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Provincial Economic Governance in Vietnam BEST PRACTICES

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TABLE OF CONTENTS

Executive Summary Matrix	2
Abbreviations	4
Introduction	5
General Themes	7
Market Entry: Business Registration and Licensing	11
Land Access	18
Inspections	30
Planning and Policies	35
Transparency	40
Transaction Costs in Time and Money	46
Dynamism and Proactivity	52
Conclusions	58

EXECUTIVE SUMMARY MATRIX

This is the second volume of an exploration of best practices in provincial economic governance conducted by The Asia Foundation (TAF) and Vietnam Chamber of Commerce and Industry (VCCI). The first volume ranked the provinces according to the regulatory environment they have established for business.

This volume builds on that ranking, examining the practices and policies that underlie the sterling performances of Binh Duong, Dong Nai, Vinh Phuc, and Hung Yen in their regions, the North Southeast and the Red River Delta.

When infrastructure and proximity to markets are so similar across the two regions, what sets these provinces apart in our eight dimensions of governance (market entry, land policy, inspections, policies and planning, transparency, transaction costs in time and money, and proactivity and dynamism)? More specifically, what are the actual policies and initiatives these provinces have initiated that allowed them to outperform their peers?

Four methodological tools were used to derive the information for this report:

- 1.) Semi-structured follow-up interviews with 100 firms in six provinces that had participated in the original study, including two high-, medium-, and low-performing provinces from each region.
- 2.) Open-ended interviews with provincial officials in four of the five highest-performing provinces, which used case studies of firms facing governance obstacles in other provinces as a starting point.
- 3.) Secondary analysis of newspaper and journal articles discussing provincial business practices in Vietnam.
- 4.) Focus groups with provincial leaders from Red River Delta in Hanoi and from North Southeast in Ho Chi Minh City

In lieu of the traditional executive summary,

this report provides a matrix of provincial best practices from our four leading provinces, organized according to the eight dimensions of governance, and three basic principles that inform best practices across these dimensions. These principles emerged in discussions with officials in all four provinces. The initiatives they inspired differed across provincial boundaries due to local context, but in each case the three guiding themes were the same:

1. **Attitude:** A supportive provincial attitude toward the private sector *vis-a-vis* the state-owned enterprise (SOE) sector.
2. **Openness:** Clear and consistent communication of provincial initiatives to firms.
3. **Coordination:** Clear delegation of authority and consistent interpretation of policies across provincial actors.

Table I: Summary Matrix of Best Practices in Provincial Economic Governance Dimensions/Themes

Dimensions/Themes	<i>Attitude</i>	<i>Openness</i>	<i>Coordination</i>
<i>Market Entry</i>	<ol style="list-style-type: none"> 1. Assistance with tax code registration 2. Provision of extra VAT receipts 3. Discard annoying procedures 	<ol style="list-style-type: none"> 1. Clear posting of registration procedures 2. Use of web page to provide entry information 3. Compact discs with regulations and procedures 4. Incentive eligibility assessment at registration 5. Book of national resolutions provided to investors 6. Visits to other provinces to attract new investors 	<ol style="list-style-type: none"> 1. One-stop-shops 2. Provision of extra copies of registration certificates for use at other agencies 3. Knowledge of responsibilities of other agencies 4. Delegation of investment decisions to industrial zone management board
<i>Land Policy</i>	<ol style="list-style-type: none"> 1. Positive attitude toward private sector land needs 2. Early and flexible land planning 3. Improve business premises for investors 4. Innovative solutions for displaced farmers: <ul style="list-style-type: none"> - Cooperative agreements with firms to hire displaced farm labor - Micro-credit - Ownership of some converted land - Attract labor-intensive investment 	<ol style="list-style-type: none"> 1. Planning and programming of land use, prices, and open schedule for land clearance 2. Land Authority as Surveyor/ Consultancy 3. Non-discrimination on procurement of land clearance 4. Revaluing land for healthy real estate market 	<ol style="list-style-type: none"> 1. Clear delegation of authority over land. 2. Delegation of industrial concentrations to district governments 3. Mobilizing capital for land development
<i>Inspections</i>	<ol style="list-style-type: none"> 1. Full Report to People's Committee of both regular and extraordinary inspections 2. Overzealous inspector hotline 	<ol style="list-style-type: none"> 1. Publication of Inspection Itinerary 	<ol style="list-style-type: none"> 1. Empowering Chief Inspector 2. Annual and semi-annual inspection coordination
<i>Planning and Programming</i>	<ol style="list-style-type: none"> 1. Acknowledge private sector in plans and pronouncements 	<ol style="list-style-type: none"> 1. Inform firms of plans 	<ol style="list-style-type: none"> 1. Seek provincial party involvement
<i>Transparency</i>	<ol style="list-style-type: none"> 1. Frequent and useful investor information sheets 2. Legislation packets 3. Consistent updating of information 	<ol style="list-style-type: none"> 1. Binh Duong model of business forums 2. Acknowledge limitations of provincial policies 	<ol style="list-style-type: none"> 1. Work with provincial business associations 2. Work with media 3. Directed exchanges (Dong Nai model)
<i>Transaction Costs in Time</i>	<ol style="list-style-type: none"> 1. Consider reputation an element of the investment environment 	<ol style="list-style-type: none"> 1. Clear delegation of responsibilities 	<ol style="list-style-type: none"> 1. Streamlined administrative procedures
<i>Transaction Costs in Money</i>	<ol style="list-style-type: none"> 1. Consider reputation an element of the investment environment 2. Treat outside investors as citizens 3. Punishment for law breakers 	<ol style="list-style-type: none"> 1. Clear and public delegation of responsibilities 	<ol style="list-style-type: none"> 1. Streamlined administrative procedures
<i>Dynamism and Proactivity</i>	<ol style="list-style-type: none"> 1. Pro-enterprise attitude <ul style="list-style-type: none"> - Smooth out fluctuating customs fees - Expedite customs procedures - Improve environmental protection legislation - Housing policy for laborers - Legalizing unsigned VAT Receipts - Pro-enterprise legal interpretations 	<ol style="list-style-type: none"> 1. Assistance on incorrect tax filings 	<ol style="list-style-type: none"> 1. Responsive work calendar 2. Strong leadership

ABBREVIATIONS

- BOT: Build-Operate-Transfer contractual arrangement between private firms and public sector.
- BRVT: Ba Ria-Vung Tau Province
- CD: Compact Disc
- DAF: Development Assistance Fund
- DARD: Department of Agriculture and Rural Development
- DOI: Department of Industry
- DOLISA: Department of Labor, Invalids, and Social Assistance
- DPI: Department of Planning and Investment
- FDI: Foreign Direct Investment
- HCMC: Ho Chi Minh City
- IZ: Industrial Zone
- ODA: Overseas Development Assistance
- PCI: Provincial Competitiveness Index (of Vietnam Competitiveness Initiative & Vietnam Chamber of Commerce and Industry)
- PCOM: People's Committee
- SOE: State-Owned Enterprise
- TAF: The Asia Foundation
- VAT: Value-Added Tax
- VCCI: Vietnam Chamber of Commerce and Industry
- VNCI: Vietnam Competitiveness Initiative

INTRODUCTION

This is the second volume of an exploration of best practices in provincial economic governance conducted by The Asia Foundation (TAF) and Vietnam Chamber of Commerce and Industry (VCCI). The first volume ranked the provinces according to the regulatory environment they have established for business. This volume builds on that ranking, examining the practices and policies that underlie the sterling performances of Binh Duong, Dong Nai, Vinh Phuc, and Hung Yen in their respective regions, the North Southeast and the Red River Delta. When infrastructure and proximity to markets are so similar across the two areas, what sets these provinces apart in our eight dimensions of governance (market entry, land policy, inspections, policies and planning, transparency, transactions costs in time and money, and proactivity and dynamism)?

Best practices highlighted in the study are drawn from three separate methodological approaches. First, follow-up interviews from the original mail-out survey were conducted with private firms in high-, medium-, and low-performing provinces in both the Red River Delta and North Southeast. These interviews were carried out with a random sample of 100 firms not covered in the original study. Two high-performing (Binh Duong and Vinh Phuc), two medium-performing (Ba Ria-Vung Tau and Binh Thuan), and two low-performing (Nam Dinh and Ninh Binh) provinces were chosen in order to maximize variance in both performance and geography.

In addition to verifying the external validity of the mail-out survey results, researchers used an open-ended interview format to ask firms to elaborate on specific policies that they believed had influenced their province's economic governance scores. For instance, what policies explain why Vinh Phuc had the lowest median number of inspections but the longest inspection length? Why was the percentage of firms with formal land use rights certificates so high

in Binh Duong province? Because provinces at all levels of economic governance were chosen, researchers could quickly identify which policies were responsible for the successful scores and which policies could not be responsible because they had been attempted unsuccessfully in lower-performing provinces. In addition to best practices, researchers also collected a number of case studies of firms facing governance obstacles along the eight dimensions outlined above in the medium- and lower-performing provinces.

After the identities of the firms were concealed with fictitious names, the case studies were written up and presented to provincial government officials in the second stage of the research – the interview stage. In this stage, the research team traveled to the two top-performing provinces in each region (Binh Duong, Dong Nai, Vinh Phuc, and Hung Yen) and met an array of top officials in each province, including the Provincial People's Committee Chairman, Director of the Departments of Planning and Investment, Finance, and Industry, as well as the Land Authority, Tax Authority, and Director of the Industrial Zone Management Board. Each of the officials was presented with one of the case studies involving firms within in their jurisdiction. These case studies were used as a way to engender discussion about specific policies and coordination across provincial agencies. A semi-structured interview followed where provincial leaders were asked to elaborate on provincial policies and initiatives as well as respond to opinions raised by firms in the follow-up interviews. The interviews themselves were led by members of the Prime Minister's Research Commission (Nguyen Ky, Pham Chi Lan, and Vu Quoc Tuan), the Central Institute for Economic Management (Nguyen Dinh Cung), the Ministry of Planning and Investment (Cao Ba Khoat), and the Government Office (Nguyen Thai Son), The best practices drawn from the endeavor repre-

sent their expert determination based on years of experience with provincial officials and the private sector.

Finally, in the third stage, researchers compiled a library of newspaper articles on the seventeen provinces in the two regions. Over 300 articles published from 2002 to 2004 were culled from 40 newspapers, covering nearly every province. Policy initiatives discussed in the newspapers were used to cross-check and augment policies gleaned from the in-field work. A database was created from the newspapers listing best policies and areas for improvement across every province.

This report proceeds as follows: After a brief discussion of the three general themes running across all eight dimensions of governance, the report moves into an analysis of the best practices within each dimension. Each section is introduced with actual case studies taken directly from the follow-up interviews and presented to government officials. These vividly illustrate the obstacles faced by firms and the complexities of operating a private business in Vietnam. In all case studies, the names of firms were changed to protect the confidentiality of those who provided the research team with valuable information. Next, the paper presents the best practices the research team identified in the four top provinces. These range from general initiatives such as monthly policy coordination meetings to specific changes in tax code registration procedures made to expedite market entry. After presenting the best practices, authors return to the case studies. Using the best practices presented, how would provinces ideally solve the dilemmas the cases pose? What mistakes might medium- and low-performing provinces make that would be avoided by star performers?

In some cases, liberties have been taken with the case solutions. High-performing provinces may never have dealt with some of the situations introduced in the cases; their policies may have prevented such quandaries from ever arising in the first place. In these instances, we

rely on counterfactual analysis – what would a high-performing province have done if such a situation arose?

GENERAL THEMES

In short, three factors linked governance practices across all eight dimensions: a business-friendly attitude, openness, and coordination. They serve as the basis for all successful provincial policies and undergird provincial decisions. From the bird's eye view of a survey, the steps a province takes to ensure ease of market entry for private firms seem quite different from the post-entry balancing-act of ensuring firms' compliance with stringent health, safety, labor, and environmental codes without disrupting a firm's production cycles and costing it time and money. A closer analysis reveals that, while the policies needed to address these situations are very different, they emanate from the same three sources. For example, a positive attitude indicates that provincial officials want the private sector to succeed and will not erect barriers to protect the market for state-owned enterprises or favored provincial champions. Such barriers typically include complicated tax code registration procedures and frequent, time-consuming inspections. Provinces that want the private sector to succeed discard them. Openness ensures that firms are aware of their rights with regard to both market entry and inspections; it allows them to protect themselves from unscrupulous officials who seek to use regulations as a source of rents. Finally, coordination across provincial agencies limits wasted effort as firms rush from one address to another to seek the proper documentation (registration, stamp, tax code, licenses) necessary to do business. When provincial regulatory agencies coordinate inspections, firms only need to shut down their production lines once or twice a year rather than dozens of times at the whim of any one regulator.

2.1. Attitude

Provinces that have a positive attitude toward

the private sector are more likely to find policy solutions beneficial to their firms. They are more likely to be aware of appropriate solutions, because their frequent attendance at business forums allows them better insight into the obstacles faced by businesses. A positive attitude also leads provinces to quickly notice when new initiatives need to be rethought or discarded. Unsuccessful policies have a much higher longevity in provinces with indifferent attitudes toward private-sector growth. Provinces with positive attitudes toward the private sector tend to be more proactive and dynamic, as they sympathize with the dilemmas faced by their constituents. They are sometimes willing to push the parameters of central law in order to help firms.

As David Dapice put it in a much-quoted article, the secret of the Binh Duong's success is not specific administrative procedures.

It is sometimes observed that there are a (very) few provinces where investment has flourished, far outrunning the pace in other provinces. Binh Duong is one of these few provinces, and has been much studied. Most of the studies miss the point. It is not any precise administrative procedure that is the secret. It is the attitude of the leadership in the province that was widely shared among the government apparatus. They figured out that both they and the province would prosper if they made it easy to do business there. So they got up every day and asked themselves, "What can we reasonably do to make it easier to do business?" They asked the firms and owners. They improved access to land, to credit, and to labor. They worked on housing and infrastructure. They avoided taking an extractive stance. As other provinces come to the same basic idea, they will find ways to act in a similar way. The details are of some interest but not crucial. The attitude is crucial.¹

¹ David Dapice, "Success and Failure: Choosing the Right Path to Export-Led Growth" (Ho Chi Minh City: *Harvard Fulbright Program*, June 2002). The paper is available at <http://www.ksg.harvard.edu/cbg/asia/research.htm>

Dong Nai has actually created an institution for demonstrating its positive attitude toward the private sector. In 2003, the province began inviting representatives of new private domestic enterprises and newly licensed foreign investors to receive a quarterly award for registering their enterprise. The solemn celebration takes place at the People's Committee in a room crowded with television cameras and newspaper reporters. The Party Secretary and other top provincial officials grant the certificates to the new businessmen. Dong Nai officials say that the ceremony highlights the private sector's importance in the province and shows that they will go the extra mile for businessmen.

