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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina

Addendum

Preliminary note on the mission to Viet Nam (21 – 29 March 2011)

Summary

In the present note, the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, outlines his preliminary findings from his official mission to Viet Nam, conducted from 21 to 29 March 2011. The main purpose of the visit was to assess the impact of the country's foreign debt on the realization of human rights and the achievement of the United Nations Millennium Development Goals. The independent expert also explored the impact of the global economic downturn on the country's debt burden, human rights and Millennium Development Goals. A full report on the mission will be presented to the Human Rights Council at its twentieth session.

Viet Nam has made remarkable progress towards the Millennium Development Goals, having reached the targets on poverty reduction, universal access to primary education and gender equality well ahead of schedule. It has made important progress on the remaining Goals, and demonstrated its commitment to reaching them by the target date.

Despite the above achievements, Viet Nam faces a number of challenges, including ensuring that the financing of the trade and budget deficits does not increase its external debt burden to an unsustainable level, addressing possible shortfalls of concessional financing as a consequence of its lower middle-income status, and addressing the impact of climate change.

I. Introduction

1. The independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina, conducted an official mission to Viet Nam from 21 to 29 March 2011. The main purpose of his visit was to assess the impact of foreign debt on the realization of human rights and the achievement of the United Nations Millennium Development Goals in the country. He also explored the impact of the global economic downturn on the country's external debt burden, human rights and the Millennium Development Goals.

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

3. The independent expert expresses his gratitude to the Government of Viet Nam for its invitation, the significance it attached to the mission and its full cooperation during his visit. He is also grateful to the United Nations country team for its support for the mission.

II. External debt and debt sustainability

4. The external debt of Viet Nam has been adversely affected by the global recession and domestic macroeconomic instability since the end of 2008. In the period following its accession to the World Trade Organization, Viet Nam had access to large foreign direct investment (FDI) inflows providing non-debt-creating financing; however, the global recession led to declines in exports and imports, remittances and FDI.¹ The stimulus measures taken by the Government in response to the crisis helped support GDP growth in 2009 but resulted in a widening of the trade deficit. Large private capital outflows led to losses in international reserves and depreciations in the exchange rate.² Consequently, the total external debt increased to 40.7 percent of GDP by end-2009.³

5. According to information provided by the Ministry of Finance, the country's external debt increased from 29.8 per cent of GDP in 2008 to 39 per cent in 2009.⁴ As at the end of June 2010, the total external debt was \$29 billion, including Government-guaranteed debt and other contingent liabilities. The external debt was projected to rise to 42.2 per cent of GDP in 2010. It was, however, difficult for the independent expert to ascertain these projections, as no up-to-date and established information on the country's current external

¹ International Monetary Fund (IMF) and the International Development Association, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, 7 July 2010, p. 2. Available from www.imf.org/external/pubs/ft/dsa/pdf/dsacr10281.pdf.

² IMF, *Vietnam: Staff Report for the 2010 Article IV Consultation*, IMF Country Report No. 10/281, September 2010, pp. 5-6.

³ Ibid.

⁴ See Ministry of Finance, Socialist Republic of Viet Nam, *Bulletin: External Debt*, No. 6, Hanoi, December 2010, p. 12. Available from www.mof.gov.vn/portal/pls/portal/docs/1162272.pdf.

debt was available to him at the time of his visit. This fact underscores the urgent need for the Government to address the challenges of access to information.⁵

6. The independent expert notes that Viet Nam has a comprehensive law regulating the borrowing, utilization and repayment of public debt and the management of public debt.⁶ The law applies to organizations and individuals with responsibilities relating to borrowing, loan use, debt repayment and management of public debt. It sets out the duties and powers of the National Assembly, the Government and other State entities in the management of public debt, as well as the responsibilities of organizations and individuals that receive debt guarantees. Under the law, the National Assembly has a broad range of powers in relation to public debt, including the power to approve debt ceiling levels and to oversee public debt. The law also contains provisions concerning disclosure of information relating to public debt, including the obligation of the Government to provide detailed regulations on public debt information disclosure, the mechanism of public debt reporting and information flows. These provisions should be fully implemented in order to enhance transparency and accountability in the management and use of public resources, and the Government should ensure the availability of accurate and timely information on, inter alia, external debt and official development assistance (ODA). The independent expert believes that these measures would be important complements to the Government's development efforts.

7. The debt sustainability assessment, under the baseline scenario of sustained macroeconomic stability, indicates that the country's "external debt levels would be manageable provided that external borrowing remains prudent".⁷ The assessment puts Viet Nam at low risk of debt distress, but also indicates that the debt-to-GDP ratio could rise to more than 60 per cent in the event of an exchange rate shock or if deficits are not addressed.⁸ It is notable that the assessment does not include contingent liabilities.⁹ From a human rights or human development perspective, however, the assessment has limitations, as it is based on purely economic projections focusing on debt repayment capacity without reference to other demands on the Government's resources, including those needed for social investment.

