

An innovative and inclusive model for drafting laws First Tourism Law in Vietnam

Vietnam



Tourists

connected with

Local communities

Tourism in Vietnam is recognized for its contribution to the national economy. In 2002, the Vietnam National Administration of Tourism contacted the World Tourism Organisation for assistance in drafting a law to give more guidance to the sector. SNV was called in to advise on relating sustainable tourism to poverty reduction, linking to national development objectives and the Millennium Development Goals.

The newly passed law aids poverty reduction by obliging the tourism sector to support local management and employment. The law also puts rules in place for and the conservation of natural and cultural heritage. The ongoing drafting of under-laws provides the challenge to translate the good intentions of the law into real opportunities for poorer people to share in the benefits of the booming sector.

Liberalising the economy

Vietnam is a densely populated country that in the last 30 years has been recovering from the ravages of war and the rigidities of a centrally planned economy. The government introduced elements of market forces and private enterprises in 1986 and has continued to liberalise the economy since then, implementing structural reforms to modernise the economy and produce more competitive export-driven industries.

Despite these measures to generate growth, Vietnam is still a largely agricultural country, with more than two-third of the workforce employed in the sector. Almost 20 percent of the population, mostly in the rural areas, still lives on less than a dollar a day. The country's wealth is concentrated in the major cities, where the consumer market is growing, fuelled by the appetite of a young middle-class for mobile phones and luxury goods.

Netherlands

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Tourism as an engine for growth

The tourism potential of Vietnam is unquestionable: beautiful beaches, islands, caves, water resources, and many untouched natural landscapes. A rich history and culture features historical and architectural remains, sophisticated forms of arts and handicrafts, and the colourful and fascinating customs and lifestyle of over 50 ethnic minority groups.

Vietnam has experienced remarkable growth in the tourism sector over the last 15 years, with average annual growth rates of 24 percent for international tourist visits. The country hosted 200,000 international tourists in 1990, a number which grew to 2.9 million in 2004.

The Strategy for Tourism Development in Vietnam 2000-2010 is focused on more investment in tourism to create highly competitive tourism products and to improve the quality of tourism services. The goal is to attract 6 million foreign tourists and 23 million domestic tourists by 2010, with estimated revenues of 4.4 billion U.S. dollars, which is 12 per cent of the total GNP.

Furthermore, the Vietnamese government has expressed its intention toward the "socialisation of tourism", a strategy to make tourism more accessible to a wider range of the population and to spread the benefits of tourism more broadly over regions and social groups.

The need for advice

The rapid growth of tourism has raised concern over the unsustainable use of tourism resources: ranging from environmental degradation resulting from large-scale beach resort developments, to cultural appropriation in rural areas, to overcrowding at historical sites.

Since 1999, the sector has been governed by a Tourism Ordinance, which has been effective in promoting tourism growth but is regarded as no longer adequate to manage the complex demands. The Vietnam National Administration of Tourism (VNAT), the government body responsible for all tourism related matters, was given the task to create a new legal framework that addresses the growing need to regulate the booming sector.

Ensuring sustainable need growth of the tourism sector requires strong and comprehensive legislation that provides appropriate management of the business sector, efficient roles for the government, empowerment and fair opportunities for disadvantaged people, and protection of the natural and cultural heritage. Recognising their lack of legal expertise and manpower to address all of the above concerns, the VNAT requested external assistance for the law drafting process in early 2003. Both the World Tourism Organisation (WTO) and SNV Vietnam were approached for advice.

Pro-Poor Tourism is an approach to tourism in which the sector's benefits are specifically directed towards the poor.

Tripartite arrangement

The WTO is the United Nations organisation that launched the concept of "Sustainable Tourism as an effective tool for Eliminating Poverty" (ST-EP), which is the initiative of the global tourism industry to contribute to the Millennium Development Goals. SNV was invited by VNAT and WTO to act as intermediary and facilitator in drafting the law. For all three partners, it was an interesting challenge to integrate the new concepts of sustainable and pro-poor tourism into a legal framework. For the first time, the WTO had engaged in a tripartite working arrangement with a local institution and an international NGO.

In the law drafting process, the VNAT was responsible for overall coordination, including the facilitation of communication between relevant ministries. The WTO used its legal and technical knowledge and expertise to support the drafting and review of the text to ensure that international standards and requirements of the industry were met. SNV facilitated the proposed multi-stakeholder process. It provided advisory services and training in the areas of sustainable tourism, poverty reduction, natural resource management, local governance and gender. SNV also worked on adapting international standards and global best practices to the national and local development contexts.

Consultations and stakeholder reviews

The VNAT and SNV were together responsible for developing an action plan, including an eight-phase process for drafting the tourism law. The most innovative parts of the process were the third and fourth phase that comprised of consultations, information gathering and stakeholder reviews.

In the third phase, members of the Steering Committee (14 vice-ministers) and the Law Drafting Committee (directors of the legal departments of 14 ministries) were invited for study tours in three representative regions. The government officials were encouraged to discuss with a broad range of tourism stakeholders so they could benefit from direct exposure to the regional variances in tourism development throughout Vietnam. More than 30 focus group meetings and interviews were arranged with at least 150 representatives from all corners: provincial and district government bodies, destination management boards, community-based tourism groups, local organisations, tourism training institutes, and of course the business sector, including tour operators, transportation companies, travel agents and hoteliers.



In the fourth phase, three regional workshops were organised in which more than 200 representatives of district and provincial government agencies and people's committees, as well as the private sector, participated. They gave their comments, contributed ideas, and posed questions to members of the Drafting Committee and ministerial representatives on the future law. The two phases resulted in an extensive dialogue consistent with the intended policies of the government for decentralisation and private sector consultation. It laid the foundation for a draft law to be adequately comprehensive yet regionally relevant.