2.2. Openness

Openness is critical not only in the transparency dimension of governance, where better access to information expedites investment decisions and leads to a more balanced playing field among investors, but also in every other dimension, giving firms a better understanding of provincial decisions. The more open and honest officials are about the reasons behind a specific initiative, the better firms can adjust to the new policy or make suggestions to improve it. Openness also reduces opportunities for corruption. If firms clearly understand provincial policy, they are less likely to be duped by cash-seeking bureaucrats.

Even more important than simply communicating information is being open and honest when a firm's problems cannot be solved, are out of the jurisdiction of the provincial leadership, or cannot be dealt with in the necessary time frame. Too many provinces obfuscate, shelving private sector queries and complaints that they cannot answer immediately. This leaves firms in limbo, sometimes for years, waiting for approvals that may never come. Binh Duong, however, requires that all provincial agencies be frank about their decisions and acknowledge any weaknesses in the provincial bureaucracy. They use mocking terms to describe some of the delay tactics employed by their peers in other provinces: *kính chuyễn*

vòng vo (respectfully submitting the request to prevarication) or *nghiên cứu tiếp thu* (promising to do further research).

When problems cannot be solved, Binh Duong leaders say so directly; they do not avoid relating ugly truths. Enterprises appreciate this policy. They realize that not all of their demands can be met; they simply want straight answers. Because the Binh Duong administration has cultivated a reputation for honesty, it has the support and confidence of its private enterprises, which trust the provincial leadership.

2.3. Coordination

Finally, coordination among provincial leaders is of utmost importance. The wide array of actors at the provincial level (The People's Committee, People's Council, Party Secretary, Heads of Ministerial Departments, Management Boards of Industrial Zones, and the Branches of the State Commercial Banks, Tax Authority, and Land Authority) creates multiple opportunities for inconsistency and decision-making bottlenecks. Provinces that arrange frequent meetings among local agencies and officials -- where they agree on the implementation of local and national policy -- reduce the transaction costs and cumbersome bureaucratic procedures faced by firms. Lack of coordination creates a steeplechase of hurdles and pitfalls for firms attempting to receive all the approvals necessary to run their businesses. In every policy arena, coordination is the hidden key to success, reducing business start-up costs, improving access to land, and limiting inspection times. Coordination enhances transparency by providing central repositories for information. It limits transaction costs by reducing the number of agencies firms must visit, thereby reducing the number of possible bribes. Finally, it enhances provincial proactivity by ensuring that provincial departments and district governments implement policies decided at higher levels.

Some Vietnam observers have argued that

provincial coordination does little to reduce corruption and bribes. They have advanced this position in debates over the efficacy of “one-stop shops” – provinces that centralize all important procedures for business start-ups, such as registration forms, tax code applications, and land applications. All the paperwork is handled at the Department of Planning and Investment (DPI) or at the Industrial Zone Management Board. Critics of the one-stop shop have asserted that such policies simply create a “corruption broker” system that, while more efficient, does little to reduce the costs of extra payments. But the evidence gathered in this study demonstrates empirically that the corruption broker thesis does not hold up. Volume I of this report demonstrated that Binh Duong and Vinh Phuc, the two provinces with the longest application of such one-stop shops in the North Southeast and Red River Delta, respectively, have the fewest problems with extra payments. They are also two of the best performers in terms of growth in foreign direct investment (FDI) and domestic private companies over the past four years. In these provinces, coordination is paying dividends in reducing the extra payments faced by firms and increasing profitability.²

There are two theoretical reasons to expect one-stop shops to work better than piecemeal registration. First, all the necessary materials and application forms are already housed at the DPI. It is impossible for any one local agency to hold up business activities by refusing to a supply certificate or stamp while awaiting a large payoff.

Secondly, local agencies must negotiate among themselves and with DPI prior to interacting with the investor. Without a one-stop-shop, each local agency will negotiate separately with the investor, without any knowledge of how much other investors are taking. This creates a collective action problem similar to the “tragedy of herders over-grazing the com-

mons,” with each local agency grazing as much as they can, while leaving it up to other agencies to limit their corruption demands.³ All understand that over-grazing will either scare off the investor or reduce a firm’s profits to a damaging level, yet no one local agency will sacrifice its extra payment to save the investment. As a result, piecemeal negotiation tends to raise the costs of corruption to the point where a province loses the general payoffs (in labor and revenue) of a profitable investment.

When local agencies must negotiate with each other first and the DPI is the only interface with the investor, local agencies are less likely to over-graze because they know when their collective demands for extra payments are likely to kill the deal. Because DPI’s primary goal in a one-stop system is to land the investment, it holds the line at the threshold level of corruption, forcing individual agencies to reduce their demands. The sacrifice is either distributed evenly across local agencies or in a weighted manner based on the power of each one. Either way, the overall level of corruption is lower in a one-stop-shop than in a piecemeal system.

Because attitude, openness, and coordination play an essential role in provincial development, we organize our discussion of best practices around these themes. In the future, as the administrative reform process advances and more provinces seek to create an appropriate environment for private-sector development, it will become even more important to build policy interventions on these three pillars.

² See page 27 of Volume I.

³ Hardin, Garret, “The Tragedy of the Commons,” *Science*, vol. 162, 1968, p. 1243-1248.

MARKET ENTRY: BUSINESS REGISTRATION AND LICENSING

Case Study 3.1: Significance of Business Form⁴

An entrepreneur meets the owner of a popular handicrafts store in a large urban market and tells him about a carved stone handicraft made by people in his hometown. The storeowner is intrigued and assures the entrepreneur that this product would be quite popular. He offers an attractive price, provided the entrepreneur can maintain a steady supply of the item. Additional research shows that some Vietnamese exporters would also be interested in buying a steady supply of the handicraft. After talking with the craftsmen who make the product, the entrepreneur decides to set up a fixed location where the traditional artisans can produce the handicraft and can be joined by a group of younger apprentices. To guarantee the steady supply he needs, the entrepreneur decides to pay the artisans monthly salaries, plus a productivity bonus. A similar, but less lucrative, payment system is set up for the less experienced apprentices. In all, his new business now employs thirty-five workers.

*While the entrepreneur is pleased with the artisans he has recruited, he is dissatisfied with the people he interviews to oversee his accounting operations, who lack the necessary skill and experience to serve as chief accountant. He knows, however, that he is required to hire a chief accountant in order to register with DPI as a sole proprietorship company (*doanh nghiệp tư nhân*). In fact, a new government regulation requires that any chief accountant must have a special accounting certificate, in addition to a university accounting degree. His top candidate did not yet have this certificate and would therefore require an additional six months of training before he would qualify.*

In the end, the entrepreneur decides he will be better off registering his business as a household enterprise, which will not require a chief accountant. After all, he feels it is difficult to trust an outsider with this critically important job. Furthermore, he believes that he will enjoy tax advantages if he registers his firm as a household enterprise rather than as a formal company. Formal businesses are taxed according to the volume of supplies they use and must keep track of the receipts they accumulate. But the entrepreneur's suppli-

ers are local artisans who don't use official receipts. If he registers as a household business, on the other hand, he will simply be taxed according to a lump sum assessed by local officials. The entrepreneur has good relations with several people at his district's tax office and figures this will benefit him when they determine his tax debts.

The only problem with the entrepreneur's plan is that the Prime Minister has just promulgated a new regulation declaring that all businesses with ten or more workers must register at the Provincial Department of Planning and Investment as private companies. After further consultation, however, the entrepreneur decides that this regulation is not likely to be implemented and he proceeds to his district level registration office. District registration officials are also aware of the new regulation, but have no specific instructions on rejecting otherwise legitimate applications to set up household enterprises. As a result, the entrepreneur's business is quickly registered and begins operations as a large household enterprise.

In case study 3.1, the household business is attempting to comply with central law regarding formalization of their enterprise through registration at the DPI. Yet frustrated with the bureaucracy, the owner has chosen a strategy that is bad for his business and bad for economic development in general by operating outside the bounds of Vietnamese law. Because the household businesses face less stringent regulations, they are more likely to violate labor, environmental, and health and safety standards, in addition to paying substantially less money in taxes. Moreover, as a household company, the firm could not expand through exporting, which can only be done by registered private firms.⁵ How can entry procedures be changed to encourage formalization at the provincial level?

4 This case study was contributed by Markus Taussig, who worked as a consultant on the Asian Development Bank's *Making Markets Work for the Poor* Program. Please see their own discussion of the issue in Markus Taussig and Pham Thi Thu Hang, *Formality, Formalization, and the Role of Local Government in Vietnam's Private Sector Development* (Hanoi: Vietnam Chamber of Commerce and Industry and the Asia Development Bank, 2004).

5 After the case study was written and utilized, Decree 44/2004/ND-CP stipulated that household merchants can indeed export directly.

3.1. Best Practices in Market Entry and Implementation of the Enterprise Law:

Most of the attention given to market entry has revolved around the length of time it takes a firm to register at the DPI. The TAF-VCCI study demonstrated, however, that most provinces now meet the 15-day deadline stipulated in the 2000 Enterprise Law. Some provinces, of course, do better, but it is no longer registration time that is the main obstacle to business entry. Vietnam's Central Institute for Economic Management (CIEM), one of Vietnam's premier economic research institutes under the Ministry of Planning and Investment, has reported that even after business registration, firms cannot begin business operations without engaging in two further steps: getting a stamp to use as their official business seal, as well as registering at the tax office and purchasing VAT invoices. Complying with these procedures can take an additional 45 days, according to CIEM.⁶ Even after they register, new businesses can face a host of additional obstacles, including various provincial "baby licenses" that restrict entry into many service sector establishments, and 298 remaining licenses still sanctioned by the Vietnamese government.⁷ These bureaucratic hurdles are daunting for most firms. Our four high-performing provinces have managed to reduce the start-up time and complications for new businesses considerably through an array of innovative practices. Using our three themes to organize them, we offer brief summaries of these initiatives below.

Attitude

- Tax Code Assistance: Provincial officials in Dong Nai realized that the complications of the tax code are frightening for firms like the household enterprise in case 3.1,

due to the burdensome number of steps and forms. In addition, business owners worried that they would be punished if they formalized their company but made mistakes on their new, unfamiliar tax forms. Afraid that many firms would choose not to register and continue to opt for negotiated taxes, as did the household enterprise in Case Study 3.1, officials in Dong Nai instituted a new policy that provides tax-registration guidance to new firms. The district level tax authorities advertise the program, so all household firms know that they are eligible when they register at the provincial DPI.

Next, tax officials work with firms individually, holding their hands through the paperwork for tax number registration, assisting them with the application for VAT tax receipt books, and finally offering advice on how to pay taxes. All of the important tax registration procedures are completed during this consultative session, so that firms do not have to keep returning to the tax authority to complete each new procedure, as they do in many provinces. Dong Nai officials guarantee that all paperwork will be returned to the firm in no more than eight days (37 days fewer than the CIEM provincial estimate).

- Provision of Extra VAT Receipt

Applications: In addition, when the Dong Nai tax authority assigns a firm's tax number, it encloses a set of applications for more VAT receipts to be used after the firm has completed its first book. This removes yet another potential bureaucratic hurdle down the road.

Discard Annoying Procedures: In Hung Yen, provincial authorities approved a resolution discarding superfluous procedures in

6 Central Institute of Economic Management and Task Force for Enterprise Law Enforcement, "Assessment Report on Three Years of the Implementation of the Law on Enterprises," *Vietnam Business Forum Mid-Year Consultative Group Meeting* (Hanoi: World Bank, IFC, and Ministry of Planning and Investment, June 2003). They also estimate that completing all three steps will cost about 1.5 million VND even before the expense of announcing the registration in three continuous newspapers at 750,000 VND, and a license tax of 3 million VND.

7 Ibid.

order to expedite business registrations (Resolution 03-NQ-TU June 20, 1998 of the Standing Committee of Hung Yen regarding intensifying investment cooperation of the province in the coming time).

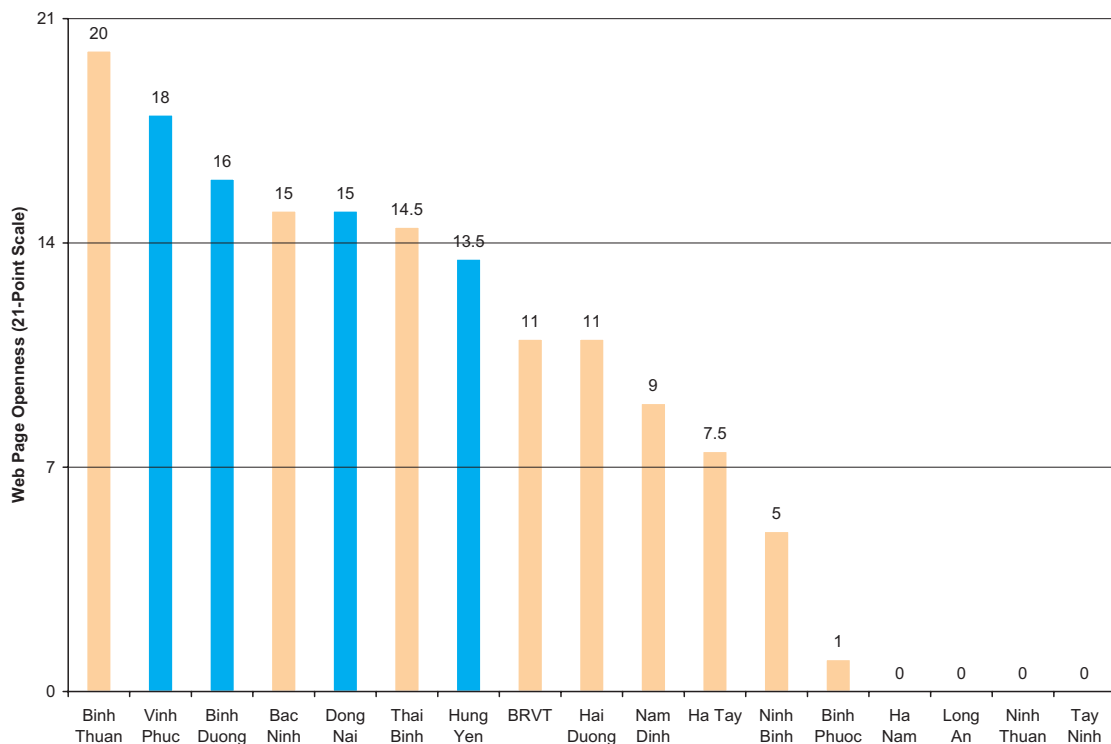
Openness

- Clear Posting of Registration Procedures: In many provinces the research team visited, registration procedures were not posted clearly either at the DPI or the People’s Committee. They are available, but firms must approach a civil servant to request them and on many occasions must actually pay for them. By contrast, all four high-performing provinces have instituted clear and transparent registration procedures that are posted on large signs outside the registration office, along with stacks of applications. While these steps sound simple, many provinces do not follow them, providing very little information to first-time entrepreneurs entering the building.

