusion is that it is essential for poverty reduction programs to focus on increasing productivity and incomes *and* preventing vulnerability.

<sup>315</sup> World Bank 2005

<sup>316</sup> MARD 2005, 2005a

<sup>317</sup> A critical element is to empower women through improved communication, the provision of relevant information, and the formation of organizations that support women's activities (Agnét 2008).

<sup>318</sup> Notwithstanding Vietnam's impressive growth record over the last two decades, the country is not growing at its potential, particularly in view of the efficiency gains available as it shifts away from central planning. The principal evidence is the general inefficiency of investment. Over the period 1990 to 2007, the average investment rate was 35 percent of GDP and Vietnam's GDP increased by approximately 7.8 percent per annum. Comparable data for China (with 15 times Vietnam's population) were 42 percent and 10.2 percent respectively. (Data are from World Bank 2009, Tables 4.1, 4.8). That is, capital was used in China an average of 20 percent more efficiently than in Vietnam. Vietnam's relative productivity matched that of Thailand and Indonesia but was behind that of Malaysia and Cambodia. Keeping up, let alone "catching up" will be out of the question unless overall efficiency improves.

<sup>319</sup> Kremer 1993; Johnson 2000

<sup>320</sup> Lindholm 1959

<sup>321</sup> Wolf 1979, 1988

<sup>322</sup> This confusion has its roots in genuine misconceptions regarding the difference. Strategic factors also apply. This was evident in our discussions with officials in Ha Tay, Binh Dinh, An Giang, Vinh Phuc, and Thai Binh. The only place where officials took the difference into account was Binh Duong.

<sup>323</sup> Quinn (2002, pp.266-280) noted that farmers who object to the compensation offered risk having their behavior criminalized.

<sup>324</sup> The Minister of Natural Resource and Environment, Mr. Pham Khoi Nguyen seems to be an exception. Responding to the question "How can we reclaim land and ensure the normal lives of farmers?" he noted: "I can say that farmers are the biggest sufferers in the state taking back land. Farmers do not have other ways to earn their living than tilling fields and they need land. Until now, the state has only calculated the actual value of the land to compensate farmers for taking back land, while it has not considered the invisible value of land. Therefore, post-land taking issues like building settlement urban areas, schools, hospitals, and creating jobs must be done before taking back land" ("Vietnam must reserve land for rice fields: minister," Kim Toan, *VietNamNet*, May 7, 2008).

<sup>325</sup> As already noted, the exception is Binh Duong. The compensation package offered when land is recalled is specifically designed to provide farmers with a "sustainable livelihood" away from farming. (Information provided by provincial officials in Binh Duong July 2009.)

<sup>326</sup> This is often referred to as the "cost" of the commodity or as Pearce (1989, p.84) noted "...a measure of what must be given up in order to obtain something whether by way of purchase, exchange or production." The use of price paid as cost of exchange is distinguished from "opportunity (or economic) cost" below. An alternative definition is provided by Brody (1998, p.957) who referred to "prices and quantities." They are "...readily observable attributes of commodities (goods and services produced for exchange in the market). Both price and quantity relate to a unit (piece, bushel, barrel, pound etc.) established usually by commercial practice as a customary unit of reckoning."

<sup>327</sup> "The price of a good or input shows what has to be given up [in cash and kind] in order to obtain it" (Pearce 1989, pp.336). Price simultaneously serves two functions: it reveals what the seller is willing to pay to acquire the good or service, and the value it represents to (or costs) the seller to part with it.

<sup>328</sup> "The opportunity cost of an action is the value of the foregone alternative action." (Pearce 1989, p.310)

<sup>329</sup> Pearce 1989, p.84. Buchanan (1998, p.721) wrote that opportunity cost is the "value of opportunities forgone as a result of choice in the presence of scarcity." It measures the opportunities/alternatives "missed, foregone, or sacrificed" by deciding on one course of action rather than another. He emphasized that opportunity cost exists only up to the point of decision. After the decision, the lost opportunities are "sunk costs." They may cause regret but as



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Buchanan notes “post-choice consequences can never be capitalized.” Nonetheless, the consequences (whether regret or relief) can be a source of learning. This explains why Vietnamese farmers regularly hold out for higher compensation rather than accept what is initially offered.

<sup>330</sup> If the land is not recalled, the benefit to the farmer and society is the agricultural output (flowers or vegetables in this example). The benefit primarily accrues to the farmer although it has an explicit social benefit of providing a farm family with income and/or food. If the land is recalled, the farmer has no production and therefore no benefit. The social benefit is derived when the land as the land is developed to provide infrastructure, residential, industrial, or environmental services.

<sup>331</sup> This is reinforced by the Government’s practice of “exchanging land for infrastructure.”

<sup>332</sup> This view was repeated in discussions with DONRE officials in Thai Binh, Vinh Phuc, Ha Tay, and An Giang. In Binh Dinh, officials noted that plenty of forested/upland areas could be conveniently converted without recalling rice land. Binh Dinh has been developing a “green-fields” economic zone which involved no displacement of farmers. The situation in Binh Duong has been described already.

<sup>333</sup> MONRE regularly records and reports the number of formal land disputes in Vietnam. These have increased rapidly over recent years.

<sup>334</sup> While it may not require families to break up, it often involves farmers’ wives engaging in vending and hawking activities and husbands migrating to an urban area to find casual work, often in construction. In the poorer households, children have to leave home to find employment. (This information came from field visits in Ha Tay, Vinh Phuc, Thai Binh, and An Giang. In Binh Duong, compensation is more generous which diminishes the adjustment costs for families. In Binh Dinh, much of the land recovered is unused so displacement has been minimized.)

<sup>335</sup> As Nobel Laureate, Sir John Hicks noted: the greatest monopoly rent is an easy life (free of competition).

<sup>336</sup> Ngo Viet Hung (2007, Table 3) provided data on the number of farmers displaced during land recall. He showed that for “industrial zone development nationwide” MONRE data up to December 2004 indicated that 29,214 hectares had been recalled for 132 Industrial Zones and 60 Industrial Clusters 100,256 households had been affected. They had a total of 408,698 members. That amounts to 14 household members per hectare of recalled land.