



International Labour Organization (ILO)

TERMS OF REFERENCE

GENDER IMPACT ASSESSMENT OF THE SOCIAL SECURITY FRAMEWORK IN VIET NAM

I. BACKGROUND

Viet Nam has recently embarked on reforms in the social insurance and social assistance areas.

The Social Insurance Law, passed in June 2006 and amended in 2014, covers public and private employees in the event of sickness, maternity, old-age and survivors on a compulsory basis and old-age and survivorship on a voluntary basis for those not engaged in a formal contractual relationship with an employer. Unemployment and employment injury are regulated under the Employment Law. MOLISA's Department of Social Security (SSD) recently developed a Master Plan on Social Insurance (MPSIR) and in May 2018 the Party promulgated Resolution 28-NQ/TW to guide future social insurance reforms, guided by a commitment to achieve universal coverage through multi-tiered systems. Through this resolution, Viet Nam aligns itself with the key international normative references such as the ILO Social Protection Floors Recommendation (No. 102), Social Security (Minimum Standards) Convention (No. 102) and the UN 2030 Sustainable Development Agenda.

As a follow-up on Resolution 28, the current policy debate is now exploring the feasibility of better articulating the social assistance and contributory pensions with the clear goal of achieving universal coverage by 2030. The approval of a new Labour Code in November 2019 also motivated debates on issues of gender equity in the broader labour and specifically social insurance system, particularly through the reform of unequal retirement ages for men and women.

Additional adjustments in the policy and legal framework are needed to translate the recent developments into an effective increase in coverage and strengthened system. In particular, the MPSIR has identified legal reform a central task of the government "amending and supplementing the Social Insurance Law towards the implementation of universal social insurance; designing multi-tiered social insurance system; ensuring the principles of equity, equality, sharing and sustainability to create a foundation for a commonly legal document on social security including contributory and non-contributory tiers".

The reform contents directed by the Resolution 28 are as follows:

1. Building a multi-tier social insurance system: including a tier 1 as social pension, tier 2 as contributory social insurance and tier 3 as the supplementary pension insurance.
2. Amending the regulations on qualifying conditions on minimum social insurance participation period in order to enjoy the old-age pensions in a flexible manner, at the same time adjusting

the old-age pension calculation formula according to the principle of contributing-benefiting, equity, equality, sharing and sustainability. Expanding compulsory social insurance coverage to other groups of people.

3. Strengthening linkages and support between social insurance policies as well as the flexibility of policies to achieve the goal of expanding coverage.
4. Reform in the policy development and implementation to bolster participants' confidence and enhance their satisfaction in the social insurance system
5. Accelerating the increase in number of informal sector workers participating in the social insurance scheme.
6. Modifying and correcting the irrationalities of the current old-age pension insurance scheme to be more flexible in terms of qualifying conditions for pension entitlement and stricter in terms of the social insurance lump-sum entitlement; increasing the actual average retirement age of employees.
7. Adjusting to increase the retirement age according to the phases
8. Amending the regulations on social insurance contributions, a basis for calculating social insurance contribution in order to achieve the objective of expanding the social insurance coverage.
9. Adjusting accrual rates to maximize replacement rates for old-age pension in line with international practices.
10. Diversifying the investment portfolios and structure of the social insurance fund with safety, sustainability and effectiveness as principles.
11. Indexing old-age pension relatively independent to the wage of working persons; changing the manner of adjusting the old-age pension towards sharing principle.

There are no specific goals with regards to improving gender equity in the system.

In addition, in 2017 MOLISA also issued a Master Plan on Social Assistance Reform and Development (MPSARD), which in 2019 was followed by its own Action Plan. The MPSARD sets out the Government's ambitions for expanding the country's social assistance system. The two plans have several areas of overlap but were not drafted in coordination with each other.