- Use of Web Page to Provide Market Entry Information: All four high-performing provinces go a step further, posting relevant information on the provincial web page for applicants who would rather read through them in the comfort of their own home. Indeed, on the Provincial Competitiveness Index (PCI) twenty-one point index of provincial web page openness -- a composite measure of information available to firms -- the four high-performing provinces all ranked within the top quarter of the forty-two provinces surveyed.⁸ The scores of the seventeen provinces in the Red River Delta and the North Southeast are displayed in figure 1 below.

- Compact Discs with Registration Procedures: In addition to posting registration procedures, the Binh Duong DPI grants free floppy disks (or CD Roms) with all the applications, regulations, and docu-

Figure 1: Web Page Openness to Lower Market Entry Costs
(From Provincial Competitiveness Index – Transparency Sub-Index)



8 Vietnam Competitiveness Initiative & Vietnam Chamber of Commerce and Industry. *The Provincial Competitiveness Index Final Report* (Hanoi: Vietnam Competitiveness Initiatives, November, 2005). PCI data is presently available at www.vnci.org.

ments necessary for entrepreneurs to register their businesses, obtain tax registration numbers, and receive their official business stamps.

- Incentive Eligibility Assessment: Unlike some other provinces, Binh Duong does not have any special incentives beyond the land and tax incentives offered by the national government. (Local officials famously asserted that extra incentives would be “like lipstick on a pig.”) But they are diligent about ensuring that all firms in their province receive the national incentives quickly and efficiently. If firms qualify, the DPI will immediately grant them their certificate for investment incentives, without making them re-apply or wait as they often must in other provinces.
- Book of National Resolutions: The Tax Authority of Vinh Phuc has drafted a volume of all national resolutions and provincial procedures governing relations between enterprises and the tax authority. These books simplify the process and outline firms’ legal rights, helping them avoid downstream difficulties for violating obscure tax codes.
- Visits to other Provinces to Attract New Investors: During the recession of 1997-1998, Hung Yen determined that attracting domestic private investment was a priority. Provincial and DPI leaders began recruiting potential southern investors (like Kinh ?ô, Vifon, and Acecook) to invest in the province. They let potential investors know that they were committed to creating a positive investment environment.

Coordination

At a provincial governance workshop in Ho Chi Minh City, one provincial official stressed the importance of coordination eloquently in his prepared remarks:⁹

Regarding the problems of market entry and the response time in issuing licenses according to regulations and documentation at the provincial level: if the ministerial departments at the provincial level and the People’s Committee concur with one another, there is no mystery or wonder as to whether permission for the investment will be granted quickly. Moreover, if the provincial leadership has already broken fences (*xé rào*) [in regard to investment procedures], the final report to the enterprises will be delivered even quicker.¹⁰ But if those in charge of granting licenses (for example in my province, the Management Board of the Industrial Zone) and the DPI takes a close look at the decision and determined that it was completed incorrectly and makes its report known, then the decision about the investment will *never* surface.¹¹

- One-Stop-Shops: All four provinces have different variations of the “one-stop-shop,” easing registration and market entry by allowing firms to take care of most procedures all at once. Vinh Phuc’s version of the one-stop shop recently received kudos from a Ho Chi Minh City investor looking to open a northern branch. In an article entitled, “Dreaming That Everywhere Was Like This,” the investor described how surprised and pleased he was at the ease and efficiency of the business registration and licensing procedures. He had already visited several other Red River delta provinces, including Ha Noi, where officials gave him a chilly reception, slow service, and demanded expensive fees in the form of informal charges. As the investor put it:

9 The identity of conference participants was concealed to allow for a free and open discussion.

10 *Xé rào* [fence-breaking] was first popularized in Fforde, Adam and Stefan de Vylder, *From Plan to Market: The Economic Transition in Vietnam* (Boulder, Colorado: Westview Press, 1996). The term was originally used to describe production units’ and local state owned enterprises’ violation of the central government’s rules and regulations during the central planning period. Today, the term has been extended popularly to include (1) provincial governments’ activities that violate existing rules and regulations of the central government during the post-central planning period; and (2) provincial governments’ initiatives or experiments where rules and regulations do not exist.

11 Emphasis added.

But the opposite of the poor reception I predicted took place when the commune completed the registration procedures exactly according to the spirit of the “one door- one stamp,” creating outstanding conditions for any enterprise. The People’s Committee of Quang Minh commune received my paperwork and only a few minutes later finished a regular examination. A member of the People’s Committee immediately affixed the formal seal without a sign of doubt or the raising of any difficulties. At the DPI of Vinh Phuc, I was received by an official named Quang Thang who took my papers and set an appointment to pick them up in two days. Two days later, I arrived to find that all the requisite paper work was completed for me to open the branch office.¹²

- Extra Copies of Registration Certificate:

The Dong Nai registration office takes the “one-stop-shop” a step further. When it grants registration certificates, it also provides 10 official copies for entrepreneurs to use when they register with tax authorities, buy VAT receipts, receive their official company stamp, exchange land, or make other transactions. All of these procedures require copies of the certificate, and unwitting firms are often forced to make repeated trips to the registration office to get extra copies. Dong Nai’s generous early allotment saves firms a great deal of time.

- Knowledge of Other Agencies’

Responsibilities: In Binh Duong, one element of attracting investment is a thorough understanding and awareness of the responsibilities of every provincial agency. Each agency sees attracting investment as its primary responsibility. If an investor enters the wrong office, he is promptly directed to the correct one. For example, an investor in the health sector who enters the Department of Industry (DOI) will immediately be sent to the Department of Health.

- Delegation of Investment Decisions to IZ Management Board: Vinh Phuc is a special case: It is the only province where the Management Board of Industrial Zones has the right to register investments (foreign and domestic) both inside and outside of industrial zones. Vinh Phuc officials claim the policy has allowed them to make more efficient use of their land through coordinated zoning, significantly reducing entry costs (as seen in the table below).

Pham Ngoc Phuong, "Ước gì cũng như thế này!" (Dreaming that everywhere was like this), *Tuổi Trẻ* (Youth) *Online*, August 13, 2004.

Table 1: Market in Vinh Phuc Province as Compared to National Law

Step	Vinh Phuc Policy	National Law
Registration of new enterprises	3 – 7 days	15 days
Changing enterprise registration	1-3 days	7 days
Establishing branch or representative office	1-3 days	7 days
Collecting all stamps necessary for doing business	5 – 6 days	7 days
Registration at Tax Authority	6 days	8 days
Estimated total time for new registrations	20 days	44 days

3.2. Market Entry Case Study Solutions:

In Case 3.1, the household firm's fears about the tax code and the need to hire a chief accountant would have been alleviated by Dong Nai's policy of guiding firms through the complicated tax procedures. The firm would also have been aided in its decision-making by a better understanding of the costs and benefits of its decision to remain a household firm to avoid tax complications. The fact that most of their product is manufactured locally and requires no VAT book may presently work in the firm's favor, but as the firm grows and expands, its demand for goods outside the province will expand as well. A thorough explanation early on would have saved the firm from a mistake that could prove costly a few years down the road.

Secondly, more open information about registration procedures might have convinced the entrepreneur that registration was not only easy and inexpensive, but well within his interests as an entrepreneur with dreams of expansion.

Finally, coordination among the Provincial PCOM, local agencies, and district governments would have eliminated the entrepreneur's belief that central policy would never be implemented. Upon his first visit to the district office, he would have been informed matter-of-factly about new central law and would have been directed politely to the provincial

DPI's registration office, where a wealth of new information would have been provided to him. The cavalier attitude toward implementation displayed by officials in case study 3.1 would only be possible in provinces that do not value coordination and let district officials operate independent fiefdoms.

LAND ACCESS

Case Study 4.1: Land allocation decisions Industrial zone or converting agricultural land

Province A used to have a large state sector that played a very important role in the provincial economy. Private sector industries often face disadvantages in this province because of preferences traditionally given to state-owned companies.

Joint Stock Factory #9, formerly a state-owned textile firm, has recently joined the private sector through equitization and now produces clothes in Province A. This thriving firm wants to expand in order to keep up with increasing demand. The company has its eye on a plot of agricultural land adjacent to its factory, the perfect place to expand production.

The provincial People’s Committee has refused to let this company acquire the land, insisting that the firm move all or part of its operations to the provincial industrial zone. We can speculate on a number of reasons for their refusal: 1) Local leaders don’t want to mediate a negotiation with farmers who might lose the land for agricultural use. 2) The land might be already promised to another company. 3) The People’s Committee might feel that the land is not appropriate for this firm’s expansion plans. 4) The committee members are required to promote the expansion of the industrial zone.

For the Joint Stock Factory, moving to the industrial zone does not make business sense. It will be too expensive to

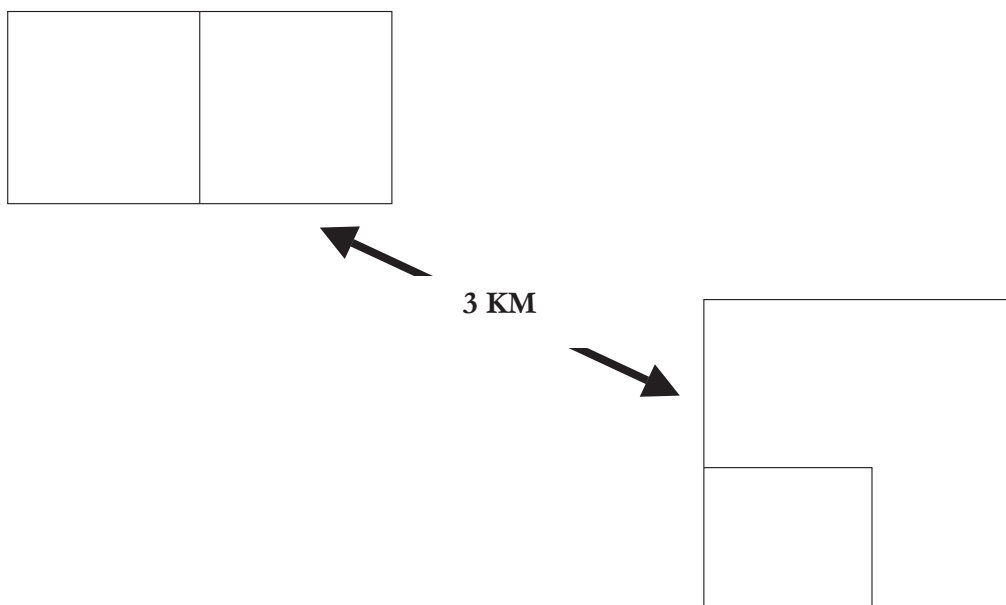
move the entire company to the industrial zone, and it is impractical to move only half of its operations to the industrial zone, while the other half remains in its current location. The extra costs in logistics and transportation between the two areas, which are about three kilometers apart, would be a financial burden.

In this scenario, a private firm is being denied access to available land that is necessary to expand the business and increase profits. The People’s Committee has not provided a clear rationale for its refusal, nor has it addressed the firm’s concerns about the industrial zone. What should the firm do?

Case Study 4.2: Transparency and Predictability of Policy Location of business premises

Phượng Hoàng is a sole proprietorship producing processed wood products and sculptures. The firm has ambitious expansion plans and desperately needs land. After researching provincial policies for renting land in industrial zones or industrial concentrations, the firm is both anxious and indecisive about the extra fees necessary for investing in real estate.

Phượng Hoàng knows that the government’s official land prices may appear to be quite low at first glance, but in actuality, there are always a number of additional costs, most of them impossible to predict. These may include:



1. Provincial land tax and land transfer fees.
2. Fees of the district administration or commune.
3. Compensation to the present landholders.
4. "Relationship" fees (special gifts meant to expedite administrative procedures).
5. Miscellaneous fees.

A few firms working closely with Phụng Hoàng have complained that actual land fees are often two to three times higher than the Central Government's official prices. The firm is worried that it will not be able to accurately calculate the total cost of its investment. It needs to have a clear idea of what costs it will incur over the course of its land transaction. The firm has just begun to calculate the amount of capital that must be mobilized to execute its business plan. But the lack of reliable cost information has made it impossible for the firm to make these vital calculations. The firm has wasted deal time trying to acquire the necessary information and is beginning to feel insecure about its investment.

Case Study 4.3: Role of Administration in the Establishment of Businesses Premises for Enterprises

Sông Hồng, a limited liability company specializing in the production of inlaid photos, employs about 15 people and has eked out a small profit producing on the director's household property. The company has expansion plans and is thinking about renting land and opening a workshop in the small industrial concentration (cụm công nghiệp) in the provincial capital. The firm contacted several provincial officials at a meeting of enterprises in which Sông Hồng was invited to take part. The director of the company was encouraged; the officials seemed willing to create a supportive business environment.

When the director was given the Provincial Decision (Quy định - UBND 30) on renting land in his intended jurisdiction, he began compensation discussions with the families who would have to vacate the land before he could build his workshop. After more than six months of negotiations, the parties had yet to reach an agreement. But it had become clear that acquiring the land would cost three to four times the official state price.

Provincial officials have been passive observers of the negotiations, not daring to intervene and expedite the process. Nor have they supplied the company with adequate information to judge the price of land and facilitate negotiations.

The director of the company is discouraged. He does not have enough capital to meet the demands of the present landowners. He is tired of the negotiations and procedures and is considering investing in a neighboring province, where

renting land in an industrial zone is much simpler and cheaper.

The preceding three cases represent poor application of our three themes of good provincial governance. In case 4.1, Joint Stock Factory #9 is burdened by a poor provincial attitude toward the private sector, which places priority on filling industrial zones over the needs of the company. Case 4.2 represents the hidden costs of land that haunt firms after they have made expensive decisions. In this case, Phụng Hoàng is hesitant to purchase land because it fears lack of provincial openness will raise its expenses three to four times the projected price, an unsustainable level for a company attempting to make long-term calculations about the success of its business. Finally, Sông Hồng troubles in Case 4.3 are quite typical for firms in the Red River Delta, where the length and costs of negotiations with farmers can be quite damaging for businesses. As we will demonstrate in our discussion of the best practice below, coordination and planning among provincial officials can limit the expensive burden of land compensation to existing holders.

