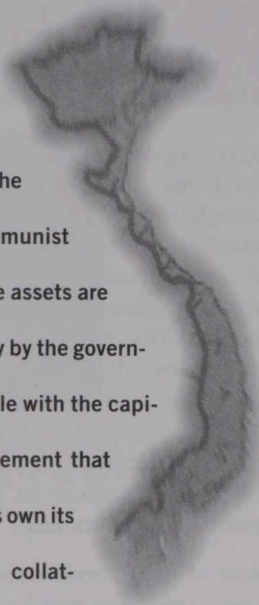


The development of Vietnam's commercial banking system

• Prospects for the adoption of the Canadian model

How do you reconcile the fundamental communist tenet that all state assets are owned collectively by the government for the people with the capitalist bank requirement that a state enterprises own its assets offered as collateral for loans?

This was one of several issues canvassed at a seminar recently held in Hanoi to discuss banking law problems faced by Vietnam and proposals for the adoption of modified versions of selected Canadian banking laws to resolve these difficulties.



The seminar was held at the request of Vietnam's Ministry of Justice and under the auspices of the United Nations Development Programme. Minister of Justice Nguyen Dinh Loc chaired the seminar. The overseas panel comprised Maurice Nguyen, formerly a Canadian banker and now a business consultant in Vietnam and Fred Kan, Paul Harricks and Hugh Gillespie of the law firms of Fred Kan & Co. and Smith, Lyons, Torrance, Stevenson & Mayer.

In his opening comments, Mr. Loc noted that while other seminars on law reform in Vietnam had been held this was the first by a Canadian law firm and the first seminar devoted exclusively to banking law. The topics covered ranged from the purpose and structure of North American financial markets to the capital adequacy rules and their application to Vietnam.

During the seminar there was an extensive discussion of the need for banks to be able to obtain a secured interest in collateral offered in exchange for loans. If the enterprise is 100% foreign owned and title to the collateral can be established, this concept does not represent any theoretical problems.

However where the borrowing enterprise is state-owned or is a joint venture between a state-owned enterprise and a foreign enterprise, the question of ownership of the assets used by the Vietnamese enterprise is not easily resolved. At present, state enterprises are not generally considered to own separately the assets used in their enterprises. All assets of state enterprises are considered property of the people. For example if a state-owned plant requires additional machinery, the funds may be loaned by a domestic commercial bank but come ultimately from the state treasury.

This asset ownership problem is tied in with the acknowledged need for Vietnam to develop an independent body of auditors and accountants and to require audits. Later this year the National Assem-

bly will consider a proposed civil law which is expected to address some of these issues.

The overseas speakers agreed to provide the Vietnamese with information on the capitalization structure of Canadian crown corporations as a possible model for Vietnam.

Vietnam faces a number of challenges as it transforms itself from a centrally planned to a market economy. Among the most important is the need to develop a commercial banking system which will encourage private sector investment. Clear and comprehensive banking and related commercial laws form the core of banking systems in market economies.

Journalists, businessmen, professionals and commentators have often stressed the absence of an adequate legal banking infrastructure as a critical problem which Vietnam must quickly overcome. So it came as a surprise to the Vietnamese participants that the consensus of the overseas panel was not that Vietnam had far to go but rather that they had come quite far in the development of its banking law.

Prior to 1986, Vietnam had no commercial banks. Anticipating the adoption of the *doi moi* (economic reform) policy in 1987, the Vietnamese government established two levels of banks in 1986.

The first level is the exclusive domain of the State Bank of Vietnam, which is responsible for monetary issues. The second level established new commercial banks. By 1990, the process had evolved to the stage that two decree laws were adopted for the purpose of modernizing the banking law.

As of October 1, 1990, the Decree Law of the State Bank of Vietnam and the Decree Law on Credit Co-operatives and Commercial Banks came into force. The former decree established the State Bank's authority as sole issuer of currency and as the licensing authority for foreign and local commercial banks.