8. In 2010, the International Monetary Fund (IMF) recommended that the Government adopt "a more ambitious plan to lower medium-term deficit and debt level".¹⁰ In 2009, the overall fiscal deficit was estimated at about 9 per cent of GDP, up from about 1 per cent in 2008.¹¹ The trade deficit is currently estimated at \$13.2 billion. The financing of the trade and fiscal deficits may increase the external debt, particularly in view of the fact that the country will no longer qualify for concessional lending as a result of its new status as a lower middle-income country. Most of the country's external debt is concessional with long maturity. Non-concessional borrowing as a consequence of its lower middle-income status could increase the country's risk of future debt distress.

9. The Government is currently undertaking public debt management reforms aimed at introducing limits on the ratios of external debt and public debt to GDP (both at 50 per cent). According to the Government, the Ministry of Finance has recently prepared a draft

⁵ IMF has also noted shortcomings in economic data and underlined the need for timely release of data. See IMF, *Vietnam: Staff Report* (see footnote 2), pp. 1 and 4.

⁶ Law on Public Debt Management, No. 29/2009/QH12, Hanoi, 17 June 2009.

⁷ IMF, *Vietnam: Staff Report* (see footnote 2), p. 10.

⁸ *Ibid.*, p. 14.

⁹ IMF and the International Development Association, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, (see footnote 1), p. 5.

¹⁰ IMF, *Vietnam: Staff Report* (see footnote 2), p. 14.

¹¹ IMF and the International Development Association, *Vietnam: Joint IMF/World Bank Debt Sustainability Analysis 2010*, (see footnote 1), p. 10.

on strategy of debt for the period 2011-2020 and the Vision to 2030, which recommends limits on the ratio of foreign debt and public debt to GDP, for consideration by the Government and subsequent approval by the National Assembly.¹²

III. Human rights and the Millennium Development Goals

10. The Constitution of Viet Nam enshrines a number of “basic rights and obligations of citizens”, including the right to participate (art. 53), the right to work (art. 55), the right to education, including free and compulsory primary education (art. 59), the right to health care (art. 61), the prohibition of discrimination between men and women (art. 63) and the rights to assembly and association (art. 69). In addition, Viet Nam is a party to a number of core international human rights instruments¹³ and International Labour Organization conventions. The independent expert welcomes the Government’s commitment to ratify the Convention on the Rights of Persons of Disabilities and to sign the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and encourages the Government to consider ratifying the outstanding international human rights treaties. These international instruments contain important obligations for States parties to take legislative and other measures, including the establishment of human rights institutions, to give effect to the treaty provisions. In this regard, the independent expert notes that discussions are currently under way concerning the establishment of a national human rights institution in conformity with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles). He considers that such an institution would be an important complement to the Government’s efforts to improve the social conditions of its people in a comprehensive and sustainable manner.

11. Viet Nam has made remarkable progress towards achieving the Millennium Development Goals and realizing a range of economic, social and cultural rights, such as education, health, work and social security. It has attained three out of the eight Millennium Development Goals: reducing poverty by half; making primary education available to all; and ensuring gender equality.¹⁴ It is making significant progress towards achievement of the remaining Goals. Nevertheless, a number of challenges remain, including, notably, addressing the high poverty rate in rural areas and remote regions, and among certain groups, particularly ethnic minorities, children, women and immigrants; and ensuring quality and accessible education, especially in remote areas and among ethnic minorities.¹⁵

12. The Government’s commitment to attaining the Millennium Development Goals is reflected in a number of policy measures and actions it has taken. These include adopting its own national development goals (referred to as the Viet Nam Development Goals) to support the implementation of the Millennium Development Goals and mainstreaming them into a range of national socio-economic strategies and plans. These policies and plans

¹² The independent expert has requested copies of these documents but was yet to receive them at the date of preparation of the present note.

¹³ Viet Nam is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child and the two Optional Protocols thereto.

¹⁴ Socialist Republic of Vietnam, *Millennium Development Goals 2010 National Report: Vietnam 2/3 of the Way Achieving the Millennium Development Goals and Towards 2015*, Hanoi, August 2010, pp. 9-18.

¹⁵ *Ibid.*, pp. 16-17.

include the socio-economic development strategy (2001-1010); the socio-economic development plans (2001-2005 and 2006-2010); and the comprehensive poverty reduction and growth strategy, approved in 2002.

13. The independent expert considers that, with the demonstrated commitment of the Government and the continued support of its development partners, Viet Nam is likely to achieve most of the remaining Millennium Development Goals by the target date of 2015. However, he underscores that, while poverty alleviation and Millennium Development Goal implementation lay an important foundation for the promotion and protection of human rights, they are not in themselves guarantors of such protection. It is therefore critical that national policies and programmes, including those on poverty reduction and social protection, are firmly anchored in the human rights framework provided by the country's Constitution and the international human rights treaties to which it is a party.