1.1. The SI Law Revision Process

The SSD has scheduled to submit the proposal to revise the SI Law to the National Assembly in June 2021. The ILO's support will follow the methodology set out by the 2015 Law on Promulgation of Legal Documents and Government Decree No.34/2016/ND-CP of 2016, detailing and providing measures for the implementation of this law. As per this document, MOLISA must set up a Drafting Committee composed of members from 28 ministries and agencies.¹

The Drafting Committee will be created and chaired by the Director General of SSD. SSD will also act as the Drafting Agency² and will thus be responsible for setting up the Editing Group³ to assist the Committee. The ILO and other partners will participate as social protection technical specialists.

¹ The composition of the drafting committee is prescribed in Article 31, Clause 1, and Article 60 of the Law on Promulgation of Legal Documents.

² The Drafting Agency assumes primary responsibility for reporting to the Prime Minister and seek his guidance on the vision for the reform, managing diverging opinions within the Committee and coordinating with the Government's Office and the MOJ in preparing dossiers and organizing consultations.

³ The Editing Group has at least 9 members. No more than half of the members shall come from the Drafting Agency. The remaining members are specialists from other members of the Drafting Committee, as well as external technical specialists.

1.2 Gender Impact Assessment

Under the 2015, Law on the Promulgation of Legal documents there is a requirement for conducting a Gender Impact Assessment (GIA). Specifically, when making a proposal to develop legal documents, agencies, organizations and individuals who make the proposal must develop not just the content of the proposal, but also conduct an impact assessment of the policy. The impact assessment of the policy must specify: “the problems to be solved, objectives of the policy, measures to implement the policy, positive and negative impacts of the policy, costs and benefits of solutions, comparison of costs and benefits, final recommendations and impact assessment of administrative procedures and gender impact”.⁴

Decree No.34/2016/ND-CP dated May 19, 2016 details five types of impact assessment for each policy, including economic, social, gender, administrative and legal. According to the decree, “the gender impact of the policy (if applicable), is assessed on the basis of analysis and prediction of economic and social impacts related to opportunities, conditions, capacity to apply and enjoy rights and interests of each gender”.⁵ Therefore, the gender impact analysis should be mainstreamed into economic and social considerations for each gender according to four criteria: opportunities, conditions, capacity to apply and exercise the rights and interests of each gender when implementing the policy.

In addition, the Gender Equality Law of 2006 requires the mainstreaming of gender equality in the development of legal normative documents as “a measure to implement gender equality goals through identifying gender issues, predicting the gender impact of the documents, assigning responsibilities and resources to address gender issues in social relations, which are regulated by the legal normative documents”.

The suggested methodology for the GIA includes the following tasks:

- i. Identify the gender issues which need to be addressed in the implementation of the current Social Insurance Law and analyse the cause of these issues⁶
- ii. Propose solutions/policies to address these gender issues
- iii. Assess the impacts these policies on economic, social and gender aspects
- iv. Compare impact assessment results for each policy and propose best solution

⁷ Law on Laws, Article 35, Clause 2

⁸ Decree No. 34/2016 / ND-CP, Article 6, Clause 3

⁶ Circular No. 17/2014/TT-BTP dated on 13 August 2014, Article 5 stipulates that the identification of gender issues is “the examination and analysis to detect, in social relations to be regulated by the document, the issues that can lead to gender inequalities and gender based discrimination”.

- v. Propose type of documents and competent agencies to promulgate the implementation of suggested policies and legal documents
- vi. Prepare final GIA report
- vii. Prepare Report on Gender Equality Mainstreaming in the Social Insurance Law

II. OBJECTIVES

The general objective of the consultancy is to support the Government of Vietnam to identify legal and policy changes needed to be reflected in the Social Insurance Law revision in order to ensure its social security legislative framework promotes gender equality.

