

Officials from the WB and ADB usually talk about privatization of state companies and development of the private sector, and they have even financed programs aiming at these targets. These experts from international organizations have got a lot of experience of macroeconomic management from developed economies where the private sector is predominant and they believe in their economic system. In this article, we want to have a look at current policies on the private sector in Vietnam, and advantages and difficulties facing state companies taking part in WB- and ADB-financed projects.

#### 1. Private entities in the Companies Law

Legal infrastructure for the development of private sector is provided mainly by the Companies Law which, effective from Jan. 1, 2000, divides this sector into private companies, family businesses and limited companies.

a. Private company: The Law defines private company as an enterprise owned by a private person who has to accept his financial liability with his all assets. The Law also states that an enterprise is an economic concern which has its own name, assets and head office and has to make registration as required by law before carrying out its business activities. These business activities are also defined by the Law as one or all activities ranging from making investment to distribution of goods or services for profit purposes.

b. Family business is a business owned by one or more members of the same family, situated in a fixed location, employing laborers occasion-



## PRIVATE SECTOR AND MANAGEMENT OF ITS DEVELOPMENT

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ally, having no round seal and covering financial liability with its assets (Article 17 of Decree 02/2000/NĐ-CP on business registration).

From these regulations, we can draw some important conclusions

with respect to the private sector: (1) the private sector is regulated and protected by laws and constitution; (2) the unlimited liability of privately-run businesses is asserted for purposes of dispute or debt settle-



ment; (3) the sole objective of the private sector is to make profit, that is, it is under no obligation to work for the good of the community.

## 2. Private sector and management of its development

Owners of privately-run businesses have to secure capital by themselves and take full responsibility before the law and their trading partners if their business is brought to an end. When establishing an enterprise, the owner declares his/her legal and working capital (they need not deposit their capital with banks as required by previous regulations). When declared bankrupt, they should use everything they have, including their registered capital and private assets, to repay debts. The government has no obligation to their operation and performance. This means that the more

nam could buy various goods from different companies of different sectors. For example, they can buy floor tile from Đồng Tâm Limited Company, from Thanh Danh Private Company or from Thiên Thành Company, a joint venture with foreign partner; and prices these companies offer aren't different from one another. This means that there is perfect competition between companies from different sectors and better income for the national budget.

Taxation of the private sector could reach a desirable efficiency. Tax authorities can collect license tax when the private companies have just entered the market without facing their complaint about their infancy. They have to pay company income tax after coming into operation and making some profit, and pay registration

contracts for fear of being sued for breach of contract. They should aim at better quality and lower prices than what required by the book of articles and conditions in order to become more competitive. There are many reasons for their efforts:

- They should bear unlimited responsibility for their business performance with all of their assets, so they have no alternative but to complete the contract according to conditions and quality required by the contract with a view to avoiding damage and punishment by courts.

- Contractors could be criminalized if the public works they built collapse within a specific period. This period is 10 year according to French current regulations. For example, if a bridge collapses in the ninth year after it was brought into use, the contractor is to pay damages and brought to court as a criminal. If the contractor is a state-owned company, as in Vietnam, the court will meet difficulties in deciding who are responsible for the damage (because the law didn't stipulate who is considered as representative of the state-owned company) and how to execute the court's decision.

An article on the *Thời báo Kinh tế* Saigon (June 28, 2001) reported that state-owned companies weren't allowed to bid for certain contracts offered by the World Bank. The article said: "As from Jan. 1, 2001, the WB will apply a strict policy on eligibility of state-owned companies for their participation in WB-financed projects in Vietnam. According to the WB press release, state-owned companies under control of governmental agencies that invite bidding aren't allowed to offer bid as from the said date. In addition, companies in the defense industry and companies under control of the Ministry of Defense aren't allowed to offer bid for projects financed by the WB."

This decision is made by the WB, an international organization that has given a lot of aid to developing countries, especially funds for infrastructure projects. WB experts always pay full attention to regulations about responsibility for damages when a breach of contract takes place; and they see that private companies which have to take unlimited financial liability are the most suitable for WB-financed projects being put out to tender. This decision could be seen as a valuable lesson on policies on the private and public sectors. The Vietnamese law system needs much more improvements and amendments to become appropriate to international practices and win confidence of international community ■



the private sector develops, the more tax revenues the government earns. This means a lot to the government when it has to spend large sums of money on subsidies to loss-making state companies instead of receiving part of their profits. Besides the favorable financial effects, one more contribution from the private sector is the fact that it also helps ensure fair competition between entities of all sectors under supervision of the government.

Fair competition between private entities within regulations and macroeconomic policies will lead to the supply of better goods and services to consumers. Dangers of monopoly or unfair competition aren't significant because most privately-run companies aren't large enough to force other companies to go out of business.

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nam could buy various goods from different companies of different sectors. For example, they can buy floor tile from Đồng Tâm Limited Company, from Thanh Danh Private Company or from Thiên Thành Company, a joint venture with foreign partner; and prices these companies offer aren't different from one another. This means that there is perfect competition between companies from different sectors and better income for the national budget.

According to international practices and laws of developed countries, there is nothing that prevents private persons from bidding for public works. Private contractors in developed countries should carry out properly their