14. In its universal periodic review report, the Government underlined that the people of Viet Nam are at the centre of the Government's national development strategy.¹⁶ According to the national model of human development, development can only be meaningful when it serves and is owned by each person. The independent expert fully supports that approach. In order to fully ensure that principle, however, it is important that national economic and social policies and programmes be firmly anchored to a human rights-based framework that underscores the principles of equality and non-discrimination, participation, transparency, accountability and indivisibility of all human rights. These principles are vital components of any sustainable development strategy. A human rights-based approach that guides the design, implementation and evaluation of socio-economic programmes and projects will not only enhance the effectiveness of the Government's development strategy, it will also contribute to achieving sustainable results.

15. The citizens of Viet Nam are not only the main beneficiaries of Government's economic and social development programmes; they are also the main stakeholders in the country's development. As such, every effort should be made to involve them fully in the design, implementation, monitoring and evaluation of development policies and programmes. In this vein and in order to strengthen the effectiveness and sustainability of its socio-economic development strategy and ensure genuine national ownership, the independent expert urges the Government to consider adopting a national human rights plan of action, as recommended in the Vienna Declaration and Programme of Action. By informing the design and implementation by the Government of its socio-economic development strategy, the plan may contribute to ensuring that the Government's policies and programmes are fully consistent with its human rights obligations.

IV. International assistance and cooperation

16. Viet Nam is one of the world's largest recipients of ODA. Having increased from \$2.4 billion in 2000 to \$8 billion in 2009, ODA has played an important role in advancing human development in Viet Nam. During the period 1993 to 2009, it supplemented nearly 11 per cent of total social investment and 17 per cent of the total State budget.¹⁷ However, in addition to the so-called "middle-income country trap", the country's reliance on ODA to sustain its investment-based growth will increasingly be challenged by the decline in ODA at the global level and by the impact of the global economic downturn.

¹⁶ A/HRC/WG.6/5/VNM/1, paras. 57-58.

¹⁷ Socialist Republic of Vietnam, *Millennium Development Goals 2010 National Report* (see footnote 14), p. 92.

17. The Government is committed to enhancing the impact of aid in reducing poverty and inequality, increasing growth, building the capacity of human resources and institutions, and accelerating achievement of the Viet Nam Development Goals (see paragraph 12 above). Consequently, in 2005, it adopted the Hanoi Core Statement on Aid Effectiveness, a local adaption of the Paris Declaration on Aid Effectiveness.

18. The country has benefited from a coordinated approach by its bilateral and multilateral development partners through the Consultative Group Meetings for Vietnam, which bring together participants from the Government and representatives of about 50 bilateral and multilateral donors. These meetings provide a forum for discussion between the Government and its development partners on economic policy issues, strategies for reducing poverty, and ODA effectiveness. Local and international non-governmental organizations and representatives of the Vietnam Business Forum participate as observers.

19. Viet Nam is one of eight countries where the One United Nations Initiative is being piloted. The initiative aims to make the United Nations in Viet Nam more effective by harmonizing management and operational practices and procedures, and working towards the convergence of United Nations activities under a common plan of action with the Government.

V. Key challenges

20. Despite the commendable socio-economic progress it has made, Viet Nam faces a number of challenges, including those linked to its newly attained “lower middle-income country” status. During his visit, the independent expert heard repeated concerns about the so-called “middle-income country trap”, according to which non-concessional loans would replace concessional loans and grants offered through ODA. A number of the country’s development partners have indicated that they are reviewing their engagement with Viet Nam in the light of its lower middle-income status. One multilateral donor confirmed that it had begun non-concessional lending to the country. It is the independent expert’s considered view that Viet Nam will need some time to consolidate its position as a lower middle-income country and to be in a position where it can rely on non-concessional financing for its development needs without risk of debt distress. As such, he urges the country’s development partners to continue, in the interim, their support for the country through ODA disbursements and concessional lending.

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

22. The impact of climate change poses another challenge. Viet Nam is prone to environmental hazards and is vulnerable to sea level rise, particularly in the Mekong River Delta region. These may at some point occasion loss of agricultural export revenues, loss of livelihoods and induce migration, and ultimately affect development.

23. The Government acknowledges the above-mentioned challenges and is working to address them. In this regard, it is implementing a number of policies to stabilize its economy. In consultation with various stakeholders, including the National Assembly, development partners and civil society, it is developing a socio-economic development strategy for the period 2011-2020 and a five-year socio-economic development plan for the

period 2011-2015. The independent expert urges the country's development partners to support these policies. For its part, the Government should ensure greater transparency and increased oversight by, inter alia, the National Assembly in relation to the State's public finances.

VI. Conclusion

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

25. **The independent expert will present a full report on his mission to the Human Rights Council at its twentieth session. He looks forward to continuing his dialogue with the Government of Viet Nam on the issues explored during the mission.**