4.1. Best Practices in Land Policy

The problems relating to land and the business environment in the Red River Delta and North Southeast are considerably different in key respects. The provinces in the Red River Delta are more accustomed to agriculture and high population densities; land is primarily used for wet rice cultivation (especially in the provinces neighboring Ha Noi) and land speculation is quite common. By contrast, in the North Southeast, the land conditions are favorable for industrial development; population densities are low, and land prices and speculation are less complicated. In just one year, Binh Duong cleared over 90% of the land it had set aside for industrial, service and urban areas (a total of 4,129 hectares), an accomplishment that would be extremely difficult to replicate in the Red River Delta.

The differences between the two clusters can be seen clearly in Figure 2, derived using data from the PCI Land Policy Sub-Index.¹³ The bars show the effective price of land in each province -- land price in thousands of Vietnamese dong adjusted for the amount of land available and the number of firms vying for the land. The Southern provinces are cheaper in general with Binh Duong and Dong Nai standing out as particularly low-priced areas. Land prices in the Red River show more variance, with Vinh Phuc having far and away the most expensive land. The diamonds illustrate the number of planned or actual industrial zones in the province. Once again, Binh Duong and Dong Nai are miles ahead of their peers with 10 zones each. At present, Vinh Phuc and Hung Yen have only one zone each in operation, though both have additional

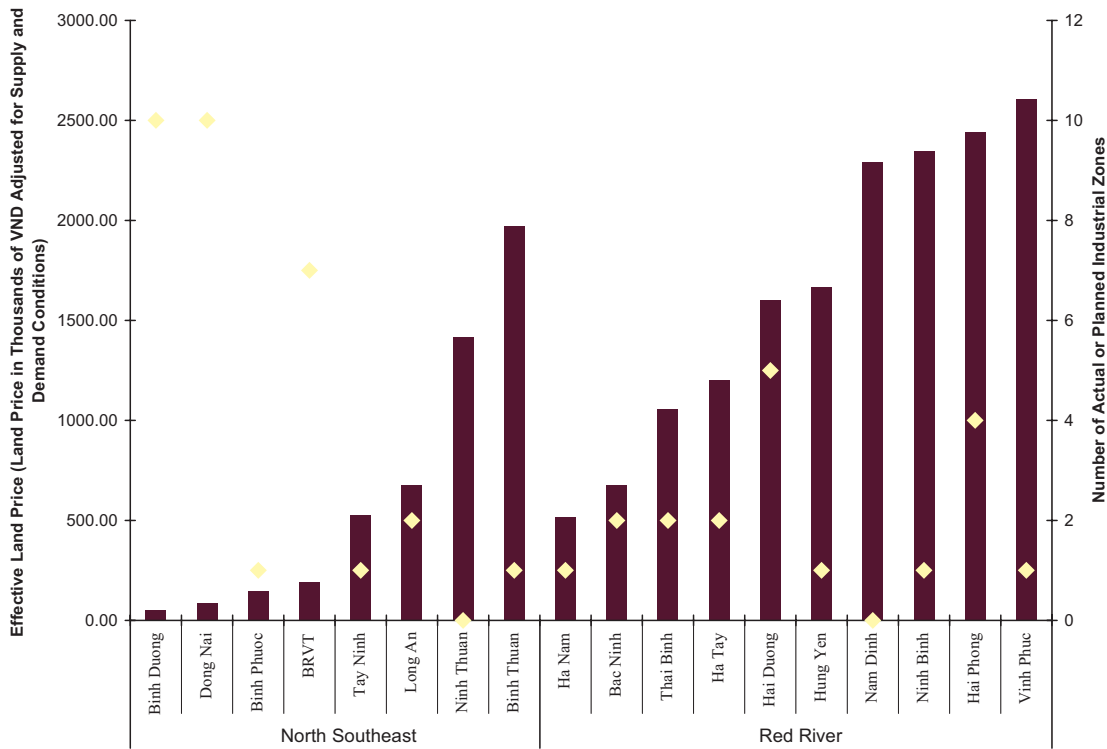
zones coming on line.¹⁴ Vinh Phuc's *Quang Minh* zone is notable for its 100% occupancy rate.¹⁵

Because land conditions vary so differently by region, the report sub-divides best practices on land policy, making separate recommendations for the Red River Delta and North Southeast.

4.1.a. Land Policy in the Red River Delta:

As Figure 2 shows, Hung Yen and Vinh Phuc have not escaped the land policy problems typical of Red River Delta provinces. In this heavily agricultural region, farmers who lose land must be compensated; land clearing is expensive; a wide gap exists between actual market prices and prices promulgated by the People's

Figure 2: Comparison of Key Land Indicators Across Provinces
(Data from Provincial Competitiveness Index)



13 Vietnam Competitiveness Initiative & Vietnam Chamber of Commerce and Industry. *The Provincial Competitiveness Index Final Report*.

14 *Vietnam Economic Times*, 2005. "Industrial Zones and Export Processing Zones." vol 141 (November): 56-57.

15 *Vietnam Economic Times*, 2005. "Industrial Zones and Export Processing Zones." vol 141 (November): 56-57.

Committee within the central government's pricing parameters; rezoning land from agricultural to manufacturing use is complicated; and local governments place a high priority on keeping land available to guarantee food security during a natural disaster or economic crisis.

The research team concluded that no single Red River Delta province could be held up as a model by which to ascertain best practices, not even Vinh Phuc or Hung Yen. It is too early to determine whether the policies they have implemented to deal with land problems will bear fruit. Nevertheless, the team did find that both Vinh Phuc and Hung Yen have launched experiments worth discussing in detail. They may inspire similar innovations by their provincial neighbors in the important policy areas of land clearance and compensation to farmers. In both provinces, land clearance is an important responsibility of the local administrations. This is a complex process requiring rezoning of agricultural parcels, digging up fields, leveling land with bulldozers, and parceling it up for redistribution to investors. Provincial People's Committees preside over large projects, while small- and medium-size projects fall under the jurisdiction of the districts and provincial cities. Investors and enterprises never negotiate directly with farmers/landowners; except for a few small projects of one or two hectares, they almost always negotiate directly with either provincial or district officials.

Attitude

- General Positive Attitude: While the research team was not impressed with any one land clearance policy decision made by Hung Yen province, they were quite impressed with the attitude of the People's Committee. The provincial administration appears to be dealing forthrightly with a dif-

ficult public policy dilemma and is determined to solve it. Moreover, on a case-by-case basis, local officials have shown a strong desire to help individual firms beset by land problems. Their amicable attitude left many firms believing that the province is acting in their best interests.

- Cooperative Agreements with Firms to Hire Displaced Farm Labor: Vinh Phuc has been at the forefront of devising initiatives to help farm workers who are displaced when agricultural land is converted to manufacturing uses. The province has worked hard both to promote private sector development and to ameliorate the social dislocations it can cause. Provincial officials passed a series of resolutions requiring enterprises to find jobs for farmers whose land they acquired.¹⁶ While most firms accepted this policy, they soon began to encounter difficulties because many farm workers were not adequately trained to do manufacturing work. They were unaccustomed to the discipline of working on a factory floor and had little understanding of their rights as laborers in the new environment. As a result, the provinces' policies placed an unanticipated burden on private firms, which were forced to absorb re-training costs and production slowdowns caused by adding untrained workers to factory floors.

Sensing the difficulties firms were facing, Vinh Phuc officials adopted a new strategy: they paid to train the farmers before they entered the workplace, greatly reducing the costs on private firms.

- Micro-Credit to Displaced Farmers: Similarly, Vinh Phuc began a micro-credit program, offering farmers low-interest loans to encourage them to switch from farming to other forms of entrepreneurship.

16 Information from working session of VCCI/PMRC/TAF with Mr. Trần Ngọc Ái, Vice Chairman of Vinh Phuc PCOM. For more information on this policy, please refer to: <http://vietnamnet.vn/kinhte/2005/05/421061/>; <http://www.tuoiitre.com.vn/Tianyon/Index.aspx?ArticleID=73992&ChannelID=3>; For general land clearance policy, please see: <http://www.tuoiitre.com.vn/Tianyon/Index.aspx?ArticleID=73815&ChannelID=3>

- Making the Farmers Owners of Converted Land: Vinh Phuc has also decided to recover land from farmers by paying them more for land than required by central regulations, offering further incentives for farmers who surrendered their rice paddies under the provincial initiative called *giao đất làm dịch vụ?*, “Delivering land for services.” The policy, in effect for only a couple years, is a mode of convincing farmers to sell their land for more productive usage. It also ensures that farmers share in Vinh Phuc’s rapid economic growth. The policy was used with great success in the land clearance for Quang Minh Industrial Zone and for new investors such as Eurowindows,¹⁷ but further study will be needed to determine if it unleashes any unintended consequences. In addition to paying farmers official government prices for their land, Vinh Phuc officials have begun to offer them a piece of the future market value of the property.¹⁸ When farming households lose their land, for every paddy (*sào*) taken, they receive ten square meters of land for their own purposes. As a result, one household that has five paddies will receive approximately fifty square meters of *đất dịch vụ?* (service land). Farmers can eventually sell this land at the higher market rate of manufacturing land, granting them an extra bonus for participating in the policy. As land becomes more valuable in Vinh Phuc, this policy could be quite lucrative for farmers.

- Attract Labor-Intensive Investment: Hung Yen has adopted an alternative market-oriented approach to the social dislocations caused by land clearance. They try to attract a mix of labor-intensive projects that create jobs quickly and capital-intensive projects that create higher-paying jobs over the long term. For example, a textile and garment company might be established next to an iron handle project. Textile industry

investments hire thousands of workers within a few months while steel industry projects, which demand skilled labor, usually take three or four years before they begin operating. According to provincial officials, this sort of balanced development promotes social and economic stability, creating low-skilled jobs early on and high-skilled jobs later.

Openness

- General Openness: Hung Yen has done a remarkable job of communicating its land policies and how it intends to change them in the future. Vinh Phuc province also provides clear information about land policy. And it makes a special effort to show farmers how industrial development can benefit them, as well as the entire province.

Coordination

- Delegation of Authority over Land: Vinh Phuc has a clear delegation of authority among the Industrial Zone Management Board, provincial officials, and district officials. A firm seeking to buy recently converted agricultural land deals with just one official and the farmers whose land they will be assuming. In many Northern provinces, firms must deal with several local officials, costing them time and money.

4.1.b. Land Policy in the North Southeast:

The provinces of Binh Duong and Dong Nai have had much success in the development of industrial zones and concentrations. They have implemented innovative policies governing land allocation, industrial zones, land clearance, and the compensation of farmers. They have also excelled at improving infrastructure along with land clearance, thereby attracting entrepreneurs for whom location and infra-

17 Đà Trang, 2005. "Bộ trưởng về làng," ("The Minister Returns to the Village," *Tuổi trẻ Online*. April 9. <http://www.tuoiitre.com.vn/Tianyon/Index.aspx?ArticleID=73815&ChannelID=3>

18 Presently, the policy is only being applied in villages that have lost over 40% of their land.

structure were the decisive factors. Best practices in these two provinces extend far back into the early nineties, when both made decisions that continue to pay dividends today.

Attitude

- Early and Flexible Land Planning: Both provinces began implementing land planning policies very early (Dong Nai started as early as 1995), leading to early investment and industrial growth. Policies were intentionally flexible, allowing both provinces to adapt them to meet the demands of economic growth, as well as satisfy investors.
- Improving Business Premises: Both provinces cleared land and provided infrastructure for companies that invested in their industrial zones. Firms from many different economic sectors chose to relocate to the zones to take advantage of these advantageous conditions. The early momentum generated by the industrial zones has led to economies of agglomeration, where investors benefit from close proximity and consequently horizontal and vertical linkages to other investors. Both Dong Nai and Binh Duong still have over 60% occupancy rates, despite the fact that each has 10 industrial zones and several industrial concentrations.

Openness

- Land Authority as Surveyor's Office: Binh Duong was one of the very first provinces to change the role of the Land Authority from the final signatory on land purchase decisions and the residual claimant on provincial land to a high-level surveyor's office. In the early nineties, the Land Authority was a powerful office at the provincial level with the ability through its residual claim on land to hold up purchases and determine how land would be allocated. Under subsequent iterations of the Land Law (most importantly in 1998), most of this role has been delegated to the People's Committee. In many provinces, the Land

Authority has not adjusted well to its diminished responsibility. Binh Duong was one of the first provinces to recognize that the Land Authority was using its signatory power to create purchasing bottlenecks. It eliminated the agency's signatory role but provided the agency with surveying equipment so that it could advise the province on zoning decisions. Now, the Land Authority operates as a modern land consultant, providing access to maps and information of the highest quality and finding the cheapest suitable land for businesses that request it. The information is provided openly to ensure that insiders do not gain special knowledge of areas where infrastructure is likely to be built.

- Non-Discrimination on Procurement for Land Clearance: Binh Duong has created an open, competitive system for awarding land-clearance and infrastructure contracts. It does not give special benefits to state-owned firms, but simply chooses the firms offering the best price and highest quality. At present, Binh Duong has eleven enterprises involved in the construction of infrastructure for industrial zones and industrial concentrations, including three state enterprises, one joint venture, four joint-stock companies, two limited-liability companies, and one sole proprietorship. The open competition for contracts has improved the quality of infrastructure provision and lowered the overall cost to the province tremendously.

The net result has been a boon to investors within the industrial zones, who receive high-quality plots and cheaper prices relative to other provinces. Moreover, Binh Duong's open competition has attracted a great deal of talent and investment capital into the infrastructure construction industry, creating several successful private firms with hopes of competing for similar projects in other provinces. Binh Duong prides itself on the open marketing of these competitions in order to get the word out to entrepreneurs of all stripes.

- Revaluing Land for Healthy Real Estate Market: Binh Duong has done very little to intervene in its land market. Its only policy has been to revalue the government prices for land, so that they keep pace with open-market rates. The province usually revalues prices once or twice year. Such revaluation is necessary in case the provincial government needs land for public goods such as roads, bridges, or water treatment plants. It ensures that landholders are paid market value rather than artificially low government rates. It is important to note that Binh Duong engaged in constant re-valuing of government rates before the Decree 181/2004/ND-CP was promulgated, making this national policy. As a result, competition for a piece of the valuable investment property in Binh Duong has created a healthy market for the exchange of land use rights certificates. Initial investors have been able to make tidy profits by selling their land or leasing it to new investors. While some of the investment is speculative, the majority involves new firms seeking business premises close to Ho Chi Minh City and its ports, as well as high-quality infrastructure.