The specific objective of the consultancy is to develop a comprehensive GIA, which serves as the joint inputs of the Vietnam Women's Union, MOLISA, the ILO and UN Women to the Draft Policy Orientation of the revised Social Insurance Law. The review should be based both on international legislation, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the ILO's social security standards, as well as the technical work the ILO and UN Women have done in country over the past two years in order to identify the system's gaps at a technical level.

The specific tasks of this work are listed in the following section:

- To develop a GIA of the social security framework in Viet Nam, compiling recommendations on changes to be addressed in the upcoming review of the Social Insurance Law and where appropriate, other policy instruments regulating non-contributory benefits (i.e. Elderly Law, Decree 136). Assess the impact of such measures on the overall gender equality of the system and other important policy targets such as the expansion of coverage.
- To develop an Technical Note with an assessment of the ILO's efforts in mainstreaming gender equality into its technical advice to the social security reform in Vietnam

The GIA report will serve as the basis for MOLISA to draft their final report on Gender Equality Mainstreaming in the revised Social Insurance Law in future stages of the review.

III. SPECIFIC TASKS

The international policy consultant will work closely with the International Actuarial Consultant and the National Policy Consultant during the development of GIA report, with the following tasks:

3.1. Task 1: Identify the gender issues that need to be addressed in the implementation of the current Social Insurance Law and analyse the cause of these issues

- 3.1.1. Perform a preliminary desk review of key regulations (Social Insurance Law, Social Insurance Master Plan and its Action Plan) as well as relevant ILO and UN Women reports on the social security system. Including inputs from Deliverable 1, compile a comprehensive list of key indicators to assess the gender impact of existing regulations on social, economic and administrative aspects of the social insurance system.
- 3.1.2. Outline distinct (i) policy groups addressing gender issues and gender discrimination, and (ii) policy groups which do not aim at addressing gender issues, yet have differentiated impacts on men and women.
- 3.1.3. For each policy group identified, analyse outcomes across gender. In case of persistent gender gaps, (i) identify cause and effects on workers, employers and State; (ii) outline existing proposals to address these inequalities; and, (iii) make

new proposals with the potential to reduce gender inequalities, where possible, based on international experience.

- 3.1.4. Perform preliminary assessment of the gender impact of each of these existing and new proposed measures on workers, employers and government, including social, economic and administrative aspects.

Deliverable 1A: Technical Note

3.2. Task 2: Scoping Mission

- 3.2.1. Conduct a mission of 4-5 days to Hanoi for consulting, seeking feedback and validating the findings in Task 4. The consultant will meet the most relevant national counterparts: notably the Social Insurance and Social Assistance Departments of MOLISA, the Vietnam Women's Union, Legal Department of MOLISA, VSS, representatives of relevant employers, representatives of relevant workers, representatives of civil society, and ILO staff. Refine the measures proposed in Task 1.

The international policy consultant will be supported by the national consultant during the mission.

Deliverable 2A: Joint mission report including outcomes of consultations and revised proposed measures.

3.3. Task 3: Assess impact of potential solutions, compare, collect feedback and make final recommendations

- 3.3.1. Draft final GIA based on the findings contained in all previous Deliverables and outcomes of consultations. Specifically synthesising proposed measures and comparing them according to their specific impact on workers, employers and State in economic, social and administrative aspects. The draft GIA should incorporate the costing and projections of policy recommendations identified (which will be produced by an International Actuarial Consultant).

Deliverable 3A: Draft GIA report (including executive summary and PPT)

3.4. Task 4: Completing inputs

- 3.4.1. Finalize the GIA
- 3.4.2. Assessment of how ILO's technical assistance in Viet Nam has addressed gender inequalities inherent both in the social security system – particularly the social insurance system - as well as the labour market; and whether proposed reforms are expected to ameliorate or exacerbate these.
- 3.4.3. Make Recommendations for how the ILO can better mainstream gender considerations into its policy advice so that design features invariably further the institution's gender equality objectives.

