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Sustainable Public Procurement Preparedness Assessment

Findings: Opportunities & Hurdles

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INTRODUCTION



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- **Aims and Objectives of the Study**
 - **Understand the procurement process in Vietnam at different levels for 3 types of procurement: goods, service, and constructions**
 - **Review the prevailing legislative framework on sustainable development**
 - **Identify opportunities and hurdles for enabling SPP in Vietnam**

INTRODUCTION



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- **Aims and Objectives of the Study**
 - Review the timber industry in Vietnam and the extent to which it could serve as a entry point to introduce SPP
 - Make recommendations on legislative, regulatory or soft way upgrades that may be needed to support and promote SPP
 - Define potential Government and non-Government stakeholders that would provide leadership in promoting SPP in Vietnam

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **State Budget Planning**

- Law on State Budget No. 01/2002/QH11 (Chapter II)
- Lower government administrative agencies submit their next year spending plan to their seniors
- Ministers and heads of ministerial agencies, chairman of cities' and provincial people's committees submit their next year spending plan to the Ministry of Finance
- The Ministry of Finance submit general plan to the Government
- The Government submit general plan to the National Assembly in the year end session for review and approval

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Assets and Merchandise**
 - Law on Procurement No. 61/2005/QH11
 - There are 7 methods for public procurements depending on the characteristics of procurements
 - There are 10 steps for bidding (applied to methods public bidding and limited bidding)

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Assets and Merchandise**
 - **Circular 63/2007/TT-BTC issued by the Ministry of Finance and then amended by Circular 131/2007/TT-BTC: instructions on bidding and procurements for assets for regular operations of state agencies**
 - **These two circulars authorize the purchasing power to specific levels of state administrative agencies**
 - **Authorized agencies can decentralize procurement plan to their subordinates offices**
 - **The subordinate offices then are responsible for the procurement plans under authorized and assigned budget**

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Assets and Merchandise**
 - A subsequent legal instrument for the two circulars: **Decision No 179/2007/QD-TTg by the Prime Minister to enforce regulations on organizing procurement (of assets and merchandise) using state budget following a centralizing method which is in opposition to the decentralizing method guided by the two above circulars**

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Assets and Merchandise**
 - **Decision No 179/2007/QD-TTg on centralized purchasing**
 - **Purchasing plan must be done at the highest level of authorization to minimize purchasing costs, standardize technical specifications, and avoid corruptions at many levels of implementing, and towards better control of budget spending:**
 - Procurement at Ministries and all of its subordinates must be done at one single body appointed by the Ministers;
 - Procurement at each province and all of its subordinates must be done at one single body appointed by the chairman of the PPC

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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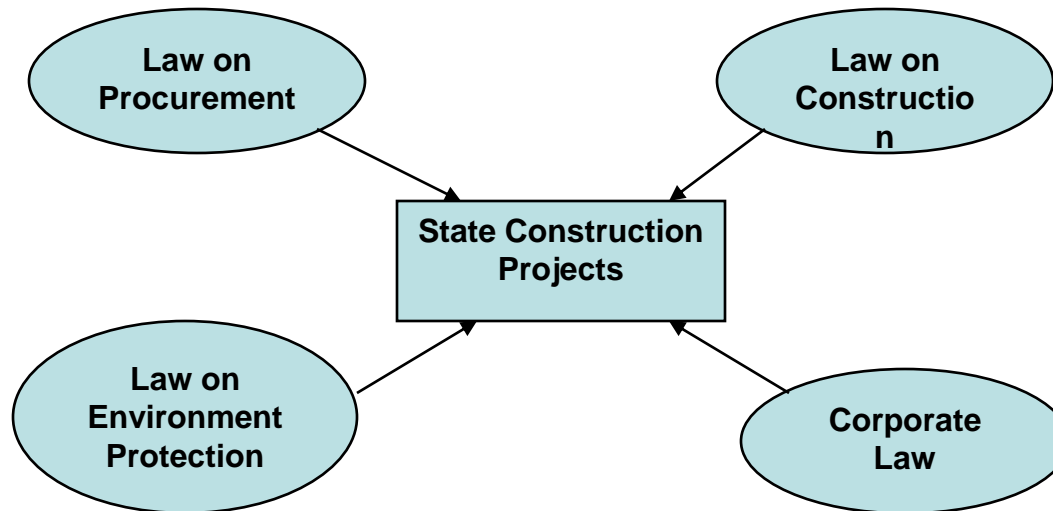
- **Public Procurement of Assets and Merchandise**
 - **Decision No 179/2007/QD-TTg on centralized purchasing**
 - **There are little efforts by the Ministries and PPCs to follow.**
The reasons are:
 - The Ministries and PPCs have been following decentralizing budget spending for many years
 - This decentralizing method is very convenient in budget management, and makes the procurement of assets and merchandises more closed to the needs of the users
 - It is inefficient if the authorized buying agency who has the right to make purchasing decisions is different from the end using agency.