- Repossession of Unused Land: A major frustration for provincial leaders has been the impact of land speculation on economic development. Often a province must invest a great deal of its limited resources into land clearance, negotiations with farmers, and infrastructure construction to connect the newly leveled land to larger markets. Provincial leaders have expected this public goods investment to pay dividends, but have been disappointed when speculators pounce on early land sales only to hold the land indefinitely without any intention of establishing a business. This has sometimes bred resentment among farmers, who believe they were pressured to sell their land too early – before its value peaked.

To deal with this problem, every six months Dong Nai carries out inspections of production premises to ensure that land is

being used for the purposes for which it was granted. Land allocated but unused is re-possessioned and allocated to new enterprises that need land. Within the past year, 50 hectares were taken back from 80 enterprises.

While Dong's Nai ingenuity should be commended, some caution must be taken in the application of this policy to other provinces. Great care is needed to differentiate land speculators from entrepreneurs who simply decided to purchase land early in their operation to lock-up a cheap price. These businessmen have every intention of developing the land but must raise investment capital before they can begin operations. Secure property rights are the cornerstone of successful investment. Should a province create a reputation for not respecting the property rights of its private investors, it would quickly experience a notable decline in entrepreneurs willing to risk their hard-earned capital.

Coordination

- Delegation of Industrial Concentrations to District Governments: Concerned that small businesses would be crowded out of industrial zones by competition from large domestic firms and foreign companies, Binh Duong and Dong Nai invested heavily in early construction of industrial concentrations, *cum công nghiệp* (local zones that do not require Prime Ministerial approval) to accommodate small- and medium-sized domestic enterprises. The work of constructing industrial concentrations was delegated to the district People's Committee, which was believed to have had a better sense of the infrastructure needs of smaller private companies. The provincial People's Committee provided block grants to the districts for land clearance and infrastructure construction.

- Mobilizing Capital for Land Development: Binh Duong province is active in finding and regulating capital and

mobilizing resources for construction of infrastructure at its industrial parks; for any project beyond its authority, the province consults ministries and departments for its implementation. And for any project lacking capital, enterprises are asked to invest in Build-Operate-Transfer (BOT) agreements. Under this form of project financing, a private entity does not own the assets, but receives a franchise from the provincial government to finance, design, construct, and operate a facility for a specified period, after which ownership is transferred back to the province. While it operates the facility, the private firm charges facility users appropriate tolls, fees, rentals, and charges. The BOT model was employed in the construction of Binh Duong Avenue, the former National Highway 13.¹⁹

4.2. Solution to Case Studies on Land:

In case study 4.1, the provincial government would play a more constructive role if it tried to work with Joint Stock Company #9 rather than force it into provincial industrial park, a move that is clearly not in its best interests. If the Land Authority were playing the role of the land consultant as it does in Binh Duong, officials would probably have seen that the most profitable investment for the firm, and ultimately for the province, would be to convert the agricultural land into manufacturing land and allow Joint Stock Company #9 to bid on it fairly against other investors. If reluctant farmers are holding up the conversion, the province might want to employ the Vinh Phuc technique of providing them a percentage of “service land” they could sell later at the higher manufacturing rate.

Case study 4.2, regarding the wood-processing firm *Phượng Hoàng*, illustrates that provinces should take every step possible to ensure that information on land is widely available. The more firms fear “hidden costs of land,” the

less likely they are to risk their hard-earned capital. Binh Duong’s transparent land policies and its constant revaluations of land prices are policies that *Phượng Hoàng*’s province should follow.

Case study 4.3, regarding *Sông Hồng*’s disappointing negotiations with farmers, describes a widespread problem in the Red River Delta for which there is, as yet, no clear-cut solution. Vinh Phuc’s experiments with farmer compensation will hopefully bear fruit down the road. This case study raises an important issue: the role of local government in negotiations with farmers. *Sông Hồng* clearly wants the government to play an interventionist role, where it declares eminent domain and assists the firm in getting on with its business. But such intervention is not in the interests of property rights development in Vietnam. The farmers have as much right to demand fair compensation for their land as a business does to purchase it. The social unrest over land in Ha Tay illustrates how a land dispute can spiral out of control if farmers believe they have been manipulated. Dong Nai’s policy of limiting speculation through repossession after the conversion of agricultural land to manufacturing goes a long way toward alleviating the distrust of farmers. Overall, it is probably best for the provincial government to play a more passive role -- like Vinh Phuc -- that does not directly alter the negotiations, but changes the incentive structures faced by farmers, motivating them to participate in the province’s transformation to a modern, manufacturing economy. A province growing economically and producing higher-paying jobs is certainly in their interest, especially if proper training allows them a stake in the growth.

19 Nguyen Ky, "Binh Duong's Investment Lessons," *Sai Gon Economic Times*, vol. 27 (5), July 2, 2005.

INSPECTIONS

Case Study 5.1: Police Inspections and Foreign Guests

Province B is a popular tourist destination famous for its many scenic attractions. It attracts many tourists every year, and tourism is the main industry in this otherwise economically depressed province.

One small hotel in the province is struggling to attract foreign tourists. This hotel is a sole proprietor with only fifteen rooms. Thus far, the hotel's main clientele are vacationing Vietnamese tourists as well as a few foreign guests. This hotel has a very good record of following both central and local regulations with respect to registering foreign guests. The police, however, have been overzealous in their enforcement of the registration of foreigners. They come by almost every day to ensure that the hotel is in accordance with the registration policy and to check the passports of the foreign visitors. These frequent visits, occurring at peak business hours, have frightened many foreign guests. A few were so traumatized by the sight of uniformed police approaching the desk and demanding their passports that they left the hotel before their scheduled departure.

One recent guest remarked to the travel café responsible for booking the trip, "Well, I have never been so humiliated in my life! The police came and I thought it was a raid! I asked the hotel owners, 'What type of establishment are you running here?' I'm never coming back again." The hotel has seen a reduction in foreign guests from last year, which the owners blame on the police presence at the hotel. The owners have expressed curiosity as to why other local hotels do not have a comparable police presence.

The hotel owners would like the People's Committee to do something about these frequent visits. What can they do?

Case Study 5.2: Inspections and Investigations of the District Market Regulators

Hà Linh is a joint stock company manufacturing pharmaceutical products. It employs about 150 people and has been moderately successful over the past few years. Although it has contributed jobs and revenue to the provincial economy, it has been burdened by bad relations with the district Market Regulators, whose primary job is to enforce brand name and intellectual property rights, by ensuring that firms

do not illegally use the product names or specialized materials of their competitors without permission.

According to Hà Linh, the Market Regulator has been overzealous in a few areas. First, inspectors visit often, with no warning. The visits can last for hours, and they have slowed down the firm's production cycle considerably. Each time the inspectors come, managers must stop their manufacturing line for several hours. Even if only a segment of the line is inspected, production must be stopped completely during the visits, as subsequent stations cannot complete their responsibilities. When these visits last for four or more hours, as they often do, they prevent the firm from meeting its contract deadlines.

Second, market inspectors often ask for documents that do not fall under their jurisdiction (labor contracts, financial reports, business plans, etc.)

Third, the inspectors drew up a report recommending punishment for the firm, because it possessed articles not registered as industrial products. In essence, the inspectors accused the firm of avoiding VAT by not registering all of the supplies it was using. Hà Linh strongly denies the final allegation, but agreed to pay the fine anyway to avoid further harassment from the inspectors.

The firm would like to complain about the harassment but does not know where to turn. Similarly, the company would like to appeal the fine, but doubts that the Provincial People's Court would find in its favor.

Both of these case studies illustrate the damaging effect that unduly intrusive inspections can have on businesses, diverting them for long periods of time, costing valuable production time, and scaring away customers. To deal with overzealous inspectors, provinces need to think seriously about how to coordinate local agencies and how to perform their legitimate regulatory role as government officials with only minimal intervention in firms' activities.

5.1. Best Practices in Inspections

Within the governance dimension of inspections²⁰, provinces around the country have all

²⁰ This category includes both *kiểm tra* (short term examinations or controlling visits) and *thanh tra* (when local authorities are called in due to unexpected problems).

paid equal attention to the inspections policy outlined in Decree 61/1998/ND-CP. In short, Chapter I of the document prohibits the abuse of inspections by regulators and the obstruction of inspections by firms. Chapter II provides for the drawing up of inspection plans by competent monitoring agencies. Chapter III describes inspection procedures. Specifically, inspections shall not last more than 30 days and no firm may be inspected more than twice a year. Finally, Chapter IV sets out the rights and responsibilities of enterprises and inspection agencies. Enterprises have the right to refuse inspection pending a decision by a competent state agency. A further directive issued in 2001 (No. 22/2001/CT-TTg) clarified the procedures in order to ease coordination between local regulatory agencies.

Inspections and controlling visits serve three critical functions for local officials: they protect the environment as well as the health and safety of workers and communities; they provide enterprises with practical information about provincial laws initiatives; and they serve an important symbolic role, signaling to firms the overall provincial attitude toward private business, especially how the province intends to implement national laws and policies. But while they can serve a productive purpose, inspections too often become a “gotcha” game, where officials sometimes criminalize normal business activities. A few best practices follow:

Coordination

- Empowering the Chief Inspector: In Binh Duong, inspections and controlling visits are the sole responsibility of the Provincial Chief Inspector. His visits must follow a schedule set by the People’s Committee, and his activities and duties must be publicized so that enterprises know what to expect. The inspection results are publicized and the inspector must sign the report, assuming responsibility for the results. Most importantly, the inspector’s main duty is to prevent violations, not to punish, and there is no effort made to seek

criminal punishment for an act of civil misconduct.

- Annual and Semiannual Inspection

Coordination: On March 15, 2001, Dong Nai promulgated Decision 69/2001 QD-CB-UBT, which limits all provincial regulatory agencies to no more than one inspection per year. They must inform the Provincial Inspectorate Office (*Thanh tra nhà nước tỉnh*) of their plans so that the People’s Committee can coordinate the visits, with the goal of limiting the number of inspection days per enterprise to just one per year.

- In Dong Nai, unusual and extraordinary inspections are only allowed when evidence suggests an enterprise has violated the law. In such a case, the regulatory agency may be permitted a special inspection outside the confines of Decision 69.

Openness

- Publication of Annual Inspection

Itinerary: Like Dong Nai, Hung Yen also coordinates controlling visits at the beginning of the year in order to avoid creating an undue burden for firms. But Hung Yen has gone one step further, publishing the itinerary of such visits openly for enterprises to view under Decision 12/2003/QD-UB of March 18, 2003. The early warning allows enterprises to make sure relevant managers (such as human resources) are on site and can accommodate the demands of the inspectors. Extraordinary inspections (*thanh tra*) and even random “spot-checks” are still allowed, as this decision only applies to examinations (*kiểm tra*) planned at the beginning of the year.

Attitude

- Full Report to People’s Committee of Regular and Extraordinary Inspections: Vinh Phuc takes special steps to safeguard the interests of firms when extraordinary

inspections are necessary, because complaints have been lodged or there is evidence that a firm has violated the law. Agencies are only allowed to visit firms to “defend the law” when enterprises have shown clear signs of illegal activity. After both periodic and extraordinary inspections, local regulatory agencies must file a report to the Provincial People’s Committee certifying the results and the ultimate decision. The People’s Committee then reviews the report to determine whether there were any errors in the process or determination. The director of each regulatory agency is held personally responsible for any mistakes that may have been made in the course of the inspection or the conclusion.

- **Overzealous Inspector Hotline:** Before it limited inspections to the Chief Inspector, Binh Duong provided a phone line for firms to call the People’s Committee if they believed an inspector had been overzealous or if they had been inspected more than twice per year. The People’s Committee would then inspect the inspector, sometimes dismissing regulators who were corrupt or biased.

Solution to Inspections Case Studies:

Both of these situations would probably have been avoided in our high-performing provinces. Annual coordination and publication of the inspection schedule would have prevented local police and the district Market Regulator from paying such frequent visits to the mini-hotel and *Hà Linh Pharmaceuticals*. If the visits were deemed necessary due to extraordinary circumstances, the People’s Committees would have been informed of the reasons and would have been able to review the regulators’ reports to ensure that justice had been done.

Openness would have also ensured that firms understood the reasons for the visits and reassured them that regulatory agencies were asking for the correct documents. *Hà Linh* argues that the Market Regulator is asking for

papers not required under the law, but the Market Regulator can get away with this because the province has not openly explained what documents are legally required. If provincial decisions were better publicized and the documents in question were not required, then *Hà Linh* could simply refuse inappropriate requests, citing the relevant legislation. Similarly, openness regarding provincial policy would allow *Hà Linh* to better argue its side in the dispute over the company’s VAT obligations. The dispute is very difficult to adjudicate precisely because the Market Regulators have an asymmetric information advantage – only they know whether they have cited the law appropriately. Publication of provincial standards for Market Regulators would eradicate this advantage. Furthermore, if local courts in the province operated more effectively, *Hà Linh* could actually take its complaint to a local tribunal.

If the local regulatory agencies were indeed acting outside the parameters set for them by the People’s Committee, a hotline like Binh Duong’s would be particularly useful, enabling the mini-hotel to ask People’s Committee officials to look into the constant hotel visits and determine whether the police were acting, say, on behalf of a competitor or just acting outside the requirements of the law. If necessary, the People’s Committee could have instructed the police to behave in a less obtrusive manner.

A hotline and People’s Committee oversight of the Market Regulator would be useful in *Hà Linh* as well. The firm should be allowed to call the Provincial People’s Committee to request an investigation into the two practices it objects to most – requests for unnecessary documents and inappropriate VAT assessments. A five-minute hotline call to a knowledgeable official at the People’s Committee could settle this debate. Finally, provinces must be willing to fire inspectors who act illegally or unprofessionally, especially those who extract bribes. Binh Duong’s willingness to investigate hotline complaints and fire corrupt inspectors is one reason that firms’ rate its governance highly.

PLANNING AND POLICIES

Case Study 6.1: The case of provincial investment promotion and communal implementation

After an extensive investment promotion campaign, a domestic private resort developer decided to make a substantial investment on an island in a famous and scenic river. Both the firm and the province hoped that development of an attractive tourist community would lead to further investment. Extensive market research and analysis went into the decision to build. The area is renowned for its beauty and attracts a substantial number of backpackers, but very few high-end tourists. Developers hoped that a resort would lure big-spending foreign tourists. Investment procedures were complex and the negotiations were lengthy. In the end, however, all investment issues were resolved to the satisfaction of both the province and the investor.

In order to attract tourists, the developer wanted to open a ferryboat passage linking the mainland to the island. This was the most convenient way for tourists to reach the resort, which was only a short distance from a main highway running south from Ha Noi. The communal People's Committee agreed to approve the boat lane, and the investor began construction.