The eight phases of the drafting process

Phase 1

Fact-finding, meetings and agreement on action plan, November 2003

WTO consultant familiarises with the Strategy for Tourism Development, the politico-legal environment in which the tourism sector (public and private) operates, and the existing and proposed legal framework. VNAT and SNV organise a workshop to explain international tourism law concepts, best practices and localised development issues relating to tourism.

Phase 2

Redrafting the tourism law, December 2003

WTO consultant prepares a new draft law based on the discussions in Phase 1. Draft law contains a set of alternative provisions and a detailed commentary to assist the Law Drafting Committee in their review of these provisions.

Phase 3

Gathering information and identifying legal framework, April 2004

SNV organises and facilitates three regional study tours for Steering Committee members to gather information and develop understanding of the existing legal and administrative context in which local public and private in the tourism sector operate.

Phase 4

Regional workshops, April 2004

SNV organises and facilitates three regional workshops to review and seek input for the draft law. An extensive dialogue engages between government officials and a wide a spectrum of relevant stakeholders.

Phase 5

Preparation of interim report and review, May 2004

WTO consultant prepares a draft report on the existing legal framework, the criteria for best practice and comprehensive proposals for change. VNAT and Drafting Committee review consultant's report and share with relevant authorities and stakeholders. SNV supports Drafting Committee in the review.

Phase 6

Workshop on international best practices, November 2004

National workshop for officials of VNAT and

representatives of the Drafting Committee on international best practices, as well as maintaining quality standards, enforcement and inspection. Committee reviews, considers and incorporates applicable elements of the best practices and adds final comments. Workshop organised by VNAT and facilitated by SNV.

Phase 7

Round table presentation, December 2004

Presentation of the draft law to the Steering Committee to obtain comments and overall consensus. Forum organised by VNAT and facilitated by SNV.

Phase 8

Submission of Draft Tourism Law, January 2005

Submission of final draft of Tourism Law to the National Assembly for consideration and approval during their sitting in June 2005.

Beyond earning foreign exchange

Early in 2005, the final draft of the Tourism Law was submitted to the National Assembly and was successfully passed in June 2005, making tourism legally recognised as a multi-dimensional tool for development that goes beyond earning foreign exchange.

The law contains specific chapters and articles providing local communities and individuals with enhanced opportunities to engage in tourism activities (planning, implementation, investment, management) and thereby be better positioned to receive a more equitable share of the benefits. Tourism developers are held to support local economies and employment (local artisans, handicraft producers and tour guides) and are urged to respect and conserve both natural and cultural heritage in their designs. Furthermore, guidance is given for investment in new tourism products. This means enhancing competitiveness and diversification of tourism in remote, mountainous and ethnic-minority areas.

The new law also addresses the impact of tourism on the environmental resources. Resource inventories are made mandatory and will be based on carrying capacity estimates. This provision directs local tourism resource managers to consider the long-term consequences of tourism development.

Rights and obligations of proprietors and organisations managing tourism resources have been spelled out. The inter-ministerial jurisdiction and sectoral linkages of tourism are better clarified than in the previous tourism ordinance, with the aim to improve cooperation between ministries as experienced throughout the drafting process. Local communities and people's committees can take on stewardship in tourism resource management and be involved in tourism enterprise.

These are all important provisions in the context of decentralisation and privatisation and are a reflection of Vietnam's overall process of economic and administrative reform. Where the earlier tourism ordinance could more easily be appealed and amended, the new law has more "teeth" for effective enforcement.

Solid foundation for implementation

At the outset, the VNAT was somewhat sceptical of the benefits of consulting many different stakeholders. Once this proved beneficial, the VNAT committed itself to the process. This enhanced its position and respect in relation to more influential ministries and the National Assembly. The legal department of the VNAT has increased its knowledge on sustainable development and poverty reduction, and has strengthened its capacity in process planning and facilitation for drafting laws.

Since the pro-poor approach was new, SNV had to raise awareness to bring this issue on board and in line with the process. Eventually, these efforts were much appreciated, and the pro-poor elements of the law received a great deal of support and publicity. A clear link was made to the National Development Plan and Vietnam's Millennium Development Goals, by making provisions for socio-cultural conservation and disadvantaged communities, in particular ethnic minority groups.

During the study tours and stakeholder workshops, many participants expressed their appreciation for the opportunity to provide comments and inputs, and government officials gained crucial insight into regional issues. Combining the inputs gathered from a broad range of stakeholders was critical in the law drafting process and created a sound foundation for future compliance and implementation of the law.

Translating macro law to meso-level guidelines

Recently, the VNAT has requested that SNV offer follow up support in writing the “under-laws” to the Tourism Law. The challenge is to develop a set of guidelines that will translate the good intentions of the law into real opportunities for poor people in disadvantaged communities to further benefit from tourism development. The under-laws are expected to be completed by mid-2006.

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Web resources

www.propoortourism.org.uk
www.responsibletravel.com
www.vietnam-tourism.com
www.world-tourism.org

Literature/References

National Assembly of Vietnam (June 2005)
Law on Tourism (English translation)

SNV Asia (May 2005), Strategy for pro-poor sustainable tourism in Asia

WTO (2004), Tourism and Poverty Alleviation; recommendations for action

WTO-UNEP (September 2005), Guide on Making Tourism More Sustainable

SNV is dedicated to a society where all people enjoy the freedom to pursue their own sustainable development. Our advisors contribute to this by strengthening the capacity of local organisations.

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