Deliverable 4A: Final GIA

Deliverable 5A: Technical Note on Gender Mainstreaming in ILO work on social protection in Viet Nam

IV. ROLES AND RESPONSIBILITIES

The consultant is responsible for the coordination and final supply of the deliverables listed above.

The ILO will provide overall coordination among the different stakeholders, facilitating the consultant's contact with Government officials. The ILO Country office for Viet Nam and the Social Protection Department in Geneva will provide technical backstopping to all tasks.

Government partners (SID, DSA, HID, VSS) and social partners will provide feedback. They will additionally facilitate data and contacts as appropriate. Support from SID, DSA and HID will be particularly important in this respect.

V. EXPERTISE AND QUALIFICATIONS OF THE CONSULTANT

As an international gender specialist with focus on social protection, the consultant must:

- Minimum of ten (10) years of professional level experience in gender mainstreaming, analysis, research, designing high quality gender policies, strategies
- Knowledge of social security systems in general, including as regards contributory and non-contributory
- Systems and relevant social and economic policies;
- Proved experiences and qualifications to undertake this type of assignment
- Experience working on gender equality and human rights
- Experience working with international social security standards;
- Advanced academic degree in the field of law or another relevant field;
- At least 5 years of experience working in international contexts; experience in Asia and South
- East Asia countries would be an advantage;
- Excellent writing skills in English

VI. APPLICATIONS

Interested consultants can send their letter of interest and their CVs to huyenhanadfin@ilo.org by 17:00 PM on 12 March 2020 with the following details:

- CV and details of at least 2 references
- Cover letter
- Sample work that is relevant to this consultancy
- Daily consultancy rate

Only submissions with complete documents as stated in the ToR will be considered.

VII. EVALUATION

All candidates will be evaluated on the following criteria:

1. Relevant qualification and expertise
2. Quality of similar previous works accomplished
3. Financial proposal

ANNEX 1: Workflows and division between three consultants

1. Task 1: Identify the gender issues that need to be addressed in the implementation of the current Social Insurance Law and analyse the cause of these issues

1.1. International Actuarial Consultant:

- 1.1.1. Reviewing the latest ILO actuarial valuation, and any other relevant datasets, identify the gender-related social insurance outcomes (i.e. pensions replacement ratios) resulting from labour market patterns and “system design” features (i.e. differing retirement ages for male and females).
- 1.1.2. Assess the adequacy of benefits for women and men, both as “individual entitlements” on employment records, and “conditional entitlements” based on a spouse or partners’ entitlements.
- 1.1.3. Do a critical review of the ILO PENS and other ILO valuation models to identify (i) any limitations hindering the production of gender-disaggregated data; and, (ii) key indicators, which should be included and gender-disaggregated in all actuarial reports and follow-up technical notes to ensure mainstreaming of gender considerations.⁷

Deliverable 1B: Technical Note

1.2. International Policy Consultant:

- 1.2.1. Perform a preliminary desk review of key regulations (Social Insurance Law, Social Insurance Master Plan and its Action Plan) as well as relevant ILO and UN Women reports on the social security system. Including inputs from Deliverable 1, compile a comprehensive list of key indicators to assess the gender impact of existing regulations on social, economic and administrative aspects of the social insurance system.
- 1.2.2. Outline distinct (i) policy groups addressing gender issues and gender discrimination, and (ii) policy groups, which do not aim at addressing gender issues, yet have differentiated impacts on men and women.
- 1.2.3. For each policy group identified, analyse outcomes across gender. In case of persistent gender gaps, (i) identify cause and effects on workers, employers and State; (ii) outline existing proposals to address these inequalities; and, (iii) make new proposals with the potential to reduce gender inequalities, where possible, based on international experience.
- 1.2.4. Perform preliminary assessment of the gender impact of each of these existing and new proposed measures on workers, employers and government, including social, economic and administrative aspects.

Deliverable 1A: Desk review report

1.3. National Policy Consultant:

- 1.3.1. Support the International Policy Consultant, as necessary, to draft Deliverable A.