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions**



HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions**
 - Law on Construction No. 16/2003/QH11 year 2003
 - Corporate Law No. 60/2005/QH11 year 2005
 - Law on Procurement No. 61/2005/QH11 year 2005
 - Law on Environment Protection No. 52/2005/QH11 year 2005

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions**
 - Decree No 111/2006/ND-CP dated 29th September 2006 to instruct on implementation of Law on Procurement and selection of contractor in accordance to the Law on Construction
 - This Decree then is replaced by Decree No 58/2008/ND-CP dated 5th of May 2008
 - According to Decree No. 58/2008/ND-CP (Chapter II, III, IV): there are 12 steps in a bidding plan for a work or construction spending state budget

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions**
 - According to Decree No. 58/2008/ND-CP, the Ministry of Planning and Investment (MPI) is responsible for bidding management spending state budget
 - MPI has assigned its subordinate Department of Bidding Management to be responsible for instructions on bidding training course, qualifications for bidding training centers, certificate issuing, and reports on training and bidding results of the ministries and provinces.

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions**

- In practice, there are many arguments over the implementation of the laws applied for these projects

(In May 2009, the Government submits to the National Assembly Standing Committee for amendment and supplementation of the four laws. The working session is still ongoing in which Law on Procurement has the most articles which are proposed to be amended or supplemented.)

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions:**
Requests for Environment Impact Assessment
 - The Law on Construction requests that construction project documentation must include environment impact assessment (EIA) report
 - Law on Environment Protection gives further regulations on the EIA reported and is further explained in Decree 80/2006/ND-CP (year 2006). Decree 80/2006/ND-CP is then amended and supplemented by Decree 21/2008/ND-CP in February 2008

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions:**
Requests for Environment Impact Assessment
 - **The Law on Environment Protection and two Decrees addresses particularly:**
 - Ministry of Natural Resources and Environment (MONRE) will be responsible for development and promulgation of national environment standards. Public procurement must also follow these standards.
 - Strategic Environment Assessment (SEA) is a compulsory component for a national, regional or industrial development strategy or plan; Environment Impact Assessment (EIA) is a compulsory component for any investment/ construction project listed in Decree 21/2008/ND-CP
 - The SEA and EIA will be submitted to the authorities together with the investment report (or feasibility study).

HOW IS PUBLIC PROCUREMENT ORGANIZED AND CONDUCTED IN VIETNAM



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- **Public Procurement of Works and Constructions: Requests for Environment Impact Assessment**
IN PRACTICES:
 - There is a lack of legislative guidance on EIA methodologies for projects in specific construction sectors. For example: there is a lack of approved methods for EIA of mining projects, or hydro power plant project, etc. These projects often have large impacted area (a river basin or a delta)
 - Though EIA report is compulsory for approval of a state investment or construction project, there is very little follow-up with the approved EIA and environment protection measures

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Planning for Law on Green Procurement**
 - Insitute of Strategy and Policy on Natural Resources and Environment (ISPONRE) is studying on development of Law on Green Procurement
 - The law is planned to be introduced in 2015 followed by the introduction of a instructive decree in 2017

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Energy Saving Regulations**
 - Decree 102/2003/ND-CP regarding saving and efficient use of energy
 - Decision 79/2006/QD-TTg approving National Target Program for Energy Saving and Efficiency; Circular 142/2007/BTC-BCT instructing the use and management of state budget for public administrative works for the Program, and regulations on promulgation of standards for energy saving products, and promotion of labelling for energy saving products: the Government is ready for spending on energy saving efforts.
 - Interviews with Government's officials shows that there are first efforts in complying with these regulations, mainly in electricity saving when making purchasing decisions

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **State Budget Spending Plan**
 - **SPP could be integrated from the stage of budget planning at all levels of government agencies who are responsible for planning of their budget spending for next year**
 - **Sustainable spending could be reflected in budget plan submitted to the higher authorities.**
 - **Budget planning for sustainable spending could become an annual practice at all level of government agencies with legislative support, guidance and cooperation from the MOF and MONRE (reference: Law on Environment already supports sustainable consumption in Article 33 and 34)**

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Centralized Purchasing Method**
 - **SPP is aligned with the Prime Minister’s direction and orientation for centralized purchasing method (Desision 179/2007/QD-TTg)**
 - **When the centralized purchasing method will take effectiveness, SPP could be implemented at the one single authorized procurement body at each ministry or PPC. This will help to utilize efforts on capacity building and resources which need to be allocated to SPP**
 - **The centralized purchasing method will make purchasing order big enough to benefit from pricing policies for sustainable products**

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Law on Prevention of Corruption No. 55/2005/QH11**
 - Chapter II: 1/ Publicizing information and transparency in agencies's activities; 2/ Development of standards, norms and regulations
- **SPP is aligned with the Law:**
 - Introducing SPP will involve with market communication and include publicizing of policies, standards, specifications, purchasing process and contract award conditions
 - Introducing SPP will also involve development of preferable standards and norms