The Communal Department of Transportation disagreed with the venture but said nothing until the investor had laid out a great deal of capital. After continuous negotiations, it became clear that the communal administration was not willing to allow the ferry crossing under any circumstances. The tourist company eventually decided to open another road in an adjacent province, entering the island from a different route, even though it was less convenient. The company's decision will deprive the commune of tourism development.

Although the new road has opened, the resort has drawn few tourists. The investor, who has staked a great deal on this project, complains that his project has "been poured down the river and into the sea."

Provincial officials had big dreams and were lucky to find a private investor willing to risk his own capital to help attain them. He believed in the province's goals and believed he could profit from them. They squandered the opportunity because of two common failings in provincial policy – a lack of coordination between provincial and communal govern-

ments and a lack of openness with the investor, who was never informed about the communal transportation department's concerns.

6.2. Best Practices in Provincial Planning and Policies

In order to attract investment and develop their economies, all provinces attach special importance to the development of infrastructure. Well-developed and comprehensive infrastructure allows investors to inexpensively access supplies and easily ship their products. Taking the private sector into account by assisting with infrastructure and development plans is far different from the sort of centralized government planning that characterized Vietnam's economy before the government instituted its *doi moi* reforms. It does not mean telling entrepreneurs what to produce or how to risk their capital. Planning for the private sector in a market economy (even one with a socialist orientation) simply means studying the infrastructure and policy needs of local entrepreneurs and devising strategies that will allow private investors to maximize their potential and the local economy to flourish.

Immediately after Binh Duong was separated from Song Be province, its leaders famously determined that "roads (tar, electricity, water, and telecommunications) wherever you go are the currency." Investment in infrastructure development was mobilized from a number of different sources: state funds, overseas development assistance (ODA), private investors and infrastructure investors in BOT models. Binh Duong was the first province in the country to allow domestic private companies to invest in infrastructure, and it now has three private enterprises helping to develop industrial zones.

Early infrastructure construction was planned for in the first provincial socio-economic mas-

ter plan (1996), which, along with land-use planning, was the key element in attracting investors. Compared with Dong Nai, for example, Binh Duong approves many investment projects outside of the industrial zone. These require careful planning so that investment properties can be located quickly and licensing procedures can be expedited. The planning offices are ensconced in the DPI, so investors do not need to get the opinions of many different departments, branches, or agencies.

Attitude

- **Province Must Acknowledge the Private Sector in their Plans:** One of the most striking findings of Volume 1 in this publication series was that only four provinces (Binh Duong, Dong Nai, Vinh Phuc, and BRVT) even mentioned the private sector in their 10-year master plans and 5-year strategic plans.²¹ Unsurprisingly, these four provinces were all among the highest achievers in the two regions. (Hung Yen did not comply with the research team's request for the planning documents and therefore it is impossible to determine whether it has accounted for the private sector like its high-performing peers.)

Successful provinces encourage the development of the private sector, which they see as a driving force in socio-economic development. Officials in the four high-performing provinces appeared, in interviews, to be aware of the role of the private sector in providing investment capital and jobs and increasing provincial revenue. As a result, these provinces have developed programs to improve conditions for the development of the private sector. They help with business premises, financial information, training, science and technology, and administrative procedures.

Careful planning allows provinces to more successfully implement infrastructure projects, re-zoning, and local development policies that meet the needs of this growing sector. When provinces only plan for state investment, they end up building infrastructure inappropriate to the needs of their local investors. For example, a common planning mistake is for provinces to invest heavily in ports, which act as an implicit subsidy to local state construction companies, when their private sector would benefit from a well-paved four-lane highway that allows them to more easily transport products to the existing and heavily trafficked port of a neighboring province.

Similarly, private companies complain that local labor lacks the requisite numeric and literacy skills to be absorbed into their factories, forcing them to make large expenditures on training. Often, their trained workers leave for higher-paying jobs at foreign or state firms. Appropriate planning identifies general labor training as a public good and provides for local training centers, so that private firms are not forced to subsidize their larger competitors. On both of these fronts, Binh Duong is a symbol of success derived from appropriate planning.

One story in *Người Lao Động* (Labor) newspaper captured the attention of the research team because it demonstrated the symbolic importance of the private sector in Binh Duong.²² At the beginning of the 2004, an inaugural ceremony was held at the Minh Sáng Trade Center of Minh Long Company, Binh Duong's most famous pottery manufacturer. Nguyễn Hoàng Sơn, the People's Committee Chairman, attended the celebration and set aside the beginning of his presentation to wish longevity upon the mother of Lý Ngọc Minh (Minh Long's Director), who had just turned 80 years old. Newspaper reporters at the event

21 See Table 4: "Supplemental Analysis of Provincial Planning Documents," page 25 of Volume I.

22 Dũng Tuấn, Binh Dương - Đầu chỉ là đất rẻ, *Người Lao Động*, August 2, 2004 (<http://www.nld.com.vn/tintuc/kinh-te/97341.asp>).

were taken aback by the strength of concern and connection the chairman showed toward his private sector “partner” in the province. Reporters from Ho Chi Minh City actually were heard to exclaim, “This is a new story.”

The incident was noteworthy because the chairman’s remark turned the traditional pattern of deference in Vietnam on its head. Private firms have remembered important family memorial days of local officials for years in order to ingratiate themselves with decision makers. For a government official to take the time to honor a businessman’s relatives was a striking reversal. The chairman had taken significant time to research and write a specific remark for the occasion – and curry favor with the enterprise.

Vinh Phuc is another province that has thought seriously about how to plan for the needs of the private sector. In cooperation with this report, the Vinh Phuc government provided researchers with a provincial resolution that candidly evaluated the development of different business types in the provincial economy, beginning with its 1992 separation from Vinh Phu province. The conclusions follow:

- SOEs make-up a small and declining proportion of the provincial economy. Their influence on the economy is also quite small relative to other sectors. Correspondingly, their influence on provincial planning, which was always very small, has declined as well.

- The collective economy is developing slowly, and cooperatives are encountering great difficulties. Provincial planning has not focused on these ownership types due to their extensive complications.

- The Foreign Direct Invested sector has developed quite rapidly, accounting for a larger and larger share of the economy, especially in industry. Their productivity, quality, efficiency, and competitiveness are high and the revenues they generate account for a larger share of the budget. As a result, provincial planning has taken into account the diverse needs of this sector.

- The private sector is developing at a rapid clip, accounting

for a large percentage of economic production and employing the largest share of the provincial labor force. Land planning, labor capacity training, and infrastructure development are increasingly designed with an eye toward the needs of the private sector.

These planning decisions have paid off. The quick development of the private and foreign-invested sectors has had a large impact on the progress of the provincial economy and has gradually transformed the look of the province. They have helped raise the living standards and income of provincial citizens.

Openness

- **Inform Firms of Plans:** A critical aspect of planning is to let private firms know what is being decided on their behalf. Openness, of course, assures that private firms will be able to look over provincial initiatives and offer suggestions about how they can best address private-sector concerns. Planning cannot take place in isolation; it requires widespread participation and discussion.

Coordination

- **Political Support:** In many provinces, the People’s Committee and Party Secretariat have not seen eye to eye on provincial activities toward the private sector, leading to gridlock. By contrast, in Hung Yen and Dong Nai, the two institutions have often worked together as initiators of a great deal of private-sector planning. The Party Secretaries have responded to Party resolutions with concrete solutions and goals aimed at promoting private-sector development. The Party Secretary of Hung Yen has issued Program Number 30-CT/TU (June 27, 2002) to implement Central Resolution Number 5 from the 9th Party Congress regarding continuing the *Đổi mới* economic reforms, and policies for encouraging and creating the conditions for private sector development. The Party Secretariat of Dong Nai also has Program Number 25 – CTr/Tu (May 16, 2002) to implement central resolutions.

6.2. Solutions to Planning and Policy Case

As illustrated above, the province in case 6.1 managed to kill the goose that laid the golden egg – an investor willing to risk its own capital on the province’s development planning. The province failed the investor in two key ways. First, officials did a poor job of coordinating their development plans with sub-provincial government units. Even though the communal authorities have less power than the province, the commune’s ability to administer and police the ferryboat crossing gave it an effective veto. The provincial leadership should have educated itself about the commune’s concerns and tried to reach a fair and equitable solution that compensated the commune for the costs it would endure under the new project. For example, it could have developed an enhanced revenue sharing agreement that gave the commune a large portion of land fees and a larger share of provincial block grants.

The second failing was one of openness. Why wasn’t the investor warned about this potential ferryboat obstacle before he made a substantial monetary commitment? The provincial administration’s opaque behavior exacerbated the damage done to the investor. Had the province been open about its jurisdictional disputes, like Binh Duong, the investor would have been able to make a more informed decision.

TRANSPARENCY

Case Study 7.1: Transparency of Changes in National Law

Nhanh Nhát, a limited liability company specializing in motorcycle parts and mechanical equipment for motorcycles, employs about thirty people. The director began the firm a few years ago as a tool workshop in his house. Since then, business has boomed, with profits and sales rising every year.

After a few years of success, the firm received repeated requests from the Provincial People's Committee to move into a recently opened industrial zone in the capital. The Provincial People's Committee had invested a great deal of resources in building the zone and wanted to recoup some of its investment by leasing land to new tenants. The province also had environmental concerns and wanted to concentrate industrial production in one area.

After holding out for a time, the company finally consented to the pleas and was one of the first private firms to move into the industrial zone. The company was never fully satisfied with its decision, however, believing it had been coerced by local leadership to accept a location that wasn't best for business. Nevertheless the director invested a great deal of capital to build his new workshop, train labor, and purchase modern equipment. As soon as he had begun, a new national policy limiting motorcycle imports, which unbeknownst to the company had passed months before the move, took effect. It cut the number of motorcycles on the road and drastically reduced his sales. To salvage his business, the director has tried to enter the car parts market, but the DPI has not yet granted permission for this change.

With business stagnating, Nhanh Nhát is in a terrible quandary. It faces rising industrial zone fees, as well as escalating salary outlays and equipment maintenance costs. Stuck in limbo while it awaits the People's Committee's decision, the company is inching closer and closer to bankruptcy. The firm is planning to push forward with car parts production even though it does not yet have permission.

Nhanh Nhát is suffering from a failure of transparency. The local People's Committee convinced the firm to undertake a costly investment in the industrial concentration but never told company officials about pending national information that would certainly undermine their business prospects. Instead, they led the firm to believe that clear horizons lay ahead

for their company, which would serve a booming motorcycle sector. But the provincial government knew about the central government's plans – promoted by opponents of free trade – to protect Vietnam's nascent motorcycle sector. Why didn't it share this information with one of its most successful private sector firms before encouraging such a costly relocation? Furthermore, lack of transparency continues to haunt the firm as it waits for a decision on its business transfer application.

7.1. Best Practices in Transparency

All four high-performing provinces stated in interviews that they considered providing entrepreneurs with complete information about the provincial investment climate to be a fundamental principle. Across the top provinces in the country (including but not limited to these four), officials disseminate information about new laws and policies in a variety of ways: meeting with enterprises at business forums and conferences; posting information on provincial web pages; and through the media, both newspapers and television. A selection of these approaches from Binh Duong, Dong Nai, Vinh Phuc, and Hung Yen are described in more detail below. Once again, the Attitude, Openness, and Coordination themes are used as an organizing tool, because they apply even within the narrow realm of transparency. Attitude impacts the province's choice of which information to provide. Do they trust the private sector? Do they want to see it succeed relative to other ownership types? Openness applies directly to the case study 7.1. How forthcoming is the province about impending legislation and provincial initiatives that may affect business performance, so the firm's can make sufficient long-term calculations? Finally, coordination among sub-provincial agencies ensures that all relevant information is available in accessible locations. Transparent People's Committees attempt to assume the information-gathering

costs for firms by making frequent trips to departments as well as district and commune governments on their behalf.

Attitude:

- Frequent and Useful Information Sheets for Investors: Each month, the management board of industrial zones in Dong Nai (DIZA) publishes an information sheet on new events, initiatives, and projects in the province. The handout is given to embassies, consulates, commercial counselors, organizations, and foreign business associations, so that all information about investment opportunities in Dong Nai is available to investors before they ever set foot in the province.

Similarly, the People's Committee of Binh Duong printed an introductory brochure detailing expected projects, provincial investment regulations, and the responsibilities of relevant local agencies. It provides investors information about the time needed for application procedures and administrative approvals in order to ensure that their investment decisions are as efficient and easy as possible.

- Legislation Packets: Taking the information sheets one step further, Hung Yen and Vinh Phuc provide investors with all documents regarding provincial financial and land-clearance policies. They do this in the hope that investors will compare their policies to their competitors' and to better acquaint investors with the provincial legal regimes.

- Consistent Updating of Information: The Vinh Phuc tax authority publicizes all tax filing procedures and updates them regularly so that entrepreneurs can keep up to date with changes in central law. Many provinces neglect to provide such basic information, but then fine firms for violating tax policies about which they had never been informed.

Openness:

- The Binh Duong Model of Business Forums: Nearly every province holds annual or semi-annual business forums uniting investors and top provincial leaders, but often these events are nothing more than ceremonies where entrepreneurs listen to a series of long speeches from local officials, who exit promptly thereafter without responding to firms' queries. In theory, the meetings could provide entrepreneurs with a chance to discuss confusing new national laws or provincial initiatives with local officials. But because they occur just twice a year, at regular intervals, they often take place months after new rules take effect -- far too late for provincial intervention. In the TAF-VCCI survey and interviews, most firms said the forums were often a waste of time. Direct relationship channels, they said, were a more effective way to solve problems. A move to professionalize business forums across the provinces through "Small- and Medium-Size Enterprise Weeks," where provincial officials dedicated a week to listening to firms' concerns, did not continue after the donor funding from the German Craftwork Association ended in 2002. Only one province, Ben Tre, decided to continue the project with provincial funds.

By contrast, in face-to-face interviews with the research team, firms in Binh Duong were very positive about business forums as a means of promoting their interests. They were twice as likely as firms in the next-highest provinces (Vinh Phuc and BRVT) to cite business forums as their preferred channel. Why are forums held in such high esteem in Binh Duong when they are simply seen as an annoyance in other localities? What is Binh Duong doing differently?

Like other provinces, Binh Duong holds one annual meeting between officials and entrepreneurs. In fact, a few days after Binh Duong separated from Song Be, it declared that December 31st would be the annual

“Enterprise Forum Day.” The event was billed as an opportunity for local enterprises to exchange ideas, thereby encouraging cooperation and creating synergies. But the most important aspect of the sessions was the attitude of the officials who held them: They truly listened to entrepreneurs’ concerns. They gave businessmen a real opportunity to challenge and criticize provincial policies, and they responded to their suggestions. With a state sector of only marginal importance, Binh Duong knew that its future lay with the private and foreign sectors, and it resolved to take their complaints seriously, as painful as they might be to hear.