Deliverable 1C: Written comments to Deliverable 1A.

2. Task 2: Scoping Mission

2.1. International Policy Consultant

⁷ Indicators should be mindful of the Government’s interest in economic, social, administrative and legal impacts. Additionally, impact can be understood in terms of effectiveness, such looking at the actual data of the valuation to see what the impact really is (i.e. shorter careers leading to lower benefit levels even in a gender neutral policy environment); but also in terms of administrative matters such as affiliation, administration, access, communication barriers, etc.

- 2.1.1. Conduct a mission of 4-5 days to Hanoi for consulting, seeking feedback and validating the findings in Task 4. The consultant will meet the most relevant national counterparts: notably the Social Insurance and Social Assistance Departments of MOLISA, the Vietnam Women's Union, Legal Department of MOLISA, VSS, representatives of relevant employers, representatives of relevant workers, representatives of civil society, and ILO staff. Refine the measures proposed in Task 1.

2.2. National Policy Consultant

- 2.2.1. Support the organization of the missions, accompany the consultant to all meetings, translate where necessary and facilitate the gathering of relevant information.

Deliverable 2A: Joint mission report including outcomes of consultations and revised proposed measures.

3. Task 3: Assess impact of potential solutions, compare, collect feedback and make final recommendations

3.1. International Actuarial Consultant:

- 3.1.1. Support the costing and projections of policy recommendations identified by the International and National Policy Consultants in (draft) Deliverable 3A.

Deliverable 2B: Technical Note

3.2. International Policy Consultant

- 3.2.1. Draft final GIA based on the findings contained in all previous Deliverables and outcomes of consultations. Specifically synthesising proposed measures and comparing them according to their specific impact on workers, employers and State in economic, social and administrative aspects.

3.3. National Policy Consultant

- 3.3.1. Support the drafting of the GIA, including following up on outstanding issues and information requirements following the mission.

Deliverable 3A: Draft GIA report (including executive summary and PPT)

4. Task 4: Completing inputs

4.1. International Policy Consultant

- 4.1.1. Finalize the GIA
- 4.1.2. Assessment of how ILO's technical assistance in Viet Nam has addressed gender inequalities inherent both in the social security system – particularly the social insurance system - as well as the labour market; and whether proposed reforms are expected to ameliorate or exacerbate these.
- 4.1.3. Make Recommendations for how the ILO can better mainstream gender considerations into its policy advice so that design features invariably further the institution's gender equality objectives.

Deliverable 4A: Technical Note – final GIA

Deliverable 5A: Technical Note on Gender Mainstreaming in ILO work on social protection in Viet Nam

4.2. National Policy Consultant

- 4.2.1. Based on the Final GIA, support SSD to draft final report on Gender Equality Mainstreaming in the revised Social Insurance Law to be submitted to the National Assembly.

Deliverable 2C: Report on Mainstreaming Gender Equality in the revised Social Insurance Law (English and Vietnamese)

ANNEX 2: List of Documents ILO provide the Consultant in advanced

- Resolution 28
- SI Law 2014 and Decrees, Circular
- ILO (2017) Actuarial Assessment of Pension Fund
- ILO technical note of Exploring Reform Options for a multi-tier pension system in Viet Nam
- ILO 2019, Mapping of the social protection legal framework (laws, decrees, circulars and other documents in the areas of social insurance and social assistance, including health protection).
- Draft LC Sep 2019
- ILO, 2019, Assessing the potential for multi-tiered child benefits in Viet Nam
- ILO, 2019, a short-term benefit package for the extension of multi-tiered social security coverage in Viet Nam.
- ILO, 2019, Policy Options for Parametric reforms in Viet Nam (draft)
- Technical Note: Challenges and recommendations on the institutional and legislative framework to realise Resolution 28 in Viet Nam
- Other TBD