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Realization of Agenda 21 in Vietnam**
 - **Decision 153/2004/QD-TTg to promulgating the strategic orientation for sustainable development in Vietnam which realizes the Agenda 21 in Vietnam:**
 - Transform the production and consumption models
 - Implementation of 'Clean industrialization' through: 1/ legal system improvement, economic reform, applications of advanced technologies, and awareness raising

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Law on Environment Protection**
 - **The opportunities for SPP within implementation of this law is to build the coordination between and buy-in from the relevant Government agencies: Ministry of Planning and Investment, Ministry of Natural Resources and Environment, Ministry of Agriculture and Rural Development, Ministry of Construction, Ministry of Finance, and Ministry of Public Security (which control Department for Environment Police)**
 - **The key is to enforce the law through the consensus and joined efforts of the ministries.**

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Initial State Budget for Environment Protection and Waste Treatment:**
 - Prime Minister's Decision 64/2003/QD-TTg to implement the plan to completely repair the environmental damages created by 400 organizations, later on supported by the Prime Minister's Decision 58/2008/QD-TTg to use state budget to effectively repair the environment damages created by selected public service agencies
 - This could be used for introducing the concept of life cycle assessment and life cycle costing
 - This raises the necessity of implementing SPP while making purchasing decisions. Applying of environmentally friendly criteria at stages of specification design and contract awards will help save the budget spent later on waste treatment in such case mentioned above.

OPPORTUNITIES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **State Budget Allocation for Environment Prevention**
 - The year 2009 is the first year that the Ministry of Finance publicizes an annual state budget for environment protection. The approved budget is VND5,264 billion (US\$3 billion) in total including VND850 billion for national programmes and VND4,414 billion for provincial programmes (Vietnam GDP for 2008 is US\$89 billion for reference)
 - This might imply that budget for SPP could also be allocated by the efforts of the Government and the Ministry of Finance

OPPORTUNITIES FOR SPP IN VIETNAM: PROCUREMENT IN PRACTICE



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- **Content on sustainable procurement could be included in the procurement training courses for procurers managed by Department of Bidding Management (MPI)**
- **Department of Bidding Management could take the lead to raise awareness about SPP and use the training courses for sustainable procurement capacity building**

OPPORTUNITIES FOR SPP IN VIETNAM: MARKET READINESS in timber industry



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- **Vietnam has 169 WPEs that hold Chain of Custody (CoC) and has the third highest number of CoC in Asia**
- **These WPEs are export oriented. They do not set up delivery channels for domestic market because there is not a demand for certified timber products**
- **If centralized purchasing method is applied, the state agencies could make certified timber products order big enough in volume so as to justify the deliver costs for the WPEs**

HURDLES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Lack of connection between the laws**
 - There is a lack of instructions or connections to bind the EIA and other environment regulations into the procurement process
 - It needs joined efforts in development of regulations from relevant ministries

HURDLES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Lack of specific guidelines for EIA methods**
 - **There is not a legislative guidelines for EIA methods in the investment and construction projects which have vast environment impacts not only within the project area but also buffer zones**

HURDLES FOR SPP IN VIETNAM: LEGAL SYSTEM



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- **Lack of environmental labels and guidelines to help the market identify environmentally-preferable products and services**
 - **There is also a lack of guidelines or set of environment preferable standards**
 - **There is also a lack of guidance on environment friendly labelling system which could further support procurement staff to implement SPP**

HURDLES FOR SPP IN VIETNAM: PRACTICES, CAPACITY AND RESOURCES



- **Lack of Ministries' cooperation**
 - The existing public procurement process is under the management of the Ministry of Planning and Investment and its subordinate Department for Bidding Management
 - Recently there is not a cooperation between MPI and the Ministry of Natural Resources and Environment to include environmental friendly criteria in procurement process
 - As the Law on Green Procurement is being planned for development, there needs to be closer cooperation between the two ministries

HURDLES FOR SPP IN VIETNAM: PRACTICES, CAPACITY AND RESOURCES



- **Lack of Capacity and Resources**
 - There is not human resources with training on SPP implementation. In order to implement SPP, there is a need for allocated human resource with training on SPP who will develop the process and supervise the implementation
 - Purchasing costs of SPP will be more expensive than the existing procurement's purchasing costs. Implementing SPP will create burdens on the budget and budget planning officers

HURDLES FOR SPP IN VIETNAM: MARKET READINESS



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- **Domestic producers are not well prepared for sustainable production**
- **There are very few sustainable products locally produced available on the market**

INTERNATIONAL DONORS' PERSPECTIVE



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- **Support from international donors for policies development, institutional and capacity building**
- **The Government will have to take the lead to introduce and implement SPP**



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THANK YOU!