Officials soon found the strict programming of the event to be limiting, however. Business problems and their solutions do not confine themselves to an annual calendar. If their policy solutions weren’t working, officials wanted to respond quickly. Consequently, they scheduled periodic follow-ups during the year to assess initiatives launched at the annual meeting. When necessary, they held extra meetings to tackle unforeseen problems. These spontaneous forums are considered as important as the regular events and generally involve the Provincial Party Secretary, the People’s Committee Chairman, and the Vice People’s Committee Chairman, along with the enterprises and investors. It was during these sessions that Binh Duong came up with some of its more popular policies: investing in labor training and providing housing for newly arrived workers. The province’s flexible approach allows officials to understand the different needs of enterprises early on. This allows them to respond immediately, rather than letting problems fester.

- Acknowledge Limitations: Binh Duong officials pride themselves on being frank about their decisions and any weaknesses in their policies. On occasion, firms’ problems fall outside their jurisdiction or take longer than anticipated to solve -- longer than firms can afford to wait. On these occa-

sions, provincial officials do not obfuscate. At a TAF-VCCI forum in Ho Chi Minh City, a representative of Ba Ria – Vung Tau said this was one of the province’s greatest assets. In BRVT, he said, officials sometimes punt problems back and forth for years without solving them. In Binh Duong, however, a top leader tends to step in and take responsibility.

When problems cannot be solved, Binh Duong states this directly so that enterprises can make adjustments in their business strategies. Once they have informed the businesses, provincial officials do not simply abandon their search for a resolution. They begin the longer and more painstaking task of resolving the firm’s quandary by conducting in-depth research and lobbying central officials for permission to try as yet untested policy solutions. Enterprises realize that not all their demands can possibly be met nor all their predicaments easily solved, but they are grateful for the province’s clear and definitive answers. They have confidence in provincial leaders and support their solutions.

Coordination:

A general policy of transparency is not always enough, especially when firms do not even know what documents to request. Sometimes provinces have to be proactive about making legislation and provincial initiatives available to investors. On these occasions, coordination with other government agencies and independent local actors is a critical piece of transparency.

- Working with Business Associations:

Vinh Phuc has been at the forefront of cooperating with the Young Entrepreneur’s Club to make central legislation and provincial initiatives available to entrepreneurs. When there is a new law or provincial policy, the People’s Committee and the Department of Planning and Investment send them directly on to the club. The club then updates its list of regulations, reprints

it, and sends it on to all its partners.

- **Working with the Media:** Hung Yen officials have chosen to appeal to the local media in order better inform firms of provincial initiatives and activities. They have also met with the Committee of Culture and Information in order to make connections with national news media so that they will also publish Hung Yen's press releases. According to a representative of the People's Committee, the results have been quite successful.

The TAF-VCCI research team endorses this policy of openness toward the media, but recommends that provinces go even further, by allowing local press to investigate and report openly on issues of direct concern to firms rather than relying solely on official releases.

- **Directed Exchanges:** Dong Nai was the first province in the country to organize regular dialogues between entrepreneurs and the local branch of the customs agency to ensure that firms had the latest information on customs provisions. The experience was so successful that Dong Nai has initiated several periodic "*giao ban*," or directed exchanges, between state agencies and local entrepreneurs. The forums are open to all private-sector participants and offer them an opportunity to share their insights about provincial investment policies. The exchanges give state agencies a chance to iron out any contradictions in provincial policies and regulations.

The sessions include:

- An exchange between provincial agencies and investors within industrial zones. These are held at the end of every quarter in every industrial zone and industrial concentration or in every district with industrial zones, allowing cross-conversations among investors in different zones.
- An exchange between representatives of

the management board and companies involved in building industrial zone infrastructure. This exchange is conducted once a quarter to air firms' complaints and solutions proposed by infrastructure construction enterprises.

- An exchange between provincial leaders and the departments and branches that have contact with enterprises (i.e. The IZ management board, DPI, Department of Agriculture and Rural Development, Tax Authority, and The Department of Labor, Invalids, and Social Affairs). Conducted once every six months, these meetings investigate and solve problems in the relationships among agencies that influence the investment environment.

7.2. Solutions to the Case Study on Transparency

What should have been done to avoid the business disaster faced by *Nhanh Nhất*? First, some blame undoubtedly goes to the firm itself for not taking responsibility for its own research on central policy and for allowing itself to be coerced into an investment that it did not believe was in its best interests. Firms cannot always cry foul; in the turbulent environment of a rapidly growing transition economy, they need to do their own homework on where policy may be heading. If they are too busy to do the research themselves, they can subcontract to research consultants to study the national policy environment.

That said, the provincial leadership was also in error. A protectionist restriction on motorcycles was in the works for several years. Asking a firm whose present business was at risk to invest in a new location in order to further the province's own planning goals without providing full information was unfair. Secondly, the province should immediately inform the firm about the status of its request to change the business orientation. If the request is not going to be granted, informing the firm post-haste will certainly expedite the firm's future business decisions and minimize its losses.

TRANSACTION COSTS IN TIME AND MONEY

Case Study 8.1: Long Waiting Periods for DAF Loans

The joint-stock company Nguyễn Hoàng, a wood product and handicrafts company employing over 350 people, had an excellent opportunity come its way last year. A foreign trader impressed by the quality and craftsmanship of the firm's products signed a contract for several thousand units of the firm's wood statuettes. The large purchase would actually allow the firm to add up to 30 new workers to its payroll and would certainly improve the firm's bottom line. Payment was due upon delivery of the product, in six months time, which posed a slight problem for Nguyễn Hoàng.

While it was excited about the contract, the firm did not have the capital to purchase enough raw materials to fulfill its obligation. Nguyễn Hoàng would have to arrange for a loan to help with its raw material purchase. Fortunately, the firm was eligible for an incentive program of the Development Assistance Fund (DAF). The firm applied for the loan in anticipation of a bonanza.

The application procedures, however, took far too long. By the time it received loan approval (six months later), there was no time left to purchase materials, ramp up production, and fulfill the contract.

After this disappointment, the firm vowed never again to seek a DAF economic development loan. Instead, Nguyễn Hoàng has decided to apply only for commercial bank loans, a decision company officials wish they had made earlier. Although commercial banks charge higher interest rates, their procedures are more convenient and faster, important considerations for firms attempting to compete in international markets.

Case Study 8.2.: Fined for Surpassing National Quality Standards

Nam Cường is a limited liability company producing replacement parts for cars and trucks. The company has three transport vehicles of its own, which it uses to ferry replacement parts to project sites.

According to national regulations, transport vehicles must be covered with canvas tops in order to avoid spilling materials on the road. The company agrees that this is a sensible regulation. The rule goes even further, however, specifying the grade of canvas that must be used. This requirement was

meant to prevent companies from skimping on the quality of canvas in order to save money, resulting in rips, tears, and more spills.

Before Nam Cường went into business, the company learned about this regulation and prepared in advance, opting to surpass its obligation by covering all of its vehicles in INOX, a type of steel-laced protective covering of the highest quality. The company had more than just effective implementation mind; its ultimate goal was to prevent spills that might damage its highly calibrated auto parts. Even small dents, scratches, or cracks would undermine the utility of their products. INOX was the most secure material, despite the higher cost, and therefore made the best business sense.

The company also studied the transport regulations to ensure that they would not be in violation for using higher levels of covering quality. They found nothing in the law that said higher-quality protective covering could not be used and therefore inferred that their decision to use INOX was legal.

Nevertheless, the company's trucks are still being inspected by the traffic police and are regularly fined on shipping routes. Traffic police argue that the law does not allow for higher quality covering. The only covering allowed, they say, is the type of canvas stipulated by law in the decision.

The fines have proved quite costly for the firm, but protection of their valuable replacement parts is a high priority. As a result, they have built such fines into their business models, calculating fines to traffic police as a business cost. The firm director, however, firmly believes this situation should change. Why should his company be subsidizing provincial traffic cops?

Nguyễn Hoàng and Nam Cường illustrate the problems of "transaction costs" faced by firms in time and money. Nguyễn Hoàng missed out on a valuable investment opportunity because of the delay in receiving the DAF funding necessary for it to expand production. Nam Cường is a prime example of local actors using local regulations to garner rents from firms, thereby raising the effective costs for firms to do business. These extra costs will be passed on to Vietnamese consumers in higher prices for Nam Cường's highly calibrated car replacement parts -- assuming the costs don't bank-

rupt the company, depriving consumers of the product entirely.

8.1. Best Practices in Reducing Transaction Costs

Provincial leaders and department heads stressed in the interviews that reducing transaction costs for enterprises is one of the most efficient ways of attracting investment. As one official put it, “The transaction costs associated with holding up two containers of exported material at a custom check is equivalent to the firm’s savings from tax and land incentives lasting several years.” Incentives such as lowering land prices or extending land-use agreements by a few years without payment is helpful to firms. But even more useful is simplifying the burdensome procedures for exchanging and renting land. Time lost to such procedures costs firms far more money than the incentives gain them.

The same could be said about the costs firms must pay in “extra payments” to provincial officials in order to accomplish simple bureaucratic procedures. These payments are far too common in most provinces. Indeed, the PCI showed that nine percent of firms nationwide paid over 10% of their revenue in bribes to officials. More strikingly, 77% of firms negotiated their taxes with local officials, implying that their taxes were reduced in exchange for a payment to the local collector.

Attitude

- Reputation as an Element of the Investment Environment: Of all the provinces, Binh Duong stands above the rest at attracting investment. The province credits its success to its hard work at creating a reputation for “friendliness toward enterprises,” an intangible property that, according to the journal *Investment*, the

provincial leaders have placed ahead of short-term revenue or personal gain:

The goal of investors is profitability, when many provinces market themselves, they only advertise good people, an industrious labor force, and natural resources; they do not analyze the many strong positions of investors and how they have managed profitable investments or the merits of leadership in letting profitable businesses prosper.²³

- Treat Investors from Outside the Province as Citizens: Vinh Phuc feels that investing in the province should be like returning home to your family. As a result, civil servants and provincial officials are not permitted to ask firms for presents or handouts.
- Punishment: Just as they need a way to reign in abusive inspectors, firms need a mechanism for reporting officials who demand extra payments or slow down procedures in the hope of eliciting such a payment. Moreover, there must be a mechanism to ensure that these perpetrators are punished. Only when a province takes the time to erect legal institutions that win the confidence of investors will it earn the “reputation premium” to which *Investor* refers.

Openness

- Clear Delegation of Responsibilities: A common cause of both lost time and corruption in low-performing provinces is ambiguous delegation of responsibilities across sub-agencies. While the actual lines of authority may be obvious to local officials, firms are unaware of the delineation of provincial tasks, leading them to suffer at the hands of officials with better knowledge.

23 Bảo Duy, Tụt hậu vì chậm đổi mới tư duy, Báo Đầu Tư Investment], September 26, 2004 (<http://www.vir.com.vn/client/dautu/dautu.asp?CatID=56&DocID=3557>).

For example, a firm that wants to expand its warehouse might learn that it needs signatures (or at least tacit approval) from the provincial Chief Architect, Department of Construction, Land Authority, DPI, and Provincial People's Committee. If company officials do not receive all the requisite signatures, they may find themselves guilty of illegal construction. Alternatively, a firm may, after offering a small gift, receive indirect permission from one agency to continue construction only to find that other agencies demand similar gifts before the project proceeds. As a result, firms waste tremendous effort traveling among agencies to collect signatures, providing extra payments at each stop.

To deal with this dilemma, leaders in the four high-performing provinces have conducted reviews of their bureaucratic procedures, simplifying rules where necessary and, most importantly, publicizing the changes so that firms know about them. These provinces have also clarified the responsibilities of ministerial departments, branches of central institutions, and district communal governments. This coordination reduces the number of trips firms must make to local agencies and creates a seamless process where enterprises do not need to worry about different interpretations of initiatives and multiple payments.

Coordination

- **Streamlined Administrative Procedures:** Reducing time spent on administrative paperwork has been a priority in all four high-performing provincial governments. Dong Nai, for instance, has implemented a management system where investment approval is decided upon by the Industrial Zone Management Board (in regard to projects within IZs) and DPI (in regard to local decisions). Investors only need to contact a single agency to receive registration guidance and support.

8.2. Case Study Solution for Transactions Costs

The case study of *Nguyễn Hoàng* is too complex to consider completely in this abbreviated discussion. The reader has no information about the firm's finances or business prospects and cannot judge whether DAF's belated reply was due to a thorough and painstaking investigation or due to bureaucratic delay. The fact that the firm eventually received the DAF loan and subsequent commercial bank financing, however, provides some evidence for the latter explanation. In any case, we must be straightforward about the failing of the firm, which should have been looking into other credit possibilities as soon as there was a hint of bureaucratic delay. It was under no legal obligation to wait until DAF concluded its decision.

The main provincial failing in this case was that it offered *Nguyễn Hoàng* no channel through which to complain about the delay, no forum to argue for compensation for its losses, and no local actor to investigate the case on its behalf. Both DAF and the People's Committee, for which DAF is an important development tool and to which it reports directly, should have communicated more clearly with the firm. At the very least, the province should have alerted the firm that the loan decision would take time and that the firm should pursue other credit options. Why allow a firm to miss out on a contract that could only benefit the province?

Punishing *Nam Cường* for using high-quality covers is absurd. Taking local traffic police officials at their word – that their only motivation is to enforce the law – begs the simple question: Why enforce the letter of the law in a manner that directly undermines the legislation's spirit? If *Nam Cường* were to make the requisite change to its canvas covers, this would lead to more spills and accidents, not fewer, as the law intended. Why would any government with a concern for public welfare allow such a thing?

The answer is simple: *Nam Cường* is a cash

cow” for provincial traffic police officials, who know the firm would suffer more damage to its business by abandoning its INOX covers. As long as the law stands, they will continue to fine the firm, and it will be forced to pay. *Nam Cường* has built the fines into its business model, but it is an intelligent firm that has no intention of paying the fines alone. They will be passed on to Vietnamese consumers in the form of higher-priced cars, transportation charges, and taxi rides. The ultimate victims of the law are the same Vietnamese consumers whom the law was intended to protect.

Our best practices do not offer a perfect solution to this dilemma. We know from recent “fence-breaking” activity that dynamic provinces with an interest in development would have simply asked traffic police officials to overlook such a silly law and would have been able to win their compliance through strict coordination. But fence breaking is at best a short-term solution. In the present environment, eventually provincial officials would need to travel to Ha Noi and persuade central officials that the law was not serving its intended purpose.

The better long-term solution to the *Nam Cường* case, however, is similar to the solution in our inspections cases. Firms need a legal arena in which they feel confident lodging a complaint when they disagree with the actions of provincial officials and in which they have an opportunity for victory.

DYNAMISM AND PROACTIVITY

Case Study 9.1: Administrative Fiat or Competition

Minh Phong, a joint-stock material transport and passenger company located about two hours from a major market, is the first major private passenger company in the province. The firm has invested heavily in a wide variety of modern vehicles and has developed a service culture that it believes provides the highest-quality service in the industry. For example, they provide cool drinks, air-conditioning, and shaded windows. The company is confident it would thrive in head-to-head competition with the other passenger transport enterprises in the province. These include a recently equitized firm in which the provincial government still holds a controlling share, and a transportation cooperative.

Minh Phong, which is interested in making the trip to a bus station in Hanoi, complains vigorously over the procedures for registering for routes. For Minh Phong to receive permission to run an extra route costs a great deal of time, as well as payments to officials. In addition, according to a provincial policy, enterprises engaged in passenger transportation must reach an agreement with each other about the times that they will be carrying passengers on various routes. The province does not want to allow more than one firm to run a particular route at any particular time. Minh Phong is only allowed to carry passengers according to a fixed time agreed upon with all three firms and confirmed by the Department of Transportation. In this way, direct competition among the three firms is prohibited, creating what Minh Phong perceives to be a major entry barrier prohibiting it from expanding market share.

Minh Phong has made it clear that it welcomes direct competition, believing that its investments in quality service will give it an edge. Company officials believe the provincial government should allow more than one firm to compete in a given hour, allowing customers to choose the firm that they prefer.

The structured schedule that has been arranged by the Department of Transportation for *Minh Phong* is a crystal clear example of the old state-planning model raising its head at the provincial level. *Minh Phong* would love to compete against the other firms in the

province, under the reasonable assumption that it would flourish thanks to its higher quality vehicles and services. But the firm is not being allowed the opportunity to challenge the state and equitized firms head-to-head. The case illustrates the subtle biases encountered by domestic private firms in many provinces. The solution to the dilemma faced by *Minh Phong* will be found in our final dimension of economic governance – Proactivity and Dynamism.

9.1. Best Practices in Provincial Dynamism and Proactivity

Chen Yun, a leading Chinese economic policy maker, once famously described the leaders of the coastal province of Guangdong as adhering to a “traffic light philosophy.” Provincial leaders, he said, responded to the central government’s policies in one of three ways:

When the red light is on, they make a detour and proceed as they were going; when the yellow light is on, they ignore it and keep going at the same speed; and when the green light is on, they rush head at full throttle.²⁴

According to former Chinese President Jiang Zemin, several other provinces embraced Guangdong’s approach, virtually “running their own show” with regard to economic policy.²⁵ The same could be said of some of Vietnam’s top-performing provinces, which have carved out their own creative development path by employing central policies in a manner appropriate to local needs and found clever solutions when the legal framework was ambiguous. These actions have sent an attractive message about the provincial investment environment and garnered further trust among investors.

24 Pye, Lucian W., The State and the Individual: An Overview Interpretation. *The China Quarterly* vol. 129, 1991, p.459.

25 Lam, Willy Wo-Lap, Willy, *The Era of Jiang Zemin*. (Singapore: Prentice Hall, 1999), p. 259

In Volume 1, a dynamic government was defined as a forward-looking administration that creates an environment in which entrepreneurialism is encouraged and rewarded by profits, rather than by public largesse.²⁶ We then subdivided dynamism into three elements: a) attitude toward, and understanding of, the private sector, especially in relation to the state-owned sector; b) coordination among provincial institutions in order to ensure an equitable environment for private-sector competition; and c) creativity in finding new solutions to private-sector dilemmas. As with the other dimensions of governance discussed above, the first two categories of attitude and coordination among local institutions are important -- because they are the prerequisites for the third category of proactivity and dynamism. Consequently, we narrow our lens on dynamism and once again use the guiding themes of attitude and coordination to organize our discussion.

Binh Duong leaders are often cited by their peers in other provinces and by enterprises around the country as the archetype of creativity and dynamism. Indeed, one might even say that Binh Duong officials have developed their own brand as the most proactive leadership in the country, pleasing current investors and attracting more every year. One hundred and ten enterprises (25% of the respondents to the question) from both the Red River Delta and the North Southeast cited Binh Duong as the most dynamic province in the country, giving it the highest mark on a ten-point scale. Dong Nai finished a distant second with 43 enterprises giving it top marks.

What factors allow a province to develop a reputation like Binh Duong's and even Dong Nai's? Why do investors feel so strongly that the province will act in their interests even in the face of barriers thrown up by administrative rules and central laws?

Attitude

The first and foremost element of dynamism is the willingness to seek out creative solutions to problems faced by firms. In some case this simply means really listening to investors, who have already given a great deal of thought to the solution. In other cases, it means provincial offices must devote time and energy to finding answers themselves. Examples of innovative problem-solving in the post-Enterprise Law era include the following:²⁷

- Smoothing out Fluctuating Customs Fees: In recent years, customs law has been highly unstable, with fees and taxes fluctuating widely as Vietnam adjusts its trade regime to World Trade Organization standards while simultaneously attempting to protect its favored industries. Importers and exporters can suddenly be hit with tax increases of five to thirty percent. When local enterprises described these difficulties to Binh Duong leaders, they met with officials from the Ministry of Finance to find a solution. They agreed to decrease the tax burden and keep future increases within a more reasonable range.
- Expediting Customs Procedures: According to the Vietnamese Customs Agency, licensed firms cannot import machinery and equipment without the written approval of a provincial regulatory agency. The firm's documentation alone will not suffice. Although it is not expressly their function, the People's Committee of Hung Yen created a standardized form for "approval decisions" which they grant to investors to provide to customs authorities in order to expedite customs procedures.
- Improving Environmental Protection Legislation: After the Ministry of Planning and Investment (MPI) put forth a circular requiring that licenses be issued only to

26 In Section 3.8 of Volume 1, p. 29.

27 Malesky, Edmund. "Leveled Mountains and Broken Fences: Measuring and Analyzing *De Facto* Decentralization in Vietnam." *European Journal of East Asian Studies* vol. 3 (2), Winter 2004, p. 307-337.

wood-processing firms that agree to cultivate forest land, a great deal of turmoil ensued in affected provinces. The legal document effectively blocked entry to downstream wood processors with plans to buy up old wood and process it. These firms possess only factory space and do not own the forest land necessary to re-plant. Older, established firms were not affected by the decision.

Some provinces chose to abide by the new legislation and blocked registration by firms without forest land. A larger group simply ignored the environmental law and continued to grant processing investments.

Binh Duong, however, chose a middle path, abiding by the spirit of the law rather than its exact wording. The goal of MPI's circular was to limit deforestation, not eliminate private-sector competition, so Binh Duong officials interpreted the law as only prohibiting investment leading to deforestation. Immediately, the Binh Duong DPI began requiring that investors account for the sources of their wood materials. They continued to grant licenses to enterprises that used imported wood, man-made wood, or wood from dead trees, which would be wasted if it was not used for processing. As a result, many new wood-processing enterprises have been set up in Binh Duong since the MPI decision.²⁸

- Worker Housing: As Binh Duong's and Dong Nai's economies flourished, both provinces began to encounter two negative consequences of their rapid growth. First, housing shortages occurred due to an influx of low-wage laborers. Second, these new commuters flooded the roads every morning, causing traffic jams in provincial centers. Both provinces decided to solve this problem by allowing industrial zones to

construct worker housing whenever they built new factories. The policy eased traffic and improved living standards for workers.

The most notable example is the Tam An Urban Residential Zone in Dong Nai, a 310-hectare development adjacent to the Long Thanh Industrial Zone. It is just 23 kilometers from Ho Chi Minh City and 11 kilometers from the newly planned Long Thanh airport, and will be linked to both by a new expressway. It houses 40,000 laborers, allowing them to live close to work and reducing traffic and urban sprawl. Because the new houses can be either sold or rented, developers could quickly recover their initial investment.²⁹

- Legalizing Unsigned VAT Receipts:

Under Vietnamese Law, VAT receipts lacking the signature of the salesperson or service provider are not considered legal tender and will not be honored by the Tax Authority. Hung Yen officials, however, determined that a significant portion of unsigned receipts were issued by local government agencies, who provided services to local investors. As a result, the province clarified the law, announcing that when the error was made by the administration the VAT receipts would be honored and the enterprise would not be punished.

- Pro-Enterprise Legal Interpretations:

Kinh đô, the large Ho Chi Minh City bakery, decided to invest in a Hung Yen candy factory in late 1999. At that time, the business establishment fee was one thousandth of the investment, quite a substantial cost for an investment estimated at over 10 billion VND. To alleviate the heavy fees, Hung Yen decided to push forward the firm's registration to January 1, 2000, thereby making the firm eligible for the new Enterprise Law with its far more favorable

29 Vietnam News, "Dong Nai Sets Industry Benchmark," May 21, 2004 (<http://vietnamnews.vnagency.com.vn/2004-05/20/Stories/24.htm>). Also discussed in Nguyen Dinh Cung, Pham Anh Tuan, Bui Van, and David Dapice, *Why Don't Northern Provinces Grow Faster?* (Hanoi, Vietnam: Central Institute for Economic Management (CIEM) and United Nations Development Program, 2004) p. 26.

registration rules. This solution helped bolster Hung Yen's reputation as a province attempting to build long-term, mutually profitable relationships with investors, rather than a province angling for short-term revenue gains.

- Firm-Specific Solutions: John Brudsall, the Director of a coffee and exporting company under the German syndicate Neumann, likes to tell a story of when his company was rushing nervously to construct a factory. One day the leaders of the DPI and the Management Board of the Industrial Zone paid a surprise visit to the construction site to ask if he was satisfied with the condition of the infrastructure and technology. In passing, Brudsall mentioned that the nearest fire hydrant was too far away. The next day, a new fire hydrant was installed adjacent to his factory.³⁰

Openness

- Tax Assistance: Hung Yen quickly learned that new private investors attempting to comply with complicated tax procedures sometimes make costly mistakes. The firms may enumerate inputs that are not subject to VAT, which could subject them to excess taxation, or they may fail to disclose all their requisite inputs, which could lead to a heavy fine. This led to a difficult provincial decision: Should officials apply the costly tax enumeration specified by the enterprise or should they allow the firm to correct its mistake? The Tax Authority of Hung Yen chose the latter path, taking the time to help firms file a legal -- but less costly -- tax return.

Coordination

- Responsive Work Calendar: The working calendar of the Binh Duong People's Committee is arranged in order to pay visits to enterprises during times of the year

when they are most likely to be facing difficulties, such as when they are in the midst of importing equipment, shipping product, or paying taxes. Officials attempt to solve these problems at the scene or arrange appointments so that they can be taken up promptly.

- Strong Leadership: Ultimately, strong and committed provincial leadership is the most important element of dynamism. The People's Committee Chairman and the Party Secretary must demonstrate commitment in their development decisions and see that they are implemented faithfully by local officials. They also must be articulate to persuade central government officials that their initiatives are the best solution to provincial needs. Above all, they must be brave -- willing to stick by their decisions in the face of criticism from entrenched interests who benefit from the old economic order.

Binh Duong's strong leadership was described by a participant at the TAF-VCCI Ho Chi Minh City conference as follows:

I see clearly a number of issues with regard to provincial dynamism and creativity, especially regarding the attitudes of the entire provincial administration... I believe the most important factor is the dynamism of the Provincial People's Committee Chairman. I have been to a number of such provincial forums and I always see "Mr. Binh Duong" as the most enticing (*ngon*)³¹, because the People's Committee Chairman calls for all ministerial departments and encourages them strongly to work hard. In my province, the People's Committee Chairman's call to the departments is very uncertain; some departments will work, other will put forth ideas -- this provision is contrary to that law, that provision is contrary to this law -- and in the end, a number of officials shrink away from responsibility (*thụt*), not daring to put their signature on any license or provincial initiative.

30 Hưng Nguyễn, "Thương hiệu" Bình Dương, Vietnamnet September 8, 2004 (<http://vietnamnet.vn/kinhte/2004/08/224476/>).

31 Actually, a more exact translation of *ngon* would be tasty or delicious.

As an example, let's take the policy of houses, obviously a pressing concern in the North Southeast. I personally proposed carving out space within industrial zones in order to build houses for experts and workers. I asked the province of Binh Duong (how they would handle such a situation), and the province answered that it would request the permission of central authorities and immediately deploy (*triển khai*) officials to undertake the task. But in my own province, the initiative was impossible. I was told to report next to Comrade People's Committee Chairman and then to run here and there (*tiến lui*), down and upside down (*xuôi ngược*), reporting ultimately to the Deputy Minister of the Department of Construction. Everyone agreed, but the initiative was never produced; in the end no one wanted to affix his or her name to the document. The principal lesson that I see is first that the ministerial departments need to be unified with one another under the command of the Provincial People's Committee Chairman, then any issue can be solved. Certainly, one never needs to say, let's seek out the feelings of others.

9.2. *Solution to Dynamism Case Study*

The dynamic solution to case study 9.1 is simple and straightforward – let *Minh Phong* compete with the other transportation firms. Allow the firms to compete on price and service and the ultimate winners will be their customers and the provincial coffers. A government-designed schedule is unnecessary, as all firms will eventually find their niche in the market. Firms should be allowed to advertise their schedules openly, without restrictions, so customers will be made aware of the new transportation possibilities. If losing firms cannot compete at peak times, they may survive by offering service at unconventional hours. The Provincial People's Committee, coordinating with the Department of Transportation and other relevant authorities, will need to issue a firm decision. Leaders can proceed in the knowledge that they are leveling the playing field to the benefit of consumers.

CONCLUSIONS

This report has introduced a broad array of policies that promote a hospitable climate for entrepreneurship. Provincial leaders looking for ways to improve their governance rankings will find no shortage of useful strategies here. Nevertheless, the TAF-VCCI research team is well aware that not all of these policies will work everywhere. Different provinces have widely varying business climates; many may not find the specific tool they are looking for in these pages. They should bear in mind the three themes that form the backbone of this report: attitude, openness and coordination. A positive attitude toward the private sector removes obstacles to growth and development. Openness ensures that firms have the information they need to make profitable decisions – and eliminates opportunities for corruption. Finally, coordination among local agencies allows firms to start up quickly and begin generating revenues. In a vast and complex society like Vietnam, each province should be its own policy laboratory, generating new ideas for creating a hospitable business environment. The more ideas and experiments, the more solutions provincial leaders have to draw upon.